

Workforce Policy Weekly

April 21, 2023



Policy Update Calls – Mental Health Post-Pandemic. On Monday, April 24 at 3:30 PM ET, Mark SooHoo, Health Lead at Meteorite and Health Action Alliance, will join us to talk about the recent publication, "[Three Years of COVID-19: Lessons Learned and Next Steps for Employers](#)". We'll talk about important findings reported in the publication, such as employers reporting a continued need to prioritize mental health following a surge in reported levels of psychological distress during the pandemic and about the lasting impact of lost workdays. Most important we'll talk about what providers can do moving forward to ensure workplaces are healthy and robust. You can also find previous call recordings of every 3:30 LeadingAge call [here](#). Note that to access recordings of the calls you need a LeadingAge password. Any staff member of any LeadingAge member organization can set up a password to access previous calls and other members-only content.

White House Executive Order and Fact Sheet on Caregivers. On April 18, the President signed an [Executive Order](#) summarizing his Administration's caregiver actions and proposals; Katie Smith Sloan was among the invited guests. A Fact Sheet – "[Biden Harris Administration Announces Most Sweeping Set of Executive Actions to Improve Care in History](#)" released earlier in the day outlined key measures included in the Executive Order. This [LeadingAge article](#) summarizes the Fact Sheet and its implications for LeadingAge members. The set of initiatives released today repeats and consolidates prior budget requests and announcements and adds some new ones.

LeadingAge supports the President's proposed \$150 billion expansion of Medicaid home and community-based services funding, including a focus on supporting the HCBS workforce. We question the White House notion that there is a way to leverage Medicaid funds to ensure there are sufficient workers to provide care in HCBS settings. Importantly, the Fact Sheet includes a statement that the Administration will add regulations and requirements to staffing mandates (which are not yet issued) and withhold Medicare SNF funding for nursing homes that do not retain staff. (It is essential to point out that this implies a new requirement; in fact, the policy of using SNF value-based purchasing to reward SNFs that retain staff has already been proposed.) Overall, LeadingAge is concerned that White House materials continue to frame the debate as "either/or" when talking about HCBS and nursing home funding, when both are needed. Further, we continue to point out that the workforce crisis remains the most challenging issue in long-term care and it will not be solved without comprehensive immigration reform. We will continue to report on follow up activities.

House Energy and Commerce Committee Hearing: Healthcare Workforce and Improving Primary Care. On April 19, the House Energy and Commerce held a hearing titled, "Examining Existing Federal Programs to Build a Stronger Health Workforce and Improve Primary Care." The hearing examined eight bipartisan bills aimed at addressing the federal government programs that support the health care workforce and improve primary care. Carole Johnson, administrator of the Health Resources and Services Administration, testified about the agency's health workforce and primary care programs, several of which will have to be reauthorized by the end of the year.

The hearing addressed the "[National Nursing Workforce Center Act of 2023](#) (H.R. 2411)" a new bill sponsored by Rep. Lisa Blunt Rochester (D-DE), that would support and stabilize the existing nursing workforce and establish programs to increase the number of nurses. Health Subcommittee Chair Brett Guthrie's Opening Statement highlights "the bill is designed to help bolster our nursing workforce and

would specifically require HRSA to work with state nursing workforce centers to help streamline their nursing workforce program. A one-pager of the bill can be found [here](#).

Health Subcommittee Chair Brett Guthrie's Opening Statement also highlights a LeadingAge supported proposal, the "Building America's Healthcare Workforce Act" which is sponsored by the Congressman. The bill temporarily extends flexibilities created during the COVID-19 Public Health Emergency that allow temporary nurse aides to put their on-the-job training in nursing homes toward ultimately becoming a Certified Nursing Assistant. Chair Guthrie's Opening Statement indicates "bill would address very serious nursing workforce shortages in the long-term care community" and he vowed to continue to push to advance legislation like this that cuts red tape, especially as we near the expiration of the COVID-19 Public Health Emergency on May 11.

The hearing also addressed the following bills: Teaching Health Center Graduate Medical Education Program, which funds training of doctors and dentists in rural and high-need areas; the "Doctors of Community (H.R. 2569)," that would permanently authorize the Teaching Health Center program and expand funding for it to train more residents; the "Strengthening Community Care Act of 2023 (H.R. 2559)," which extends funding for community health centers and reauthorize the National Health Service Corps for another five years. The hearing will be streamed on the Committee's website and accessed [here](#).

House Judiciary Committee Marks-up Legislation to Address Border Protection and Revamps the Employment of Undocumented Workers. On April 19, the House Judiciary Committee marked-up the "Border Security and Enforcement Act of 2023 (H.R. 2640)." Representatives Tom McClintock (R-CA) and Andy Biggs (R-AZ) released the immigration bill on April 17. This bill would provide protection of the border, reform the asylum system, crack down on the employment of undocumented workers, and expand migrant family detention. The bill represents the legislative response to high levels of migration on the U.S.-Mexico border from House Republicans, who have made border security a focal point of their new majority.

The bill would also limit the Biden administration's use of an authority known as parole, which allows the federal government to give migrants temporary permission to live and work in the U.S. The bill states that parole should not be granted "according to eligibility criteria describing an entire class of potential parole recipients." Parole has provided the legal authority for programs like the Deferred Action for Childhood Arrivals program, or DACA, as well as programs to help Ukrainians fleeing Russia's invasion. The bill also takes aim at employers that hire undocumented immigrants, including by ramping up requirements for them to electronically verify that their employees have permission to work in the U.S. Additionally, the bill would revive several programs to significantly limit asylum eligibility for migrants traveling to the U.S.-Mexico border. It would restrict eligibility from migrants who have traveled through another country enroute to the U.S. and had not first attempted to seek protection in the other country, among other provisions.

Senate Aging Committee Hearing: Beyond the 9 to 5: Dismantling Barriers and Building Economic Resilience for Older Workers. On April 20, the Senate Special Committee on Aging held a hearing titled, "Beyond the 9 to 5: Dismantling Barriers and Building Economic Resilience for Older Workers." The hearing examined the state of the aging workforce, and opportunities to support older Americans into the future. Chairman Bob Casey's [Opening Remarks](#) highlight recent data that shows "only 45 percent of 65-year olds are currently retired, compared to 58 percent in 2000." Additionally, Chairman Casey noted "many seniors seek to remain in the workforce to make ends meet or to regain income lost while

caregiving, and roughly one in three older adults aged 65 and older are economically insecure, with an average income being below 200 percent of the federal poverty level.” Recent data also shows older worker economic security is worse in communities of color: over half of Black and Hispanic older adults over the age of 65 are economically insecure.

Hearing witnesses included: Dr. Ernest Gonzales, James Weldon Johnson Professor of Social Work at New York University, Director of the Center for Health and Aging Innovation; Ms. Christine Vanlandingham, CEO, Michigan Region IV Area Agency on Aging; and Mr. Dave McLimans, Retired Steelworker and Steelworkers Organization of Active Retirees (SOAR) District 10 Board Member. You can review the witnesses testimony and view the hearing on the Committee’s website, [here](#).

Partnering with the Chamber of Commerce on the LIBERTY Campaign. LeadingAge is a cosigner of the U.S. Chamber of Commerce’s **Legal Immigration and Border Enforcement Reform This Year (LIBERTY) Campaign**, letter to call upon Congress to enact measures this year to improve the border and our legal immigration system and request that Congress take action on bipartisan compromises that would break the current immigration reform gridlock. The letter is in line with the LeadingAge policy agenda. Last week there were 303 signatories; Chamber leaders are aiming for 400. (We will share the letter once it is final.) The LIBERTY Campaign priorities include:

- Increasing the human, physical, and technological resources along the southern border and at our ports of entry;
- Sensibly reforming our nation’s asylum laws;
- Instituting modern, effective, and efficient employment verification reforms;
- Significantly increasing the annual quotas for employment-based immigrant and nonimmigrant visas;
- Expanding the scope of essential worker programs, specifically allowing employers to meet temporary labor needs in non-seasonal jobs;
- Creating new visa options for international students, entrepreneurs, and other high-demand workers to help American employers meet their critical workforce needs.

LeadingAge Submits Comments to FTC on Proposed Non-Competes Rule. LeadingAge on April 19 submitted [comments](#) to the U.S. Federal Trade Commission concerning a [proposed rule](#) that would prohibit employers from entering into non-competition agreements with workers. In its explanation of the proposed rule, the Commission noted that, where an employer is exempt from coverage under the Federal Trade Commission (FTC) Act, the employer would not be subject to the rule, such as an entity that is not “organized to carry on business for its own profit or that of its members.” This essentially relates to what authority the Commission has under the FTC Act with respect to certain matters, and we asked in our letter for the FTC to include this confirmation of exemption for nonprofits in any final rule. We also shared brief comments recommending that the Commission tailor its proposal if it proceeds to issue a final rule, rather than taking a one-size fits all, categorical approach.

Home Care Workforce Has Not Kept Pace with Growth of HCBS. In an April 19 “ahead of print” release, the Journal Health Affairs posted an article on some research findings showing that between 2008 and 2020 the number of HCBS recipients grew at a faster pace than the number of workers who serve them. As a result, the number of home care workers per 100 HCBS residents declined by 11.6% between 2013 and 2019, with preliminary evidence showing likely declines in 2020 as well. Improving access to HCBS

will require new workforce investments, the researchers – Amanda Kreider and Rachel Werner -- concluded. The abstract can be viewed [here](#).

NIC Executive Summary Survey Released. The National Investment Center (NIC) released their latest [Executive Summary survey](#), which focused primarily on rising costs, resident acuity and workforce challenges. Survey respondents indicated that the biggest challenges facing their organizations were rising operating costs (92%), staff turnover (88%) and recruiting new caregivers and community staff (82%). Staff retention had reportedly declined since last year; only 30% of organizations have retained more than 80% of their new hires after one month, and only 7% reported that they had retained more than 80% of their employees after one year. More than half of respondents reported that incoming resident acuity level was higher than it was a year ago; not one survey participant reported that acuity had declined. In terms of occupancy leads, 77% of single site operators reported higher leads volumes, and 92% of multisite operators that have ten or more properties reported the same increase in leads volumes. Notably, most respondents in this survey were for-profit operators (61%); only 29% were solely not-for-profit organizations.

New GAO Report on Opioids' Impact on Older Workers. A [new report by the Government Accountability Office \(GAO\)](#) provides a detailed examination of the relationship between labor force participation rates and substance use. The GAO's report, "*Older Workers: Opioid Misuse and Employment Outcomes*," was requested by Senators Tim Scott (R-SC), Susan Collins (R-ME), Bob Casey (D-PA). It builds on the efforts of the Senate Special Committee on Aging to support older Americans in the workforce. Although the labor participation rate among Americans age 50 and older increased significantly in the years prior to the pandemic, the GAO findings show that older adults who misuse opioids are much less likely to be employed than their peers. According to the GAO, when compared with all older adults age 50 and older who did not misuse opioids, older adults who misused opioids were an estimated 22% less likely to be in the labor force (either employed or actively seeking work); older adults in the labor force who misused opioids were an estimated 40% less likely to be employed; and, employed older workers who misused opioids were twice as likely to have experienced periods of unemployment.

Don't Miss It: ERC Office Hours. Calling all LeadingAge members who have decided to pursue the Employee Retention Credit (ERC); we are hosting a panel of experts from Venable law firm, CliftonLarsonAllen and Forvis to answer your questions about the complexities you've encountered in navigating the ERC. The "ERC Office Hours" will be held on Tuesday, April 25 from 3:30 - 4:30 PM ET. Please email [@Dee Pekruhn](#) to register and receive the Zoom link. All LeadingAge members are welcome, however this session is specifically tailored to those who have already pursued and/or filed for the ERC.

Last Week's Workforce Policy Update. Here is your April 14, 2023 [Workforce Policy Update](#).