

**April 17, 2025**

### **TEXAS COURT VACATES PORTIONS OF THE CMS FINAL RULE**

*By: Deborah A. Cmielewski, Esq. and Christina Principe, Esq.*

On April 7, 2025, in the case of American Health Care Association, et al v. Robert F. Kennedy, Jr., et al., the United States District Court for the Northern District of Texas, Amarillo Division, vacated the 24/7 Requirement and the Hours Per Resident Per day (HPRD) Requirements, two standards applicable to nursing homes that participate in Medicare and Medicaid.

These requirements were included in the May 2024 Final Rule promulgated by the Centers for Medicare and Medicaid (CMS), codified at 42 C.F.R. §§ 483.35(b)(1) and 483.35(c) (the “Final Rule”). The Final Rule requires facilities to implement these requirements in phases beginning in 2026 for certain facilities and by 2029 for all facilities.

The 24/7 Requirement provided that nursing homes must have a registered nurse on duty 24 hours per day, seven (7) days per week available to provide direct patient care. This standard exceeded a 1987 Congressional mandate that required nursing homes to have a registered nurse at least eight (8) consecutive hours per day, seven (7) days per week. The 24/7 RN Requirement was to take effect in 2026 for urban facilities and in 2027 for rural facilities. The HPRD Requirements imposed minimum staffing standards of 3.48 total nurse staffing hours per resident day also to take effect in 2026 for urban facilities and in 2027 for rural facilities. The HPRD Requirements also included specific staffing minimum standards of 0.55 staffing hours for registered nurses and 2.45 staffing hours for nursing aides to take effect in 2027 for urban facilities and in 2029 for rural facilities.

The Court held that CMS exceeded its statutory authority by imposing the 24/7 Requirement and effectively replacing Congress’s 8-hour minimum requirement. The Court further held that the HPRD Requirements set blanket staffing ratios that failed to consider the individual nursing needs of the nursing home residents as required by statute. As described by the Court, agencies may exercise their general authority to clarify the details of a statutory scheme but may not invoke that same authority to amend the statute itself; accordingly, CMS lacked the authority to issue a regulation that supplants Congress’s preferred requirements with its own. Because the Administrative Procedure Act demands courts set aside unlawful agency action, the Court vacated the contested provisions of the CMS Final Rule. In light of the Court’s ruling, the statutory

#### **Florham Park**

220 Park Avenue  
Florham Park, NJ 07932  
973-539-1000

#### **Paramus**

115 West Century Road  
Suite 100  
Paramus, NJ 07652  
201-262-1600

#### **Sparta**

351 Sparta Avenue  
Sparta, NJ 07871  
973-295-3670

#### **New York**

9 East 40th Street  
New York, NY 10016  
646-652-7775

framework established by Congress concerning nursing home staffing standards continues to govern. Other provisions of the Final Rule, which were not part of this challenge, remain in effect.

Should you have any questions or seek guidance, please reach out to Deborah A. Cmielewski, Esq. at [dac@spsk.com](mailto:dac@spsk.com), or Christina Principe, Esq. at [cp@spsk.com](mailto:cp@spsk.com).

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