NALTO

The National Association of Locum Tenens Organizations

**The National Association of Locum Tenens Organizations ("NALTO")** is a 501(c)(3) non-profit organization that represents and advances the interests of locum tenens staffing companies. NALTO members staff independent healthcare professionals with hospitals and other healthcare facilities throughout the country on a temporary basis.

## What is "locum tenens"?

Locum tenens is a Latin phrase that translated means "to hold a place." Locum Tenens are physicians and advanced practitioners (i.e., Certified Registered Nurse Anesthetists (CRNAs), Physician Assistants (PAs), Nurse Practitioners (NPs)) who supplement healthcare facility staffing needs nationwide. Locum tenens fill gaps in hospital staffing that range from permanent staff on vacation or on maternity leave, to multi-year commitments or continuous revolving support.

A 2019 study shows that approximately 85% of hospitals, medical groups and other healthcare facilities used locum tenens doctors. According to the American Medical Association, over 20% of emergency medicine doctors are independent contractors and nearly 15% of anesthesiologists and psychiatrists are independent contractors.

## Where do locum tenens providers serve?

Locum Tenens providers are essential to hospitals, outpatient medical centers, government and military facilities, veteran health hospitals, Indian Health Services, group practices, community health centers and correctional facilities.

Rural communities are particularly reliant on locum tenens providers. In fact, the program started through a federal grant in the 1970s to help rural health clinics in underserved areas. The National Rural Health Association states that there are fewer than 40 physicians per 100,000 people in rural locations, compared to more than 53 physicians per 100,000 in urban areas. This uneven distribution of physicians has an impact on the health of the population and locum tenens doctors play an important role to help fill the rural healthcare gap.

Today, locum tenens providers represents a critical and reliable supplement to healthcare delivery in the United States. Even before the COVID-19 pandemic, physician shortages were being felt by patients across the country. All indications suggest that locum tenens providers will continue to increase in significance over time to meet the healthcare needs of an aging population, anticipated retirement of aging or burnt-out physicians, and the expected shortage of providers that is expected to significantly increase over the foreseeable future.

## Why do healthcare facilities choose locum tenens?

NALTO hears from hospital administrators that when their facilities utilize locum tenens to relieve potential burnout of their employed providers, this allows more time with patients resulting in improved healthcare outcomes, fewer malpractice claims and reduced healthcare costs, including insurance expenses. These concerns pre-dated COVID-19 though COVID-19 exacerbated the issue. Locum tenens providers played a critical role during the pandemic.

## What is NALTO proposing?

The current version of the PRO Act would hinder the availability, flexibility, and ultimately the healthcare that locum tenens providers provide across the country. California, in its AB-5 bill addressing the classification of independent contractors, recognized the critical function of locum tenens providers and included an exemption for locum tenens physicians from similar ABC legislation. This was critical to retaining healthcare coverage statewide, perhaps most significantly in rural communities.

NALTO respectfully requests that the PRO Act be amended by adding the following language in **RED** to the ABC Test consistent with California's recognition of the critical service performed by locum tenens providers:

(b) EMPLOYEE.—Section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)) is amended by adding at the end the following: "An individual performing any service shall be considered an employee (except as provided in the previous sentence) and not an independent contractor, unless—

"(A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;
"(B) the service is performed outside the usual course of the business of the employer; and
"(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.".

1. This determination does not apply to a licensed physician and surgeon, dentist, podiatrist, psychologist, veterinarian, or other advanced practitioner (i.e., Certified Registered Nurse Anesthetists (CRNAs), Physician Assistants (PAs), Nurse Practitioners (NPs)) performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation.

Without this exemption for physicians, there will be a material reduction of locum tenen physicians fulfilling their critical role in the workforce further pressuring an already stressed U.S. healthcare system.