

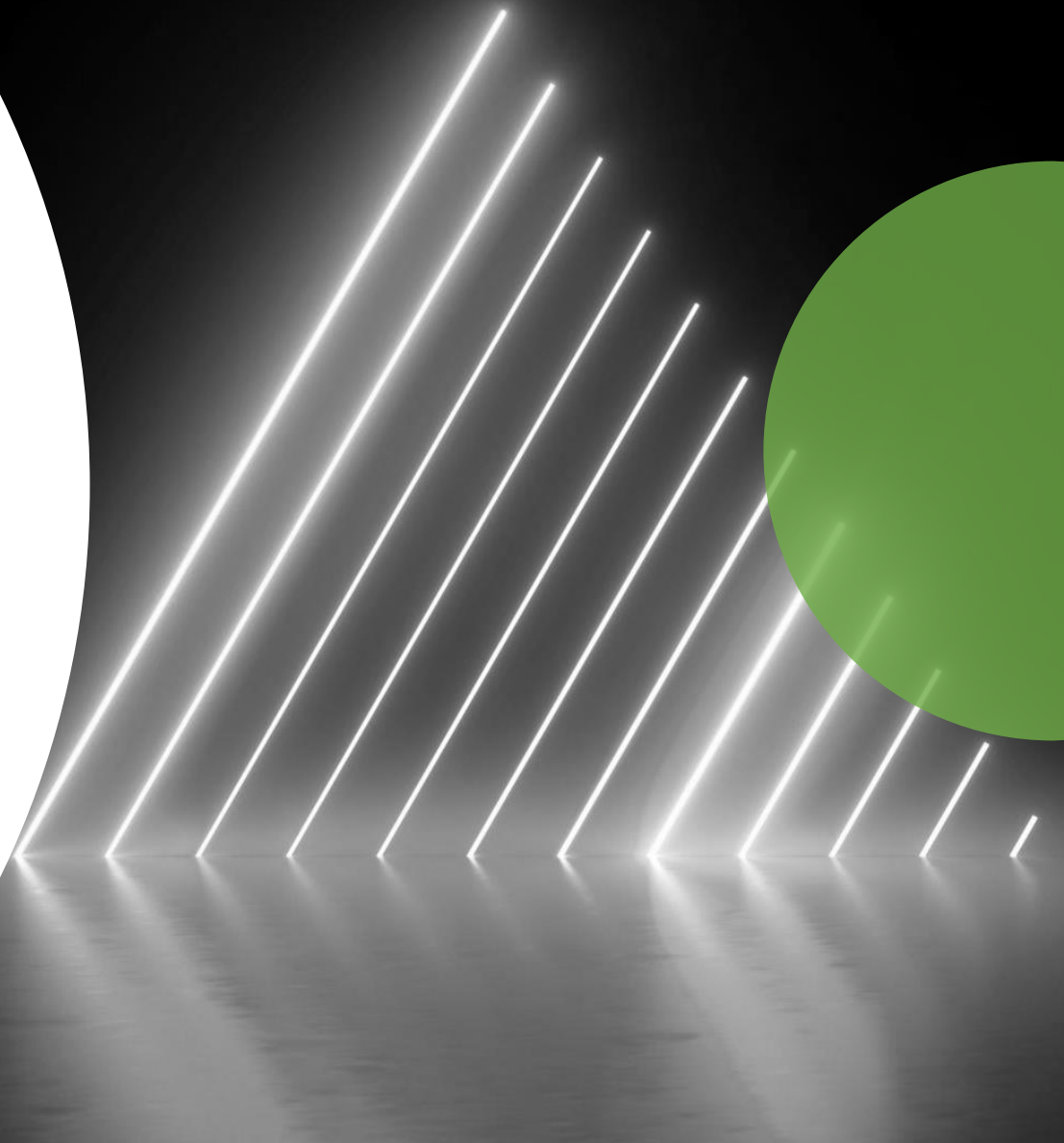
FEDERAL POLICY UPDATE: DEMOCRACY WASN'T SUPPOSED TO BE TIDY

LeadingAge Arizona Conference 2023

Ruth Katz, Senior Vice President for Policy

LeadingAge (National)

May 19, 2023



OVERVIEW

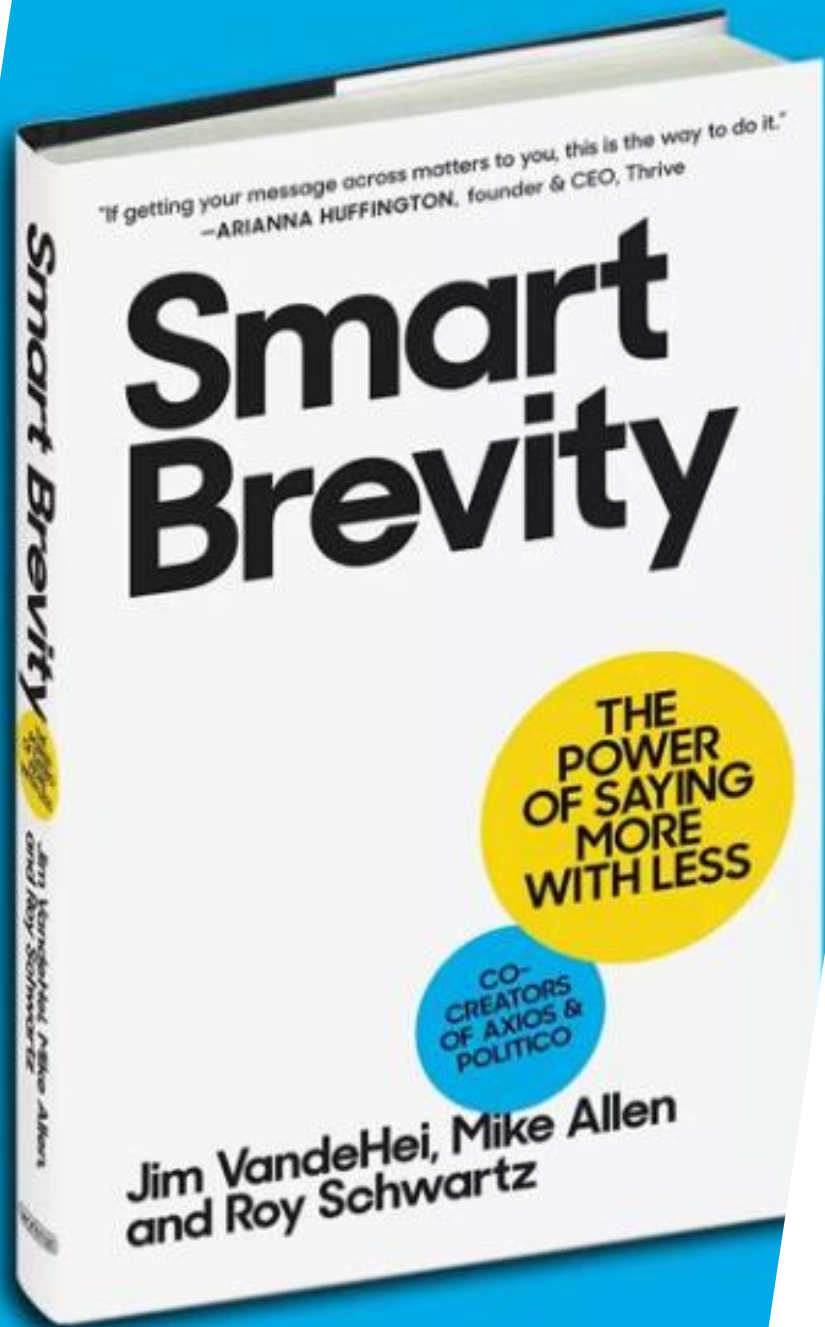


- Policy basics and effective advocacy
- Hearing from LeadingAge members - survive, sustain, scale
- LeadingAge Policy Platform and the tools we use
- The policy ecosystem
- Hot Topics and Updates
 - Workforce and immigration
 - Medicare Advantage
 - Nursing homes
 - Home and community-based services
 - Home Health
 - Hospice
 - Affordable housing
- What can YOU do to move the needle?

Policy Basics

- A marathon, not a sprint
- A question of balance
- Short- and long-range goals
- Pick top priorities
- Have realistic expectations – calculate best bets
- Data, analysis, preparation...
- ...and your stories
- **DON'T STOP TRYING**
- We are LeadingAge, we work for you





THE ELEVATOR SPEECH

- Frame it up clearly
- “Smart Brevity”
- Frameworks Institute:
 - Lead with solutions
 - Use data and explain it
 - Alternatives to “vulnerability” framing
 - Use visuals to spark big picture thinking
 - Tell more effective stories about the success of your work

HEARING FROM YOU

- **You've got a full-time job**
- **So do we: we are your eyes and ears in Washington**
- **We have your back in Washington**
- **Together we are most effective – Keep LA National and LA Arizona in the loop, please**
- **We can't do it without you**
 - **Set up times to talk**
 - **Grab us at meetings**
 - **Email us**
 - **Join member networks**
 - **Join our calls**

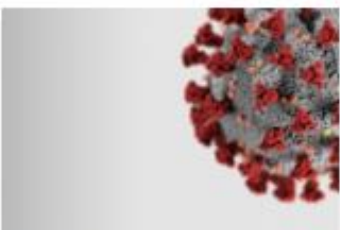
LeadingAge Policy Platform

[2023 Policy Platform \(leadingage.org\)](https://www.leadingage.org)



Our Approach

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COVID Response

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Workforce

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SURVIVE, SUSTAIN, SCALE – HOW DO WE GET THERE?

- **LeadingAge operational supports**
 - **RoPs Tools**
- **LeadingAge advocacy tools**
 - **LeadingAge Policy Update Calls – Mondays and Wednesdays @ 3:30 PM ET**
 - **Member networks**
 - **Action Alerts**
 - **Lobby Day and additional virtual and in person visits**
 - **Visits and relationship building with staff and leaders**
 - **Letters to policymakers in Congress and the Administration**
 - **Coalition advocacy; visits and letters**
 - **Promoting LeadingAge solutions**
 - **Grassroots and grasstops organizing**



THE POLICY ECOSYSTEM

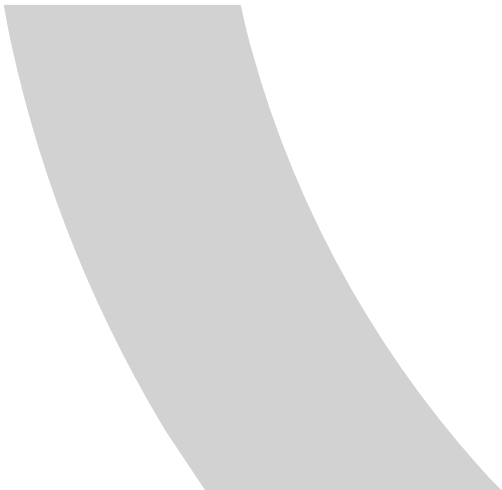
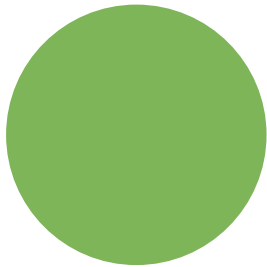
- **Split government, highly polarized**
- **Close majorities in House and Senate**
- **Agreement may be difficult**
- **Must pass bills (debt ceiling, budget, Farm Bill) will take longer**
- **White House economic agenda will face uphill slog, including caregiver supports and immigration**
- **Time to educate policy makers**
- **...and Washington, DC is only half the fun!**

Debt Ceiling Debate

- **Congress must take action by June (or July) to raise the debt ceiling or the United States goes into default...potentially.**
- **The House: April 19 the House proposed conditions for a 1-year debt ceiling increase, “Limit, Save, Grow Act of 2023.”**
 - **Cap federal discretionary spending at FY 22 levels**
 - **Cap future spending growth at 1% per year through 2033**
 - **Clawbacks of unspent COVID funds and repeals new Clean Energy Tax Credits**
- **The Senate: wants a clean debt ceiling increase vote; discuss budget separately.**
- **And...politics**

WORKFORCE, WORKFORCE, WORKFORCE

- Most LeadingAge members say 20% of their positions are vacant.
- Closures, not able to serve at full capacity, overcrowded hospitals and post acute admissions not possible.
- The math doesn't work: 1.7 jobs for every job seeker in the U.S.
- Today: 4.7 million direct care workers
- 2030: Adding 1 million more jobs, largest growth of any sector
- By 2030, nearly 8 million jobs will need to be filled
- Today: 31 adults 18-64 for every adult 85+
- 2060: 12:1
- We need 100 solutions



Civilian unemployment rate, seasonally adjusted

Click and drag within the chart to zoom in on time periods



Source: U.S. Bureau of Labor Statistics.



Number of unemployed persons per job opening, seasonally adjusted

Click and drag within the chart to zoom in on time periods



Source: U.S. Bureau of Labor Statistics.



LeadingAge WORKFORCE SNAP POLL

- Conducted mid-February through mid-March.
- Nearly 900 responses from across the continuum of care
- 64% say their workforce situation is that same as it was a year ago
- Shortages in all settings and positions
- Lots of interest but minimal success in tapping into immigrant and refugee pools
- Members are trying everything to attract applicants – wage increase, sign-on bonuses, creative scheduling and career advancement opportunities

HELP FROM CONGRESS ON WORKFORCE: IN THE HOPPER

- Better Care, Better Jobs
- HELP hearing on workforce; RFI
- Temporary Nurse Aide
- Waiting for CNA lockout to be reintroduced
- Waiting for immigration bills:
 - Citizenship for essential workers
 - DACA
- Pushing hard for elimination of 3 day stay requirement
- Bipartisan collaboration?
- Possible coalition successes?

ADMINISTRATION'S BUDGET PROPOSAL



- **\$28M for HRSA to establish a new program to address healthcare workforce shortages plus \$25M for healthcare workplace wellness**
- **\$349.9M for the Nursing Workforce including modernizing education and increasing nurse faculty and clinical preceptors**
- **\$966M to expand National Health Service Corp.**
- **\$335M to expand Registered Apprenticeships**
- **Funding to support informal caregiver support infrastructure**

HELP COMMITTEE RFI



- **Senate Health, Education, Labor and Pensions (HELP) Committee issued a Request for Information on March**
- **LeadingAge response summarized root causes of the problem, described problem, presented solutions**
 - **Increase wages**
 - **Provide training and advancement opportunities**
 - **Make meaningful immigration changes**
 - **Reduce regulatory burden**
 - **Address and prohibit price gouging by agencies**

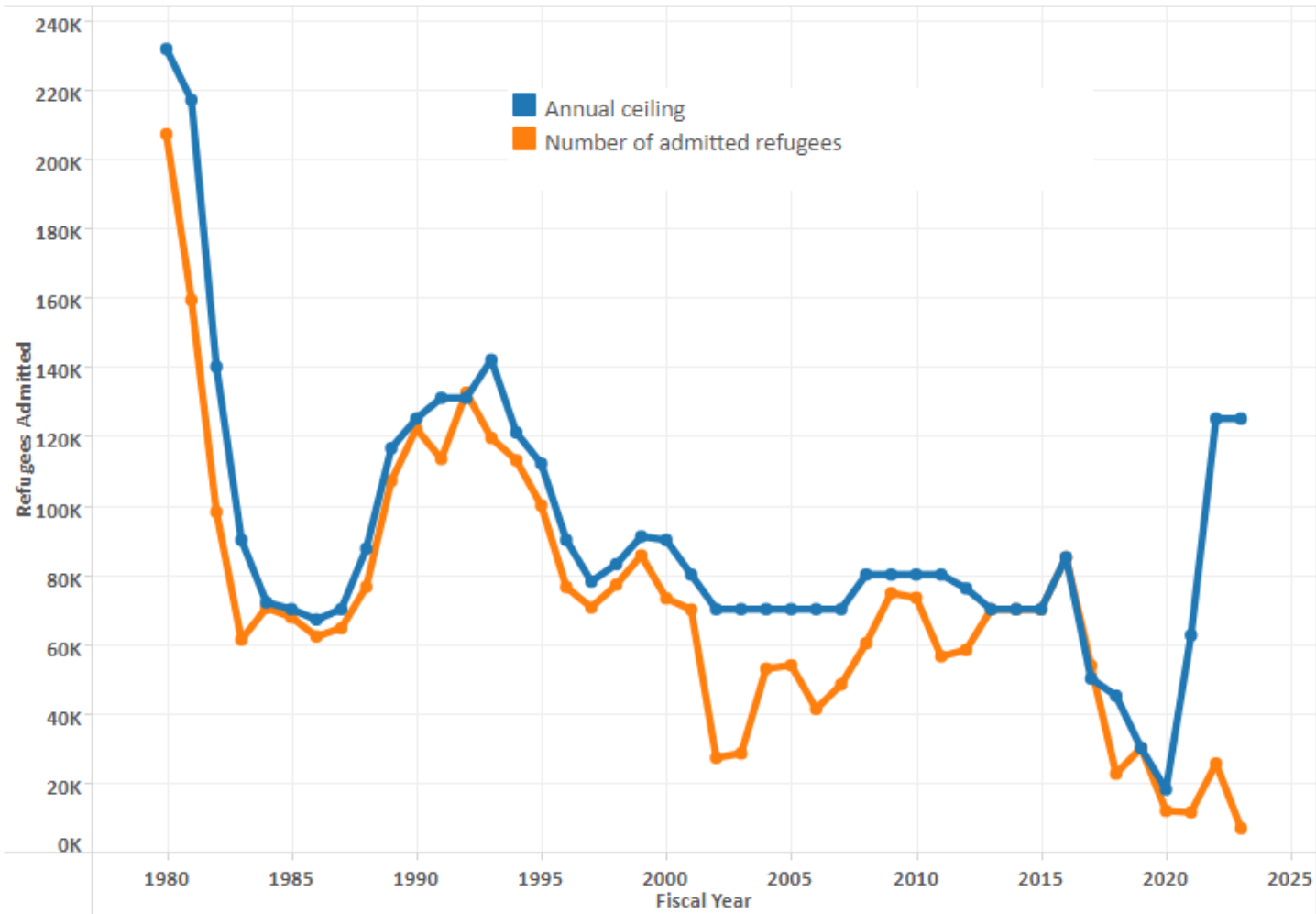
IMMIGRATION

- Immigrants = One quarter of the aging services workforce
- Immigrants = 13.6% of the U.S. population; 12.6% of the Arizona population
- Small number of LeadingAge members have employment agencies on the ground overseas.
- Limited ways for aging services workers to be admitted into the U.S.
 - Employment based visas – 140,000/year; ranked by preference; must have a job offer
 - EB-3 visa – professional, skilled, unskilled (1-3 years)
 - H-1B visa – specialty occupations; B.A. or higher; 85,000/year; must have a job offer (4-6 months)
 - R-1 visa – religious workers (6 months)
 - Refugees

IMMIGRATION BILLS, SO FAR


- **Secure the Border Act of 2023 (HR 2), the only bill introduced so far**
- **Additional bills from the last Congress that we might see again**
 - Citizenship for Essential Workers Act
 - Workforce for an Expanding Economy Act (Smucker)
 - Measures to reallocate unused EB-3 visas

U.S. Refugee Admissions & Refugee Resettlement Ceilings, FY 1980-2023 YTD*



Migration Policy Institute (MPI) Data Hub
<http://migrationpolicy.org/programs/data-hub>

LEADINGAGE RECOMMENDATIONS TO CHANGE IMMIGRATION



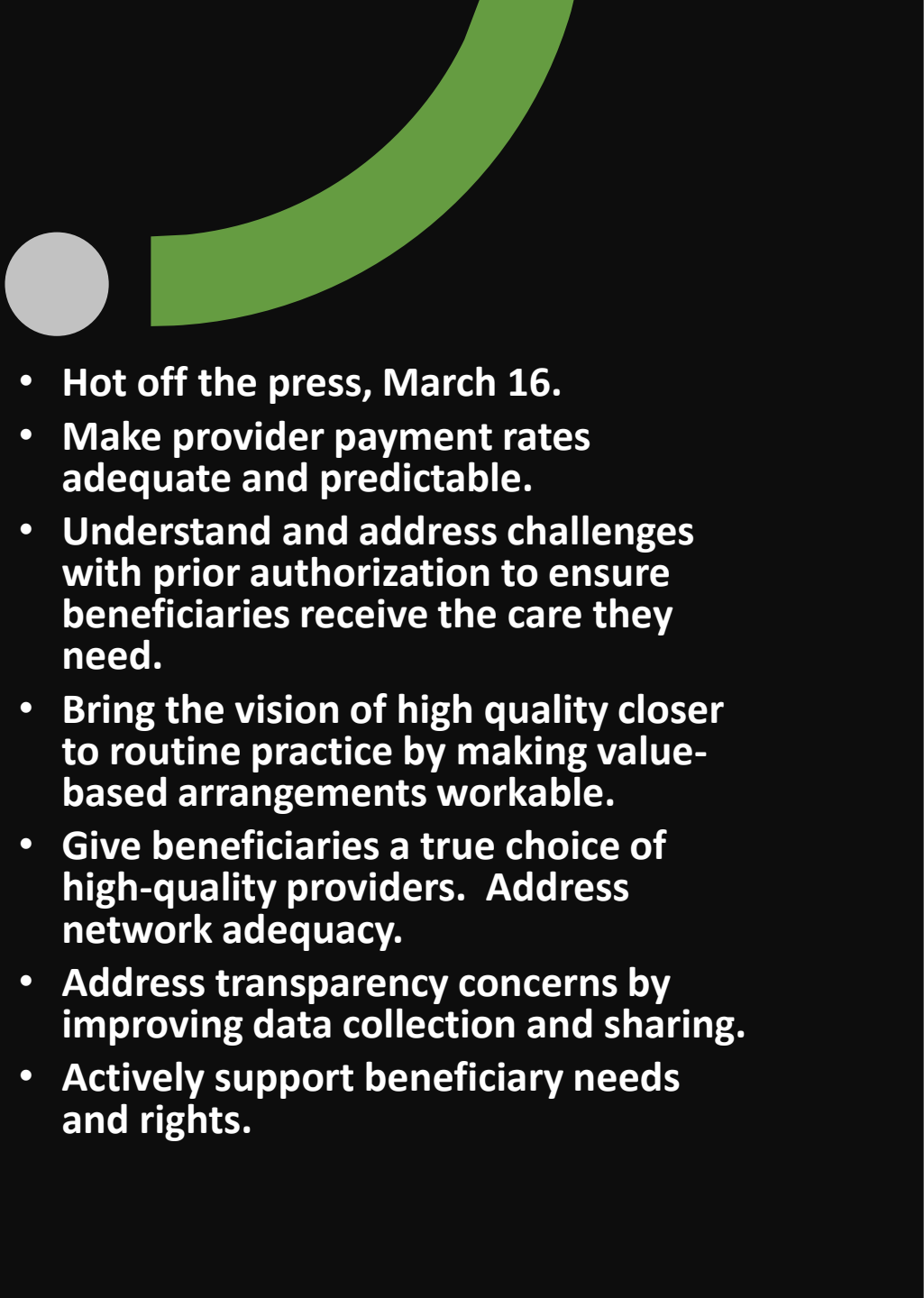
- A new “Caregiver Visa” program
- A new guest worker program - H2Age
- Citizenship for Essential Workers
- A new category of J-1 visas for older adult service workers (in addition to childcare workers)
- Increase quotas for EB-3; target aging services/LTC
- Increase refugee ceilings
- Streamline and shorten administrative processing

MEDICARE ADVANTAGE



- Nearly half of Medicare beneficiaries opted for Medicare Advantage plans for this year
- RFI, proposed rule, prior authorization rule
- Congressional views – February letter: [230216-MA-Letter-Final-with-Signatures3.pdf \(house.gov\)](#)
- Issues post-acute providers face in trying to assure beneficiary access and quality care:
 - Contracting
 - Rates
 - Prior authorization

FULFILLING THE PROMISE: MEDICARE ADVANTAGE

- 
- Hot off the press, March 16.
 - Make provider payment rates adequate and predictable.
 - Understand and address challenges with prior authorization to ensure beneficiaries receive the care they need.
 - Bring the vision of high quality closer to routine practice by making value-based arrangements workable.
 - Give beneficiaries a true choice of high-quality providers. Address network adequacy.
 - Address transparency concerns by improving data collection and sharing.
 - Actively support beneficiary needs and rights.

FINAL RULE CY24 MA POLICY AND TECHNICAL RULE

- **Plan must cover traditional Medicare A & B services and follow coverage criteria.**
 - Can't override a physician's order for a particular site of service
- **Prior authorizations**
 - Only to be used to confirm diagnosis and medical necessity
 - Must cover duration of medically necessary course of treatment
 - Plans cannot deny payment if medical necessity is approved
 - Plan contractors who use algorithms must follow traditional Medicare criteria too and use widely available treatment guidelines
- **Service denials must be reviewed by experts in that service**
- **Places limits on deceptive marketing practices**

A NOTE ABOUT PANDEMIC AID



- **Provider Relief Fund (\$178B)**
- **American Rescue Plan funds for rural providers (\$8.5B)**
- **FEMA relief**
- **Employee Retention Credit**
- **None of the aid will make providers whole**
- **Unlikely to see more COVID grants**

NURSING HOMES TODAY



Workforce crisis



Financing and reimbursement don't meet the need



Increasing reporting burden and regulatory overlay



Not exactly at endemicity yet; spikes



Pandemic recovery, slowly




Closures (2019 to 2022 total nursing homes went from 15,656 to 15,254)



Some LPCs are asking: to SNF or not to SNF?

PRESIDENT'S EXECUTIVE ORDER ON CAREGIVING



- Signed in the Rose Garden on April 18
- Knits together proposed policies, new policies, vision
- 50 directives for many federal agencies, but not a “whole of government approach”
- Enhance job quality for LTC workers
- Support family caregivers, including a new dementia model
- \$150B expansion of Medicaid HCBS
- Implies that it would tie Medicare reimbursement to staff turnover (but very misleading!)
- Implies doubling down on as yet unannounced staffing ratios
- LeadingAge response:
 - Immigration
 - White House Office on Aging
 - Invest across the continuum

FY24 SNF PROSPECTIVE PAYMENT RULE



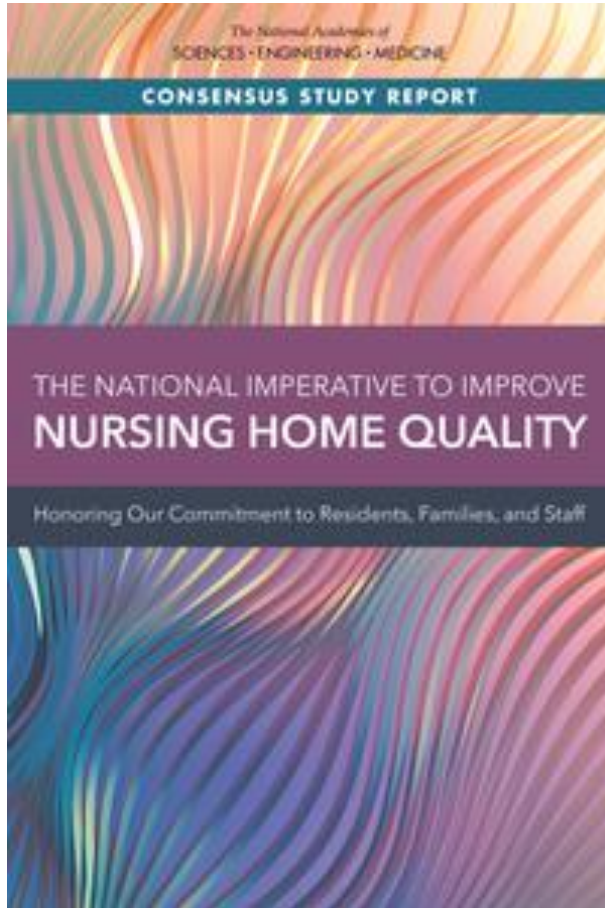
- **April 2023 – big sigh of relief**
 - **No staffing ratios**
 - **Nothing like last year**
- **3.7% net increase includes parity adjustment**
- **SNF Quality Reporting Program**
 - **Higher reporting threshold to achieve 2%**
 - **3 new measures, 3 removed, 1 modified**
- **SNF Value Based Payment Program**
 - **New measures and health equity reward**

PRESIDENT'S NURSING HOME QUALITY INITIATIVE



- President announced Nursing Home Quality Initiative in 2022 SOTU
- Minimum staffing ratios – after a one-year study
- Reinforce safeguards against unnecessary medications and treatments
- Ownership transparency, role of private equity
- Strengthen SNF value-based purchasing
- “Exploring” ways to phase out rooms with 3 or more people
- Request for more funding for surveys
- Beef up scrutiny of poorest performers
- Expand financial penalties
- Increase accountability for chain owners of substandard provider organizations
- Provide TA to nursing homes through QIOs
- Improve staff training
- Ensure pandemic preparedness

The NASEM Committee's Vision



“Residents of nursing homes receive care in a safe environment that honors their values and preferences, addresses goals of care, promotes equity & assesses benefits and risks of care and treatments.”

NASEM = National Academies of Sciences, Engineering and Medicine



NASEM Report Goals

Goal 1 | Deliver comprehensive, person-centered, equitable care that ensures residents' health, quality of life, and safety; promotes autonomy; and manages risks

Goal 2 | Ensure a well-prepared, empowered, and appropriately compensated workforce

Goal 3 | Increase the transparency and accountability of finances, operations, and ownership

Goal 4 | Create a more rational and robust financing system


Goal 5 | Design a more effective and responsive system of quality assurance

Goal 6 | Expand and enhance quality measurement and continuous quality improvement

Goal 7 | Adopt health information technology in all nursing homes.

- **LeadingAge is the convener**
- **Across goal areas and projects, pursuing quality, modernization, equity**
- **Focus on:**
 - **Resident directed living**
 - **Workforce**
 - **Finance**
 - **Accountability**
- **More than 800 community members**
- **[Home - Moving Forward Coalition](#)**

The Moving Forward Coalition



STAFFING RATIOS



- Abt study – draft submitted to CMS
- “Something” coming out “in the Spring.”
- LeadingAge to CMS: **GET REAL ON RATIOS!**
Impose staffing ratios only when the following conditions are in place:
 - Medicaid reimburses at least 95% of costs
 - HHS and DoL certify there is not a health care worker shortage
 - Ratios are not “one size fits all”
 - There is no public health emergency in place
- Additional coalition efforts
- Recent developments?
- Crystal ball

SCHIZOPHRENIA AUDITS; POSTING CITATIONS UNDER DISPUTE

- **CMS memo – QSO-23-05-NH – January 18, 2023**
- **Conducting schizophrenia audits off site based on MDS data; adjusting NH Care Compare star ratings for inaccurate coding.**
- **Schizophrenia is the target not all antipsychotics**
- **Posting citations under dispute in NH Care Compare**

TRANSPARENCY – OWNERSHIP & OVERSIGHT

- **CMS proposed rule February 15 (comments due April 14)**
- **Would require nursing homes to disclose ownership, managerial, and other information to CMS and state Medicaid agencies**
- **Implements 2010 statute based on concerns about quality**
- **Would require names and organizational structures and whether there is private equity or REIT involved**
- **If finalized, data will be publicly reported within 1 year**

END OF THE PUBLIC HEALTH EMERGENCY

- End of waivers
 - 3 day stay
 - Nurse aide training
 - Telehealth flexibility extended through 12/31/24
 - PASARR
 - Alcohol based hand rub
- Interim final rules – ending? Or not so much?
 - Vaccine mandate – ending!
 - NHSN reporting until December 2024
 - Community level and transmission changes
 - Community level – tied to hospital admissions data
 - Community transmission – May 8
- Concurrent Medicaid redeterminations, shrinking rolls
- Vaccines, tests, therapeutics: No change, unaffected by end of PHE

SNF 3 DAY STAY REQUIREMENT

- Waiver ends on May 11
- During the pandemic, 81% of SNF stays preceded by a 3 day stay
- The 3DS requirement is unreasonable, unnecessary, irresponsible, and inequitable.
- Partial solution: observation stay bills
- Advocacy and media release
- [Nonprofit Aging Services Association Calls For End To Outdated Three-Day Hospitalization Before Entering A Nursing Home \(leadingage.org\)](https://www.leadingage.org)
- Additional coalition activity
- Crystal ball on 3DS

NEW RULES

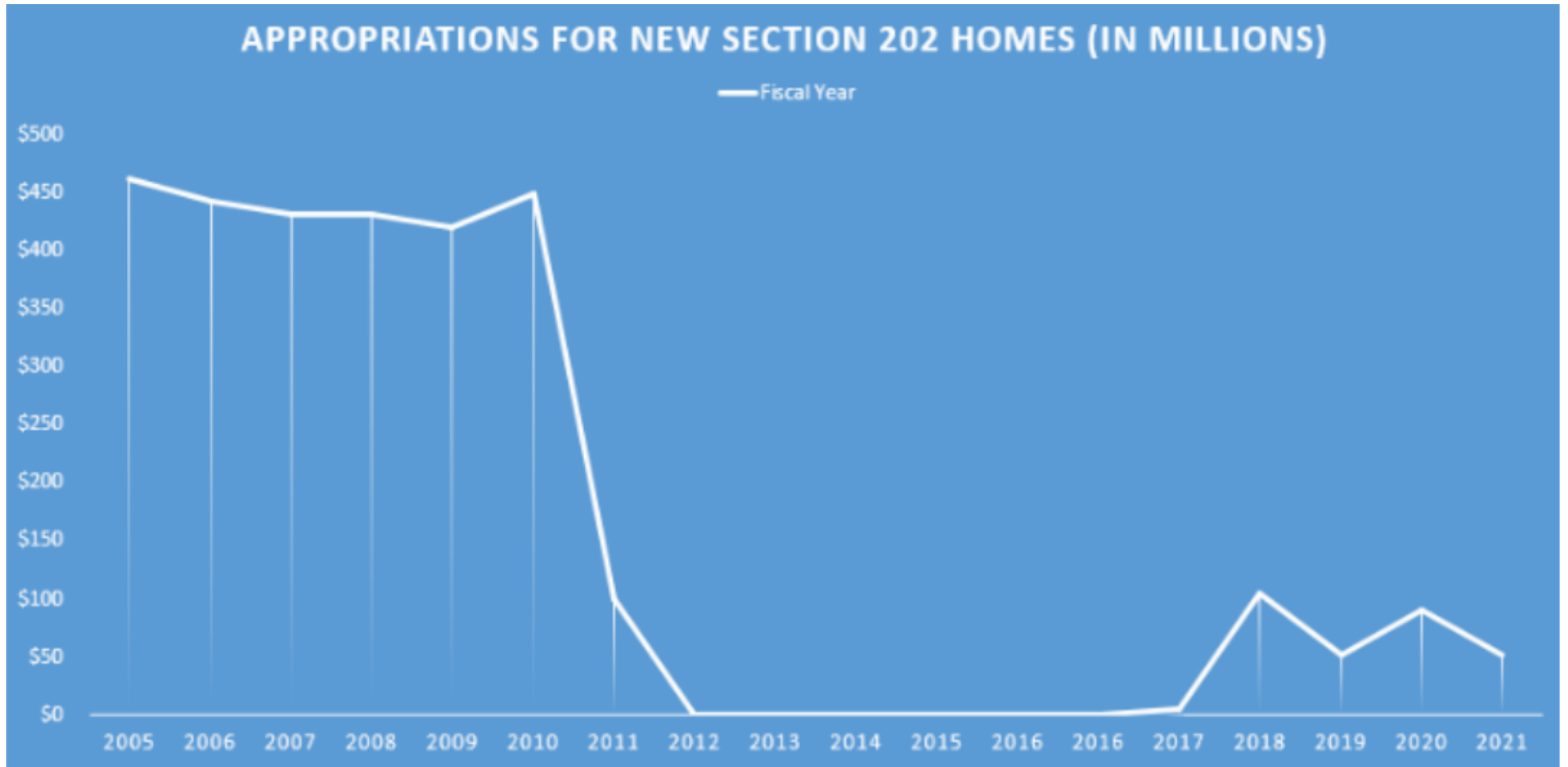
- Oversight of accreditation organizations?
- Assuring access to Medicaid
 - Provider availability
 - Provider accessibility
 - FFS and managed care
 - “...to assure that payments are consistent with economy, efficiency, and quality of care and are sufficient to enlist enough providers so care and services are available...”

AFFORDABLE HOUSING




- Older adult homelessness rising
- Housing costs rising
- Rental affordability decreasing
- Population increasing
- Need
 - Affordable housing - U.S. has a shortage of 7 million affordable homes
 - Service-enriched affordable housing
- Opportunity
 - Construction and preservation
 - Asset management in partnership with HUD
 - Service enhanced housing

Section 202 New Construction



AFFORDABLE HOUSING: WHAT KIND IS NEEDED?



- **Resident Characteristics**
 - Approximately 2/3 of HUD assisted older residents are dually eligible for Medicare/Medicaid
 - HUD non elderly housing – more than half of residents are older adults
- **Accessible**
 - Less than 5% of U.S. housing stock is accessible to individuals with moderate mobility difficulties
- **Service-enriched**
 - Fewer than half of Section 202 properties have a service coordination program
 - Budget driven
 - Grant funded

AFFORDABLE HOUSING: PROMISING DEVELOPMENTS



- **Administration's FY 2024 budget for HUD**
 - new construction for 202s
 - New PRAC contracts – preserve what we have
 - New vouchers
 - Reducing private activity bond financing requirement from 50 to 25%
 - Connects to better services and supports
- **LA goals for Low Income Housing Tax Credits**
 - Increase tax credit allocations by 50%
 - Rix right of first refusal issues
 - Lower threshold of private activity bond financing by 4%
 - Better serve households with extremely low income
 - Service coordinators in LIHTC housing
- **March 16 Senate Finance hearing - Administration seeks to expand housing tax credits and replace nonprofit right of first refusal with purchase option**

HOME AND COMMUNITY- BASED SERVICES



- President's budget proposes \$150 B expansion over 10 years for Medicaid HCBS (like Better Care, Better Jobs)
- HCBS Settings Rule compliance – March 17
- LeadingAge is working with VA on rate sheet on updated rates for adult day services
- Since March 2020 – Medicaid continuous eligibility
 - Medicaid unwinding applies to all Medicaid beneficiaries and must be completed by June 2024

HOME HEALTH



- **Final CY 23 rule**
 - After devastating cuts proposed last year without clear understanding of the data...from -7.69 to -4.2%
 - Temporary Retrospective Payment Adjustment
 - Consolidated Appropriations Act of 2023
 - Present to the extent practicable, a description of actual behavior changes 2018-21
 - Describe creation of simulated 60 day episodes and corresponding data sets
 - Discuss payment rate development for CY 23
 - Provide time for stakeholders to provide input and ask questions on the data

HOSPICE



- **Proposed PPS for 2024 – 2.8% net increase**
- **Hospice Special Focus Program – CMS report May 4; regs will appear in CY 24 HH rule**
- **LeadingAge weighs in on hospice benefit reform – Blumenauer roundtables:**
 - **New levels of care**
 - **Need for money to pay for palliative treatments that are cost prohibitive**
 - **Better reimbursement for palliative care under Part B**
 - **Modifications to the current benefit to streamline operation**
- **Hospice program integrity recommendations**
 - **34 LeadingAge recommendations**
- **Expansion of scope for Advanced Practice Nurses; certification of terminal illness**

WHAT CAN YOU DO TO INFLUENCE POLICY?



- Tell us what's on your mind, early and often please!
- Join LeadingAge Member Networks
- Join our member calls
- Respond to Action Alerts
- Come to Leadership Summit and participate in Hill Day in 2024
- Join virtual or in person Hill meetings
- Be ready to TELL YOUR STORY – don't worry about being a lobbyist or a policy wonk – You do you.
- Identify grass tops connections – members of your community who know legislators
- Write blog posts and op ed pieces; letters and comments; use social media
- TOGETHER WE CAN!



We work for you!

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