



## MEMORANDUM

**FROM:** Richie Farran, V.P. of Government Services, Health Care Association of Michigan  
**DATE:** March 18, 2025  
**SUBJECT:** Staffing Agencies in Nursing Facilities

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### Workforce Challenges

Michigan's nursing facilities are facing extensive workforce shortages. The workforce shortage in the health care sector, and nursing facilities specifically, is uniquely challenging. According to data from the U.S. Bureau of Labor Statistics, the long-term care industry is facing the worst job loss among all health care providers. Nationally, nearly 60,000 jobs have been lost since the COVID-19 pandemic first hit. In Michigan, an HCAM survey of membership indicates that we still have approximately 3,000 estimated job openings.

Nursing facilities are doing all that they can to recruit and retain workers. Some examples include offering sign-on bonuses, wage increases, bonuses for filling a shift; calling staff who have left to entice them to come back; paying referral bonuses to staff for each employee they recruit; providing gift cards and free meals to staff; offering tuition reimbursement, PTO, flexible scheduling, payments for transportation and child care, and providing staff training and education. Even with this additional support, staffing remains the most significant challenge for providers, and it has led to access issues for Michigan's seniors.

### Problems with Staffing Agencies

As staffing shortages continue, nursing facilities are often left with no option but to use staffing agencies to fill empty positions. This temporary fix creates a host of challenges. First, the transient nature of staff provided through these agencies means they don't learn facility policies and protocols. Even more detrimental, they don't develop relationships with residents and other staff.

In addition, nursing facilities have shared many examples of how staffing agencies doubled or even tripled what they are charging the facilities for workers. During the pandemic, HCAM members experienced charges as high as \$95 an hour for CNAs, \$120 an hour for LPNs, and \$140 an hour for RNs. In fact, the issue was serious enough that a bipartisan group of federal legislators sent a letter to the White House imploring federal agencies to investigate the pricing practices of staffing agencies.

With Medicare and Medicaid programs making up more than 85% of the payer source for nursing facility residents, these price increases are simply not sustainable for providers and are an imprudent and unsustainable use of taxpayer dollars. This money should, instead, go towards resident-care-focused resources.

#### Legislative Solution

HCAM has looked to solutions from the federal level and other states to address the issues presented with the practices of staffing agencies. Several states have passed or are exploring a regulatory framework for staffing agencies to address these issues. HCAM engaged with policymakers and stakeholders to advance legislation creating a regulatory framework and requiring licensing of staffing agencies through LARA. Legislation was introduced last legislative term to address the issue.

House Bill 5655 would have required staffing agencies to:

- Be licensed. This provides transparency to state regulatory departments.
- Document that workers meet the minimum licensing, training, continuing education standards, and qualifications of the specific facility.
- Demonstrate that each staff are employees of the agency, not independent contractors who must pay his or her own employment taxes.

Additionally, the bill contained the following provisions:

- A prohibition on non-compete clauses restricting agency staff from taking positions with facilities and compensation for taking a job with a facility. This is in line with the federal government's thinking where the FTC recently banned noncompetes.
- A limitation on what the staffing agency can charge a facility beyond the hourly wages of the staff, capped at 25%. This is a unique cap, different from the one in the often copied Minnesota statute. **The bill makes clear that staff wages are not capped.**
- Requires disclosure by the staffing agency of what is included in the hourly charges to the facility – i.e. staff wages, overhead, background checks.

Such policy changes ensure prudent spending of taxpayer dollars, provide protections for agency staff, improve the competitive balance between staffing agencies and providers in attracting and retaining caregivers, and ultimately create a climate that better ensures quality care.

HCAM is seeking advancement of legislation identical to HB 5655 of 2024 to ensure facilities have access to necessary staff to care for residents.

*HCAM is a statewide trade association representing proprietary, not for profit, county medical and hospital-based long-term skilled nursing and rehabilitation facilities.*