



NALTO® LEGISLATIVE COMMITTEE & MCGUIREWOODS UPDATE



HR 5208 – HEALTH CARE PROVIDER SHORTAGE MINIMIZATION ACT



I

118TH CONGRESS
1ST SESSION

H. R. 5208

To amend the Internal Revenue Code of 1986 to clarify the treatment of locum tenens physicians and advanced care practitioners as independent contractors to help alleviate physician shortages, including in underserved areas.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 15, 2023

Mr. CARTER of Georgia (for himself and Mr. DUNN of Florida) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to clarify the treatment of locum tenens physicians and advanced care practitioners as independent contractors to help alleviate physician shortages, including in underserved areas.

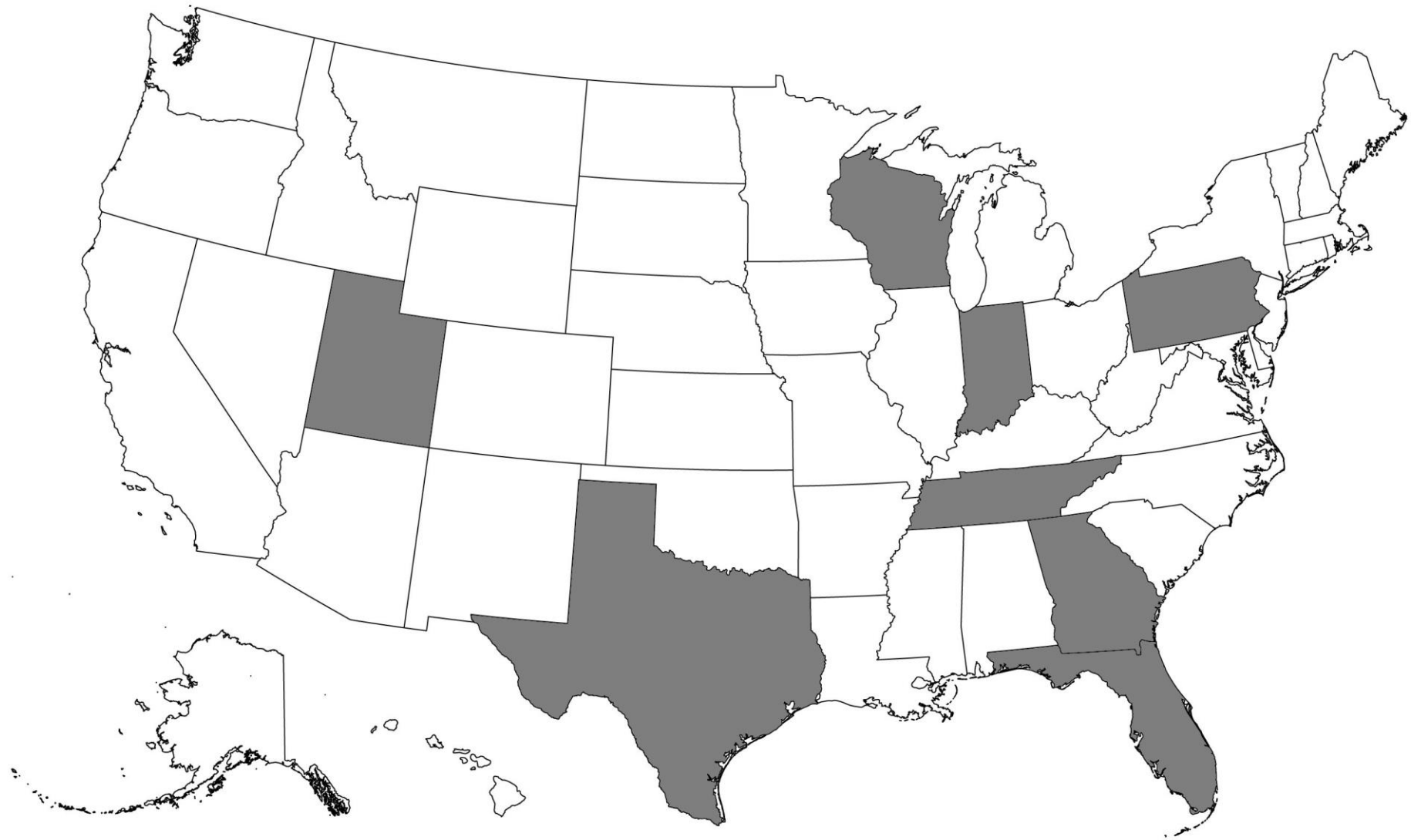
1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Provider
5 Shortage Minimization Act of 2023”.

H.R. 5208 SPONSORS

- Rep. Carter, “Buddy” [R-GA-1] Original 08/15/2023
- Rep. Dunn, Neal P. [R-FL-2] Original 08/15/2023
- Rep. Crenshaw, Dan [R-TX-2] 04/09/2024
- Rep. Bucshon, Larry [R-IN-8] 04/09/2024
- Rep. Owens, Burgess [R-UT-4] 04/10/2024
- Rep. Weber, Randy K. [R-TX-14] 07/10/2024
- Rep. Thompson, Glenn [R-PA-15] 07/22/2024
- Rep. Grothman, Glenn [R-WI-6] 09/09/2024



JULY FLY IN & ADDITIONAL OUTREACH

- Rep. Buddy Carter (R-GA)
- Sen. Jon Tester (D-MT)
- Sen. Bill Cassidy (R-LA)
- Sen. Mike Crapo (R-ID)
- Sen. Steve Daines (R-MT)
- Rep. John Curtis (R-UT-3)
- Rep. Darin LaHood (R-IL-16)
- Rep. Beth Van Duyne (R-TX-24)
- Rep. GT Thompson (R-PA-15)
- Rep. Yadira Caraveo (D-CO-8)
- Rep. Morgan Griffith (R-VA-9)
- Rep. Diana DeGette (D-CO-1)
- Rep. Tony Cardenas (D-CA-29)
- Rep. Ami Bera (D-CA-6)
- Rep. Randy Weber (R-TX-14)
- Rep. Donald Norcross (D-NJ-1)
- Rep. Jodey Arrington (R-TX-19)
- Rep. Kelly Armstrong (R-ND-At Large)
- Rep. Vern Buchanan (R-FL-16)
- Rep. Jeff Duncan (R-SC-3)
- Rep. Suzanne Bonamici (D-OR-1)
- Rep. Burlison (R-MO-7)
- Rep. Drew Ferguson (R-GA-3)
- Rep. Buchanan (R-FL-16)

DOCTORS' CAUCUS AND DEMOCRATIC MEDICAL PROFESSIONALS

- Rep. Michael Burgess (R-TX)
- Rep. Greg Murphy (R-NC)
- Rep. Brad Wenstrup (R-OH)
- Rep. Brian Babin (R-TX)
- Rep. Larry Bucshon (R-IN)
- Rep. Buddy Carter (R-GA) (Sponsor)
- Rep. Scott DesJarlais (R-TN)
- Rep. Neal Dunn (R-FL) (Cosponsor)
- Rep. Drew Ferguson (R-GA)
- Rep. Paul Gosar (R-AZ)
- Rep. Mark Green (R-TN)
- Rep. Andy Harris (R-MD)
- Rep. Diana Harshbarger (R-TN)
- Rep. Ronny Jackson (R-TX)
- Rep. John Joyce (R-PA)
- Rep. Rich McCormick (R-GA)
- Rep. Miller-Meeks (R-IA)
- Rep. Mike Simpson (R-ID)
- Rep. Jeff Van Drew (R-NJ)
- Rep. Ami Bera (D-CA)
- Rep. Lauren Underwood (D-IL)
- Rep. Raul Ruiz (D-CA)
- Rep. Yadira Caraveo (D-CO)

HOUSE WAYS AND MEANS

- Rep. Jason Smith (R-MO)
- Rep. Vern Buchanan (R-FL)
- Rep. Adrian Smith (R-NE)
- Rep. Mike Kelly (R-PA)
- Rep. David Schweikert (R-AZ)
- Rep. Darin LaHood (R-IL)
- Rep. Jody Arrington (R-TX)
- Rep. Ron Estes (R-KS)
- Rep. Lloyd Smucker (R-PA)
- Rep. Kevin Hern (R-OK)
- Rep. Carol Miller (R-WV)
- Rep. Greg Murphy (R-NC)
- Rep. David Kustoff (R-TN)
- Rep. Brian Fitzpatrick (R-PA)
- Rep. Claudia Tenney (R-NY)
- Rep. Michelle Fischbach (R-MN)
- Rep. Michelle Steel (R-CA)
- Rep. Beth Van Duyne (R-TX)
- Rep. Brad Finstad (R-MN)
- Rep. Nicole Malliotakis (R-NY)
- Rep. Mike Carey (R-OH)
- Rep. Richie Neal (D-MA)
- Rep. Lloyd Doggett (D-TX)
- Rep. Mike Thompson (D-CA)
- Rep. John Larson (D-CT)
- Rep. Earl Blumenauer (D-OR)
- Rep. Danny Davis (D-IL)
- Rep. Linda Sanchez (D-CA)
- Rep. Terri Sewell (D-AL)
- Rep. Suzan DelBene (D-WA)
- Rep. Judy Chu (D-CA)
- Rep. Gwen Moore (D-WI)
- Rep. Dan Kildee (D-MI)
- Rep. Don Beyer (D-VA)
- Rep. Dwight Evans (D-PA)
- Rep. Brad Schneider (D-IL)
- Rep. Jimmy Panetta (D-CA)
- Rep. Jimmy Gomez (D-CA)
- Rep. Steven Horsford (D-NV)

POTENTIAL DEMOCRATIC CHAMPIONS/INITIAL COSPONSORS

- Rep. Lori Chavez-DeRemer (OR)
- Rep. Kathy Manning (NC)
- Rep. Suzanne Bonamici (OR)
- Rep. Suzan DelBene (WA)
- Rep. Jimmy Panetta (CA)
- Rep. Terri Sewell (AL)
- Rep. Angie Craig (MN)

LETTER OF SUPPORT

- We, the undersigned healthcare organizations, providers, and recruiting agencies, urge Congress to support and advance The Healthcare Provider Shortage Minimization Act.
 - National Association of Locum Tenens Organizations
 - Association for Advancing Physician and Provider Recruitment
 - National Rural Health Association – Thanks CHG!
 - North Dakota Hospital Association
 - Idaho Hospital Association
 - All Star HealthCare Solutions
 - Fusion Healthcare Staffing
 - CHG Healthcare
 - Quest Healthcare Solutions
 - + ~ 60 Providers

HR 5208 FACT SHEET

HEALTH CARE PROVIDER SHORTAGE MINIMIZATION ACT



WHAT ARE "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 short-term commitments or continuous revolving support.

WHERE DO LOCUM TENENS PRACTITIONERS SERVE?

Locum Tenens 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.

WHO IS NALTO AND WHO DO THEY REPRESENT?

NALTO represents recruiting agencies that help healthcare facilities across the U.S. fill temporary staffing needs by finding suitable physician and advanced practitioner locum tenens candidates. NALTO does not represent or advocate for temporary nurse staffing issues or companies that provide exclusive temporary nurse staffing.

WHAT DOES THE HEALTH CARE PROVIDER SHORTAGE MINIMIZATION ACT DO?

The Act clarifies and codifies the treatment of locum tenens physicians and advanced practitioners as independent contractors. This includes: a doctor of medicine, osteopathy, dental surgery, or dental medicine legally authorized to practice medicine, surgery or dentistry; a doctor of podiatric medicine or doctor of optometry legally authorized to perform podiatric or optometry functions; a physician; and a nurse practitioner, physician's assistant or certified registered nurse anesthetist.

WHY IS THE HEALTH CARE PROVIDER SHORTAGE MINIMIZATION ACT NEEDED?

There have been efforts federally and in the states that would make it more difficult for locum tenens to practice in locations that have healthcare shortages. The Association of American Medical Colleges (AAMC) estimates that the U.S. will face a shortage of up to 139,000 physicians and advanced practitioners by 2033. We need to make sure physicians and advanced practitioners have the ability to go to where healthcare services are needed. Efforts to classify locum tenens physicians and advanced practitioners as "employees" is misguided and will have severe unintended consequences. Simply put, locum tenens physicians and advanced practitioners are sophisticated, highly educated and well-paid independent contractors that neither want to be employed by recruiting agencies (which are not equipped to oversee them in any manner) or the healthcare facilities nor do they require the protections that those who favor employee classification deem appropriate. Indeed, a supermajority of locum tenens providers are fully employed elsewhere or are self-employed and do the nation a service by performing additional locum tenens work for their own reasons which are critical to healthcare facilities nationwide.

DOES THE ACT IMPACT TAXES SOMEONE PAYS?

No. The Act does not change the current tax obligation of a hospital or practitioner. The Act codifies current practice and retains the status quo of how an independent contractor is treated under Chapter 25 of the Internal Revenue Code.

DO HEALTHCARE FACILITIES SUPPORT THIS BILL?

NALTO does not represent healthcare facilities and thus will not speak for them; however, NALTO believes that its members have strong relationships with healthcare facilities nationwide.

HR 5208 FACT SHEET

- Uncertainty and different legal standards currently hinder the availability, flexibility, and ultimately the healthcare that locum tenens providers provide across the country.
- In 2005, California recognized it was facing a growing crisis in physician supply due, in part, to difficulties in recruiting and retaining physicians. It said the crisis was particularly harsh for facilities operated by the state and local governments due to the difficulties of funding full-time medical staff. As a result, the State passed a provision in its Business and Professional code that recognized the importance of ensuring locum tenens agencies are not deemed to be an employer or employment agency.
- California reaffirmed that position in its AB-5 bill addressing the classification of independent contractors by recognizing critical function of locum tenens providers and included an exemption for locum tenens physicians. This was critical to retaining access to healthcare coverage nationwide, particularly in under-served communities, both urban and rural.
- The Health Care Provider Shortage Minimization Act clarifies and codifies the treatment of locum tenens physicians, similar to the California law, and advanced practitioners as independent contractors. This includes: a doctor of medicine, osteopathy, dental surgery, or dental medicine legally authorized to practice medicine, surgery or dentistry; a doctor of podiatric medicine or doctor of optometry legally authorized to perform podiatric or optometry functions; a physician; and a nurse practitioner, physician's assistant or certified registered nurse anesthetist.

OUTREACH TO DATE

- Waves of Grassroots Contact
- Over 2500 Advocates have contacted Members of Congress 6500 times
- Greatest number of contacts are from: Georgia, Florida, Texas, and Utah

LETTER OF SUPPORT

WE NEED MORE SUPPORTERS

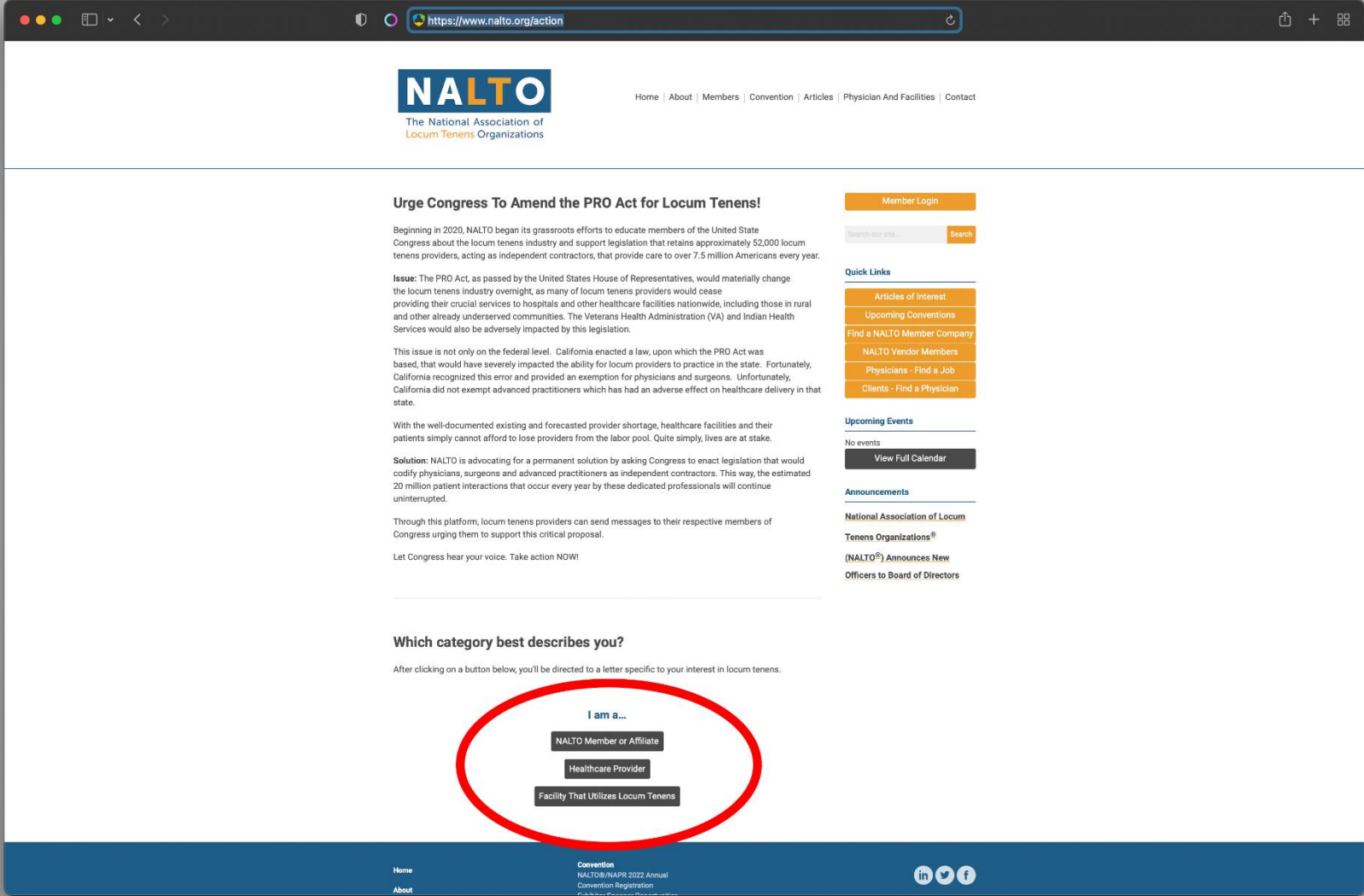
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 - Idaho Hospital Association
 - All Star HealthCare Solutions
 - Fusion Healthcare Staffing
 - CHG Healthcare
 - Quest Healthcare Solutions
 - + ~ 60 Providers

PATH FORWARD

- Priority is still to make this a bi-partisan bill
 - This would require the bill to go through Ways and Means & Finance
- Most direct avenue to pass the bill is through the reconciliation process
 - Attach it to the 2025 tax bill
- Health Care Package

ADVOCACY PLATFORM

<https://www.nalto.org/action>



Urge Congress To Amend the PRO Act for Locum Tenens!

Beginning in 2020, NALTO began its grassroots efforts to educate members of the United State Congress about the locum tenens industry and support legislation that retains approximately 52,000 locum tenens providers, acting as independent contractors, that provide care to over 7.5 million Americans every year.

Issue: The PRO Act, as passed by the United States House of Representatives, would materially change the locum tenens industry overnight, as many of locum tenens providers would cease providing their crucial services to hospitals and other healthcare facilities nationwide, including those in rural and other already underserved communities. The Veterans Health Administration (VA) and Indian Health Services would also be adversely impacted by this legislation.

This issue is not only on the federal level. California enacted a law, upon which the PRO Act was based, that would have severely impacted the ability for locum providers to practice in the state. Fortunately, California recognized this error and provided an exemption for physicians and surgeons. Unfortunately, California did not exempt advanced practitioners which has had an adverse effect on healthcare delivery in that state.

With the well-documented existing and forecasted provider shortage, healthcare facilities and their patients simply cannot afford to lose providers from the labor pool. Quite simply, lives are at stake.

Solution: NALTO is advocating for a permanent solution by asking Congress to enact legislation that would codify physicians, surgeons and advanced practitioners as independent contractors. This way, the estimated 20 million patient interactions that occur every year by these dedicated professionals will continue uninterrupted.

Through this platform, locum tenens providers can send messages to their respective members of Congress urging them to support this critical proposal.

Let Congress hear your voice. Take action NOW!

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No events
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Announcements

National Association of Locum Tenens Organizations®
(NALTO®) Announces New Officers to Board of Directors

Which category best describes you?

After clicking on a button below, you'll be directed to a letter specific to your interest in locum tenens.

I am a...
NALTO Member or Affiliate
Healthcare Provider
Facility That Utilizes Locum Tenens

HELP US HELP YOU

- Take Action
- Tell Your Story
- Engage Your Network
- Identify Real World Issues
- Identify Health Care Partner