

# Staffing Crisis Makes Nursing Home Hour Mandate Impossible

*Non-profit homes meet minimum spending requirements but still find it impossible to hire workers to meet staffing mandate*

Nursing Home Spending and Staffing Mandates	Not-for-Profit and Public Nursing Home Compliance
"70/40" Direct Care/Resident-Facing Staff Minimum Spending Requirements	85% in compliance <i>(Based on 2019 cost report data. Recent financial stress of the pandemic has likely increased this percentage.)</i>
3.5 Nursing Hours, Per Resident, Per Day	36% in compliance <i>(Based on most recent federal PBJ data for 2021 Q3)</i>

- **Even though 85% of public and non-profit nursing homes meet the minimum spending requirements, nearly 2/3 find it impossible to comply with the 3.5 nursing hour mandate.** Most of these homes have operating losses exacerbated by COVID.
- To date, the state has provided *no financial assistance to nursing homes for COVID-19 or for staffing to comply with this mandate.* The 2021-22 Budget allocated \$64 M for nursing home staffing, but none of those dollars has been distributed to providers.



Both of these laws are in effect as of 4/1/22 and nursing homes stand to be penalized for their staffing levels, even as the Governor acknowledges there is a healthcare workforce crisis with her most recent Executive Order, **"Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York"** (E.O. 4.7).

Enforcing an impossible mandate during the staffing crisis will only result in heavy daily fines that deplete the very resources that nursing homes need for staff wages and training. **Enforcing the mandate now will also limit admissions of new residents, creating backlogs in hospitals that need to discharge patients,** and risking the hospital bed shortages the state experienced as the Omicron variant reached its peak in New York.

LeadingAge NY data analysis reveals that **more than 12,000 new nurses and aides are needed to comply with the 3.5 nurse hour requirement,** after accounting for all mandates, days off, and increased admissions to free up hospital beds.

## Nursing Home Residents Need Elected Officials to:

- **Provide a substantial increase in Medicaid rates** to enable the state and nursing homes to recruit, train, and compensate the workforce needed to comply with this new requirement;
- **Delay the enforcement** of the 3.5 nurse hour staffing minimum for nursing homes to provide time for new staff to be recruited and trained; and
- **Authorize the use of medication aides** in the nursing home, as proposed by the Governor, and as is already permitted in approximately 25 other states, and in other programs in New York.

