**MEMORANDUM**

**FROM:** Richie Farran, V.P. of Government Services, Health Care Association of Michigan

**DATE:** January 14, 2022

**SUBJECT:** Staffing Agencies in Nursing Facilities

Workforce Challenges

The COVID-19 pandemic has created a workforce crisis in Michigan’s nursing facilities. While sectors across the economy face similar challenges, 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, 220,000 jobs have been lost during the pandemic, equaling a 14% decrease in the workforce. In Michigan, an HCAM survey of membership indicates a 17% decrease in the workforce from pre-pandemic levels, with currently more than 8,000 estimated job openings.

Nursing facilities are doing all that they can to recruit and retain workers. Some examples include, but are not limited to, sign-on bonuses, wage increases, bonuses when someone fills a shift, calling staff who have left to entice them to come back, referral bonuses paid to staff for each employee they recruit, gift cards, providing free meals to staff, using agency staff to supplement, tuition reimbursement, PTO, flexible scheduling and providing staff training and education. Even with these additional supports, staffing remains a significant challenge.

Problems with Staffing Agencies

As staff experiences burnout from the challenges of the pandemic and workforce shortages plague our economy, nursing facilities are often left with no option but to use staffing agencies to fill empty positions. The use of staffing agencies is not the optimal solution, and also comes with significant financial impact. The transient nature of staff provided through these agencies does not allow for the familiarity with facility policies and protocols, and relationships with residents and other staff, that would otherwise be experienced with those individuals employed by the facility itself.

Facilities have reported substantial increases to the cost of agency staff as the pandemic has progressed. HCAM members have seen charges as high as $95/hour for certified nurse aides (CNA), $120/hour for LPNs, and $140/hour for RNs. In fact, a bipartisan group of federal legislators recently sent a letter to the White House imploring federal agencies to investigate the pricing practices of staffing agencies during the pandemic.

Under the current conditions, providers have little choice but to pay the exorbitant prices, and hope that the agency does not poach their staff once in the building. It is important to note that the Medicare and Medicaid programs make up nearly 85% of the payer source for nursing facility residents. **This price gouging is simply not sustainable for providers and is an imprudent and unsustainable use of taxpayer dollars.** This money should instead be going towards other needed resources that are resident care focused.

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. We have identified a statute from the state of Minnesota that addresses the major issues experienced in Michigan with the use of staffing agencies.

The Minnesota statute creates a regulatory framework, requiring the agency to register with MDHHS and meet minimum requirements, including:

1. Ensure staff provided by the agency meet minimal licensing requirements.
2. Prohibit restrictions on employment opportunities for agency staff.
3. Require agency staff is an employee of the agency, and not designated as an independent contractor.

The statute also places maximums on the amounts they may be charged for agency staff, which is related to average wage rates.

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.

If you have any questions or would like to discuss these proposals in greater detail, please do not hesitate to contact me at 517-627-1561 or via email at RichFarran@hcam.org.

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