

ATTORNEY GENERAL OF THE STATE OF NEW YORK
HEALTH CARE BUREAU

In the Matter of Northwell Health-GoHealth
Urgent Care.

Assurance No. 24-003

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

North Shore-LIJ Urgent Care, P.C. and
True North Urgent Care, LLC (collectively
d/b/a Northwell Health-GoHealth Urgent Care)

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to Executive Law § 63(12) and General Business Law § 349 into improper practices in the billing for COVID-19 vaccines by North Shore-LIJ Urgent Care, P.C. and True North Urgent Care, LLC (collectively d/b/a Northwell Health-GoHealth Urgent Care and referred to herein as “Respondent” or “NH-GHUC”). This Assurance of Discontinuance (“Assurance”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and Respondent, whether acting through their respective directors, officers, employees, representatives, agents, affiliates, or subsidiaries (collectively, the “Parties”).

OAG’s FINDINGS

1. Respondent is comprised of North Shore-LIJ Urgent Care, P.C., a professional corporation that provides medical urgent care services, and True North Urgent Care, LLC, a limited liability company that provides non-medical management services to urgent care centers.

True North Urgent Care, LLC is a joint venture between Access Clinical Holdings of New York, LLC, a Delaware limited liability company, and the North Shore-LIJ Urgent Care Ventures, LLC, a New York limited liability company and affiliate of Northwell Health, Inc. Together, North Shore-LIJ Urgent Care, P.C. and True North Urgent Care, LLC do business as Northwell Health-GoHealth Urgent Care.

2. At the present time, Respondent operates 57 urgent care centers in New York.

3. On December 27, 2020, NH-GHUC received notice that it would receive nearly 5,000 Moderna first dose COVID-19 vaccines and, at a later date, 5,000 Moderna second doses. This volume of vaccines substantially exceeded NH-GHUC's expectation, as communicated by the State of New York and New York City officials, that it would receive only a sufficient number of doses to vaccinate its New York workforce. In response, and mindful of the public health emergency and community need, NH-GHUC developed systems to receive, store, administer, document, and submit appropriate claims for the administration of the COVID-19 vaccine, putting such systems in place to allow members of the general public who met the applicable eligibility criteria to receive the vaccine.

4. Respondent administered COVID-19 vaccines at several of its urgent care centers during the period of December 29, 2020 to February 25, 2021 (the "Relevant Period").

5. Respondent has not administered any additional COVID-19 vaccine doses since the Relevant Period concluded, and currently does not administer COVID-19 vaccines.

6. Respondent administered approximately 10,455 doses of COVID-19 vaccine during the Relevant Period.

7. During the Relevant Period, the Centers for Disease Control and Prevention ("CDC") COVID-19 Vaccination Program required providers that administered COVID-19

vaccinations during the term of the program to do so at no out-of-pocket cost to recipients, and prohibited providers from seeking any reimbursement from recipients for COVID-19 vaccinations.¹

8. To promote compliance with the CDC Provider Agreement, at the outset of the Relevant Period, Respondent instituted a claims-hold on all COVID-19 vaccine-related charges so that its staff could conduct a manual review of the affected patient accounts prior to billing.

9. Respondent intended the claims-hold to prevent the charging or collection of any patient out-of-pocket amounts in connection with COVID-19 vaccine administration and related visits.

10. Respondent represents that, due to administrative errors in connection with the implementation of its claims-hold, a total of 731 charges nonetheless were not captured by the claims-hold and, therefore, Respondent's claims system may have inadvertently generated a statement or statements to the guarantor of the relevant accounts in connection with COVID-19 vaccine administration.

11. Respondent represents that, of the guarantors associated with each of the 731 charges not captured by the claims-hold, it cannot identify with certainty which guarantors were billed in connection with a COVID-19 vaccine and/or a related office visit during the Relevant Period, or how much they were billed.

¹ CDC COVID-19 Vaccination Program Provider Agreement ¶ 4. The CDC COVID-19 Vaccine Program ended on September 12, 2023 as it applied to the Moderna and Pfizer-BioNTech COVID-19 vaccines. *CDC COVID-19 Vaccination Program Provider Requirements and Support*, CDC (last visited Oct. 31, 2023), cdc.gov/vaccines/covid-19/vaccination-provider-support.html#closing-out.

12. Respondent accepted out-of-pocket payments in connection with a COVID-19 vaccine and/or related office visit for 527 vaccine doses. These payments were made by 451 individuals.

13. Respondent represents that it has refunded all payments made by patients or their guarantors related to COVID-19 vaccine administration. The total amount refunded was approximately \$14,996.05.

14. Respondent represents that the majority of refunds were issued by check or credit card reimbursement, but that one payment was instead initially applied to an open debit balance owed by the guarantor for a different service. Respondent represents that all of the refunds have now been issued by check or credit card reimbursement.

15. NH-GHUC's "Credits and Small Balances" policy states that NH-GHUC will research patient accounts with credit balances to determine (a) overpayments by the payor and/or a responsible party, (b) duplicate payments and/or contractual adjustments, and (c) misapplied charges and/or credits.

16. The policy states that, when a credit balance occurs and the amount shows an overpayment in favor of the patient, the guarantor and/or family member may be entitled to a refund.

17. The policy states that, "[i]f the patient, guarantor and/or family member[']s account has a valid credit but also has a debit balance on another charge, the credit will be applied to the debit balance."

18. At the point of service, NH-GHUC requires all patients or their representatives to sign a "Conditions of Registration" form, which includes a section entitled "Financial Agreement." The Conditions of Registration did not disclose to consumers NH-GHUC's credit balances policy.

19. Respondent sent unpaid accounts associated with 72 vaccine doses to collections.

20. Respondent represents that all balances related to COVID-19 vaccine administration have been withdrawn from the collections process without any adverse effects on the impacted patients and/or guarantors' credit.

21. OAG finds that Respondent's conduct in seeking reimbursement from certain patients, which caused some patients to believe that they were required to incur out-of-pocket costs for COVID-19 vaccinations, constituted acts and practices that violate Executive Law § 63(12) and General Business Law § 349.

22. NH-GHUC neither admits nor denies the OAG's Findings, paragraphs 1–21 above. NH-GHUC has agreed to this Assurance in settlement of the OAG's Findings and to avoid the time, expense, and distraction of litigation.

23. The OAG finds the relief and agreements contained in this Assurance are appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12) and General Business Law § 349 based on the conduct described above during the Relevant Period.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

24. General Injunction: Respondent shall not engage, or attempt to engage, in conduct in violation of any applicable laws concerning the billing for COVID-19 vaccines, including laws prohibiting seeking reimbursement from patients and/or guarantors (or leading patients and/or guarantors to believe that they are required to incur any out-of-pocket costs) to receive COVID-19 vaccination, and Respondent expressly agrees and acknowledges that any such COVID-19 vaccine-related conduct is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 23, *supra*, in addition to any other appropriate investigation, action, or proceeding.

25. Programmatic Relief:

- a. Patient Notification. Within sixty (60) days of the Effective Date, Respondent shall notify all guarantors who (a) made a payment for a COVID-19 vaccination and/or related office visit; (b) were billed for charges related to a COVID-19 vaccination and/or related office visit that were sent to collections; or (c) do not fall under categories (a) or (b) but may have received a statement in connection with a COVID-19 vaccination and/or related office visit. The text of such notification has been agreed upon by Respondent and OAG. All notices shall be mailed to guarantors at their last known address and will advise them of the associated billing error.
- b. Billing Practices. Respondent shall not instruct, encourage, or permit staff, contractors, or vendors to seek or accept any reimbursement from patients and/or guarantors for COVID-19 vaccination in violation of applicable law, or lead

consumers to believe that they are required to incur any out-of-pocket costs to receive COVID-19 vaccination in violation of applicable law.

- c. Credits and Small Balances Policy. Within thirty (30) days of the Effective Date, Respondent shall modify its Credits and Small Balances policy to limit Respondent's ability to apply patient credits to debit balances on another charge to cases in which both the credit and the debit have been deemed valid. The modifications to the Credits and Small Balances policy have been agreed upon by Respondent and OAG.
- d. Disclosure of the Credits and Small Balances Policy. Within ninety (90) days of the Effective Date, Respondent shall modify its Conditions of Registration to disclose to consumers that, in general, if Respondent determines that a patient has a valid credit on their account, Respondent will apply the credit to any valid debit balance(s) on the guarantor's account instead of issuing a refund, in accordance with the Credits and Small Balances policy. The modifications to the Conditions of Registration have been agreed upon by Respondent and OAG.
- e. Acceptance of this Assurance by the OAG is not an approval or endorsement by OAG of any of Respondent's policies, practices or procedures, and the Respondent shall make no representation to the contrary.
- f. Respondent shall pay to the State of New York a stipulated penalty of \$5,000 for each and every default in the performance of any obligation under this paragraph (para. 25) that may occur after the Effective Date of the Assurance.

26. Monetary Relief:

- a. Restitution. Respondent represents that it has refunded all patients or their guarantors as described in paragraph 13. These payments shall be considered full restitution unless and until Respondent identifies any additional impacted patients, in which case, Respondent within thirty (30) days shall issue a refund plus nine (9) percent interest per annum by check to any such patient or guarantor.
- b. Penalty. Within thirty (30) days of the Effective Date, Respondent shall pay \$25,000 in penalties to the New York State Department of Law. This payment shall be made by attorney check, corporate or certified check, or bank draft, which shall be payable to the "State of New York," and shall reference Assurance No. 24-003. Payments shall be addressed to the attention of Molly Brachfeld, State of New York, Office of the Attorney General, Health Care Bureau, 28 Liberty Street, New York, NY 10005.

MISCELLANEOUS

Subsequent Proceedings:

27. Respondent expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 33, and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the Effective Date of this Assurance;
- b. the OAG may use statements, documents or other materials produced or provided by the Respondent prior to or after the Effective Date of this Assurance, except to

the extent inadmissible pursuant to New York Civil Practice Law & Rules § 4547 or Federal Rule of Evidence 408;

- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue;
- d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

28. If a court of competent jurisdiction determines that the Respondent has violated the Assurance, the Respondent shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance:

29. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of the Respondent. Respondent shall include in any such successor, assignment, or transfer agreement a provision that binds the successor, assignee, or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

30. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

31. Any failure by the OAG to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by the Respondent.

Communications:

32. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 24-003, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery, express courier, or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to the Respondent, to: Laurence Kraemer, Secretary, Manager of True North Urgent Care, LLC (d/b/a Northwell Health-GoHealth Urgent Care), and Executive Vice President, Chief Legal Officer and General Counsel of North Shore-LIJ Urgent Care, P.C. (d/b/a Northwell Health-GoHealth Urgent Care).

If to the OAG, to: Molly Brachfeld, or in her absence, to the person holding the title of Bureau Chief, Health Care Bureau.

Representations and Warranties:

33. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the Respondent and the OAG's own factual investigation as set forth in Findings, paragraphs 1-21, above. The Respondent represents and warrants that it has not made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

34. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the Respondent in agreeing to this Assurance.

35. NH-GHUC represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved and execution of this Assurance is duly authorized.

General Principles:

36. Unless a term limit for compliance is otherwise specified within this Assurance, the Respondent's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Respondent of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

37. Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations or (b) right to take legal or factual positions in defense of litigation or other proceedings to which OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding.

38. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that the Respondent violates the Assurance after its Effective Date.

39. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

40. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

41. Respondent acknowledges that it has entered this Assurance freely and voluntarily, without coercion, and based on its own judgment.


42. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

43. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

44. This Assurance may be executed in multiple counterparts by the parties. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the Effective Date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically, and electronic signatures shall be deemed original signatures for purposes of this Assurance and all related matters, with such scanned and electronic signatures having the same legal effect as original signatures.


45. This Assurance is effective on the date that it is signed by the Attorney General or her authorized representative (the "Effective Date").

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

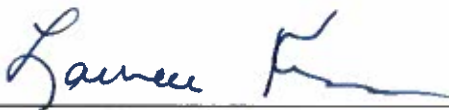
By: 
Molly Brachfeld
Assistant Attorney General
Health Care Bureau

Dated: 1 / 29 / 24

NORTH SHORE-LIJ URGENT CARE, P.C.;
TRUE NORTH URGENT CARE, LLC
(COLLECTIVELY
D/B/A NORTHWELL HEALTH-GOHEALTH
URGENT CARE)

By: 
Laurence Kraemer
EVP, Chief Legal Officer, and General Counsel
North Shore LIJ Urgent Care, P.C.

Dated: 1/24/2024

By: 
Laurence Kraemer
Secretary
True North Urgent Care, LLC

Dated: 1/24/2024

STATE OF New York)
) ss.:
COUNTY OF Nassau)

On the 24 day of January in the year 2024 before me personally came Laurence Kraemer to me known, who, being by me duly sworn, did depose and say that he is a duly authorized officer and representative of the Respondent, Northwell Health-GoHealth Urgent Care, comprised of the entities described in and which executed the above instrument; and that he signed his name thereto by like authority.

Sworn to before me this
24 day of January, 2024


NOTARY PUBLIC

LISA CRUZADO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01CR6040353
Qualified in Suffolk County
My Commission Expires 4/17/2026