

GREATER NEW YORK HEALTH CARE FACILITIES ASSOCIATION

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Memo 26-17

To: Administrator, DNS, Owners, Operators, Nursing Supervisors, Interdisciplinary Team members and QA Committee

From: Mary Gracey-White RN, Director of Regulatory Compliance

Date: March 20, 2026

Re: NYSDOH Minimum Staffing Compliance Notifications - Quarter 1 2024

As you may be aware, on 3/16/2026, NYSDOH disseminated notices via the HCS regarding compliance with nursing home 3.5 Hours Per Resident Day (HPRD) for **Quarter 1 2024**.

To recap, the NYS PHL Section 2895 states that facilities are required to maintain at minimum daily average staffing hours equal to **3.5 hours of care per resident per day (HPRD)** by a certified nurse aid (CNA) and a licensed practical nurse (LPN) or registered nurse (RN). Out of the 3.5 hours, no less than **2.2 HPRD shall be provided by a CNA, and no less than 1.1 HPRD shall be provided by an LPN or RN**. Determinations of compliance will be based on the Center for Medicare and Medicaid Services Payroll Based Journal (PBJ) data for the review quarter, by comparing the quarterly average of the reported daily number of HPRD provided to each of the staffing requirements.

Facilities deemed out of compliance that believe the determination was due to a **PBJ error, can request redetermination**. If a facility is out of compliance but believes they **can demonstrate mitigating or aggravating factors set forth in 10 NYCRR § 415.13 may apply for a penalty reduction by using the Department prescribed form to provide the required information and evidentiary documentation within 10 days of receipt of the notice**.

This documentation should include **all efforts** that facility implemented to acquire new staff and take appropriate steps to ensure the health and safety of its residents. Please find the Commissioners Letter [HERE](#) determining nursing labor shortages by county and NYSDOH FAQs. In the NYC and surrounding counties, the Commissioner determined there was a shortage of LPNs.

Please contact the Association if you need further assistance and you may also contact NHSafeStaffing@health.ny.gov.

https://www.health.ny.gov/facilities/nursing/minimum_staffing/docs/faq.pdf