



Maryland
Hospital Association

Senate Bill 565 – Public Safety – Emergency Management – Price Gouging Consumer Protections

Position: *Support*
February 24, 2022
Senate Finance Committee

MHA Position

On behalf of the Maryland Hospital Association’s (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment in support of Senate Bill 565.

Our hospital heroes have been there for Marylanders, battling more than 700 days on the front lines of the COVID-19 pandemic. Hospitals confronted a significant range of pressures in the past two years, with workforce shortages among the most critical.

Hospitals and other health facilities faced staffing shortages before the pandemic, but these challenges have reached crisis proportions. The incredible physical and emotional toll health care workers have endured caring for patients during the pandemic exacerbated the shortage.

Hospitals have fought to recruit and retain staff, offering wage increases, benefit package enhancements, overtime pay, bonus pay, loan repayment, and other incentives. Yet, the shortages persist. Some 27% of nursing and related positions in Maryland hospitals are now vacant due to attrition and overwhelming demand for hospital services. Overall hospital employee vacancies rose by one-third statewide during 2021.

The national pattern is similar. The American Hospital Association reports job postings for nurses are up 45% nationwide since January 2020 and 41% for other clinical staff.¹

To meet patients’ needs, many hospitals and providers across the continuum have been forced to rely on temporary staffing agencies to fill vacancies to deliver critical care.

In normal times, agency rates are modestly higher than the hourly cost for a staff nurse. Now, the typical hourly rate is approximately 2.5 times hourly wages and benefits for nurses on payroll. Startlingly, rates continued to rise to levels we have never seen. Providers have no choice but to pay continuously escalating rates—sometimes three to four times higher than pre-pandemic rates. This experience, paired with staffing agencies’ limited transparency and troubling recruitment tactics, caused providers nationally to question if staffing agencies were engaging in unfair and anticompetitive practices.

¹ American Hospital Association. (January, 2022). “[Data Brief: Workforce Issues Remain at the Forefront of Pandemic-related Challenges for Hospitals.](#)”

In September, we asked the Attorney General to look into our serious concerns that certain nurse staffing agencies take advantage of these difficult circumstances to boost their profits at the expense of patients and the hospitals that treat them. As noted in the attached letter, we urged the state to enlist federal agencies having competition and consumer protection authority to investigate whether this conduct is anticompetitive and/or violates consumer protection laws.

In a meeting in response to our letter, we urged the Attorney General to include health staffing services as part what could be reviewed under price gouging. SB 565 fulfills that request.

Please know that our concerns focus solely on the agencies and not the personnel they represent. We understand the variants of the COVID-19 virus and the length of this ongoing pandemic put a tremendous strain on health care personnel, and we commend them for their dedication to their patients and their communities in the face of these challenges.

The nature of the agencies' activities and the threat they pose to quality care and patient safety demand attention. The Attorney General should have the tools to investigate improper behavior to protect access to care in our hospitals and post-acute settings throughout this pandemic and future emergencies.

We request the favorable report on Senate Bill 565.

For more information, please contact:

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Maryland
Hospital Association

September 23, 2021

The Honorable Brian E. Frosh
Maryland Attorney General
200 Saint Paul St.
Baltimore, MD 21202

Dear Attorney General Frosh:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we implore you to address the serious concerns impacting Maryland's health care workforce. Throughout the pandemic we've encountered challenges with price gouging. You will recall the national news stories of hospitals and nursing homes paying exorbitant prices for personal protective equipment like face masks, gowns, and gloves—including in Maryland. Staffing costs continue to follow this unsustainable trend.

Maryland's hospitals are facing the worst staffing shortage since the beginning of the pandemic. We have fewer people working in our hospitals today than we had 18 months ago, as COVID-19 has taken a devastating physical and emotional toll on our health care workforce. Many nurses and other health care workers have reached their breaking point and are leaving hospital employment, retiring early, or leaving their profession altogether.

Here in Maryland, demand for health care workers, especially nurses and allied health personnel, continues to surpass prior record levels. Under normal circumstances, hospitals turn to staffing agencies to help fill temporary gaps. But in recent weeks it has become next to impossible for many Maryland hospitals to get staff from contracted agencies due to higher nationwide demand. Data from Qualivis show **regional demand has jumped 62% for ICU nurses, 151% for medical/surgical nurses, and 500% for labor and delivery nurses, from a year ago.**ⁱ¹

These agencies are offering hourly rates and sign-on bonuses that hospitals cannot match. As a result, qualified health care providers are leaving hospitals at a time when we need them most—as the Delta variant spreads, the pediatric surge worsens, and cold and flu season approaches.

Our hospitals have no choice but to pay the continuously escalating rates and refrain from complaining publicly for fear of being cut off from the supply by the staffing agencies setting the prices. **From September 2020 to September 2021, the average rates have climbed across nursing positions—an increase of 63% for ICU nurses up to 98% for labor and delivery nurses.**ⁱⁱ To be clear, we recognize that travel nurses are in high demand and are caring for unusually complex patients suffering an infectious disease. However, we are troubled by the fact that rates have risen so steeply and to levels never before seen.

As Maryland’s chief legal officer, we need your help. We ask that you engage your peers through the National Association of Attorneys General to help resolve these issues. We ask you to request that the Department of Justice investigate these unprecedented rates and take appropriate action to protect hospitals and the patients they serve. On a similar path, the American Hospital Association is advocating for the Federal Trade Commission to use its authority to “investigate reports of anticompetitive pricing by nurse staffing agencies.”ⁱⁱⁱ

Throughout this pandemic, you have successfully fought to protect the most vulnerable Marylanders by keeping them housed, fed, safe, secure, and connected. You used the authority granted by the General Assembly to investigate cases of price gouging that hurt consumers. Now, we need your support to ensure we have a robust health care workforce that can continue to care for Marylanders in need, day in and day out.

Respectfully,



Bob Atlas
President & CEO

ⁱ Qualivis. (September 15, 2021). “Regional Travel Rate Trends, September 2020 – September 2021.” Regional data from Delaware, Maryland, Virginia, Washington DC and West Virginia.

ⁱⁱ Ibid.

ⁱⁱⁱ American Hospital Association Letter to Acting Chairwoman Rebecca Slaughter. (February 4, 2021).