



Maine Health Care Association

**Testimony of Angela Cole Westhoff, President and CEO
Maine Health Care Association**

To the Joint Standing Committee on Health and Human Services

Thursday, March 16, 2023, 2 PM, Cross Building, Room 209

**In Support of LD 451, An Act to Ensure Transparent and Accountable Temporary Nurse
Agencies**

Senator Baldacci, Representative Meyer, and distinguished members of the Committee on Health and Human Services:

My name is Angela Westhoff, and I serve as the President & CEO of the Maine Health Care Association. We represent approximately 200 nursing homes, assisted living, and residential care facilities (also known as Private Non-Medical Institutions or PNMI) across the state. Our mission is to empower members to ensure the integrity, quality, and sustainability of long term care in Maine.

I am providing testimony in support of LD 451, An Act to Ensure Transparent and Accountable Temporary Nurse Agencies. We thank Senator Baldacci for his sponsorship of this important legislation.

As I am sure you know, long term care facilities are facing a staffing crisis. Workforce levels in our sector are the lowest in 13 years. Data published in January 2023 by the American Health Care Association (AHCA) indicates that nursing homes nationwide have lost over 210,000 jobs since the beginning of the pandemic.¹ While other health care sectors have rebounded or are approaching pre-pandemic staffing levels, long term care is still struggling. The Bureau of Labor Statistics reports that staffing shortages hurt nursing homes and assisted living facilities more than any other health care sector between February 2020 - December 2022.²

¹ Long Term Care Jobs Report: <https://www.ahcanca.org/News-and-Communications/Fact-Sheets/FactSheets/LTC-Jobs-Report-Jan2023.pdf>. Accessed March 12, 2023.

² Ibid.

The pandemic hit our industry hard. Nursing homes were at the frontlines against the COVID-19 pandemic. It was a physically and emotionally challenging time for our caregivers that ultimately caused many staff to leave our workforce. In fact, we estimate that between 10% to 15% of workers left the industry. Long term care facilities were still required to sustain staffing levels and provide quality care to our residents. We had to replace those vacancies virtually *immediately*. Temporary nurse agencies filled this urgent demand.

The rapid rise of agency staff usage was a necessary reaction to the public health emergency. Since then, nursing agencies have expanded steadily, and their influence has grown. Although it was intended to be a temporary measure, that clearly has not been the case. Whereas before 2020, temporary nurses were used on an auxiliary basis, they now sometimes supply a majority of a nursing home's direct care workforce.³ As a result, nursing agencies have reshaped the landscape of working in health care. But that comes at a high cost to Maine.

As reliance on temporary staffing has grown, these agencies have increased their negotiating power to raise rates significantly and suddenly. Nursing homes are essentially obligated to meet these impositions to avoid a sudden massive loss of staffing and not enough care for their residents. In other words, facilities have no choice but to pay whatever the companies demand.

Based on a recent survey of our members, the share of CNAs being filled by temporary agencies increased from 14% in 2019 to 23% 2022. In addition, the CNA agency staffing hourly rate jumped by 65% during that same three-year period. This results in the total cost of temporary agency nursing CNAs to have increased by 162% compared to before the pandemic.⁴

Our facilities are doing everything possible to recruit and retain workers. They've implemented sign-on bonuses, retention bonuses, increased wages, flexible schedules, and more. However, when left unchecked as they are today, temporary nurse agencies make it difficult to make meaningful headway when temporary agencies recruit away workers.

Medicaid rates do not currently cover the cost of providing care, let alone provide any meaningful profit margin for long term care. However, these temporary staffing agencies can charge astronomical rates and their profits are unregulated. To be clear, we appreciate that agency staff face specific challenges and deserve fair compensation. But, in light of the massive

³ In a January 2023 survey, when asked "How much of your current direct care workforce is filled by agency staffing?" 20% of responding facilities had 21-40% of their direct care workforce filled by agency staffing, 17% percent of facilities had 41-60% of their direct care workforce filled by agency staffing, and 10% of facilities had greater than 60% of their direct care workforce filled by agency staffing.

⁴ From an internal survey of Maine's nursing homes in March 2023.

rate increases and hostile practices we're seeing, we believe it is critical that state policy makers and this Legislature have the data to assess whether the existing practices are reasonable. LD 451 is designed to help shine a light on these issues and provide greater transparency and accountability. After all, these are, ultimately, taxpayer dollars on the line.

LD 451 introduces several steps to provide transparency to policy makers. If passed, the bill would add several requirements, including:

- Agencies to report to Maine Department of Health and Human Services (DHHS) the number and location of employee placements, the total and average rate charged for varying types of caregivers' work, the sum and average rate paid to varying types of caregivers for their work, and other essential metrics.
- Agencies to keep accurate records of their caregivers' credentials, helping ensure temporary staff are qualified to provide quality care.
- DHHS to create a summary report of this temporary agency data and submit the information to the Health and Human Services Committee.
- A prohibition on agencies *requiring* their caregivers to also serve as recruiters in the facilities they provide care.
- An up-to-date database of agencies operating in Maine.
- An increased annual registration fee from \$25 to \$1,000, which would presumably offset the not yet assessed fiscal note of this bill.

LD 451's measures will help Maine better understand the agency staffing industry, will gather data to help elucidate further potential solutions, and will help ensure we can provide quality and affordable care to our older residents. Therefore, I urge the committee to vote to support LD 451. Thank you, and I would be happy to answer any questions.