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**On Behalf of The
Society for Human Resource Management**

**Submitted to The
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Subcommittee on Health, Education, Labor, and Pensions**

**Hearing On
“Workplace Leave Policies: Opportunities and Challenges for
Employers and Working Families”**

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Introduction

Good morning Chairman Walberg, Ranking Member Sablan and distinguished members of the Committee. My name is Angela Schaefer and I am Vice President of Human Resources at Safety National located in St. Louis, Missouri. I have nearly 20 years of experience in human resources, having worked in the legal industry for many years, before joining the insurance industry in 2014. Thank you for this opportunity to testify before the Subcommittee on the challenges and opportunities for employers and families regarding workplace leave policies.

I am pleased to appear before you today on behalf of the Society for Human Resource Management (SHRM), of which I have been a member for 15 years. I am active in my local SHRM chapter, the Human Resource Management Association of Greater St. Louis, and I serve on the executive committee of the Missouri State Council of SHRM.

SHRM is the world's largest human resource (HR) professional society, representing 285,000 members in more than 165 countries. For nearly seven decades, the Society has been the leading provider of resources serving the needs of HR professionals and advancing the practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

Safety National is a versatile alternative market insurance provider that offers a broad range of risk funding products through insurance agents and brokers. Founded in 1942, Safety National is the leading provider of excess workers' compensation coverage to self-insured employers and groups nationwide, and has provided that type of coverage longer than any other company in the United States. Safety National is a wholly-owned subsidiary of Tokio Marine Holdings, Inc., a Tokyo-based global insurer that is ranked among the top 10 insurance companies in the world with a presence in over 40 countries.

SHRM appreciates the Subcommittee's examination of the opportunities and challenges facing employers and employees when it comes to workplace leave policies. SHRM and its members believe that workplace flexibility—or workflex—is a hallmark of the 21st century workplace. Shaped by shifting demographics, emerging technologies and employee needs, it is about rethinking how, when and where people do their best work. This new workplace cannot thrive with the same old, one-size-fits-all policy approach because work is more flexible than ever, so workplace rules need to be too, which is why today's discussion is so important.

In my testimony, I will share more about my business, including our leave policies and workplace flexibility offerings; outline some of the challenges organizations encounter in offering these benefits; and offer SHRM's public policy recommendations for Congress, including support for H.R. 4219, the Workflex in the 21st Century Act.

About Safety National

Safety National is an insurance carrier that provides workers compensation and other insurance coverage to employers that retain risk. We insure some of the largest private employers in the nation and hundreds of public employers. While the majority of Safety National's 456 employees work at our headquarters in St. Louis, Missouri, we also have employees working in 12 other states. Of our 456 employees, 331 are classified as exempt and 125 as non-exempt under the Fair Labor Standards Act and include underwriters, claims coordinators, client service representatives, and quality assurance analysts, to name a few.

Our stability and financial strength enable us to offer competitive salaries and exceptional employee benefits. At Safety National, we foster an inclusive and supportive work environment where employee contributions are recognized and valued. As I like to say, employees have a voice at Safety National. We regularly survey our employees and ask for their confidential opinions on a variety of workplace matters, including business processes and policies that impact them directly, such as our paid time off policies.

My company adheres to five core values: Relationships, Integrity, Teamwork, Balance and Stability. Our core values serve as the fundamental foundation of our corporate culture and drive our interactions, both internally and externally. For the last five years in which we have participated, Safety National has been recognized as a Best Place to Work by Business Insurance's employee engagement survey. Given that 75 percent of the scoring is based directly on employee responses and 25 percent is based on employer policies and procedures, I can say with confidence that we are meeting the needs of our employees.

Need for Paid Leave and Workplace Flexibility

Mr. Chairman, it goes without saying that we are all incredibly busy these days, and not just at work. Consider some of the key findings from SHRM's National Study of the Changing Workforce (NSCW), which takes a comprehensive look at employees' lives on and off the job. The recent NSCW revealed that jobs are indeed demanding, with 38 percent of employees feeling overwhelmed by their workload and 44 percent saying they have too many tasks to accomplish. It should come as no surprise that 46 percent of employees report experiencing three or more indicators of stress.

Specifically, more and more employees are identifying an increase in caregiving responsibilities, with 42 percent of all employees providing care for children under 18 and an additional 31 percent expecting to provide elder care in the next five years. The NSCW also confirmed that work-family conflict is high and not just a women's issue. In fact, men report higher levels of work-family conflict than women – 46 percent of men compared to 43 percent of women.¹

¹ National Study of the Changing Workforce (2016). Society for Human Resource Management.

Clearly, employees today are juggling ever more responsibilities between work and home, which is why many employees are requesting more flexibility at work. In fact, a recent study found that adults who are employed or looking for work value flexibility as much as they value having paid leave.² Additionally, employees rate workplace flexibility among the top three benefits offered by an employer as “very important” to their job satisfaction.³

At Safety National, our employees have made it clear to us that paid leave and workplace flexibility are critical to their ability to meet work and family demands. As a result, we listened to our employees and implemented the policies they requested, while still being able to meet the needs of our business. Here are the core Safety National workplace flexibility offerings:

Paid Time Off (PTO) – In 2016, Safety National transitioned from vacation and sick time policies to a PTO benefit. Transitioning to one bank of time has increased workplace flexibility for our employees by allowing them to decide how they use their time. Employees can take time off to take care of themselves or a sick child, or use the time for vacation. The full allotment of paid time off is available January 1 of each year, which allows employees to be able to use their time when they need it versus waiting until they have earned it, which might not align with when they need to be out of the office.

Flexible Schedule – Under this option, an exempt or non-exempt employee chooses the daily work schedule that works best for them. Workday start times begin as early as 6 a.m. up through 9:30 a.m. This flexible schedule enables employees to drop off children at daycare or school, coordinate schedules with domestic partners or spouses in an effort to ensure personal needs are met or simply avoid commuting during heavy traffic times.

Daily Workday Flexibility – This flexible work arrangement allows non-exempt hourly employees to clock in up to 15 minutes prior to or after their scheduled start time and modify the remainder of their workday to accommodate the modified start time, resulting in employees on a daily basis having flexibility as to the start of their workday. Employees no longer need to stress about arriving to work at an exact time, especially when a situation such as traffic is out of their control. Should an employee need to leave early for the day, they can start their day early and not have to use PTO.

Make-Up Time – This option allows non-exempt, hourly employees to take time off and then make up the missed time later in that same week Monday through Friday, or an employee may work extra hours earlier in the workweek to make up for time that will be taken off later in the workweek. Employees value the flexibility to schedule doctor’s appointments, run personal errands during business hours or come in late or take off early without taking PTO.

² Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies (2017). Pew Research Center.

³ Employee Benefits research report (2016). Society for Human Resource Management.

Employers Offer Paid Leave and Workplace Flexibility

Safety National is not the only employer stepping up to meet the work-life needs of its employees. According to national data, 99 percent of employers with 50 or more employees have some form of time off with pay for their full-time employees⁴. The National Study of Employers found an increase in the number of employers who offered telework on an occasional basis – 66 percent in 2016 compared to 50 percent of employers in 2008.⁵ Additionally, 57 percent of SHRM members report offering flextime, allowing employees to choose their work hours within limits established by the employer.⁶

HR professionals and their employers understand that paid leave and flexible work options are key to the overall job satisfaction of employees, especially as they compete for talent in an increasingly competitive marketplace. Consider, for example, that two out of five organizations cite offering more flexible work arrangements as one of the most effective recruiting strategies. Additionally, 34 percent of employees report that flexibility to balance work and life issues is the reason they stay at their organization, second only to 44 percent of employees who cite compensation as the reason they stay at their organization.⁷

To support their talent management strategy, organizations must also focus on Millennial employees who will represent 75 percent of the workforce by 2025⁸. Research shows that this generation, in particular, values flexibility over compensation, with 35 percent willing to take a 10 to 20 percent pay cut in exchange for more flexibility.⁹

Clearly, Mr. Chairman, employers who offer generous paid leave and workplace flexibility programs gain a competitive advantage as they seek to recruit and retain top talent.

Paid Leave and Workplace Flexibility Challenges

While many employers are already offering paid leave and flexible work options to help their employees navigate the demands of work and life, public policy lags behind and could do more to further incentivize employer adoption of these important benefits. Allow me to explain.

One major problem is policy fragmentation at the state and local level. To date, eight states and more than 30 localities have adopted rigid, one-size-fits-all paid sick leave laws. As a result, employers must now navigate a fragmented and sometimes

⁴ Paid Time Off, Vacations, Sick Days and Short-term Caregiving in the United States (2015).

⁵ National Study of Employers (2016). Society for Human Resource Management.

⁶ Employee Benefits research report (2017). Society for Human Resource Management.

⁷ Employee Job Satisfaction and Engagement (2017). Society for Human Resource Management.

⁸ https://www.brookings.edu/wp-content/uploads/2016/06/Brookings_Winogradfinal.pdf

⁹ FlexJob Annual Super Survey (2016). <https://www.flexjobs.com/blog/post/survey-workers-most-productive-in-the-office/>

conflicting system of state and local paid-leave mandates and flexible work requirements, causing numerous challenges for employers and employees.

This is true for Safety National. Because we have employees in San Francisco, for example, which has a sick leave requirement, as does the state of California, we must ensure we are complying with both, even though the laws are overlapping and different. These compliance efforts also come at a cost to my business.

For example, we had to switch to an entirely new Human Resource Information System (HRIS) payroll system to meet the California requirement that PTO be listed on the employee's paycheck. The cost to implement the new system was \$76,000. Additionally, this process required us to set up multiple rules in our payroll system to account for the various state and municipal laws as it relates to accruing time off and/or rolling over time from year to year. This was a significant undertaking, especially since we only have 14 employees in the state. Due to the various state and municipal rules and requirements, two of our HR team members spent almost 80 hours setting up, identifying technical issues and implementing the system. The work done by the HR team, while necessary, represented lost productivity that those employees could have spent on their regular duties in support of employees and the business. Every new state or local mandate could prompt similar needs.

Multiple rules have also meant increased legal fees for my company in trying to implement and comply with these laws. This effort has been particularly time consuming and difficult as many of these laws conflict with each other, use undefined and ambiguous terms and require our outside legal counsel to interpret the various leave laws to ensure that our policies are in compliance. Legal review must be done each time a new rule is enacted – and then annually – to make sure any changes in laws already in place have not made our policies non-compliant.

Additionally, SHRM members with worksites in some of the other states and localities with leave requirements have had to “designate” a specific number of days away from their PTO offering as “sick days” to comply with the various requirements. Employees have viewed this designation as a “take-away” from their PTO allotment as they could no longer use the leave unless the employee or their dependent was sick.

SHRM’s Policy Recommendation

HR professionals like me are on the front lines of devising workplace strategies to create effective and flexible organizations. As such, SHRM and its members have given careful consideration to the role public policy can play in advancing the adoption of paid leave and workplace flexibility.

Rather than a one-size-fits-all, rigid government mandate that prescribes how and when leave must be used, SHRM and its members believe that the United States must have a 21st century workflex policy that works for employers and employees alike, helping them meet both work-life and organizational needs. A 21st century workflex

policy must facilitate the expansion of paid leave and workflex options regarding when, where and how work is done, while accounting for differences in work environments, employer size and industry.

That is why SHRM strongly supports H.R. 4219, the Workflex in the 21st Century Act, because it delivers on this goal. This legislation would amend the Employee Retirement Income Security Act (ERISA) to create a qualified flexible work arrangement plan as an employee welfare benefit plan under the statute.

Under this legislation, employers could *voluntarily* offer a plan that provides their employees a federal standard of paid leave and options for flexible work arrangements, such as telecommuting or compressed work schedules. This plan, in turn, would preempt all state and local paid leave requirements, providing employers much-needed relief from the compliance conundrum employers currently encounter.

Under H.R. 4219, both full- and part-time employees of employers who offer an ERISA workflex plan would receive guaranteed paid leave that exceeds all state and nearly all local mandates, while employees of nonparticipating employers would continue to be covered by state and local paid leave requirements, where applicable. Employees of participating employers would also receive guaranteed access to flexible workplace options – not currently required under these state laws – which will give many employees access to workflex for the first time. Employers who opt in would benefit from improved predictability by being able to follow the federal framework for paid leave, alleviating the complexity of the various state and local laws.

Importantly, H.R. 4219 also includes strong employee protections provided by ERISA for more than 40 years. The bill has strong anti-retaliation protections for employees seeking to exercise their rights under ERISA. If an employer were to offer a qualified flexible work arrangement plan, the employer would be prohibited from taking adverse action against any employee based on the employee's request for leave or any other benefits provided in that plan. In addition, employees would choose to participate in the flexible work options and could not be forced, coerced or made to participate as a condition of employment. Remedies available for employees are those provided by ERISA, which include equitable relief. These plans may also lose qualified plan status under ERISA, triggering potential applicable state law coverage requirements and penalties for noncompliant employers.

Mr. Chairman, this legislation would allow Safety National to treat employees consistently across all of our offices, and would ease the administrative burden we face within our HRIS/payroll system. Under this legislation, Safety National would be able to consider our employees' request for bi-weekly work schedules, which would allow employees to address their work-life needs across two weeks versus the current one week restriction. As it stands now, if an employee has a busy work week and works over 40 hours in that week, they are paid overtime. We have had employees ask if instead of earning overtime they could apply those work hours to the following week and work a

shorter schedule that second week. Current labor laws do not allow for that flexibility, so we have no option but to deny the employees' requests.

Conclusion

Thank you for holding this hearing to discuss workplace leave policy options to benefit both employers and employees. As I stated earlier in my testimony, to make the new workplace work, we can't go by the old rules. Rigid government mandates only limit an employer's flexibility to tailor workplace flexibility policies to an organization's unique workforce and business needs. Public policy should facilitate greater employer adoption of these valuable workplace flexibility benefits, rather than curtail an employer's ability to offer policies that meet employees' needs.

SHRM commends Representative Mimi Walters (R-CA) for introducing the Workflex in the 21st Century Act, and encourages members of the committee to support this important legislation. SHRM looks forward to working with members of this committee to advance H.R. 4219, which will expand paid leave and workplace flexibility options for all employees.

Thank you. I am happy to answer any questions you may have.