



Committee: Economic Matters Committee

Bill Number: House Bill 800

Title: Public Safety – Emergency Management – Price Gouging Consumer Protections

Hearing Date: February 16, 2022

Position: Support with Amendment

The Maryland Nurses Association (MNA) has strong concerns about the current version of House Bill 800 – Public Safety – Emergency Management – Price Gouging Consumer Protections but supports with amendment. This bill seeks to prohibit price gouging during a state of emergency. Nurses recognize the importance of limiting gouging the price of commodities and even specialized goods such as masks and medication, but we have serious concerns about the inclusion of health staffing services in this bill.

For the past two years, nurses have been on the front lines of the COVID-19 pandemic. Nurses have had to work seemingly endless overtime hours in understaffed and unsafe conditions to keep Marylanders healthy. Nurses have also been one of the primary recipients of the increased threats and violence against healthcare workers during the pandemic. Throughout the pandemic, nurses have felt underappreciated, and that their compensation did not match the service they were providing to the state, but they have continued to work tirelessly because they want to help keep our state healthy. Because of the experiences of the last two years, we were initially very concerned when we saw that the services of nurses, and other health professionals, were included in a list made up primarily of goods such as cleaning supplies, building supplies, and food. **We would prefer that “health staffing services” be entirely removed from the bill, but if the Maryland General Assembly is intent on keeping this provision in the bill, the following amendment would be necessary or the Maryland Nurses Association would oppose the bill:**

To provide more targeting of this bill, we ask for the following amendment:

On Page 1, line 21 after “(A)” insert “**(1)**”; after “PRICE.” insert “**(2) When calculating the price of health staffing services, the portion of the price that goes to pay an individual providing patient care is not included.**”

This amendment strikes an essential balance by not capping the salaries of essential health care professionals but still preventing staffing agencies from profiteering by charging unreasonable premiums on top of the wages that go to individuals providing patient care. Although the bill currently allows for increased labor costs, it is very unclear how that provision works and how it would be applied to health care staffing. There are many reasons it would make sense to pay nurses more during an emergency such as compensating for increased risk, increased hours or attracting experienced or specialized staff. We believe that it must be clear that salary increases for direct care health professionals are permitted even if the state wants to prevent profiteering on the part of the staffing agencies themselves

We also see this amendment as important to preventing a further reduction in staffing during a pandemic. During the pandemic, we have seen countless experienced nurses give up the profession due to burn out, and potential downward pressure of salaries could exacerbate this trend. Additionally, we are very concerned that this bill, without our amendment, may result in contract nurses moving to other states during the next crisis. This is particularly concerning because the price gouging statutes in several of our neighboring states do not include health care staffing or do not have hard price caps:

- West Virginia’s statute only applies to “essential consumer items, goods used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight and storage services, or gasoline”ⁱ
- Pennsylvania’s statute applies goods and services “bought or rendered primarily for personal, family or household purposes”ⁱⁱ
- Delaware had a COVID-19 specific price gouging statute, which did not expressly include health services.ⁱⁱⁱ Delaware recently passed a permanent price gouging statute but it also did not explicitly include health services.^{iv}
- Virginia’s price gouging law does include “medical services” but the statute does not include an explicit cap in the way HB 800 does.^v

We understand the importance of protecting Marylanders from price gouging during an emergency, but we also believe that there needs to be careful consideration before potentially capping compensation for services provided by nurses and other health care professionals. Thank you for your consideration of our testimony, and we ask a favorable report including our suggested amendments. If we can provide any further information, please contact Scott Tiffin at stiffin@policypartners.net.

ⁱ <https://law.justia.com/codes/west-virginia/2017/chapter-46a/article-6j/section-46a-6j-2/>

ⁱⁱ <https://casetext.com/statute/pennsylvania-statutes/statutes-unconsolidated/title-73-ps-trade-and-commerce/chapter-5a-price-gouging-act/section-2323-definitions>

ⁱⁱⁱ <https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocumentSessionLaw?sessionLawId=48165&docTypeId=55&sessionLawName=chp267.html>

^{iv} <https://legis.delaware.gov/BillDetail?LegislationId=48352>

^v <https://law.lis.virginia.gov/vacode/title59.1/chapter46/>