Minimum Nurse Staffing Requirement for Nursing Facilities

A Report to the Minnesota Legislature

Aging Initiative 444 Lafayette Road North, St. Paul, MN 55155-3844 651-296-2738

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Minnesota Department of Human Services
Continuing Care for the Elderly

and

Minnesota Department of Health
Facility & Provider Compliance Division
Case Mix Review Program

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Prepared by the Department of Human Services
Continuing Care for the Elderly
444 Lafayette Road North
St. Paul, MN 55155-3843
(651) 296-5584

Minnesota Statutes chapter 3.197 requires disclosure of the cost to prepare this report. The cost of this report is based on the costs of salaries and fringe benefits for the Department of Human Services employees for the time spent preparing the text of the report. The cost also includes printing and distribution charges. The total cost is less than $300.

This report is associated with a larger project to conduct a case mix time study and to develop new staffing standards. This work is ongoing and there will be additional reports made to the legislature. Costs of this continuing work will be reported in future reports to the legislature.

I. INTRODUCTION

The Laws of Minnesota 2001, First Special Session, Chapter 9, Article 5, Section 36 requires the Commissioners of the Department of Health (MDH) and the Department of Human Services (DHS) to report to the legislature on whether they translate the minimum nurse staffing requirement upon the transition to the RUG-III classification system, or whether they should establish different time-based standards, and how to accomplish either. (Attachment A, MN Laws 2001 First Special Session, Article 5, Sections 35 and 36)

Brief Summary and Background Information. In January 2001, the Department of Human Services in a report to the legislature titled "Nursing Facility Case Mix Transition Plan," presented recommendations for the transition and implementation of a new case mix system based upon the federally mandated minimum data set (MDS) assessment instrument. A RUG-III 34 group model was adopted. Minnesota Statutes, Sections 144.0724 and 256B.438 establish the components of the new case mix system. The transition to the new case mix system (RUG-III) is scheduled for October 1, 2002.

One unresolved issue in planning the transition to the RUG-III model, is the establishment of a case mix adjusted minimum nurse staffing requirement. Currently, under the provisions of Minnesota Statutes, Section 144A.04, subdivision 7, paragraph (a), the minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day. Standardized resident days are the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class. Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for the same period. Upon transition to the RUG-III model, case mix weights for each of the resident classes are established on a different scale than is currently in use for the Minnesota case mix system. Case mix weights under the RUG-III model are established based on projected costs of providing care for each case mix level. Under the current Minnesota case mix system, case mix weights are based on projected nurse staff time for each case mix level. Therefore, the 0.95 hours per standardized resident day cannot be easily translated to the new system to retain an equivalent minimum staffing standard.

Several options in resolving this issue were considered in discussions with the Case Mix Advisory Committee (Attachment B, membership list) and an interdepartmental work group composed of LTC policy staff from DHS and Case Mix Review staff from MDH. It was determined that further study of this issue supported by additional data was needed prior to establishing a case mix adjusted staffing standard under the new RUG-III case mix system.

II. DISCUSSION OF CASE MIX ADJUSTED STAFFING STANDARD

While a discussion of establishing a staffing standard upon the transition to the RUG-III case mix system generated a great deal of controversy, generally all stakeholders were in agreement that a staffing standard serves many useful purposes. However, a determination

of what an adequate staffing standard would be and the methodology for determination of that standard proved to be more difficult in reaching a consensus among stakeholders.

A case mix reimbursement system is designed to reflect differences in resource use among various levels of care. In order to ensure staffing standards are adequate for providing quality care, stakeholders would agree a case mix adjusted staffing standard that considers the level of need based on acuity will more appropriately reflect the minimum standards required for providing quality care.

One important goal in establishing a case mix adjusted staffing standard is to provide a minimum staffing standard for regulatory oversight. However, equally important is that in establishing a methodology for calculating a staffing standard, the methodology is useful for nursing facilities in determining appropriate staffing levels based on the acuity of the population residing in their facility at any given time. Another important benefit in establishing a case mix adjusted staffing standard, is that it provides consistent and measurable staffing information across all nursing facilities to assist consumers in making informed decisions when purchasing long term care services.

The Laws of Minnesota 2001, First Special Session, Chapter 9, Article 5, Section 35 (e) (Attachment A) directs the Commissioner of DHS in consultation with the Commissioner of Health to conduct a time study to determine staff time being spent on various case mix categories, recommend adjustments to the case mix weights based on the time study data; and determine whether current staffing standards are adequate for providing quality care based on professional best practice and consumer experience.

The Department of Human Services is currently negotiating with a contractor to conduct this study. The contractor has proposed to assist DHS in determining how to resolve the staffing standard issue by answering the following questions:

- Is Minnesota's current nurse staffing standard adequate?
- If it is not adequate, what should it be and why?
- Should a nurse staffing standard be applied through the current case-mix adjustments?
- Are there other viable alternatives or approaches to use for establishing a staffing standard?

All stakeholders strongly agree that in establishing staffing standards for nursing facilities, the data obtained from the staff time measurement study will be helpful for establishing appropriate staffing standards.

III. RECOMMENDATION

The Departments recommend sunsetting the current case mix adjusted component of the nurse staffing requirements as established according to Minnesota Statutes, Section

144A.04, subdivision 7, paragraph (a) upon transition to the RUG-III case mix model, while retaining the 2.0 hours per resident per 24 hours. (Attachment A).

The Departments propose revising Minnesota Statutes, Section 144A.04, subdivision 7, paragraph (a), as follows:

> The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day. Upon transition to the 34 group, RUG-III resident classification system, the 0.95 hours per standardized resident day shall no longer apply.

It is anticipated that the staff time measurement study and the related staffing standard study will be completed during years 2002 and 2003. The Commissioners of DHS and MDH in collaboration with the Case Mix Advisory Committee (Attachment B) will seek to reach a consensus with all stakeholders on the recommended staffing standard for nursing facilities and report to the legislature no later than January 15, 2004.

Additional information on any of the issues, decisions and future work efforts necessary to make a recommendation of staffing standards for nursing facilities is available from Valerie Cooke, Continuing Care for the Elderly, Minnesota Department of Human Services, 651-296-5584.

Attachment A

MN Laws 2001 First Special Session, Article 5, Sections 35 and 36.

Sec. 35. [DEVELOPMENT OF NEW NURSING FACILITY REIMBURSEMENT SYSTEM.]

(a) The commissioner of human services shall develop and report to the legislature by January 15, 2003, a system to replace the current nursing facility reimbursement system established under Minnesota Statutes, sections 256B.431, 256B.434, and 256B.435.

(b) The system must be developed in consultation with the long-term care task force and with representatives of consumers, providers, and labor unions. Within the limits of available appropriations, the commissioner may employ consultants to assist with this project.

(c) The new reimbursement system must:

(1) provide incentives to enhance quality of life and quality of care;

(2) recognize cost differences in the care of different types of populations, including subacute care and dementia care;

(3) establish rates that are sufficient without being excessive;

(4) be affordable for the state and for private-pay residents;

(5) be sensitive to changing conditions in the long-term care environment;

(6) avoid creating access problems related to insufficient funding;

(7) allow providers maximum flexibility in their business operations;

(8) recognize the need for capital investment to improve physical plants; and

(9) provide incentives for the development and use of private rooms.

(d) Notwithstanding Minnesota Statutes, section 256B.435, the commissioner must not implement a performance-based contracting system for nursing facilities prior to July 1, 2003. The commissioner shall

continue to reimburse nursing facilities under Minnesota Statutes, section 256B.431 or 256B.434, until otherwise directed by law.

(e) The commissioner of human services, in consultation with the commissioner of health, shall conduct or contract for a time study to determine staff time being spent on various case mix categories; recommend adjustments to the case mix weights based on the time study data; and determine whether current staffing standards are adequate for providing quality care based on professional best practice and consumer experience. If the commissioner determines the current standards are inadequate, the commissioner shall determine an appropriate staffing standard for the various case mix categories and the financial implications of phasing into this standard over the next four years.

Sec. 36. [MINIMUM STAFFING STANDARDS REPORT.]

By January 15, 2002, the commissioner of health and the commissioner of human services shall report to the legislature on whether they should translate the minimum nurse staffing requirement in Minnesota Statutes, section 144A.04, subdivision 7, paragraph (a), upon the transition to the RUG-III classification system, or whether they should establish different time-based standards, and how to accomplish either.

Minnesota Statutes, Section 144A.04, subdivision 7.

Subd. 7. Minimum nursing staff requirement. Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel in certified nursing homes is as follows:

a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

(b) For purposes of this subdivision, "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in Minnesota Rules, parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart 2, calculated on the basis of a facility's census for any given day. For the purpose of determining a facility's census, the commissioner of health shall exclude the resident days claimed by the facility for resident therapeutic leave or bed hold days.

(c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

(d) A nursing home that is issued a notice of noncompliance under section 144A.10, subdivision 5, for a violation of this subdivision, shall be assessed a civil fine of $300 for each day of noncompliance, subject to section 144A.10, subdivisions 7 and 8.

Attachment B

Case Mix Advisory Committee Members

Steering Committee:

Valerie Cooke
MN Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3836
Tel: (651) 296-5584
Fax: (651) 282-6859
e-mail: valerie.cooke@state.mn.us

Ann Lutterman
MN Department of Health
85 E. Seventh Place, Suite 300, PO 64938
St. Paul, MN 55164-0938
Tel: (651) 215-8717
Fax: (651) 215-8707
e-mail: ann.lutterman@health.state.mn.us

Bob Held
MN Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3836
Tel: (651) 215-5761
Fax: (651) 296-2052
e-mail: robert.held@state.mn.us

Jim Sims
MN Department of Health
85 E. Seventh Place, Suite 300, PO 64938
St. Paul, MN 55164-0938
Tel: (651) 215-8743
Fax: (651) 215-8707
e-mail: james.sims@health.state.mn.us

Members:

Todd Bergstrom
Care Providers of Minnesota
2850 Metro Drive, Suite 200
Bloomington, MN 55425
Tel: (952) 854-2844
Fax: (952) 854-6214
e-mail: tbergstrom@careproviders.org

Brent C. Gustafson
MN Department of Finance
4th Floor COB
St. Paul, MN 55155
Tel: (651) 215-0585
Fax: (651) 296-8685
e-mail: brent.c.gustafson@state.mn.us

Barbara Dentinger
Ebenezer Ridges
13820 Community Drive
Burnsville, MN 55337-4519
Tel: (612) 435-8116
Fax: (612) 898-8450
e-mail: bdentin1@fairview.org

Sindy Mau
Advocacy Center for Long Term Care
2626 E. 82nd Street, Suite 220
Bloomington, MN 55425
Tel: (952) 854-7304
Fax: (952) 854-8535
e-mail: ac4ltc2omb@aol.com

Jon Lundberg
Walker Methodist Health Center
3737 Bryant Avenue South
Minneapolis, MN 55409-1019
Tel: (612) 827-8450
Fax: (612) 827-8458
e-mail: jlundberg@walkermeth.org

Sue Schwartz
Board of Social Ministry
3490 Lexington Avenue North
Shoreview, MN 55126
Tel: (612) 868-5343
Fax: (320) 393-3524
e-mail: sschwar1@bsm1.org

Lisa Rotegard
MN Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3844
Tel: (651) 297-3829
Fax: (651) 296-2052
e-mail: lisa.rotegard@state.mn.us

Sharon Zoesch
Office of Ombudsman for Older Minnesotans
Minnesota Board on Aging
121 E. 7th Place, Suite 410
St. Paul, MN 55155-3868
Tel: (651) 296-7465
Fax: (651) 297-5654
e-mail: sharon.zoesch@state.mn.us

Darrell Shreve
Minnesota Health and Housing Alliance
2550 University Avenue West, Suite 350S
St. Paul, MN 55114
Tel: (651) 645-4545
Fax: (651) 645-0002
e-mail: dshreve@mhha.com

Iris Freeman
Alzheimer's Association
4570 W. 77th Street, Suite 198
Edina, MN 55435
Tel: (612) 857-0537
e-mail: iris.freeman@alz.org