



North Dakota House of Representatives

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Representative Alisa Mitskog

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COMMITTEES:
Appropriations

Senate Human Services Committee

March 13, 2023
HB 1476

Chairman Lee, committee members:

Good Morning, I am Rep. Alisa Mitskog-District 25. HB 1476 is a bill that proposes to study the impact of contract nursing agencies on entities that receive Medicaid and Medicaid expansion.

Background

I learned about the issue of contract nursing costs during my first session on the House Appropriations Committee 2 years ago. Since that time, I have watched the costs escalate to the point that some facilities are facing a questionable future. Taxpayer dollars are subsidizing these costs. I understand the labor shortage facing nursing homes and hospitals and their staffing requirements. My intention of this bill is not to harm long term care facilities or hospitals that currently employ travel nurses and CNAs and but rather, I want to make you and the legislature aware of the runaway costs surrounding the use of these nursing agencies. The trajectory is unsustainable. The costs associated with using contract nursing services have significantly increased in 2021 and 2022.

Costs Associated with Contracted Nursing Services

North Dakota Long Term Care Facilities:

2021: **28.8 million** in contracted labor 2022: **63.8 million** in contracted labor

On a local level, St. Gerard's in Hankinson,

2021: **\$300,869** (7089 hours of contracted labor) 2022: **\$827,513** (14,163 hours of contracted labor)

Other rural nursing home shared their contracted nursing costs:

2020: agency CNAs **\$368,000** 2021 agency CNAs **\$592,460**
7/1/2022-12/31/2022:CNA **\$505,478.00** **\$36,000** nurses.

The ND Veteran's Home

2020	\$71,765.79
2021	\$103,563.42
2022	\$309,784.38

Agency rates:

AWM 2019 – 2020 Rates

RN	\$56.35 - \$60.54
C.N.A.	\$34.33 - \$40.59

2021 – 2022 Rates

	\$110.00 - \$200.00
	\$59.85 - \$108.85

Nela Rate on Oct 2021

RN	\$53.00
LPN	\$42.50
C.N.A.	\$32.00

Rate change on April 8, 2022

RN	\$59.90
LPN	\$52.50
C.N.A.	\$42.50

Rate change requested Sept 2022

RN	\$80.00
LPN	\$70.00
C.N.A.	\$60.00

An analysis by the American Hospital Association projected the cost of labor to be **57 billion higher in 2022 with 29 billion due to contract labor expenses.**

These numbers have made me realize that we need better clarity and transparency on the costs. How much is the agency paying their CNAs and nurses? Why the significant increase in the rate nursing homes were billed in 2021 and 2022? What are the profit margins?

14 other states as of last fall have moved forward legislation addressing this issue. Minnesota has had a cap on rates that nursing agencies can charge facilities for the past 20 years and according to a long term hospital and nursing home administrator in a rural Minnesota community, the caps have worked well in reining in costs. In June 2022, U.S. Sen. Cramer introduced the Travel Nursing Agency Transparency Study Act, a bill that would require the Government Accountability Office to conduct a study on the effects hiring agencies have had across the health care industry during the Covid-19 pandemic. The bill proposes to look into the business and payment practices of staffing agencies, including potential price gouging and taking of excessive profits. Specifically, GAO's investigation will look at the difference between how much agencies charged health care institutions and how much they paid contracted nurses. No formal action has occurred on this legislation. As a state, I believe we need to do our due diligence looking into this issue.

In conclusion, I recognize the challenges that long term care facilities and hospitals are facing with the labor shortage and their required staffing requirements. But the ongoing reliance and costs associated with the use of contracted nursing agencies has to be addressed. The path we are on is not economically sustainable. I realize that putting forth a moratorium could be a challenge for nursing homes and hospitals so I would like to offer an amendment that proposes to study the issue. With the goal of bringing transparency to the issue of the costs.

Congress of the United States
Washington, DC 20515

November 15, 2021

Mr. Jeffrey Zients
COVID-19 Response Team Coordinator
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear Mr. Zients:

As you know, the most recent surge in COVID-19 cases put tremendous strain on the entire health care system, particularly the supply of desperately needed hospital staff. Providers across the country reported extreme physical and mental burnout, and in September 2021 alone, health care employment fell by 17,500. COVID-19 has affected every state and every corner of the nation, and cases are still rising in some areas. The persistent strain of the pandemic on health care providers has required many hospitals to rely on nurse-staffing agencies to supply urgently needed staff to care for the increasing number of patients.

We are writing to inquire about the extreme prices being reported for nurse staffing agencies from hospitals in our states, and the concern that certain staffing agencies may be taking advantage of these difficult circumstances to increase their profits at the expense of patients and the hospitals that treat them. We have received anecdotal reports that the nurse staffing agencies are vastly inflating price, by two, three or more times pre-pandemic rates, and then taking 40% or more of the amount being charged to the hospitals for themselves in profits. We have heard the amounts charged to hospitals rose precipitously when the most recent wave of the COVID-19 crisis swept the nation and the agencies seemingly seized the opportunity to increase their bottom line. But this is not the first time the agencies have engaged in this sort of conduct. As the first wave of COVID-19 swept the nation in 2020, they similarly inflated their prices to hospitals. Hospitals have no choice but to pay these exorbitant rates because of the dire workforce needs facing hospitals around the country.


This model is unsustainable for many health systems. As the pandemic continues and we enter flu season, we request you enlist one or more of the federal agencies with competition and consumer protection authority to investigate this conduct to determine:

- Is this activity the product of anticompetitive activity?
- What is the ownership structure of these staffing agencies and is there evidence of price collusion or other anti-competitive pricing patterns?
- Does this activity violate consumer protection laws?
- Are these increased rates translating to higher pay for contract nurses?
- What impact have these price increases had on rural and underserved areas?
- Have nurse staffing agencies increased their own percentage of profit during the COVID-19 pandemic? If so, by how much?

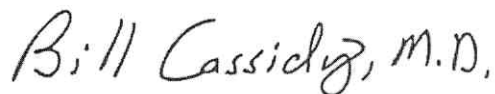
- How much of the COVID-19 relief funds are directly or indirectly going to pay these contracts?
- How may the 100% cost share for FEMA reimbursement be contributing to the ability of the staffing agencies to extract higher payment?

We urge you to ensure that this matter gets the attention from the federal government it merits to protect patients in dire need of life saving health care treatment and prevent conduct that is exacerbating the shortage of nurses and continuing to strain our health care system. We look forward to your response.

Sincerely,



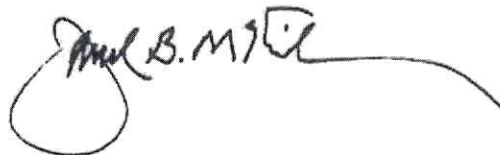
Mark Kelly
United States Senator



Bill Cassidy, M.D.
United States Senator



Doris Matsui
Member of Congress



David B. McKinley P.E.
Member of Congress