

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

11/20/2022

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Vol 6

No 47

They said it

"It's already surpassed the peak RSV activity in years when we weren't wearing masks. We don't know where that peak is going to end up" Swati Gaur, MD, Medical Director for two Georgia nursing homes

"It is essential in the coming weeks that we make sure providers have the resources they need to keep their doors open for seniors and families"
Letter from 46 Senators to leadership asking that the body address announced payment cuts

"Unfortunately, the health care sector is uniquely vulnerable to cyberattacks and the transition to better cybersecurity has been painfully slow and inadequate" Sen. Mark Warner (D-Va.), chairman of the Senate Intelligence Committee

"They miss a key element, which is customer satisfaction, resident satisfaction, family satisfaction"
chairman of the public policy at the California Association of Long Term Care Medicine Michael Wasserman, on state LTC dashboards

PA to Invest Nearly \$12M In Long-Term Care Facilities

The Pennsylvania Department of Health announced plans to distribute approximately \$11.7 million in CDC funding to "help long-term care facilities build resilience to sustain quality care."

Facilities must be enrolled by December 9 in the state's LTC RISE program's quality improvement work initiative in order to be considered eligible to receive funding

Philadelphia facilities are not eligible for funding due to the city's Department of Public Health receiving its own funding.

PennWatch, 11/16/22

States Push CMS to Repeal Vaccine Mandate

A coalition of 22 states is taking a new angle in its attempt to overturn a national mandate requiring that healthcare workers be vaccinated against COVID-19.

The tactic isn't complicated - they're simply asking federal regulators to withdraw the rule and related guidance that applies to nursing home staff and anyone else in Medicare and Medicaid-funded facilities.

Led by Montana AG Austin Knudsen, the coalition filed petition under the Administrative Procedures Act requesting HHS and CMS take immediate action to repeal its interim final rule that requires facilities to develop policies to ensure all staff are fully vaccinated for COVID-19.

McKnight's, 11/18/22

\$58M Settlement in Veterans Home COVID-19 Deaths

A federal judge has approved a nearly \$58 million settlement in a class-action lawsuit filed in response to the deaths of dozens of veterans who contracted COVID-19 at the Soldiers' Home in Holyoke, Massachusetts.

An investigation by a former federal prosecutor found that management at the home made several "utterly baffling" decisions that allowed the virus to spread almost unchecked

The families of the 84 veterans who died will receive a minimum of \$400,000 each, while the 80 veterans who contracted the disease and survived will receive a minimum of \$10,000.

WBUR Radio, 11/15/22

Feds Increasing Scrutiny Of Psychotropic Drug Use

From 2011 through 2019, about 80% of Medicare's long-stay nursing home residents were prescribed some type of psychotropic drugs.

In a report issued during the week, the HHS OIG said while CMS met a 2011 goal of lowering the use of antipsychotics

in nursing homes, it lost sight of the use of other psychotropic drugs.

The use of anticonvulsants, often prescribed to epileptics, increased, leaving the overall use of all psychotropic drugs unchanged.

Now the agency will be increasing its oversight of the use of psychotropic drugs to pay closer attention to certain classes.

McKnight's, 11/18/22

DOJ to Probe Missouri's Mentally Ill SNF Housing

The Justice Department has opened an investigation under the Americans with Disabilities Act (ADA) into whether the State of Missouri unnecessarily institutionalizes adults with serious mental illness in skilled nursing facilities.

The department will investigate whether these individuals could be served in the community with services such as supported housing, assertive community treatment, crisis services and peer support services.

DOJ will also attempt to determine whether the State's use of guardianship for people with serious mental illness contributes to unnecessary placements in nursing facilities.

DOJ news release, 11/16/22

PHE Not Over in January It'll Be at Least April

HHS has promised to give states 60 days' notice before letting the emergency expire, which passed Nov. 11 without the notice. Two administration officials confirmed the extension.

The PHE designation, with its numerous waivers has been a lifeline to long-term care operators.

Critical to nursing home operators in at least 15 states are waivers that allow them to retain temporary nurse aides without full certification; most of those waivers expire with the end of the PHE.

A possible winter COVID surge and the need for more time to transition out of the PHE were two factors in the decision.

Reuters, 11/11/22

IN THE TRENCHES – COVID-19 in the States, the SNFs, the World

AMERICA: The age-adjusted death rate for COVID-19 was highest for the most urban areas in 2020 and lowest for medium-sized urban areas (97.7 vs 75 per 100,000). CDC statistics also indicate the highest death rate for males was in the most urban areas (129 per 100,000); while the highest for females were in both the most urban and the most rural areas 72.8 and 73.8 respectively (*HealthDay News*).

CONNECTICUT: Zaya Powell, 25, of Waterbury worked as a Data Entry Specialist for a company that administered COVID-19 vaccines. Powell had access to the company's electronic health record system and to stacks of blank COVID-19 vaccination cards. She was convicted of providing 14 other people with fake vaccination cards that indicated they had each received the J & J vaccine. She was sentenced to three years probation, a \$5,000 fine and to perform 200 hours of community service (*DOJ news release*).

EUROPE: Compared with hemodialysis patients treated in 2019 in 23 European countries, the mortality risk of COVID-19-positive patients on dialysis persisted at much higher levels – 6.5 times higher – during 2020, whereas the mortality risk of other patients on dialysis, who did not contract COVID-19, was elevated just slightly (less than 1.5-fold) and mainly during the pandemic peak period (*Medical & Life Sciences*).

MINNESOTA: The pandemic has affected staffing in other places besides nursing homes – home health for example. In Minnesota vacancies for home health care jobs ballooned 60% to nearly 15,000 at the end of 2021, up from 9,373 vacancies in 2020. Fully a quarter of home health positions are going unfilled, Wages for direct support positions have inched up to about \$15 an hour but is still too low to attract workers from less-demanding jobs (*The Star Tribune*).

AUSTRALIA: Two hundred (200) passengers infected with COVID-19 disembarked from the *Grand Princess* in Melbourne, after the *Princess* cruise ship completed a thirteen-day round-trip to New Zealand. There are no public

accounts of the number of infected crew members (*Cruise Law News*).

CALIFORNIA: In a report released by the city, three Rialto firefighters failed to provide “reasonable and professional care” and ignored pleas for help by nurses when they refused to enter an acute care center and treat a man in full cardiac arrest because of coronavirus protocols. The patient died. Fire Chief Brian Park said local or state emergency medical service providers, including Rialto's, were never prohibited from entering skilled nursing facilities (*San Bernardino Sun*).

THE WORLD: People who took the antiviral drug *Paxlovid* within a few days after being infected with the coronavirus were less likely to be experiencing long COVID several months later, a large new study found. The findings suggest that for people who are medically eligible for the antiviral — older adults or people with certain health problems — *Paxlovid* not only reduces the odds that they will be hospitalized or die from a coronavirus infection, but also lowers their risk of long-term symptoms (*New York Times*).

AMERICA: The FDA has issued an emergency use authorization (EUA) for anakinra (Kineret) injection for the treatment of COVID-19 in certain hospitalized adults including those with pneumonia who require supplemental oxygen and are at risk of progressing to severe respiratory failure. Anakinra is an interleukin-1 (IL-1) receptor antagonist that is currently FDA approved for treatment of rheumatoid arthritis and other conditions (*MedPage Today*).

VIRGINIA: Charlottesville and Albemarle County are partnering with the United Way of Greater Charlottesville to provide financial relief for community members who are still being negatively impacted by the COVID-19 pandemic. Eligibility to receive funding is based on the U.S. Treasury Department guidelines for the impact of COVID-19. Once approved, individuals will receive \$1,000 per month for up to \$3000 per year (*WVIR-TV*).

CALIFORNIA: Walt Disney has told a string of its TV shows that it will no longer

require cast and crews to be vaccinated against COVID-19 as hospitalizations wane. The productions will no longer require workers in front of and behind the camera in the most high-risk areas of their sets to be vaccinated, said people with knowledge of the matter who were not authorized to speak publicly. The use of vaccination mandates was agreed to by unions and producers as part of the so-called Return to Work agreement last year. About a dozen shows are affected (*Los Angeles Times*).

CHINA: Top global and Chinese companies, from carmakers to tech giants, have experienced huge disruptions to their business in recent weeks as the world's second-largest economy doubles down on its zero-COVID approach after Xi Jinping began his third term in power with a ringing endorsement of the policy. Authorities have imposed a seven-day lockdown of the area that houses China's biggest iPhone assembly factory, in the central city of Zhengzhou (*CNN Business*).

CINCINNATI: Mayor Aftab Pureval says the city is making a formal recommendation for city employees to start wearing masks indoors due to rising COVID-19 rates. The recommendation comes after the Centers for Disease Control and Prevention has classified Hamilton County as having "High" COVID-19 community spread (*WLWT-TV*).

THE WORLD: Pfizer-BioNTech SE have initiated a Phase 1 study to evaluate the safety, tolerability, and immunogenicity of a next-generation COVID-19 vaccine candidate. The next-gen vaccine candidate aims to enhance SARS-CoV-2 T cell responses and potentially broaden protection against COVID-19 (*Benzinga*).

COVID-19, 11/18/2022

Global Cases – Deaths
637,981,374 – 6,620,746

U.S. Cases – Deaths
98,305,722 – 1,077,031

227.8 = 70% of the country's population is fully vaccinated

Johns Hopkins University

Does a Reaction To The Jab Make You Safer?

Two papers in the *JAMA* network of journals suggest that experiencing more side effects correlates with higher levels of anti-spike antibodies. Others disagree.

Still, nearly all studies agree on one thing -- the vast majority of people develop anti-spike antibodies after they're fully vaccinated.

"Some people get a reaction, some people don't, but everybody gets protected," said William Schaffner, MD, professor of infectious diseases at Vanderbilt University Medical Center in Nashville, Tennessee, and a spokesperson for the Infectious Diseases Society of America (IDSA).

MedPage Today, 11/01/22

A Residual Effect of COVID – Other Serious Health Problems

A large study by UK Biobank indicates individuals who have had been infected with COVID-19 have a greater risk of subsequent cardiovascular and other health problems. The study is one of the first to consider the severity of COVID-19 infection.

Researchers analyzed 53,613 patients 17,871 of whom were diagnosed with COVID-19.

The results showed that these participants were more than 27 times more likely to develop VTE - venous thromboembolism, more than 21.5 times more likely to be diagnosed with heart failure, and 17.5 times more likely to have a stroke.

Pharmacy Times, 11/02/22

Florida Health Care Assn. Opts Out of \$15/hr Fight

While home care, assisted living and ambulance associations are fighting the state's planned \$15 an hour minimum wage for direct care workers in Medicaid-funded programs, the Florida Health Care Association is not involved in the challenge.

The legislature gave SNFs a \$293 million Medicaid funding increase this year. The extra funding "gives providers the resources needed to increase staff

wages to \$15," said FHCA director of communications Kristen Knapp.

One provision of the mandate says the groups can be sued for failure to pay the \$15 minimum wage. No other employer in the state can be sued for that.

McKnight's, 11/11/22

*"I suppose I will die never
knowing what pumpkin pie tastes
like when you have room for it"*

- Robert Brault

Deer Isle's Shuttered SNF Trying to Become an RCF

The saga of Maine's Island Nursing Home continues. The facility closed a year ago due to lack of staff. The operator needs to raise \$3 million from the community to open as a 32-bed residential care facility.

The fundraising would be used to pay for start-up costs to include a thorough cleaning of the nursing home, purchasing of supplies to include food and "to fund the shortfall of funding from the state.

The funds raised would be kept separate and not expended until Island Nursing Home receives a conditional license from the state of Maine.

The Ellsworth American, 11/06/22

Ownership, Weekend Staff, Infection in *US News* Ranking

US News & World Report's well-known nursing home ratings kicked up the heat on operators this year, adding information on ownership tenure, weekend staffing levels and infections.

The 13th edition, just out, also evaluates more than 15,000 nursing homes on care, safety and health inspections.

More than 1,600 short-term rehab nursing homes, and 1,100 long-term care facilities earned *US News's* 'high-performing' rating.

While attempting to build its own assessing identity, *US News* this year also followed federal regulators' recent lead in focusing more on ownership information and staffing characteristics.

U.S. News & World Report, 11/15/22

ONE COLUMN SCOTUS Case Reaches Far Beyond Nursing Homes

Is the system for oversight and discipline already in place for Medicaid-funded nursing homes enough to deliver satisfaction for aggrieved parties or should they be able to sue others?

That is the question before the U.S. Supreme Court during recent oral arguments.

The recent oral arguments in *Health and Hospital Corp. v. Talevski* dealt with this central question that could have overarching effects on millions of people, far wider than the nursing homes sector.

At risk are actions against entities that dish out such benefits as Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families.

At issue is a broad question of whether there is a private right of action for individuals to sue county and state entities who deliver federally funded benefits. A narrower question is whether there is a private right of action to sue county and state entities under the Nursing Home Reform Act of 1987.

The Talevski family sued the Health and Hospital Corporation for mistreatment of Gorgi Talevski. When HHC lost at the circuit court level — the 7th Circuit said Talevski did have a private right to sue — it petitioned the High Court.

What started as a nursing home case has expanded into whether individuals will be allowed to sue state or county entities who deliver any federal benefits such as Medicare, Medicaid, TANF, SNAP, etc.

The question at hand is, does federal statute Section 1983, which allows people to sue certain government entities and its employees for violations of their civil rights, apply to entities that already have government oversight and redress?

A ruling is expected before the end of the court's current session in June.

McKnight's, 11/09/22

DOL Finds Massive Worker Pay Violations in LTC

Since it launched a focused initiative in 2021, the DOL's wage and hour investigations have recovered more than \$28.6 million in back wages and damages for nearly 25,000 workers, which led to \$1.3 million in CMPs for employers.

In fact, 80% of the facilities investigated had violations.

The most common violations related to failures to pay overtime or federal minimum wages, and the misclassification of employees as independent contractors.

DOL news release, 11/16/22

New Jersey Rolls Out Info Dashboard

The debut of the most recent new state dashboard shows the lengths states are going to increase transparency into nursing home quality and operations.

New Jersey launched its consumer-oriented dashboard Nov. 9, touting its facility-level information as a resource for prospective residents and families.

For each of the state's 356 nursing homes, New Jersey's searchable dashboard includes information such as: facility Five-Star Quality Ratings; survey information; links to certified financial statements and cost reports; general staffing levels and compliance to staffing ratios; and names of owners and licensed nursing home administrator.

McKnight's, 11/15/22

Iowa SNF Cited for Untrained Workers, Resident Abuse

A Cedar Rapids nursing home previously fined for the financial exploitation of a resident has now been cited for using untrained caregivers.

State inspectors say the abuse involved a worker at Heritage Specialty Care who allegedly took \$1,625 from a resident with a spinal cord injury. The worker then taunted the man, sending him text messages in which she called him a "vegetable" and "veggie boy."

The surveyors also allege that Heritage, with 156 residents, has failed to provide its nursing assistants, or TNAs, with either the state-approved training or the required competency evaluations.

Iowa Capital Dispatch, 11/11/22

CMS Slaps SNF Docs, Therapists with Funding Cut

Healthcare providers, including doctors and therapists who treat nursing home patients, will see a key payment factor cut by 4.4% next year.

CMS announced the change to the Medicare Physician Pay Schedule conversion factor in a physician payment rule published last week.

The conversion factor is part of a CMS formula used to reimburse for Part B care including physician and nurse practitioner services, rehab therapy, lab work and X-rays for Medicare patients in nursing facilities.

Providers are hoping for a repeat of last year, when CMS proposed a 3% cut and Congress passed supplemental funding to offset it.

McKnight's, 11/02/22

Financial Woes Closes Wyoming Nursing Home

Beartooth Manor in Columbus, Montana announced it is closing January 7, 2023. The 37 residents and the staff were notified last Monday.

This closure notice was sudden and unexpected, having mostly to do with unaffordable agency staff, said Wendy Soulek COO of Lantis Enterprises parent company.

Billings Gazette, 11/08/22

Financial Woes Closes Wyoming Nursing Home

A Wyoming nursing home has closed because the hospital that owned it didn't have the money to keep subsidizing the care center.

The cost of operating Three River Health's Bonnie Bluejacket Memorial Nursing Home in Basin, WY for the past six years has been more than the revenue earned. The 37 bed SNF had about 21 residents.

Wyoming Public Radio, 11/08/22

Briefly in the News

Although the CDC stopped short of recommending it, for years, people 65+ have had the option to get a flu shot that's specially formulated for them. The CDC is now recommending that people 65 or older try to seek out one of these specially formulated vaccines. The change reflects an extensive review of the evidence on how well the different kinds of flu vaccines work for older people (**Argentum**).

Abdirahman Yonis, 35, a mental health practitioner with Minnesota Multicultural Counseling Clinic, prepared and signed client progress notes for mental health services that were not actually rendered and submitted claims to the Minnesota Medicaid program for reimbursement. As a result of the false claims, the Medicaid program paid more than \$1.4 million for services that never occurred. Yonis pleaded guilty and will be sentenced at a later date (**DOJ news release**).

Researchers from Penn State's Ross and Carol Nese College of Nursing and the College of Engineering have received a 20-month, \$411,982 grant from the National Institute on Aging to study the effects of ambient lighting interventions in nursing homes. The collaborative project will focus on nursing home residents with Alzheimer's disease and related dementias (**Penn State news release**).

Health officials have determined that five people who died at an Upper Manhattan nursing home last summer succumbed from Legionnaires' disease. It represents the deadliest outbreak of the airborne infection in New York City in seven years. The outbreak happened at Amsterdam Nursing Home, a 409-bed facility in Morningside Heights where nine people contracted the disease from June to early September (**The New York Times**).

Dozens of retirement homes of the Orpea group across France were targeted by police raids last week as part of a judicial investigation into allegations of malpractice and possible mistreatment of nursing home residents. The prosecutor's office said it had registered around 50 complaints relating to "institutional mistreatment" of elderly residents (**Reuters**).