

**Statement
of the
American Hospital Association
for the
Subcommittee on Consumer Protection and Commerce
of the
Energy and Commerce Committee
of the
U.S. House of Representatives**

“Pandemic Profiteers: Legislation to Stop Corporate Price Gouging”

February 2, 2022

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) appreciates the opportunity to submit for the record our comments regarding concerns about anticompetitive conduct on the part of health care staffing agencies, some of which have been exploiting the severe shortage of health care providers during the COVID-19 pandemic. Our concerns range from potential collusion to increased prices way beyond competitive levels and/or egregious price gouging and the impact these behaviors could have on efforts to care for patients and communities.

As we enter the third year of the COVID-19 pandemic, the nation is currently experiencing one of the worst surges of the virus due to the omicron variant. As of January 2022, there have been over [70 million COVID-19 cases](#) and nearly [900,000 deaths](#) in the U.S., with over 20 million cases and approximately 100,000 deaths in just the last two months.

Our nation’s health care workers have been on the front lines of this crisis since the outset, caring for millions of patients, including over [4 million inpatients with COVID-19](#). During this time, hospitals and health systems have continued to face a range of financial and operational pressures, with workforce-related challenges among the most critical. The AHA is concerned that staffing agencies are exploiting this shortage and driving up workforce costs even more for providers. This is occurring at a time when many hospitals and health systems are still facing other immense financial constraints and personnel shortages. For many health care providers



around the country, this has led to an unsustainable situation that threatens their ability to care for the patients and communities they serve.

HOSPITALS AND HEALTH SYSTEMS ARE FACING A CRITICAL SHORTAGE OF WORKERS TO MEET INCREASED DEMAND

As demand for health care remains high, many hospitals and health systems are reporting critical staffing shortages. Nearly [1,400 hospitals or 28% of hospitals](#) that reported data on staffing to the federal government indicated that they were anticipating a critical staffing shortage within the week of Jan. 27. At the same time, patient acuity has increased and hospital stays have accordingly increased in length. According to [data from Kaufman Hall](#), adjusted patient days (accounting for both inpatient and outpatient hospital days) have increased 2.7% from pre-pandemic levels in 2019, while average patient length of stay has increased 8.8% compared to pre-pandemic levels and 9.5% between October 2021 and November 2021, alone.

Nurses, who are critical members of the patient care team, are one of the many health care professions that are currently in shortage. A [recent study](#) found that the nurse turnover rate was 18.7%, illustrating the magnitude of the issue facing hospitals and their ability to maintain nursing staff. The same [study](#) also found that 35.8% of hospitals reported a nurse vacancy rate of greater than 10%, which is up from 23.7% of hospitals prior to the pandemic. In fact, two-thirds of hospitals currently have a nurse vacancy rate of 7.5% or more. Hospital employment has continued to decline compared to pre-pandemic levels. According to [data from the Bureau of Labor Statistics](#), hospital employment is down 95,600 employees from February 2020.

STAFFING AGENCIES ARE EXPLOITING WORKFORCE SHORTAGES

To help maintain appropriate levels of care for patients, nearly every hospital in the country has been forced to hire temporary staff at some point during the pandemic, including contract nurses, according to a [survey](#) by AMN Healthcare. Unfortunately, some staffing agencies seem to be exploiting these shortages by inflating prices beyond reasonably competitive levels – two or three or more times pre-pandemic rates – and reportedly retaining high profit margins for themselves.

According to Proluent Health, there has been a 67% increase in the advertised pay rate for travel nurses from January 2020 to January 2022, and hospitals are billed an additional 28%-32% over those pay rates by staffing firms. Although our most recent information is that rates throughout the nation are in the range of \$200 per hour, there are some reports of staffing agency charges as high as [\\$240 per hour or more](#). These increased rates are unsustainable and have contributed to the dramatic increase in hospitals' labor costs since the beginning of the pandemic. Through November 2021, labor expenses increased [12%](#) compared to pre-pandemic levels and [19.5%](#) on a per patient basis.

The conduct of some of these staffing agencies bears all the hallmarks of widespread collusion and perhaps other abuses. The AHA [sent a letter](#) to the Federal Trade Commission (FTC) nearly one year ago urging the commission to investigate these reports of anticompetitive

pricing by staffing agencies. Even now in the midst of another crushing wave of the pandemic and sustained high prices throughout, the FTC still has not responded to the AHA letter.

Congressional lawmakers also have called for an investigation into price gouging by staffing agencies. On Jan. 25, nearly 200 bipartisan members of Congress [sent a letter](#) highlighting their concern that “certain nurse-staffing agencies are taking advantage of these difficult circumstances to increase their profits at the expense of patients and the hospitals that treat them.” The letter calls on the White House to enlist one or more federal agencies with competition and consumer protection authority to investigate the exorbitant price increases by these agencies.

This followed a bipartisan, bicameral [letter](#) in November 2021 that asked federal agencies to investigate this conduct to determine: if the price hikes are the product of anticompetitive activity, if there is evidence of price collusion or other anticompetitive practices, if the activity violates consumer protection laws, if increased rates translate to higher pay for contract nurses, the impact these price hikes have had on rural and underserved areas, and if nurse staffing agencies increased their own percentage of profit during the COVID-19 pandemic.

The AHA continues to urge the FTC to investigate these reports of anticompetitive conduct from staffing agencies that are exacerbating workforce shortages and straining the health care system. We also ask that Congress look into this pressing matter and coordinate with the FTC and other agencies where appropriate.

CONCLUSION

The ongoing COVID-19 pandemic has brought unprecedented demands on the nation’s health care system. Preventing staffing agencies from exploiting hospital and health systems’ need for providers would help mitigate some of the financial and operational pressures currently facing hospitals and allow them to continue focusing on critical care for patients. We thank you for your attention to this issue and consideration of our comments on behalf of hospitals and health systems. We look forward to working with Congress to address this important issue.