



October 14, 2021

The Honorable Derek Schmidt
Attorney General of Kansas
120 SW 10th Ave, Second Floor
Topeka, KS 66612

Dear Attorney General Schmidt:

On behalf of long-term care providers in Kansas, we are writing to request the Office of the Attorney General of Kansas use its resources and expertise to address an issue that has become dire for health care providers and long-term care providers, specifically, during the COVID-19 pandemic – the anticompetitive practices and price gouging of nurse staffing agencies.

Because 80% of the COVID-19 deaths in the United States have been among people aged 65 and older, particularly those in the frailest health, long-term care providers have been on the front lines of battling the pandemic. These providers have experienced severe shortages of personal protective equipment (PPE), testing costs and shortages, and ever changing (and often conflicting) guidance from federal, state and local governments and authorities.

But nothing compares to the crippling workforce and staffing challenges providers have faced taking care of our Kansas seniors. Unfortunately, these workforce and staffing issues have been exacerbated and exploited by the actions of nurse-staffing agencies.

When facing a shortage of staff, providers are forced to contract with nurse staffing agencies to cover shifts when workers are not available due to COVID-19 absences or the inability to hire enough staff to care for residents. The demand for the use of agency staffing has been unprecedented during the pandemic, with some aging services providers reporting that on any given day or night shift, 50% or more of the direct care staff on duty are temporary agency staff. As a result, nurse staffing agencies have exploited this dynamic by price-gouging long-term care providers in every area of the state. We consistently hear from our providers that staffing agencies charge three to four times the wages of permanent staff.

The nurse staffing agencies have raised rates to outrageous levels, yet providers are forced to use these arrangements because they need to staff buildings at adequate levels to care for their residents. In addition, without using agency staff, providers could face regulatory actions and penalties from state and federal agencies. The use of nurse agency staff has increased the cost of care dramatically along with the increased costs related to the pandemic of PPE, testing, and infection control. Furthermore, even at these inflated costs, many providers report that staffing agency workers do not dependably show up to work, causing serious challenges for the workers who are present for those shifts and the residents who need care.

Equally concerning is that nurse staffing agencies are also actively recruiting from within and poaching employees from long-term care providers with the enticement of higher pay and then often sending these individuals back to work in those buildings as agency staff – at a much higher rate. In addition to this practice being abhorrent, this puts the provider in an awkward position while dealing with their on-going workforce crisis and staff morale.

Most long-term care is paid for by taxpayers through the Medicare and Medicaid programs; neither program is structured to respond to excessive costs and so monies that should go to caring for residents are diverted to paying private agencies.

We respectfully request the Office of the Attorney General of Kansas use its authority to protect consumers and taxpayers from anticompetitive and unfair practices to investigate these activities and take appropriate action to protect long-term care providers and the seniors they serve.

Thank you for your consideration. Please contact us for additional information or to discuss this critical issue.



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Kansas Health Care Association (KHCA) and LeadingAge Kansas are the two statewide trade associations representing long-term care provider organizations.