



**UNIFIED VOICE
FOR HEALTHCARE**
HOSPITALS
NURSING HOMES
ASSISTED LIVING
HOME HEALTH
HOSPICE

CMS Staffing Mandate Final Rule

Effective June 21, 2024



Summary of Requirements

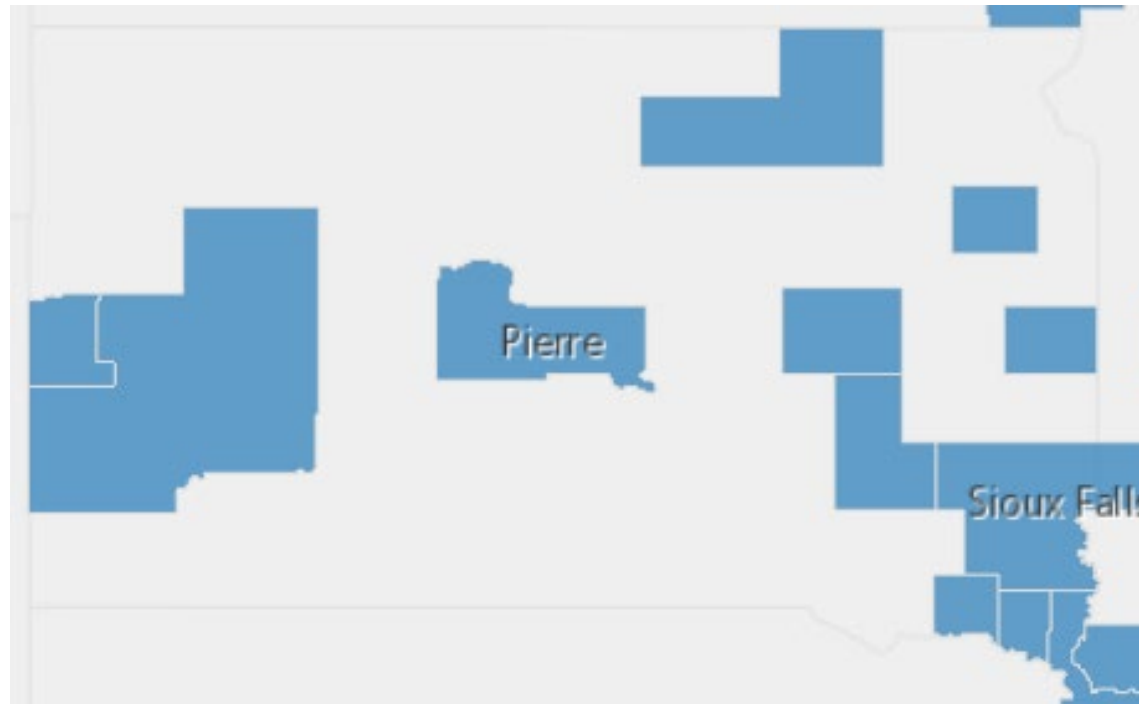
- Facility Assessment August 8, 2024 (All facilities)
- 3.48 HPRD May 10, 2026 (Urban) May 10, 2027 (Rural)
- 24/7 RN May 10, 2026 (Urban) May 10, 2027 (Rural)
- .55 RN HPRD May 10, 2027 (Urban) May 10, 2029 (Rural)
- 2.45 CNA HPRD May 10, 2027 (Urban) May 10, 2029 (Rural)
- Higher acuity residents will require a higher ratio
- Hardship exemption available...but unattainable.
- CMS estimates the total cost of the final rule at \$43 billion over 10 years or about \$4.3 billion per year

CMS expects the cost to be shared by Medicaid (67%), Medicare (11%), and Other (22%)

“Urban” MSAs: Aberdeen, Brookings, Huron, Mitchell, Pierre, Rapid City, Sioux Falls, Spearfish, Vermillion, Watertown, Yankton. **OMB revisions would include Canton, Canistota & other surrounding areas*

Metropolitan statistical areas in the US

July 2023



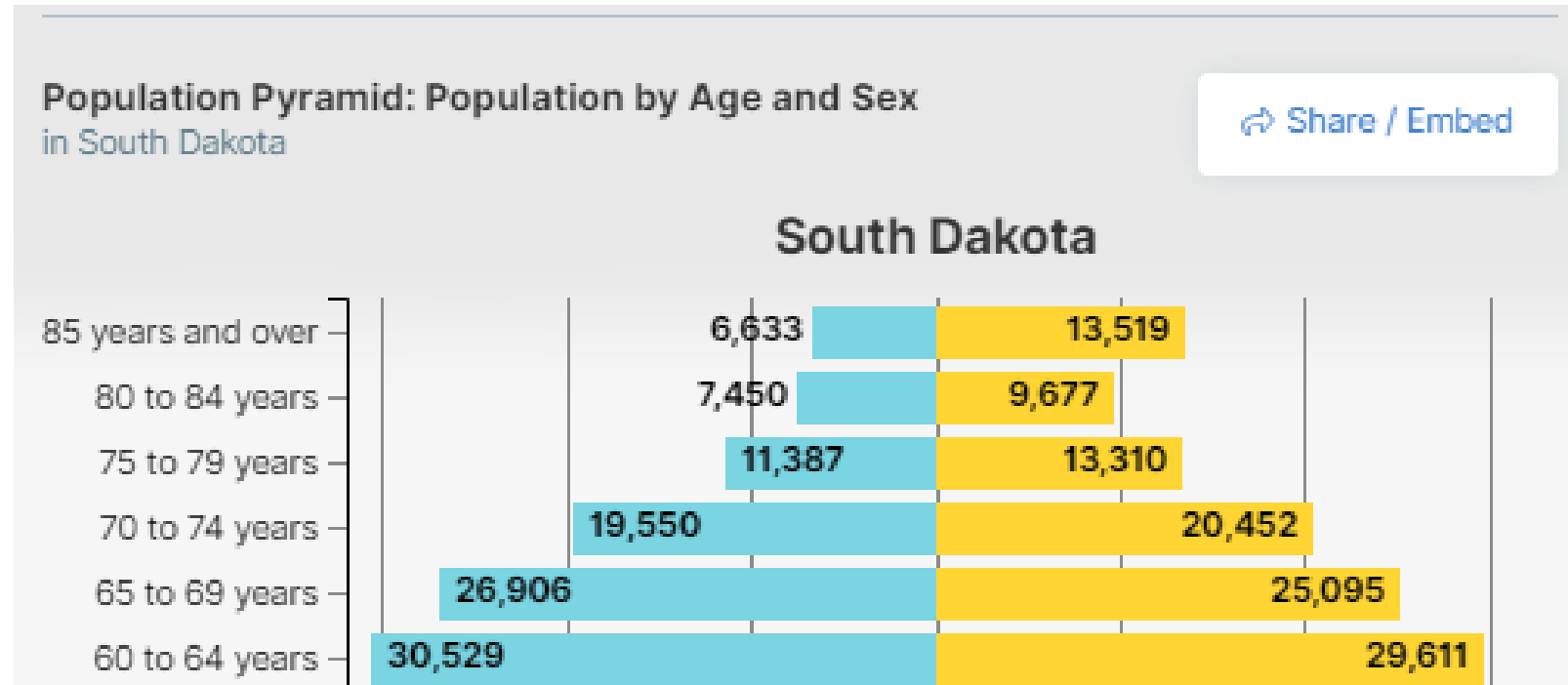
On July 21, 2023, OMB Bulletin No 23-01 published the planned revisions to Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas

South Dakota Impact

- Less than 10% of our nursing homes are able to meet the 24/7 RN requirement
- 70% of our nursing homes do not meet the CNA 2.45 HPRD mandate
- 15% of our nursing homes do not meet the RN .55 HPRD mandate
- Only 5% of the RNs in South Dakota practice in a nursing home
- 22% of LPNs in South Dakota work in nursing homes
- As of April 24, 2024, South Dakota has 1,232 open RN jobs available on Indeed
- South Dakota graduates roughly 893 RNs per year, with 73% remaining in the state
- 15.1% of RNs are expected to retire in the next five years / 1 in 3 want to get out of the profession
- 61% of nursing homes limit new admissions due to workforce issues
- Since 2015, South Dakota has had 18 nursing homes close
- Hospitals face challenges discharging patients to post-acute care due to lack of staffed nursing home beds
- On average, SD has 125 patients per day awaiting discharge, costing hospitals an average of \$1,000/day to care for these patients
- **The estimated additional yearly cost to meet the proposed staffing regulation in South Dakota is \$18,677,719, roughly \$190,489/nursing home**

South Dakota Population Over 65

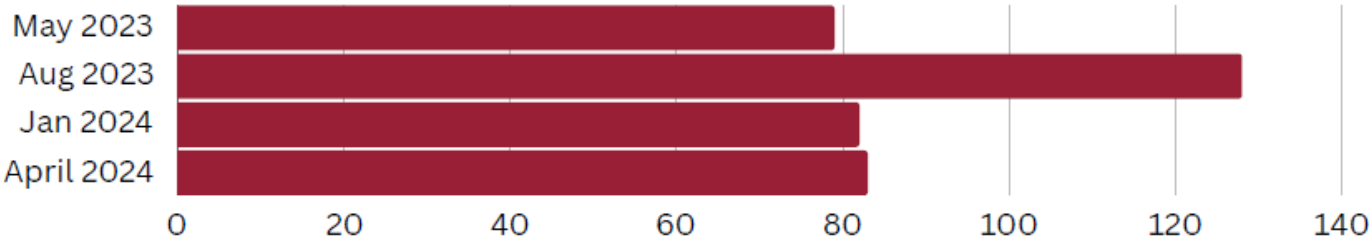
2024 is “Peak 65 Zone” – 4.1 million will turn 65 each year until 2027



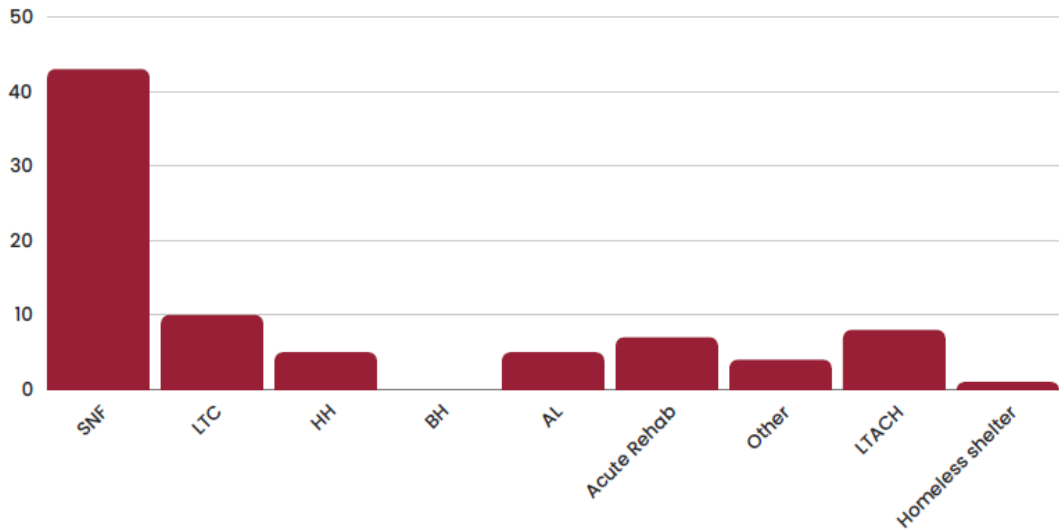
10.5% of SD Residents over age 65 have Alzheimer’s Disease and at age 80, 75% are living in a nursing facility

Lack of Post-Acute Beds

Patients Awaiting Discharge > 7 Days in SD Hospitals



Patients Awaiting Discharge to Post-Acute Setting > 7 Days by Facility Type



On average it costs a hospital \$1,000 per day to care for these patients. The estimated impact at the time of the survey was \$1.70M.

April 2024

South Dakota Nursing Home Closures

2020-2023

- Custer
- Ipswich
- Lennox
- Clear Lake
- Salem
- Armor
- Elk Point
- Arlington
- Martin

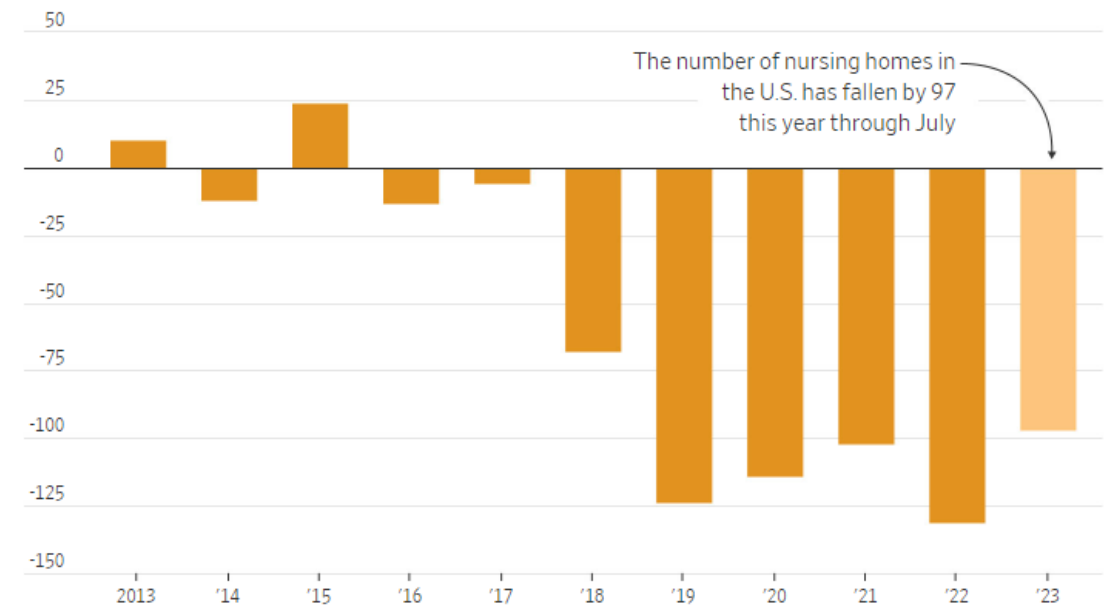
2015-2019

- Hudson
- Huron
- SF Covington
- Madison
- Mobridge
- Tripp
- Bryant
- Rosholt
- White

The Upheaval at America's Disappearing Nursing Homes, in Charts

Patients spend months waiting in hospitals for nursing-home beds

Change in number of nursing homes



Note: Nursing-home counts are based on the number of facilities with federal certification numbers at year-end. Data for 2023 are through July.

Source: Centers for Medicare and Medicaid Services

Advocacy

1. **Block appropriations:** Prohibit funds from being used to implement or enforce this rule – Letter signed by Representative Dusty Johnson April 30
2. **Congressional Review Act (CRA):** The CRA is a tool Congress can use to overturn certain federal agency actions. It's a resolution of disapproval but Biden can veto. (House Joint Res. 139) Introduced 5/10.
3. **Bipartisan Letters (4) Against the Proposed Staffing Mandate**
4. **Lawsuits:** Can the Federal Govt mandate without funding?
5. **Lobby for changes:**
 - Definition of Rural – use HRSA definition
 - Allow use of telemedicine for 24/7 RN requirement
 - Streamline CNA training
 - Allow for more LPN hours in the ratio
 - Federal funding to cover cost

Legislative Efforts to Stop the Rule

- H.R. 5796 / S. 3410, **Protecting Rural Seniors' Access to Care Act** – This was the first bill introduced to prohibit the *proposed* rule from being finalized. (Reps. Fischbach and Pence) *Rep. Dusty Johnson is a co-sponsor.*
- H.R. 7513, **Protecting American Seniors' Access to Care Act** – This was the second bill introduced to prohibit the *proposed* rule from being finalized. It was introduced to change the text of the first bill prior to its consideration and passage by the House Ways and Means Committee (Reps. Fischbach and Pence) *Rep. Dusty Johnson is a co-sponsor.* **Now that the rule has been finalized we need to turn to the CRA**
- H.J.Res.139 – **This CRA resolution of disapproval** to overturn the final rule was introduced in the House on May 10. (Reps. Fischbach and Pence)
 - **We are working the Senate on a companion to the House CRA resolution of disapproval**

Legislative Efforts to Address Workforce Challenges

- H.R. 3227 / S. 1749, **Ensuring Seniors' Access to Quality Care Act** – A bill to address the two-year CNA training lockout.
 - H.R. 8244, a revised version of the bill was passed by the House Ways and Means Committee on May 8.
 - H.R. 3227 was amended and passed by the House Energy and Commerce Committee on May 16.
- H.R. 468, **Building America's Workforce Act** – A bill to re-establish Temporary Nurse Aide (TNA) flexibilities that expired with the public health emergency.
 - This bill was amended and passed by the House Energy and Commerce Committee on May 16.
- H.R. 7929, **Nursing Home Workforce Support and Expansion Act** – A bill to provide up to \$400 million per year in grant funding to states to support direct care workers across the long-term care continuum.

Take-Aways

1. The pressure has just increased even more on nursing homes with additional threats of CMPs and higher level of scrutiny. Understand the intensity of the administrative and operational burden in breaking even and staffing crisis that will multiply and affect every sector in the healthcare industry.
2. It will become extremely important to invest in HCBS / LTSS programs and services. We need to find a way to serve more residents in their home and grow our home health, hospice and palliative care services.
3. Healthcare is a 24/7 business. We need to build the healthcare workforce pipeline and remove barriers / streamline processes to encourage more workers to enter this industry.