



October 28, 2021

The Honorable Ken Paxton
Office of the Attorney General
300 W. 15th Street
Austin, TX 78701
(sent electronically)

RE: Anticompetitive Practices and Price Gouging of Staffing Agencies

Dear Attorney General Paxton,

LeadingAge Texas, Texas Health Care Association and Texas Assisted Living Association represent nursing home and assisted living communities in Texas. Throughout the COVID-19 pandemic we have worked with the State to address critical issues impacting our members and their ability to care for the thousands of elderly Texans they serve.

We are writing to request the Office of the Attorney General use its resources and expertise to address an issue that has become dire for both healthcare providers and long-term care providers because of the pandemic—the anticompetitive practices and pricing gouging of staffing agencies.

Prior to the pandemic, long-term care faced a severe workforce shortage. As COVID-19 swept across the nation long-term care communities were hit hardest. According to a recent survey of nursing home and assisted living communities in Texas, our sector has experienced a 12% workforce decrease in the last year. With the continuing public health emergency at both the federal and state levels, we remain at a severe disadvantage in recruiting and retaining qualified professionals due to a pre-existing labor shortage and limited resources to take part in a highly competitive labor market.

Providers are doing all that they can to incentivize new hires and existing staff, but these efforts are proving insufficient as communities have come to rely on staffing agencies to fill vacancies. To adequately staff, 61% of our members report using temporary staffing agencies. 28% of those respondents said they have requests unable to be met. As a result of this unprecedented demand, staffing agencies have raised rates to outrageous levels. Anecdotally, we hear from members that staffing agencies charge from two to four times the wages of permanent staff, and significantly higher rates than those charged prior to the Public Health Emergency.

With no access to alternative resources, our members are forced to use these arrangements to staff their communities to care for their residents. Without using agency staff, providers could face regulatory actions and penalties from state and federal agencies. Equally concerning is that staffing agencies are actively recruiting within and poaching employees from long-term care providers for higher pay. Notably, Medicare and Medicaid are the primary payor of long-term care – thus



taxpayer dollars. These practices are financially unsustainable and not in the best interest of our residents.

We ask that the Office of the Attorney General use its authority to protect consumers and taxpayers from these anticompetitive and unfair practices and take appropriate action to protect long-term care communities and the seniors they serve.

Thank you in advance for your consideration of our request. We are here to answer any questions you may have, and our members would welcome the opportunity to visit with you about how this issue continues to negatively impact the sector and those they serve.

Sincerely,

A handwritten signature in black ink, appearing to read "George Linial".

George Linial
President & CEO
LeadingAge Texas
512-467-2242

A handwritten signature in black ink, appearing to read "D. Martinez".

Diana Martinez
President & CEO
Texas Assisted Living Association
512-653-6604

A handwritten signature in black ink, appearing to read "Kevin Warren".

Kevin Warren
President & CEO
Texas Health Care Association
512-458-1257