

Vaccine mandates: The final blow for nursing homes?



Shawn M. Riley, Todd C. Baumgartner, John C. Karras | Friday, August 20, 2021

In an effort to quell the recent spike in COVID-19 cases and hospitalizations, President Biden has announced a series of new measures that seek to bolster the United States' healthcare and financial response to the virus. In addition to recommending vaccine booster shots, the measures include new regulations requiring all employees of nursing homes to be fully vaccinated for COVID-19 if such nursing homes participate in the Medicare and Medicaid programs. While the logic of requiring health care workers who engage with those most vulnerable to COVID-19 has a clear appeal, the consequences of the new regulations could prove devastating for nursing homes.

Even prior to the outbreak of COVID-19 nursing homes were experiencing operational and fiscal challenges, including record low occupancy, reduced or frozen reimbursement, and labor shortages. A decade-long effort by CMS and insurance companies to reduce or eliminate stays in skilled nursing facilities, in favor of at-home care, had started the reduction in occupancy. Likewise, budgetary concerns at both the federal and state level have resulted in frozen or reduced reimbursement. Finally, labor shortages, particularly for nurses, drove operational costs upward. Once COVID hit, these challenges became acute.

Federal support for senior health care facilities through various pandemic-relief programs has allowed most nursing homes to weather the 18-plus months of COVID-driven problems. Although the recent uptick in cases caused by the Delta variant has generated new concerns, the industry was beginning to see light at

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the end of the tunnel. It now appears that the light is from an oncoming freight train.

Once the regulations go into effect and nursing homes are forced to mandate vaccination, the staffing challenges—already acute—will become existential. The regulations do not apply to other health care providers, such as hospitals, surgery centers, or assisted living. As a result, it is possible, if not likely, that physicians, nurses, and other staff at nursing homes who decline to be vaccinated will simply quit and quickly find new employment. Nursing homes will then see their staffing levels fall to the point that new admissions become impossible.

The regulations will apply to approximately 15,000 facilities employing approximately 1.6 million workers. CMS has begun to draft rules to implement the new regulations and expects to be finished in September. In the interim, CMS has “strongly encouraged” nursing home residents and staff members to get vaccinated as CMS drafts the new rules. Similarly, CMS also advised that it expects nursing home operators to use all available resources to support employee vaccination efforts, including employee education and vaccination clinics, as they work to meet this staff vaccination requirement. But CMS has offered no guidance on how nursing homes are to prevent employees from simply walking out the door to new employment.



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