



Charles N. Kahn III
President and CEO

March 11, 2022

Mr. Chris Toth
Executive Director
National Association of Attorneys General
1850 M St. NW, 12th floor
Washington, DC 20036

Dear Mr. Toth,

On behalf of the Federation of American Hospitals (FAH), I am writing to encourage the National Association of Attorneys General (NAAG) state attorneys general to use their authority to investigate concerning and potentially anticompetitive conduct of travel nurse-staffing agencies during the COVID-19 public health emergency (PHE) and take appropriate action to protect hospitals and their patients. We join other health care organizations, particularly ones in states directly appealing to their state's Attorney General¹, in urging action to combat this anticompetitive behavior. We also ask NAAG to urge appropriate federal agencies, such as the Federal Trade Commission (FTC), to investigate reports of such anticompetitive pricing.

The FAH is the national representative of more than 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural areas across 46 states, plus Washington, DC and Puerto Rico. Our members include teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children's, and cancer services.

It has been widely reported that nurse-staffing agencies are exploiting the COVID-19 crisis with predatory price increases that can be disconnected from the wages paid to their contract nurses who are providing needed clinical care to patients in hospitals. Bipartisan members of the House and Senate have expressed concern over these practices and, in particular, worry that hospitals will be unable to sustain these exorbitant staffing costs.² Investigation of these practices is needed to protect patients and ensure that health care treatment is readily

¹ Hospital and Health System Association of Pennsylvania Letter to The Honorable Josh Shapiro, November 12, 2021: <https://www.haponline.org/Resource-Center?resourceid=719>; California Hospital Association Letter to The Honorable Rob Bonta, September 15, 2021: <https://calhospital.org/wp-content/uploads/2021/09/AG-Bonta-9-15-21-FINAL.pdf>

² <https://welch.house.gov/sites/welch.house.gov/files/WH%20Nurse%20Staffing.pdf>

available, and not strained by the conduct of outside actors seeking to take advantage of a vulnerable situation.

As we enter the third year of battling COVID-19, the mental and physical toll in responding to the PHE has put an unprecedented strain on our frontline caregivers and hospital support staff. During this time, our hospitals have continued to face a range of financial and operational pressures, with workforce shortages topping the list of concerns. ***The FAH encourages NAAG to focus its membership to investigate whether inflated prices being charged by nurse staffing agencies are the result of anticompetitive activity; whether nurse staffing agencies are violating any consumer protection laws with their practices; if these practices constitute price-gouging; and the overall impact of price increases on availability and affordability of health care, particularly for rural and underserved communities.***

We appreciate your attention to our significant concerns outlined in this letter, along with other disruptive anti-competitive behaviors. If you have any questions or wish to discuss these issues further, please do not hesitate to reach out to me or a member of my staff at 202-624-1534.

Sincerely,

