



*Leading for Better Health*

November 12, 2021

The Honorable Josh Shapiro  
Attorney General for the Commonwealth of Pennsylvania  
Pennsylvania Office of Attorney General  
14<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Dear Attorney General Shapiro,

The Hospital and Healthsystem Association of Pennsylvania (HAP) applauds the efforts of the Pennsylvania Office of Attorney General to combat price gouging and false, deceptive, and misleading advertising during the COVID-19 public health emergency. Thank you for protecting Pennsylvanians from these and other harmful practices.

On behalf of our members—more than 240 acute and specialty hospitals and health systems—we ask that you continue your work to protect Pennsylvanians' health and safety by evaluating and investigating allegations of price gouging by nurse staffing agencies and then acting on your findings.

Specifically, we urge the Pennsylvania Office of Attorney General to:

1. articulate publicly your concerns related to alleged nurse staffing agency price gouging
2. validate your authority to investigate and, if necessary, prosecute agencies engaged in price gouging
3. encourage victims to report suspected instances of price gouging via your existing web-based portal

Hospitals across the commonwealth face extraordinary staffing challenges as more patients present with more advanced disease and large numbers of employees leave the workforce due to pandemic-stress and other reasons. One large health system, for example, currently reports that four percent of nurses leave its workforce *each month*.

To ensure uninterrupted, high-quality patient care, hospitals use nurse staffing agencies to fill immediate, temporary operating gaps. Nationwide, hospitals are currently reporting paying agency rates that have, in some instances, tripled over recent months. (HAP is surveying Pennsylvania hospitals and will soon be able to provide more information about the extent of this problem.)

HAP believes that Pennsylvania's price gouging statute—which prohibits the sale of goods or services for an amount representing an "unconscionably excessive price"—can be applied in this situation. It is likely unconscionable, for example, that staffing agencies are reported to be soliciting nurses currently employed by a hospital and then, upon hire, contracting the nurses back to the hospital at artificially inflated prices.



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**To be clear, HAP and Pennsylvania hospitals strongly support travel nurses and others employed by staffing agencies.** These experienced professionals are entitled to fair compensation for the incredible care they provide. We are deeply troubled, however, by reports that staffing *agency* rates are rapidly increasing to historically high levels.

This is not only a Pennsylvania problem. The American Hospital Association (AHA) has received egregious pricing reports from hospitals across the nation and has implored the Federal Trade Commission to investigate and take action against this practice. Moreover, the legal theory we suggest in Pennsylvania is consistent with those brought by hospital systems in other states which are also pursuing price gouging claims against nurse staffing agencies.

Pennsylvania hospitals are in such severe need of staff to care for their patients that they have little choice but to pay the rates. They also fear that, if they complain publicly, they may be “cut off” by staffing agencies, which would negatively affect patient care, including longer emergency room wait times, delays in scheduling surgeries and more. Rural and underserved areas—which disproportionately rely on low government reimbursement rates—are most at risk.

We believe that your immediate and visible intervention on this issue will result in important and direct improvements in Pennsylvanians health care.

Thank you for your consideration of this request, and for your efforts to protect all Pennsylvanians at this critical time.

Sincerely,

A handwritten signature in black ink that reads 'Andy Carter'. The signature is fluid and cursive, with the first name 'Andy' being more prominent than the last name 'Carter'.

Andy Carter  
President and Chief Executive Officer