



What's at Stake Regarding Health Workforce Challenges in 2023?

November 16, 2022



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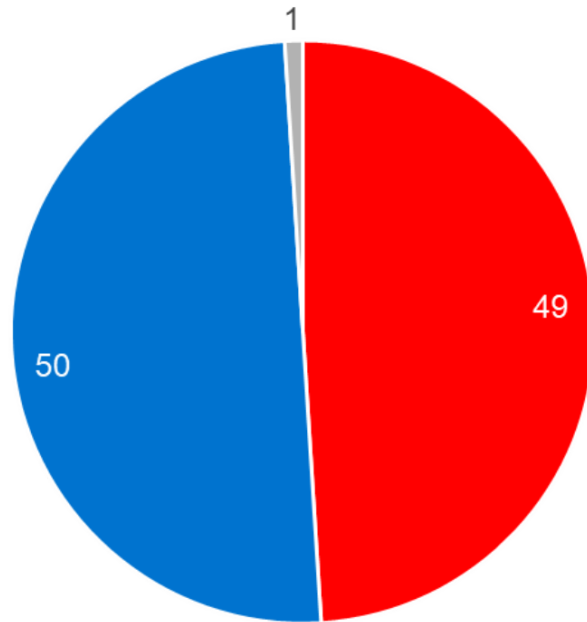
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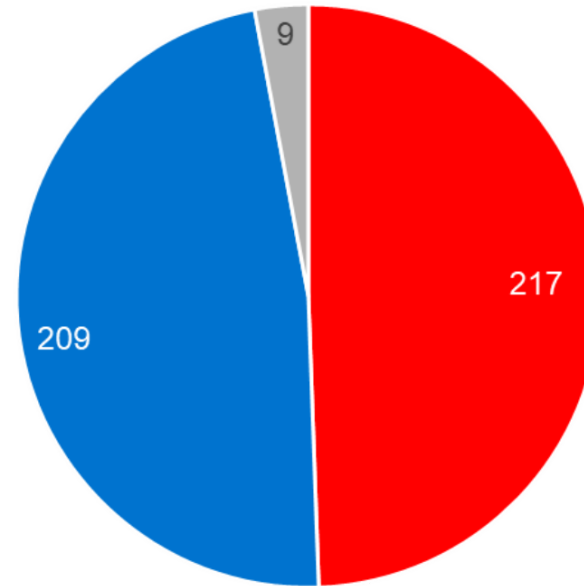
> Legislative Outlook

United States Senate



■ GOP ■ Dem ■ GA Runoff

House of Representatives



■ GOP ■ Dem ■ Undecided

- Expectations are high for an omnibus deal.
 - December 16th is current government funding deadline
- Top issues:
 - Doctors in line to see 4.42% PFS pay cut in 2023 absent Congressional action.
 - PAYGO cuts roughly 4% set to take effect in 2023 (Congress previously extended relief through 2022)
 - These cuts put increased strain on providers and threaten patient access
 - **Telehealth:** Bipartisan support to extend pandemic telehealth flexibilities into new Congress.
 - H.R. 4040 – extend pandemic telehealth flexibilities into 2024, goal for 118th to make certain reforms permanent (*passed House July 2022*)
 - **Mental Health:** Goal to pass bipartisan Senate mental health package
 - Provisions include strengthening behavioral health workforce, reimbursement issues

Aging Population

- The population aged 65 and older growing rapidly
- 21% of population 65 and older by 2030

Burnout

- The pandemic accelerated burnout among physicians, nurses, and other direct care workers
- Over 50% of nurses and physicians suffered from burnout since 2019
- Growing issue among behavioral health workforce.

Pipeline

- Lack of capacity in training programs, constraining the pipeline
- Harder for entities to recruit in underserved areas

Wages & Rates

- Low rates make it hard to maintain services
- Competitive wages difficult to sustain

- Variety of legislation in both chambers to address short- and long-term health workforce challenges.
- However, recent major legislative vehicles **failed** to advance key health care workforce measures
 - 2020: Consolidated Appropriations Act
 - 2021: Build Back Better Act
 - 2022: Inflation Reduction Act
- Champions must refocus issue and refine message: What is truly at stake?

- **Better Care Better Jobs Act (Sen. Casey):** This bill establishes programs and provides funds for state Medicaid programs to improve home- and community-based services (HCBS), such as home health care, personal care, case management, and rehabilitative services
- **Expand the Behavioral Health Workforce Now Act (Sen. Stabenow):** Requires HHS to issue guidance to states on strategies to increase mental health and SUD care provider education, recruitment, and retention.
- **Mental Health Professionals Workforce Shortage Loan Repayment Act (Sen. Smith):** Requires HRSA to establish loan repayment program for mental health professionals who work in designated shortage areas.
- **Supporting Our Direct Care Workforce and Family Caregivers Act (Sen. Kaine):** This bill would require HHS to develop recommendations for curricula to educate and train direct care workers and family caregivers, disseminate strategies to strengthen the direct care workforce, and award grants for recruiting, training, and retaining direct care workers and supporting family caregivers.
- **Direct CARE Opportunity Act (Rep. Scott):** This bill directs the Department of Labor to award grants to eligible entities to develop and carry out projects to recruit, retain, or provide advancement opportunities to direct care workers.

- **Healthcare Workforce Resilience Act (HWRA):** Recaptures previously unused immigrant visas and allocates them to 25,000 nurses and 15,000 physicians who petition for such visa before the date that is 90 days after the end of the public health emergency



Strengths

- Bipartisan (13 R, 12 D)
- Relatively rapid relief for workforce
- National stakeholders widely supportive



Weaknesses

- Tied to the Public Health Emergency
- Reinforcements for COVID argument less compelling
- Limited to physicians, nurses

- Stakeholders must pitch bill as the exception. Health care first, not immigration
- Champions must articulate how this bill would work (i.e. where are nurses going, what is happening without them)
- Decouple legislation from public health emergency
 - This bill is no longer about reinforcements for COVID, but about addressing shortages made worse by COVID
- Increase opportunities for other qualified health care workers
 - J-1 reforms must be articulated, vetted
- Earn support of key Republicans on House, Senate Judiciary.
 - This is an issue for every state and district.

- **Citizenship for Essential Workers Act (Sen. Padilla):** This bill establishes a mechanism for eligible aliens who worked as essential workers during COVID-19 PHE to apply for and obtain permanent resident status
- **Conrad 30 Reauthorization (Sen. Klobuchar):** Modifies Conrad 30, expanding number of waivers a state may obtain and clarifies pathway to a green card
- **Essential Workers for Economic Advancement Act (Rep. Smucker):** This bill establishes a new nonimmigrant visa for temporary nonagricultural workers (H-2C visa) to fill jobs that have remained open for a certain amount of time. This visa shall only be available for certain occupations and those requiring a bachelor's degree or higher level of education shall not be eligible.
- **EAGLE Act (Sen. Hickenlooper):** The bill increases the per-country cap on family-based immigrant visas from 7% of the total number of such visas available that year to 15% and eliminates the per-country cap for employment-based immigrant visas

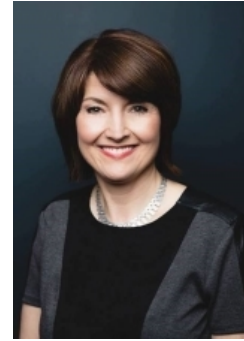
Key Players in the 118th Congress



**Sen. Dick Durbin
(D-IL)**



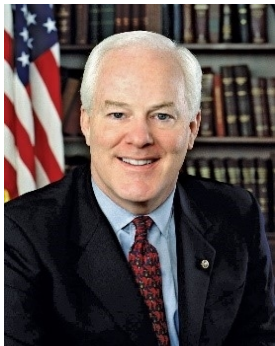
**Sen. Bernie Sanders
(I-VT)**



**Rep. Cathy McMorris Rodgers
(R-WA)**



**Rep. Tom Cole
(R-OK)**



**Sen. John Cornyn
(R-TX)**



**Sen. Rand Paul
(R-KY)**



**Rep. Frank Pallone
(D-NJ)**



**Rep. Zoe Lofgren
(D-CA)**



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> Workforce Programs

- The U.S. is experiencing a severe shortage of healthcare professionals in rural and underserved communities, especially after the onset of the coronavirus pandemic
- Addressing workforce shortages (including in healthcare) is a priority for the Biden Administration
- Congress
 - Passed the American Rescue Plan Act (ARPA) in March 2021
 - Over \$1.1 billion allocated to invest in the community health workforce
- Biden Administration has awarded over \$225 million in ARPA funds
 - Administered by HRSA via Community Health Workers and Health Support Training Program
 - Goals: (1) expanding the healthcare workforce; (2) training community health and health education workers; and (3) addressing pandemic-related burnout that led to physician and nursing shortages
 - Allocated to 83 grantees to support and train approximately 13,000 community health workers

- Grant characteristics
 - Primarily administered by DOL or HRSA
 - One time distribution of grant funds v. recurring applications
 - Different beneficiaries:
 - Providers; local governments; agencies; individuals pursuing an education; student loan repayment
- Notable Examples:
 1. Nursing Expansion Grant Program
 2. Rural Health Network Development Program
 3. Nursing Workforce Advancing Health Equity – Technical Assistance Center
 4. Loan Repayment Programs

Goals

1. address bottlenecks in the nursing workforce
2. expand the pipeline of qualified nursing professionals

Summary

- Authorized by the American Competitiveness and Workforce Improvement Act of 1998 (unrelated to ARPA)
- DOL administered program that provides two tracks for qualified nursing professionals: (1) Nurse Education Professional Track and (2) Nursing Career Pathways Track
- Nurse Education Professional Track increases the number of nursing educators by providing advanced postsecondary credentialing training
- Nursing Career Pathways Track trains participants as frontline healthcare professionals and paraprofessionals to attain postsecondary credentials needed for middle- to high-skilled nursing occupations

Beneficiaries

1. nonprofit healthcare organizations
2. nonprofit trade, industry, or employer associations
3. labor unions, labor-management organizations, and worker organizations
4. education/training providers
5. workforce development entities
6. Native American tribal governments

Application Deadline

January 6, 2023

Availability

Approximately \$80,000,000 in grant funds

Rural Health Network Development Program

Goals

1. support integrated healthcare networks
2. expand access and improve the quality of basic healthcare services
3. strengthen the rural healthcare system

Summary

- Rural Health Network Development Program is authorized by Section 330A(f) of the Public Health Service Act (42 U.S.C. 254c(f))
- HRSA administered program designed to connect rural health networks so that they can adapt to the evolving rural healthcare landscape
- Applicants are tasked with preparing for the next public health emergency, addressing health disparities, implementing value based care approaches in rural communities, and so forth
- Applicants may use a systems of care approach that leverages community partnerships to improve healthcare access and enhance outcomes

Beneficiaries

- | | | |
|---|--------------------------------------|--|
| 1. for profit organizations | 5. 501(c)(3) nonprofit organizations | 9. special district governments |
| 2. Native American tribal organizations | 6. county governments | 10. public and state-controlled institutions of higher education |
| 3. small businesses | 7. independent school districts | 11. private institutions of higher education |
| 4. state governments | 8. city or township governments | |

Application Deadline

November 22, 2022

Availability

Approximately \$13,200,000 in grant funds

Goals

Address nursing workforce shortages by providing grants to organizations that employ and educate nurses through training and technical assistance programs

Summary

- HRSA administered program that enhances access to healthcare providers by providing technical assistance to the nursing workforce
- Beneficiaries will use evidence based protocols to “promote resilience, mental health, and wellness among nurses and within organizations that educate and employ nurses”

Beneficiaries

1. independent school districts
2. county governments
3. Native American tribal governments
4. city or township governments
5. special district governments
6. state governments
7. private institutions of higher education
8. public and state-controlled institutions of higher education
9. nonprofits that do not have 501(c)(3) status with the Internal Revenue Service
10. nonprofits with a 501(c)(3) status with the Internal Revenue Service.

Application Deadline

January 19, 2023

Availability

Approximately \$3,000,000 in grant funds

- National Health Service Loan Repayment Program
 - Up to \$50,000 in loan repayment benefits
 - Required 2 years of full-time service in an eligible discipline or specialty at an approved service site in a federally designated health professional shortage area
 - Psychiatrists, health service psychologists, licensed clinical social workers, psychiatric nurse specialists, marriage & family therapists, licensed professional counselors, & nurse practitioners & physician assistants who focus on mental health or psychiatry
- Pediatric Subspecialist Loan Repayment Program
 - Authorized in 2010 by the ACA, but first received appropriation in FY2022
 - Up to \$35,000 of student loan repayment benefits/year to individuals who provide pediatric care in a shortage area
 - Minimum of 2 years and may serve up to 3 years
 - Pediatricians & qualified health professionals with specialized training in child & adolescent mental health in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, school social work, SUD prevention & treatment, marriage & family therapy, school counseling, or professional counseling



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> PHE and Regulatory Landscape

- HHS Secretary declared COVID-19 Public Health Emergency (PHE) in January 2020
 - Declaration has been extended several times
 - Most recent extension expires January 2023
 - Biden Administration has indicated it will extend the PHE again
 - If extended, PHE would remain in effect until **April 11, 2023**
- Important Medicaid and Medicare policies and flexibilities tied to PHE

Medicaid

- 6.2% increase in federal matching rate (FMAP)
 - Impact on state provider payments
 - Expires at the end of quarter in which PHE ends (likely June 30, 2023)

- Continuous coverage requirements/maintenance of eligibility protections
 - KFF estimates between 5 million & 14 million people will lose Medicaid coverage
 - CMS guidance on unwinding and transition of some enrollees to ACA marketplace
 - Expanded ACA subsidies, extended through 2025 as part of the Reconciliation bill

- Telehealth
 - All 50 states and DC expanded coverage and/or access to telehealth services during pandemic
 - Extent of impact will depend on the state

Medicare

- Telehealth flexibilities
 - No geographic restriction for patients or providers
 - No originating site restriction
 - Beneficiaries can remain in homes for telehealth visits
 - Audio-only telehealth visits (including for physical health)
 - Expanded scope of covered telehealth services
 - Physical therapists, occupational therapists, speech language pathologists, and audiologists
- The CAA of 2022 extended flexibilities for 151 days after the end of PHE
- The CAA of 2021 made telehealth permanent in Medicare for telemental health, but with an in-person service requirement
 - 6 months prior to visit and every 12 months thereafter
 - CAA of 2022 delayed implementation of the in-person requirement for telemental health to 151 days after end of PHE

Telehealth Provisions (OPPS and PFS)

- Implementing telehealth waiver flexibilities for 151 days after PHE
- Audio-only for behavioral health services (patients unable or unwilling to use video)
- In-person service reimbursement (facility-based) until end of 2023
- Some services (therapy services) added to Medicare Services List on Category 3 basis
 - Temporarily covered by Medicare until end of 2023
- Implementing CAA of 2021 & 2022 periodic in-person service requirements for telemental services
 - Within 6 months prior to visit & every 12 months thereafter – but exception if patient started during PHE

Physician Payment

- PFS payment cut; possibly addressed in year-end package

Home Health

- CMS is phasing in permanent adjustment by of -3.925% for CY 2023
 - Permanent adjustment is half of the full permanent adjustment of -7.85%

Workforce Provisions (terminating at the end of the PHE calendars year)

- Physician supervision can be provided by a “virtual presence”
- Physician can contract with auxiliary personnel to provide care/services
- Flexibilities for NPs, CNSs, CNMs, and PAs to supervise diagnostic tests
- Permitting PT and OTs to delegate the performance of services to a therapy assistance

Other Key Flexibilities

- Waiver of three-day prior hospitalization for SNF stay and one-time renewal of SNF coverage (ends at PHE expiration)
- 30 Day waiver of Pre-Admission Screening and Annual Resident Review
- Significant Home Health Agency flexibilities

- In a divided Congress, Biden administration is likely to amp up regulatory actions to ease provider concerns regarding the expiration of the PHE
 - Addition guidance (and dollars) around a glide path in Medicaid
 - Additional rules expected aimed at long-term care providers
 - *Improving Infection Prevention and Control in Long Term Care Facilities*
 - *Reporting of Crimes Occurring in Federally Funded Long Term Care Facilities*
 - *Minimum staffing ratio policy likely*
 - Reforms aimed at maintaining coverage
 - *Streamlining the Medicaid and CHIP Application, Eligibility Determination, Enrollment, and Renewal Processes*
 - *Short-Term Limited Duration Insurance; Update*

- HHS and DOL have identified hundreds of millions of dollars in funds coming online over the next year to help improve nurse staffing and workforce sustainability
 - *Much of this work will be focused on workforce development*

- Discussion