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GAVIN NEWSOM  
Governor

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AFL 19-16  
(Supersedes AFL 18-27)

**TO:** SKILLED NURSING FACILITIES (SNFs)

**SUBJECT:** Guidelines for 3.5 Direct Care Service Hours Per Patient Day (DHPPD) Staffing Audits, pursuant to the Authority Provided in Welfare and Institutions Code (W&I) section 14126.022 (Supersedes AFL 18-27)

**AUTHORITY:** Health and Safety Code (HSC) sections 1276.5 and 1276.65 and Welfare and Institutions Code (W&I) section 14126.022

**All Facilities Letter (AFL) Summary**

In accordance with HSC sections 1276.5 and 1276.65, and W&I section 14126.022, this notice provides updated guidelines for facility requirements during state audits for compliance with the 3.5 DHPPD staffing requirements, of which a minimum of 2.4 DHPPD shall be performed by certified nurse assistants (CNAs).

The California Department of Public Health (CDPH) is replacing AFL 18-27 with AFL 19-16 to clarify the requirements and guidelines for meeting the 3.5 and/or 2.4 (CNA) DHPPD staffing requirements in skilled nursing facilities (SNFs). The guidelines in this AFL are applicable to the audit period beginning July 1, 2019, and shall remain in effect until superseded.

This AFL makes the following updates:

- Defines the calculation for 3.5 and 2.4 (CNA) DHPPD staffing requirements.
- Establishes midnight as the Patient Day start time.
- Excludes direct care hours and patient census counts in subacute units.
- Mandates the use of CDPH Form 530 and Form 612.
- Clarifies direct caregiver time for nurse assistants.
- Defines terms commonly used and referenced in the audit process.



## **I. OVERVIEW**

Pursuant to W&I section 14126.022, CDPH conducts unannounced audits of open, active, freestanding SNFs for compliance with the minimum staffing requirements established in HSC sections 1276.5 and 1276.65. Statute authorizes CDPH to implement W&I section 14126.022 through the issuance of AFLs. Pursuant to W&I section 14126.022, this AFL carries the full legal regulatory effect of formally promulgated regulations.

These guidelines are limited to the implementation of W&I section 14126.022 and the Skilled Nursing Facility Quality and Accountability Supplemental Payment (QASP) System set forth therein. These guidelines are in addition to any other statutes and regulations applicable to a SNF.

The 3.5 DHPPD staffing requirement, of which 2.4 hours per patient day must be performed by CNAs, is a minimum requirement for SNFs. SNFs shall employ and schedule additional staff and anticipate individual patient needs for the activities of each shift, to ensure patients receive nursing care based on their needs. The staffing requirement does not ensure that any given patient receives 3.5 or 2.4 DHPPD; it is the total number of actual direct care service hours performed by direct caregivers per patient day divided by the average patient census.

Only direct caregivers shall count toward the 3.5 and 2.4 DHPPD staffing standards. For purposes of determining compliance with the minimum 3.5 and/or 2.4 DHPPD requirements, CDPH shall not count direct care service hours provided in subacute care units approved by the Department of Health Care Services and subject to the staffing requirements set forth in Title 22 of the California Code of Regulations (CCR) section 51215.5.

Any facility that falls below either the 3.5 or 2.4 DHPPD staffing requirement for any audited day is out of compliance, unless CDPH has approved a staffing requirement waiver for the facility. CDPH will issue one deficiency for non-compliance with each of the applicable staffing standards (non-compliance with 3.5 DHPPD, 2.4 DHPPD, or 3.2 DHPPD), regardless of the number of non-compliant days.

CDPH communicates the results of all audits via a Statement of Deficiency. Non-compliant facilities are responsible for submitting an executed copy of their Plan of Correction (POC) to CDPH.

Facilities can submit the POC to CDPH:

- 1) via mail to the following address:  
Staffing Audits Section  
California Department of Public Health  
1615 Capitol Avenue

P.O. Box 997377  
MS Code 3203  
Sacramento, CA 95899-7377

- 2) via electronic transmission to: [CDPH-L&C-StaffingAudits@cdph.ca.gov](mailto:CDPH-L&C-StaffingAudits@cdph.ca.gov).
- 3) via the Centers for Medicare and Medicaid Services' (CMS) Electronic 2567 and Plan of Correction (ePOC) Program.

The facility must maintain the original signed POC at the facility for a minimum of 3 years from the date of the violation.

CDPH will audit all SNFs subject to the 3.5 and 2.4 DHPPD requirements regardless of ownership status. The licensee of record at the time of audit is responsible for providing all documentation requested by the auditor, and for any administrative penalty that CDPH assesses as a result of a finding of non-compliance. Any action brought by CDPH against a SNF shall not abate by reason of a sale or other transfer of ownership of the SNF except with the express written consent of CDPH (HSC section 1292).

### **A. Regulatory Enforcement**

W&I section 14126.022 requires CDPH to assess an administrative penalty against a SNF if CDPH determines that the facility fails to meet the applicable 3.5 or 2.4 DHPPD requirements pursuant to HSC sections 1276.5 and 1276.65 and Title 22 CCR section 72329.2. CDPH will issue a single administrative penalty for staffing non-compliance, as follows:

- \$15,000 if the facility fails to meet the requirements for 5 - 49 percent of the audited days;
- \$30,000 if the facility fails to meet the requirements for 50 percent or more of the audited days.

Facilities may appeal an administrative penalty. AFL 11-20 addresses the appeal process. Facilities that CDPH determines are non-compliant with the 3.5 and/or 2.4 DHPPD requirements for less than 5 percent of the audited dates are not assessed an administrative penalty and are not entitled to an appeal.

### **B. The Audit Process**

#### **1. Entrance**

The Staffing Audits Section (SAS) Auditor (Auditor) will conduct an unannounced visit to the SNF. Upon entry, the Auditor will ask to speak with the Administrator or his/her

designee<sup>1</sup>. Each SNF shall provide the Auditor with a lockable room, power supply, chair, and adequate workspace, including a table large enough to hold a laptop computer and audit documents. The room must be sufficiently private to allow for the review of confidential documents.

The Auditor will conduct an entrance conference with the Administrator prior to collecting and reviewing documents for the audit. The purpose of the entrance conference is to explain the audit process and obtain facility-specific information for the audit calculations. During the entrance conference, the Auditor will circulate a sign-in sheet to document all attendees at the entrance conference.

Upon completion of the entrance conference, the Auditor will provide the facility with one date (sample day) from a list of selected dates taken from a 90-day period preceding the audit. The facility will have up to two hours to produce the required documents, for the sample day, as outlined in Section II A. If the documents are acceptable, the Auditor will provide the remaining audit dates. The facility shall produce the remaining documents for the selected audit dates within six hours of the Auditor's request. The Auditor may then perform a portion of the audit off-site.

## **2. Final Opportunity to Provide Documentation**

The Auditor shall provide the facility with a final opportunity to submit additional documentation to support its audit, prior to the exit conference.

## **3. Exit Conference and Conclusion of the Audit**

The Auditor will conclude the audit by conducting an exit conference with the Administrator. The purpose of the exit conference is to provide the Administration with a summary of CDPH's preliminary findings. The Auditor will explain any audit dates that were determined to be non-compliant. After CDPH's Quality Assurance Unit reviews the audit, CDPH may revise the preliminary findings, which may result in more or fewer days of compliance.

The exit conference officially concludes the audit, at which time the Auditor will not accept any further documentation for calculating the DHPPD for the audit dates. The auditor will then submit the audit file to the Quality Assurance Unit for review.

## **4. Quality Assurance and Management Review**

CDPH will conduct a quality assurance and management review of the Auditor's preliminary audit findings. CDPH will not consider documents that the facility has created or modified after the audit has commenced. The final audit findings may result in more or

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<sup>1</sup> Hereinafter, any reference to the Administration, Facility Administrator, Administrator, Facility Manager or Manager, shall be interchangeable and shall include his or her designee, as appropriate.

fewer days of compliance than the Auditor's preliminary results. CDPH will issue a Notice of Intent to Issue an Administrative Penalty and Notice to Correct a Violation, together with a Statement of Deficiencies and Plan of Correction to all SNFs CDPH determines to be non-compliant with the applicable DHPPD requirements for 5 percent or more of the days audited. A facility that receives a penalty notice may file an administrative appeal in accordance with AFL 11-20.

## **II. GUIDELINES**

### **A. Required Documentation**

The facility must provide all documents the auditor requests at the time of the audit. Facilities shall maintain current, complete, and accurate personnel and payroll records for all their employees, pursuant to 22 CCR section 72533. CDPH will ask facilities to provide the documentation listed below for each day audited. If the facility does not provide complete documentation for each day audited, the facility will receive a finding of non-compliance with the DHPPD requirements.

The facility shall have the documentation listed below, readily available:

1. Census and Direct Care Service Hours Per Patient Day (CDPH Form 612);
2. Facility Assignment Sheet;
3. Nursing Staff Assignment and Sign-In Sheet (CDPH Form 530);
4. Time cards, payroll records and reports for the audited period;
5. Direct caregiver payroll codes;
6. Nursing registry invoices, including registry staff detail to support any direct caregiver hours provided by registry nurses, with an original verifying signature of the Administrator.
7. Under no circumstances shall staff attest to the accuracy of their own hours;
8. Patient census records, including patient admissions, discharges, deaths, transfers, bed holds, subacute, and absent patients;
9. List of all direct caregivers who are not listed in the facility's payroll reports or timecards;
10. Staff Roster, including but not limited to:
  - a. the employee ID number;
  - b. full employee name, including any nickname used in the payroll information submitted by the facility;

- c. professional certification or license number and expiration date;
  - d. occupation and employment classification; and, if applicable:
  - e. date the employee changed classification or payroll code;
  - f. date employment began; and
  - g. date employment terminated.
11. Other personnel records for all facility staff. Personnel records for purposes of staffing compliance shall include:
- a. Documentation of employee's participation in the facility's staff orientation, as documented in CDPH Form 278A;
  - b. Copies of the professional license or certificate, or the verification page from the agency portal documenting its approval;
  - c. Duty statement or job description;
  - d. Documentation of all hours and dates worked including actual shift start and end times, meal periods, split shift intervals and if applicable, total daily hours worked;
  - e. For employees with both non-nursing and direct patient care responsibilities, documentation for each employee that delineates the actual direct caregiver time to be counted toward 3.5 and 2.4 DHPPD (CDPH Form 530 or delineated in payroll, i.e., payroll codes);
  - f. For registry, temporary, or contract direct caregivers, the name and contact information for the health services personnel agency, and the contract for services;
  - g. The following CDPH forms, including, but not limited to:
    - (1) Form 280A, to determine if a facility has an approved nurse assistant training program;
    - (2) CDPH 278A, to verify required nurse assistant orientation hours;
    - (3) CDPH 276A and CDPH 276C, to verify completion of theory and clinical competencies, respectively; and
    - (4) CDPH 283 B, to verify successful completion of a nurse assistant training program in California.
12. The facility shall also provide documentation of any CDPH-approved 3.5 and/or 2.4 (CNA) DHPPD waiver pursuant to AFL 18-16, or Title 22 CCR section 72329.2. CDPH will not consider denied, expired, or revoked waivers.
13. Any other documentation requested by the Auditor.

CDPH may request electronic payroll information and facilities may provide payroll information electronically. CDPH may also require facilities to provide the Auditor with a paper copy of the electronic data. Auditors may use any relevant facility documents or electronic data to verify the accuracy of the payroll records. Facilities may provide these additional documents to CDPH via electronic transmission during the time of the audit.

## **B. Unacceptable Documentation**

Facilities must use CDPH forms 530 and 612. Failure to use these CDPH required forms will result in a finding of non-compliance for each audited day the forms are not available. The facility is responsible for ensuring all entries are accurate and legible.

Unacceptable documentation includes, but is not limited to:

1. Documents or records that are incomplete, illegible, or inaccurate.
2. Documents that the facility created or modified after the audit commenced.
3. Dual role staff such as salaried or other employees the facility has not captured in hourly payroll records, through payroll codes, or delineated time on CDPH Form 530, including the specific bed or unit assignments and actual time providing direct patient care.
4. Staffing assignments (CDPH Form 530) without the original verifying signature of the Administrator, Director of Nursing (DON) or DON designee, or staffing assignments for which staff attested to the accuracy of their own hours.
5. Census forms (CDPH Form 612) without the original verifying signature of the Administrator, DON or DON designee.
6. Medical records, treatment records, or any other documents containing Protected Health Information (PHI), or in any manner identifying residents or patients.

CDPH shall not count direct care service hours provided in a subacute care unit approved by the Department of Health Care Services and subject to the staffing requirements set forth in Title 22 CCR section 51215.5 for purposes of determining compliance with 3.5 and/or 2.4 DHPPD requirements.

CDPH will not count hours toward the 3.5 and/or 2.4 DHPPD calculation if the facility fails to provide acceptable documentation of direct caregiver hours, or fails to provide separate documents for subacute and non-subacute care units for each audited day.

## **C. DHPPD Calculation**

CDPH shall calculate the 3.5 and 2.4 DHPPD based on a midnight start time.

1. Patient Day: The 24-hour period used to determine compliance with HSC section 1276.65. The Patient Day is a *prospective*, 24-hour period starting at

- midnight (12:00 a.m.) on the designated audit date and ending 23 hours, 59 minutes and 59 seconds later.
2. Average Daily Census: The total number of skilled nursing patients counted at the beginning of the 24-hour Patient Day (12:00 a.m.) and again both at 8 hours (8:00 a.m.) and 16 hours after the start of the 24-hour patient day (4:00 p.m.), and dividing the total by 3, for all days requested. CDPH shall calculate the Average Daily Census to the hundredths (i.e. two decimal places).
    - a. The facility shall document the daily census using CDPH Form 612.
    - b. The census counts shall not include subacute, intermediate care, special treatment patients, or bed holds.
    - c. The Administrator, DON, or designee must sign the census form verifying that the information is true and accurate. CDPH shall not consider a census form without this verification.
    - d. The census form must be typed or printed legibly.
    - e. The facility shall not include patient names or other identifying personal information on the census form.
    - f. Failure to provide a complete, verified, and legible census form will result in a finding of non-compliance with the 3.5 and/or 2.4 DHPPD for that day.
  3. Number of Hours Worked by Direct Caregivers: CDPH will base the 3.5 and 2.4 DHPPD calculation upon the *actual* (not scheduled) time worked by direct caregivers while providing skilled nursing care to patients during one 24-hour Patient Day. CDPH shall only count the hours worked by licensed and certified direct caregivers in good standing with CDPH or their licensing boards, and nurse assistants participating in an approved training program.
  4. CDPH shall not count direct care service hours provided in a subacute care unit approved by the Department of Health Care Services and subject to the staffing requirements set forth in Title 22 CCR section 51215.5 for purposes of determining compliance with 3.5 and/or 2.4 DHPPD requirements.
  5. 3.5 and 2.4 DHPPD Calculation is the number that results from dividing the actual Number of Hours Worked by Direct Caregivers per Patient Day by the Average Census, calculated out to the nearest hundredth of an hour (i.e. two decimal places).

Specifically, the formula for calculating the standard 3.5 DHPPD is as follows:

Total number of actual direct care service hours performed by direct caregivers per patient day ÷ The average census during the patient day

The formula for calculating the standard 2.4 DHPPD for CNAs is as follows:



Total number of actual direct care service hours performed by CNAs per patient day ÷ The average census during the patient day

**D. Direct Caregiver Time**

**1. Direct Caregivers**

Direct caregivers include employees for whom the facility provides documentation that the employee is a registered nurse as referred to in Section 2732 of the Business and Professions Code (BPC), a licensed vocational nurse, pursuant to BPC section 2864, a licensed psychiatric technician, pursuant to BPC section 4516, and a certified nurse assistant, or a nurse assistant participating in an approved training program, as defined in HSC section 1337, while performing nursing services as described in Title 22 CCR sections 72309, 72311, and 72315.

**2. Nurse Assistants**

CDPH will count direct caregiver hours worked by nurse assistants toward the 3.5 DHPPD. For CDPH to credit nurse assistant direct caregiver hours, the nurse assistant must meet or satisfy the following:

- a. Be paid by the facility;
- b. Be participating in either:
  - (1) a CDPH-approved nurse assistant training program; or
  - (2) a nurse assistant training program provided by another facility, agency or public educational institution. (The facility must provide to the Auditor a copy of the signed and dated agreement between the facility and training provider.)
- c. Have successfully completed:
  - (1) 16 hours of facility orientation;
  - (2) 16 hours of theory and clinical competency modules (42 CFR 483.152(b)(1)(i)-(v)).
- d. Perform only those duties for which they have demonstrated theory and clinical competency.

A facility may hire nurse assistants only if it has a CDPH-approved in-house nurse assistant training program or a contract with another facility, agency, or public educational institution to provide the training. CDPH will only count the hours of nurse assistants participating in an approved training program. CDPH will *not* count nurse assistant hours towards the 3.5 DHPPD if the facility's CDPH Form 280A indicates "Hire CNA Only" status.

To receive credit towards the 3.5 DHPPD requirement, the facility must document the nurse assistant assignment and actual hours worked on the CDPH 530.

### **3. Certified Nurse Assistants (CNA)**

CDPH will count direct caregiver hours worked by CNAs whose certifications are active and in good standing with CDPH toward the 2.4 DHPPD, when the facility provides acceptable documentation to the Auditor. CDPH will not count the time worked by a CNA during the audit period if the certification is expired, lapsed, suspended, or revoked. Any person not certified who represents himself or herself as a CNA is guilty of a misdemeanor. If convicted, he or she is subject to imprisonment in the county jail or a fine of up to \$1,000, or both (HSC section 1337.2).

### **4. Minimum Data Set (MDS) Nurse**

A licensed nurse assigned to assess a resident for purposes of completing the MDS is a direct caregiver. CDPH will include the MDS direct care service hours in the 3.5 DHPPD computation.

### **5. Director of Nursing (DON)**

Pursuant to Title 22 CCR section 72327(a), the DON “shall be a registered nurse and shall be employed eight hours a day, on the day shift five days a week.”

In a SNF licensed for 59 beds or less, CDPH will credit up to 40 hours performed by a DON or DON designee towards the 3.5 DHPPD. CDPH will credit additional hours toward the 3.5 DHPPD calculations *only if* the DON or DON designee works beyond those hours required by Title 22 CCR section 72327(a) and the facility delineates the actual time performing nursing services on the CDPH 530.

In a SNF licensed for 60 beds or more, CDPH will credit the hours of a DON or DON designee towards the 3.5 DHPPD calculations *only if* the DON or DON designee works beyond those hours required by Title 22 CCR section 72327(a) and the facility delineates the actual time performing nursing services on the CDPH 530.

### **6. Direct Care Service Hours Versus Non-Direct Care Service Hours**

HSC section 1276.65 and Title 22 CCR sections 72309, 72311, 72315 and 72329 define nursing services. CDPH will only count direct care service hours when: (1) provided by licensed or certified direct caregivers or by nurse assistants participating in an approved training program; (2) facilities provide appropriate documentation; and (3) the hours are delineated as required.

CDPH *will not* count non-nursing activities toward either the 3.5 or 2.4 DHPPD, including, but not limited to, the following:

- a. Paid or unpaid meal periods;

- b. Nursing services that are provided in the same shift as non-nursing services by dual role employees primarily engaged in non-nursing services, unless the facility provides acceptable documentation identifying the employees' discipline, the specific unit(s) or bed assignment(s) and delineating the actual time spent providing direct patient care;
- c. Nursing services provided by the same employee in the same shift to both subacute and non-subacute care units. No staff person may have a concurrent assignment in both the subacute and non-subacute unit of a skilled nursing facility;
- d. Nurse assistants not currently participating in an approved training program.
- e. A person employed to provide services such as food preparation, housekeeping, laundry, valet, concierge, or maintenance services shall not provide nursing care to patients and shall not be counted in determining the 3.5 and/or 2.4 DHPPD staffing standards (HSC section 1276.65(b));
- f. Private duty nursing services performed by staff paid for or supplied by a patient, a patient's family, guardian, conservator, or other representative; and
- g. Non-work time such as staff vacation, holiday and sick leave time.

Staff participating in training or in-service that occurs on-site (at the facility where the staff is employed), when payroll codes show them as providing direct patient care, shall receive up to two hours of credit per month towards the 3.5 and/or 2.4 DHPPD calculation.

## **E. Determining Time**

### **1. Actual Time**

CDPH shall base the 3.5 and 2.4 DHPPD calculation upon the *actual* (not scheduled) time worked by direct caregivers while providing skilled nursing care to patients during one 24-hour Patient Day.

### **2. Meal Periods**

CDPH shall deduct meal periods from the direct care service hours counted toward the 3.5 and 2.4 DHPPD in accordance with Labor Code section 512, applicable regulations, and wage orders.

- a. Facilities shall identify meal periods not captured in timesheets or payroll records by clocking in and out on the CDPH Form 530 assignment sheet.
- b. Pursuant to Labor Code section 512, an employer may not employ anyone for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes.
- c. A second meal period of not less than 30 minutes is required if an employee works more than 10 hours in one day.

- d. Health care employees who work over 8 hours may voluntarily waive one of two 30-minute meal periods.
- e. To be valid under the Labor Code, the meal period waiver must be:
  - 1) A separate written document for each employee;
  - 2) Voluntary on the part of the employee;
  - 3) Signed and dated by both the employer and employee; and
  - 4) Revocable by the employee at any time.

Meal periods not identified on the assignment sheet or not documented as clocked in and out in payroll records will be automatically deducted from the total direct care service hours at the rate of 30 minutes for the first six hours worked or one hour for every 10 hours worked. Unless the facility provides a valid meal waiver for the employee, the Auditor shall deduct meal periods required by law from the direct care service hours counted toward the 3.5 and 2.4 DHPPD, regardless of whether the employee took the full meal period. Written meal waivers for each individual employee must be in place at the facility and must comply with Labor Code requirements for the Auditor to accept as valid documentation for 3.5 and 2.4 DHPPD purposes.

## **F. Delineation**

### **1. Dual Role and Salaried Staff Direct Care Service Hours**

CDPH defines dual role employees as nursing staff that perform administrative or other non-nursing duties, as well as provide direct patient care in the same shift. Dual role employees must document the time they provide direct patient care. CDPH will only count direct care hours worked by direct caregivers towards the 3.5 and/or 2.4 DHPPD if properly documented.

Salaried staff and other workers whose time is not included in payroll, or is not delineated in payroll by payroll codes differentiating the type of work performed, must delineate on the 530 Form any hours during which they provided direct patient care for those hours to be included in the 3.5 and/or 2.4 DHPPD calculation. CDPH will not accept medical records, MDS records, treatment logs, or other documents containing PHI to delineate direct care service hours.

Documentation must include:

- a. The specific assignment by identifying each room or bed assigned to that staff member;
- b. The employee's full name printed legibly;
- c. The employee's nickname, if any;
- d. The employee's discipline (RN, LVN, CNA, NA);
- e. The actual start and end times of the employee's regular shift and schedule;
- f. The actual start and end times of the employee's meal periods;

- g. The employee's original signature verifying that the information provided is true and accurate; and
- h. The caregiver's employment status (i.e. registry, contract, corporate) on the assignment sheet, for all direct caregivers who are not employed by the facility.

Delineation is required for the following types of employees who are not primarily responsible for direct patient care, for CDPH to count their direct caregiver hours toward the 3.5 and 2.4 DHPPD:

- i. Director of Staff Development (DSD) must delineate time when providing nursing services beyond the hours required to carry out his/her orientation, training, certification and other non-direct patient care duties.
- j. Licensed or certified nurses, cross-trained or qualified to provide nursing services who have responsibilities in other departments such as medical records, concierge, valet, housekeeping, dietary, social services, activities director or coordinator, scheduler, ward clerk, unit secretary, or laundry, must delineate time providing direct patient care.
- k. The facility must delineate on the CDPH 530 the hours worked by nurse assistants participating in an approved training program, and the specific duties for which the NA has been deemed competent.

## **2. Direct Care Service Hours for Patients Receiving Specialized Care**

Facilities must delineate direct care service hours provided to patients who receive specialized care, such as subacute care, intermediate care, or to patients in Special Treatment Programs or Institutions of Mental Diseases. CDPH will not count these hours towards the 3.5 and/or 2.4 DHPPD calculations.

Title 22 CCR, section 51215(h) specifically prohibits facilities from scheduling nurses to work in both subacute and non-subacute SNF units during the same shift. Facilities with both subacute and non-subacute SNF beds must delineate staff who work in the subacute unit.

A facility's failure to provide sufficient documentation will result in the exclusion of all non-delineated or appropriately documented nursing hours from the 3.5 and/or 2.4 DHPPD calculation.

## **III. DEFINITIONS**

- (a) **Absent Patient:** a resident who is not in the facility or receiving service during an audited Patient Day.
- (b) **Actual Time:** the *actual* (not scheduled) time worked by direct caregivers while providing skilled nursing care to patients during one 24-hour Patient Day.
- (c) **Admission:** when a SNF accepts a patient for care/service.

- (d) **Audit Period:** the 90-day period designated by SAS, used to perform the 3.5 and/or 2.4 DHPPD audit.
- (e) **Average Daily Census:** The total number of skilled nursing patients counted at the beginning of the 24-hour Patient Day (12:00 a.m.) and again both at 8 hours (8:00 a.m.) and 16 hours after the start of the 24-hour patient day (and 4:00 p.m.), and dividing the total by 3, for each day requested.
- (f) **Bed Hold:** a reservation that allows a patient to stay in, or return to, the care facility (e.g., for a temporary transfer to a hospital, other health care provider, or a family visit).
- (g) **Census:** the total number of skilled nursing patients residing at the facility over a given period of time.
- (h) **Concierge:** a facility employee who is responsible for non-nursing duties including reception, preparing rooms for new residents, hosting visiting families, and customer relations/customer service.
- (i) **Delineation:** documentation clearly showing or describing the provision of direct care service hours separate from non-direct care service provide by the same individual in the same shift. For example, reflecting direct care service hours in payroll records, on the CDPH 530, on assignment sheets or other documentation.
- (j) **DHPPD:** Direct Care Hours Per Patient Day. Refers to the actual hours of work performed per patient day by a direct caregiver.
- (k) **DHPPD Calculation:** The total number of hours worked per patient day divided by the average daily census. CDPH will calculate the 3.5 and 2.4 DHPPD out to the nearest hundredth of an hour (i.e. two decimal places).
- (l) **DHPPD Staffing Requirement:** 3.5 direct care service hours per patient day, of which a minimum of 2.4 direct care service hours per patient day is provided by CNAs. It is the minimum number of *actual* (not scheduled) direct care service hours performed by direct caregivers.
- (m) **Director of Nursing (DON):** has the same meaning as in Title 22 CCR section 72327.
- (n) **Director of Staff Development (DSD):** has the same meaning as in Title 22 CCR section 71829.
- (o) **Direct Caregiver:** has the same meaning as in HSC section 1276.65(a)(2).
- (p) **Direct Care Service Hours:** has the same meaning as in HSC section 1276.65(a)(1).
- (q) **Discharge:** the act of releasing a patient from the facility or from further care in the facility.
- (r) **Documentation:** information the facility uses to demonstrate to CDPH that it is complying with the 3.5 and/or 2.4 DHPPD staffing requirement including a completed patient census form (CDPH Form 612), a completed nursing assignment and sign-in sheet (CDPH Form 530), verified by authorized personnel as described in this AFL.
- (s) **DON Designee:** a facility licensed nurse appointed by the facility DON, Administrator, or Licensee, who will temporarily serve in the DON's place, with the same responsibility and authority as the DON.

- (t) **Dual Role Employee:** a facility employee who provides nursing services as well as non-nursing services. Facilities must delineate actual time spent by dual role employees providing nursing services from time spent providing non-nursing services in order for CDPH to count these hours toward the 3.5 and/or 2.4 DHPPD.
- (u) **Electronic Data or Information:** information converted to a form usable in a computer system by computer programs, for example, PDF, .XML, .CSV, Microsoft Word, etc.
- (v) **Electronic Record:** data or information stored on a computer, compact disc, USB thumb drive or other media device that can be retrieved or printed onto paper.
- (w) **Electronic (Data) Transmission:** the process of sending documents or information over a communication medium to one or more computing, network, communication or electronic devices as designated or instructed by CDPH.
- (x) **Employee or Staff:** current employees, temporary, contract, registry staff, terminated, or inactive employees.
- (y) **Good Standing:** with regards to the licensing and certification of health professionals, that the holder of the license or certification holds a valid and active license or certificate, is not under investigation or suspension during the audit period.
- (z) **Intermediate Care:** medical care provided to patients who have a need for skilled nursing supervision and require supportive care, but who do not require continuous skilled nursing care.
- (aa) **Intermediate Care Patient:** a resident receiving intermediate care while occupying a bed licensed exclusively for that level of care.
- (bb) **Licensed Nurse:** a registered nurse, as referred to in BPC section 2732, or a licensed vocational nurse, as referred to in BPC section 2864.
- (cc) **Meal Period or Meal Break:** a paid or unpaid period of time when the staff nurse is not required to work and is not providing direct patient care.
- (dd) **Minimum Data Set (MDS) Nurse:** a licensed nurse assigned to assess a resident for purposes of completing the Minimum Data Set is a direct caregiver and CDPH will include the nursing hours in the 3.5 DHPPD computation.
- (ee) **Nurse Assistant:** has the same meaning as in HSC 1337(d)(1).
- (ff) **Orientation:** a time period wherein new staff is familiarized with the facility's policies, procedures, staffing, organizational structure and patients. Orientation time is not counted toward the 3.5 and/or 2.4 DHPPD.
- (gg) **Patient:** has the same meaning as in Title 22 CCR section 72077.
- (hh) **Patient Day:** The 24-hour period used to determine compliance with HSC sections 1276.5 and 1276.65. It is the period from 12:00 a.m. (midnight) to 12:00 a.m. (midnight) the following day. The Patient Day is synonymous with "calendar day" as used by the Centers for Medicare and Medicaid Services (CMS) Payroll Based Journal manual.
- (ii) **Patient Day Start Time:** The 24-hour period of time, which begins at 12:00 a.m. (midnight) and ends 23 hours, 59 minutes and 59 seconds later.
- (jj) **Patient Day Payroll Records:** documentation listing all facility employees receiving wages and salaries that indicates the dates the employee worked, including the hours the employee reported to work (in and out times) and any meal

breaks. The documentation should clearly identify the employee, indicate the employee's discipline (e.g., RN, CNA, MDS, etc.), and include information regarding the initial hire and/or termination date of that employee.

- (kk) **Protected Health Information (PHI):** information that identifies or can be used to identify an individual and relates to the past, present, or future health condition of that individual, including health care provided to that individual and/or payment for that health care.
- (ll) **Skilled Nursing Facility:** has the same meaning as in HSC section 1250(c).
- (mm) **Special Treatment Program:** has the same meaning as HSC section 1276.9.
- (nn) **Subacute or subacute care:** has the same meaning as Title 22 CCR section 51124.5.
- (oo) **Training:** educating staff through various methodologies including hands-on direct caregiving to individual patients. Includes orientation, on-site in-service, and classroom and off-site education/training programs.
- (pp) **Transfer:** when a patient is moved from one health unit to another (e.g., from skilled nursing to acute care or other facility).

## CONCLUSION

If you have questions regarding this AFL, please email: [LNCStaffingAudit@cdph.ca.gov](mailto:LNCStaffingAudit@cdph.ca.gov).

### Original signed by Heidi W. Steinecker

Heidi W. Steinecker  
Deputy Director  
Center for Health Care Quality

Attachments:

[CDPH Form 530 with Instructions](#)  
[CDPH Form 612 with Instructions](#)