

**Written Testimony Opposition to Profit Cap on Temporary Health Care Services Agencies  
Proposed in FY 2027 New York State Executive Budget  
Health and Mental Hygiene Article VII Legislation**

February 6, 2026

Headquartered in New York City, Tandym Group, LLC (“Tandym”, formerly “The Execu|Search Group”) is a staffing and recruiting firm that has serviced businesses and government entities for over 35 years. Tandym is also a temporary health care agency (“THCA”) serving medical practices, hospitals, and other public and private healthcare institutions across New York State. Tandym believes that it has played a substantial role in supporting New York State’s public and private healthcare entities in meeting their clinical and non-clinical healthcare staffing needs and ensuring continuity of care; as such, we feel that the Legislature may benefit from our perspective on the changes to Public Health Law 29-k proposed in the FY2027 New York State Executive Budget.

On January 13, 2026, Governor Hochul’s press office released an article titled “[Governor Hochul Unveils New Initiatives to Strengthen New York’s Health Care System, Drive Down Cost of Care.](#)” The article included a section titled “Reducing Reliance on Temporary Staff To Stabilize New York’s Health Care Workforce”:

During the Covid-19 pandemic, reliance on temporary staff and traveling nurses skyrocketed. Years after the height of the pandemic, this reliance continues. In 2024, health care facilities paid temporary staffing agencies more than \$2.6B, and the agencies kept \$1B of that in profits. And these are not workers coming on temporary assignment from other states. New York residents make up 72% of the temporary workforce, and the majority of these New York residents permanently live within 25 miles of their “temporary” work location.

Governor Hochul will introduce legislation to ensure health care dollars are supporting the delivery of care and not middlemen. In addition, the Governor will direct the Department of Health to develop guidance and share best practices to ensure health care organizations have the information they need to secure temporary staff when it is necessary.

Based on this premise, the FY 2027 New York State Executive Budget (“Budget Proposal”) proposes amendments to New York Public Health Law section 2999-mm(2) that would allow the State to set a “limitation on the amount that temporary health care agencies....may retain as profit” from healthcare staffing services.

The following is submitted in opposition the proposed amendments to New York Public Health Law 2999-mm(2), on the grounds that:

1. The New York Department of Health calculation of “Gross Profit Margin” is incomplete, and therefore inappropriate as a justification for a limitation on THCA profit;
2. The Governor’s characterization of THCA’s as “middlemen” is unfair as it ignores the breadth and value of services provided by THCA’s, and is therefore inappropriate as a justification for limiting THCA profit;
3. The proposed limitation on THCA profit will not achieve the Governor’s stated goals and, in its current state, is woefully underdeveloped.

**The Department Of Health’s computation of THCA “gross profit margin” is inaccurate, and is therefore inappropriate as a basis for the limitation of THCA profit.**

New York State’s FY2023-2024 Budget included legislation requiring THCAs to register with the Department of Health (“DOH”) and make regular disclosures of contracts, billing to healthcare clients, and payments to healthcare providers. The DOH has since released five quarterly reports compiling and analyzing the data it received from these disclosures. Each report included a calculation of average THCA “Gross Profit Margin %”, which is apparently computed using only “Total Billing” to healthcare facilities and “Total Pay” to healthcare workers. In her January 13, 2026 press release, Governor Hochul echoed this method of calculating profits in support of the currently proposed legislation. However, the State’s computation of THCA profit is overly simplistic in that it ignores nearly all other relevant costs of doing business that reduce profit margin. As a result, the DOH substantially overstates THCA profit margins, painting THCAs in an extremely unfair light.

Worker pay is far from the only expense affecting “profit.” The DOH’s calculations fail to account for salaries and commissions, practitioner credentialing costs (background checks, education and licensure verification, medical clearance, etc.), license reimbursements, trainings, lodging and transportation, payroll expenses, insurance, taxes, rent, facilities, technological infrastructure, marketing, and other customary operating costs. Additionally, the DOH’s calculations omit the legal risk absorbed by THCAs in contract – for example, New York State and City contracts frequently require THCA to broadly indemnify public healthcare institutions even for the bad acts of those institutions’ employees. These costs are real, and reflect the substantial investment in talent acquisition and human resources functions which is avoided by our clients’ use of THCA services.

The State’s implication that THCAs are the cause of high healthcare costs is also inaccurate. Service fees are dictated by robust market competition among THCAs and client budgets (i.e. City RFPs frequently dictate not only THCA bill rate, but also minimum worker pay). Similarly, healthcare provider pay rates are also dictated by competition – since healthcare practitioners are able to work for multiple THCAs simultaneously, they enjoy more mobility, flexibility, and negotiating power than those employed directly by a single healthcare facility. THCA healthcare clients also clearly benefit from the use of temporary healthcare labor – despite the fact that public and private healthcare clients are free to “convert” any temporary healthcare provider to a direct-hire employee without encumbrance or fee, many consistently choose to continue working with THCAs for temporary staffing.

**The State’s characterization of THCAs as “middlemen” ignores the substantial and valuable services that THCAs perform that enable high-quality, continuous care.**

In her January 13, 2026 press release, Governor Hochul dismissed THCAs as “middlemen” that divert dollars away from the quality of care. This characterization is reductive, unfair, and wildly inaccurate. To the contrary, THCAs enable healthcare institutions (and non-healthcare institutions like public schools that only incidentally require healthcare staffing) to outsource talent acquisition and human resources functions and access scale, speed, and specialization in healthcare staffing that would otherwise require tremendous and duplicative investment by our clients.

THCAs do far more than just forward resumes to clients. THCA services include:

- **Provider Database Curation** – THCAs like Tandym do far more than simply forward resumes. We invest substantial time and money curating relationships with experienced healthcare providers, enabling us to match qualified candidates to specific client staffing needs quickly and efficiently.
- **Specialized Talent Acquisition** – Healthcare clients frequently require healthcare practitioners with specific training, education, certifications, or skills (for example, language fluency). Tandym’s vast network and experienced healthcare recruiting staff is able to find those specialized providers – whether they reside in New York State or elsewhere in the country – on short notice.
- **Infrastructure and Technology** – THCAs and their partners have made substantial investments into technology solutions for talent acquisition, scheduling, timekeeping, payroll processing, and other functions. These costs alone would be unduly burdensome on healthcare institutions if adopted directly.
- **Onboarding and Credentialing** – Healthcare institutions often require lengthy credentialing processes to confirm provider qualifications. THCAs handle background checks, insurance verification, employment history, education verification, reference verification, licensure verification (NPDB, state medical board, board certifications, DEA, etc.), disciplinary and other exclusion screenings, medical and drug screenings, facility-specific paperwork and training, and interviews on behalf of our clients.
- **Payrolling** – THCAs handle all aspects of payment of employees and independent contractors, including all required taxes and other withholdings, as well as any payroll-related issues that may occur, enabling healthcare clients to meet their staffing needs without the logistical burden of payroll.
- **Benefits** – THCAs offer and administer health plans, investment plans (401ks), sick and safe leave, and other benefits to healthcare staffing employees, relieving clients of this complex burden.
- **Human resources** – THCAs relieve healthcare institutions of HR functions for temporary staff, including the handling of complaints and concerns, conduct of investigations, and offboarding.
- **Compliance** – THCAs are responsible for complying with myriad employment laws in each jurisdiction where staffing services are offered.
- **Consultation** – Staffing firms can provide guidance and labor market insights to clients that they would otherwise not receive.
- **Insurance and Litigation** – THCAs carry all required insurance policies, including healthcare professional liability policies. Additionally, although THCAs do not supervise the healthcare providers we staff, THCAs are frequently required to absorb nearly all litigation risk relating to the workers we staff, even where litigation claims are caused by the acts of the healthcare institutions’ internal employees.

## Case Study: New York City Health + Hospitals COVID-19 Test & Trace Program

Perhaps the best example of a THCA providing value to New York State healthcare beyond the existing institution capabilities was Tandym’s support of New York City Health + Hospitals (“NYCHH”) COVID-19 Test & Trace (“T2”) and vaccination programs. In early 2020, as the demand for healthcare providers to perform COVID-19 testing and tracing grew sharply, NYCHH quickly

found that its internal employees, Medical Service Corps, and staff from other government sources would not be sufficient. Tandym (then known as “Execu|Search”) was initially engaged by the New York City Office of Emergency Management and, later, directly by NYCHH (as well as several other healthcare institutions in New York and other states), to source healthcare practitioners for those roles.

In response to this demand, Tandym immediately mobilized nearly all its internal recruiting staff to source providers from all of the country, credential them to NYCHH’s standards, and coordinate provider scheduling preferences with NYCHH clinical sites. Tandym negotiated its service rates with the City and pay rates with healthcare providers, all of which reflected the high demand, low supply, and high risk accepted by providers in those roles. In addition to its usual temporary staffing functions, Tandym additionally arranged for travel and lodging for out-of-state providers and ensured continuous staffing by managing callouts and backfilling vacancies on short notice. Tandym maintained a this high level of service throughout the pandemic, staffing hundreds of providers in support of NYCHH’s COVID-19 response. Tandym is grateful to have had this opportunity, and proud of the role we played in enabling NYCHH to focus on its mission – the detection, vaccination, and treatment of COVID-19.

### **Case Study: New York City Department of Education**

Tandym is committed to supporting New York City public healthcare at all levels. As part of that commitment, Tandym has staffed school nurses to public schools for the New York City Department of Education (“DOE”) for over 14 years. As with our support of NYCHH’s T2 program, this lengthy engagement has required of Tandym far more than the usual THCA suite of services.

Fortunately, Tandym has highly-experienced staff who are familiar with the unique needs of NYC schools, and are able to meet the DOE’s needs:

- **Clinical Oversight** – In addition to nursing staff, Tandym also provides clinical oversight personnel to supervise nurses at ratios dictated by the City. Per the City’s RFP, Tandym is not permitted to invoice the City for these services.
- **Availability and Speed** – Many school nursing roles are per diem, and are therefore subject to last-minute callouts that risk nurse absences during school hours. Tandym’s staff are available at all hours to meet immediate needs and, drawing on its network of vetted healthcare providers, are often able to fill vacancies in minutes.
- **Specialized Needs** – In addition to general school nursing care, New York City also requires specialized care of various types to meet individual student medical needs (such as those with disabilities) during the school day and transport to and from their homes. Tandym has consistently met this need, providing nurses with the necessary training and experience to meet student needs.

Tandym’s services to the DOE have not only helped New York City schools meet their nurse staffing needs, but have also provided unique flexibility to healthcare practitioners. Many nurses referred by Tandym are parents who prefer to work only a few days per week, or are available only on a per-diem basis. This staffing model is clearly preferential to the City as well; despite the fact that Tandym places no restrictions on the City’s availability to direct-hire a nurse and charges no conversion fees, the City has consistently partnered with Tandym for temporary healthcare staffing for well over a decade. We further note that Tandym’s rates for this engagement are dictated by the City, and

Tandym has never suspended or delayed services despite being asked to carry multi-million dollar accounts receivable balances due from the DOE over the years, further demonstrating our commitment to New York City's public healthcare.

With all due respect to Governor Hochul, her view of THCA's is incorrect. THCA's are not middlemen; we are partners performing crucial functions on behalf of our healthcare clients. Replacement of THCA's at the same level of speed, scale, and expertise would require public and private healthcare institutions to needlessly make costly investments in human resources, talent acquisition, legal, and technology that would ultimately be duplicative and wasteful.

**Limiting THCA profit will neither improve care nor lower costs; the State should instead work with THCA's and healthcare institutions to understand staffing needs and identify areas of potential improvement.**

As discussed above, THCA's like Tandym play a crucial role in enabling healthcare institutions to maintain staffing levels for continuity of quality healthcare. The blunt "limitation" on THCA profit as currently proposed would operate only to disincentivize THCA's and their experienced recruiting staff from providing this service in New York, instead pushing them to service other industries or other states. New York State healthcare facilities will not be able to immediately fill this gap in services, and any longer-term replacement of THCA functions would require substantial, duplicative investment that would undoubtedly pull dollars away from the quality of care.

There can be no question that healthcare costs are a real and serious concern for New York State and its residents. However, contrary to the Governor's view, the current system of healthcare staffing is neither broken nor is it the nefarious design of greedy middlemen. Healthcare institutions choose to work with THCA's because these facilities do not have the talent acquisition and personnel management infrastructure to meet their own needs for continuous, specialized care, but they can meet their needs with THCA partners, whose fees are self-regulating due to a fiercely competitive market.

We respectfully submit that the proposed "profit cap" is not ready to become law. We question whether the "profit cap" is the solution to any perceived problem, but also urge the Governor and members of the Legislature to consider that this proposal is severely lacking in its conception and implementation:

- The "profit cap" was proposed without consultation with THCA's about their services, fees, or costs; it appears that it is little more than a knee-jerk reaction to the incomplete, rudimentary comparison of bill rates vs. pay rates;
- The proposed language fails to define "profit"; DOH's reports included a dubious calculation of "Gross Profit Margin," but the statute refers only to "profit" and the accompanying Memorandum In Support references "earnings" – this confused terminology must be clarified before real restrictions on business are imposed;
- The proposed language leaves open how any limit would be imposed, making it impossible for THCA's and their stakeholders to prepare for its effect on their businesses and employees;
- The proposed language includes no explanation of what the "limitation" would actually entail or how it would be computed – for example, there is no indication of whether the "limitation"

would be based purely on fees and worker pay, or if the THCA could violate the law by increasing its profit margin by reducing other operating costs;

- The budget proposal makes no plans for the foreseeable secondary effects of the profit “limitation”, such as THCAs existing the New York State market, reducing competition and capacity for healthcare staffing.

Perhaps the most glaring deficiency is the budget’s failure to offer any justification for an artificial restraint on free market competition. Without regard the market factors currently regulating THCA fees and healthcare practitioner pay, it appears as though the State wishes to impose a nebulous restraint on free trade based solely on an overly simplistic calculation of “Gross Profit Margin” and an ill-informed view of THCA services. Tandym shares the Governor’s concern for the affordability, availability, and continuity of healthcare for the residents of New York State. However, it is respectfully submitted that the proposed “profit” cap is inappropriate, as it will not achieve the Governor’s goals, it ignores the value of the staffing firm services and the crucial role played by agencies like Tandym in healthcare staffing, and relies on a woefully incomplete calculation of the “profit” it intends to limit.

We therefore urge Legislature to reject the proposed amendments to New York Public Health Law 2999-mm(2) at this time, and respectfully invite Governor Hochul and her administration to engage with THCAs to better understand fees, costs, and services we provide. We would welcome the opportunity to address any concerns and work together toward solutions.

Submitted by:

Dave Muller  
President  
[dave.muller@tandymgroup.com](mailto:dave.muller@tandymgroup.com)  
(201) 786-2127

Guido Gabriele  
General Counsel  
[guido.gabriele@tandymgroup.com](mailto:guido.gabriele@tandymgroup.com)  
(212) 871-0601