

The COVID Alliance Senior Support Team (SST) of New Hampshire

Statement to the Senate Commerce Committee on SB138

2021 March 16th

Thank you to Chairman French and the members of the committee for the opportunity to present today.

Presenters: Senator Tom Sherman, District 24
 Daniel Curtis, Executive Director of the SST
 Judith Joy, PhD, RN, Statewide Coordinator of the SST

The mission of the Senior Support Team (SST) is to support assisted living facilities, skilled nursing facilities, and other senior residential facilities in New Hampshire by providing actionable information when they need it, monitoring their status daily, and advocating for any supplies or services that might make COVID-19 outbreaks in their facilities less likely. We are an all-volunteer team that operates 100% remotely.

Our volunteers have communicated daily with the leaders of 60+ senior residential facilities all around New Hampshire since we began our operations on April 13th, 2020.

Throughout this time, we've collected dozens of both prompted and unprompted notes from our facilities about their experiences with price gouging in essential supplies, especially PPE. We began routinely and specifically asking about price gouging in early July.

We have notes on what happens when untested new vendors enter the market for medical supplies, cleaning supplies, and PPE. Several of our facilities sought out new vendors and placed substantial orders last April and May at exorbitant prices for essential supplies like masks, gowns, and gloves. We documented several cases where the facility supply manager paid up front at a high markup, then in some cases received nothing at all. Now they have twice as much work and less time for it. They still need their supplies, and now they have to figure out if it's viable to take legal action and get their money back. Having additional tools to discourage this type of bad behavior right from the beginning of an emergency would help keep buyers like long-term care facilities well away from scenarios where this type of problem might affect the quality of care they can provide. Knowing that price gouging is off-limits and will be followed-up on by the state will help keep both new and established suppliers honest.

We want the market for medical supplies and PPE to work. We want supplies and PPE to get where they're needed as efficiently as possible to preserve the health and safety of all New Hampshire residents, including the vulnerable elder community in senior care facilities. The team that worked on the concept for this bill sought out examples with fair provisions for suppliers, and the bill we ended up with here includes a broad provision that allows suppliers of products under the market disruption declaration to document increased costs from upstream in the supply chain and increase their prices accordingly. I fully expect that many of the price increases we have observed in the markets for PPE and medical supplies over the last year could actually be justified under this provision. For suppliers conducting business honestly, nothing at all would change.

The market for PPE and other essential supplies was, for many months at least during the last year, unable to respond and continue functioning well under the new circumstances of the COVID pandemic. We know bad actors were out there taking advantage of that, and we know that made it even more difficult for some of our facilities, on the front lines, caring for our most vulnerable seniors, to get the supplies they needed. We don't want that to happen next time.

We compiled data on the conversations our Liaisons had with our facilities during 2020:

- 17 distinct facilities among our participants in some way discussed PPE prices, expenses, or price gouging with our Liaisons in 45 calls.
 - That's 31% of the facilities we serve.
- 12 distinct facilities indicated that they believe they were price gouged when purchasing PPE from private vendors. That's We've been asking specifically about this since the beginning of July.
 - That's 22% of our facilities.
- We had at least 6 notes indicating that facility contacts asked Liaisons for contact info to report price gouging.
- We know at least 1 facility among our members that has gone through the full process of reporting price gouging to the federal District Attorney. That was back in late June.
- Most notes on price gouging concern PPE and cleaning products. One mentions contract agency nurses. We've received a couple of newer notes from this year about a sharp increase in the price of liability insurance for senior care facilities and reductions in the range of coverage offered.
- We have specific examples of up to a 1000% markup that is unconscionable for a senior care facility in the midst of a pandemic.

Make no mistake, senior care is a business, a business that must sustain itself financially or cease to operate. If we fail to acknowledge the struggle of these essential services for seniors in our state I shudder to think of the cost to our citizens and our state if many of them, or even some, elect to close. As a nurse the worst possible scenario is, they remain open and the services they provide fail to meet expectations.