

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

Edited by Drew Vogel

drewvogel5255@msn.com

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THEY SAID IT:

"Connecticut, absolutely, must invest in this critically important workforce now" Matt Barrett Connecticut Association of Health Care Facilities

"The report includes recommendations of potential barriers to and unintended consequences of implementing the recommendations and cost implications" Jean Moody-Williams, deputy director of the Center for Clinical Standards and Quality announcing the completion of a study of minimum staffing standards for nursing homes

"The safety net for our low-income elderly is seriously strained by Medicaid funding policies that have failed to keep up with Washington's operating costs required for care" Carma Matti-Jackson, CEO, Washington Health Care Association – a bipartisan bill is pending to upgrade Medicaid annually rather than every two years

Senators Urge CMS to Issue And Fund Staffing Mandate

A group of Senators is urging CMS to proceed as quickly as possible with setting a minimum staffing mandate for nursing homes.

In a nod to skilled care operators, the seven Democrats also urged the agency to look at how a new rule would impact providers with a "more limited workforce."

Last February the White House released a reform plan that hinges on the first-ever, federal staffing mandate for nursing homes.

After nearly a year of study and analysis, sector observers are waiting for the proposed rule to be released.

McKnight's, 02/13/2023

Nursing Home Staffing Mandate Is "Death Sentence"

Rhode Island nursing homes could soon owe tens of millions of dollars in fines after two-thirds of the state's facilities were out of compliance for the first three quarters of 2022.

Rhode Island's staffing law went into effect in January 2022 calling for 3.58 hours of direct care PPD and 2.44 of those hours performed by CNAs. This year, facilities must provide 3.81 hours of direct care, with 2.60 provided by CNAs.

"It was unfunded and implemented in the middle of a global pandemic," said John Gage of the R.I. Health Care Association. "It's a death sentence."

McKnight's, 02/14/2023

Connecticut, too. Double-Trouble for SNFs

Connecticut's nursing homes are staring down double barrels that could make it increasingly hard for them to stay in business.

State lawmakers recently introduced legislation to increase the mandatory nursing hours PPD from 3 hours to 4.1 hours.

That bill also requires facilities to submit narrative-form expenditure reports and disclose the name of any private equity firms that hold an ownership stake in a facility. Providers must also deliver the quarterly statements that a firm sends to its investors that include fees, expenses, and performance.

Facilities can be fined up to \$10,000 per violation for failing to use "plain-language explanations."

McKnight's, 02/15/2023

IJs Increasing in Sunshine State SNFs

In Florida nursing homes, serious violations have spiked over the past four years. Since 2019, violations have nearly doubled compared to the previous six years.

Last year, Florida nursing homes were cited for immediate jeopardy 83 times.

More than half of the serious violations involved staff shortages or insufficient training – 60% of the violations were prompted by complaints.

Elder care advocates, nursing home industry leaders and long-term care researchers say the root cause of the increases range from changes in how violations are measured to staff shortages to recent legislation that critics say weakened nursing home care standards.

The Tampa Bay Times, 02/10/2023

Essential Caregivers Act Back on the Table

During the pandemic, people in nursing homes were isolated and couldn't have anyone visit.

Congresswoman Claudia Tenney, who represents Watertown in up-state New York, wants the Essential Caregivers Act to change that.

The bill would mandate that a nursing home patient has at least one caregiver or family member that can visit them if nursing home rules restrict most visitors.

Tenney introduced the bill in 2021 but it didn't pass.

She will bring it back up this year and says there's bipartisan support for it.

WWNY-TV, 01/29/2023

New CMS Ownership Rule Targets Private Equity

HHS is proposing a new nursing home ownership disclosure rule intended to make more clear ownership and management operations of facilities.

The rule also includes private equity and real estate investment trust definitions, which regulators said would set the stage for the disclosure of whether those types of owners or investors play a role in a specific nursing home.

CMS said it would launch an updated nursing home enrollment application for public use this summer.

The proposed rule would use part of the Affordable Care Act to require nursing homes enrolled in Medicare or Medicaid.

McKnight's, 02/13/2023

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

AMERICA: In a January survey by the Pew Research Center, dealing with the coronavirus outbreak is now one of the lowest priorities for Americans – just 26% now say it should be a top priority for the president and Congress. It was among the top priorities in both 2021 and 2022. Dealing with the economy and reducing health care costs are numbers 1 and 2. But the virus ranks even lower now that dealing with “problems of poor people,” “climate change” and “problems facing parents” (*Pew Research Center news release*).

NEW ORLEANS: A lawyer representing Navy Seals who do not want to be vaccinated against Covid-19 told a federal appeals court that their lawsuit over a now-withdrawn vaccine mandate isn’t moot even though Congress passed legislation last December ordering the policy canceled. The attorney said the service members still face the possibility of discipline over their refusal to get vaccinated and the government has not ruled out taking vaccination status into account when doling out future assignments (*Politico*).

THE WORLD: Researchers cited an analysis of more than 13 million viral genomes in worldwide databases and found that with the drug *Lagevrio*, also known as *molnupiravir*, there were mutations linked to the drug. Certain mutations, they wrote, were more common in nations that widely used the drug, including the U.S., UK, and Australia (*The Epoch Times*).

AUSTRALIA: Australia will roll out a fifth dose of COVID-19 vaccine later this month to all citizens aged 18 and above who have not contracted coronavirus or been vaccinated in the past six months. The decision expands eligibility for the booster shot to include about 14 million people, more than half the country's population, who will be offered Omicron variant-specific vaccines from Feb. 20. Only severely immuno-compromised people had been recommended to take a fifth dose until now (*Reuters*).

AMERICA: In a study lead by CDC researchers, recipients of the bivalent (two-strain) COVID-19 vaccine booster

were 14 times less likely to die of Omicron BA.4/BA.5 infections than their unvaccinated peers and 5 times less likely to die than recipients of the monovalent (single strain) booster, particularly among older people (*CIDRAP*).

TEXAS: Abdul Fatani, 57, for his role in a scheme to fraudulently obtain and launder millions of dollars in forgivable Paycheck Protection Program (PPP) loans guaranteed by the SBA under the CARES Act. Fatani, and others, submit fraudulent PPP loan applications by falsifying the number of employees and the average monthly payroll expenses of the applicant businesses. In total, the co-conspirators sought over \$35 million through more than 80 fraudulent PPP loans. He'll be sentenced in May and could get 20 years in prison (*DOJ news release*).

CAPITOL HILL: House Republicans have asked former White House chief medical advisor Dr. Anthony Fauci to testify before Congress as they launch a new investigation into the origins of the Covid-19 pandemic. The GOP leaders of the Select Subcommittee on the Coronavirus Pandemic and Committee on Oversight and Accountability sent a letter to Fauci on Monday requesting a transcribed interview. Fauci said in November that he would cooperate with any oversight hearing in the Republican-led House (*CNBC*).

NEW YORK: The NY state health department has ended the mask mandate for health care settings including nursing homes. The policy change is intended to align the state's guidance with the latest federal recommendations from the Centers for Disease Control and Prevention, which call on health facilities to determine their masking rules based on transmission levels (*The Gothamist*).

AMERICA: Positive results from an experimental Covid-19 therapy are rekindling questions about why it hasn't gained authorization from US regulators, even as the availability of other treatments drops. Adults at high risk of severe Covid who were treated with Eiger BioPharmaceutical Inc.'s therapeutic, called *peginterferon lambda*, had a 51%

lower risk of hospitalization than those who received a placebo (*New England Journal of Medicine*).

CHINA: Fears that China's lifting of its zero-COVID policy could result in fresh coronavirus variants seem to have not (yet) materialized. A study found there had been no new COVID-19 variants in the country since it lifted its draconian policy last year, a move which triggered a surge in cases and deaths (*The Lancet*).

WASHINGTON, D.C.: The acting director of the National Institutes of Health pushed back against Republicans' assertions that a lab leak stemming from taxpayer-funded research may have caused the coronavirus pandemic. Dr. Lawrence A. Tabak told lawmakers the viruses being studied at a laboratory in Wuhan, China, bore no resemblance to the one that set off the worst public health crisis in a century (*The New York Times*).

VIRGINIA: The Virginia Health Care Association – Virginia Center for Assisted Living (VHCA-VCAL) is embarking on a project to build an emergency preparedness infrastructure to support the Commonwealth's long term care providers. VHCA-VCAL is one of nine organizations awarded part of \$9.9 million in funds to assist with ongoing COVID-19 response in nursing and long-term care facilities (*VHCA-VCAL news release*).

WASHINGTON, D.C.: In testimony before the House Ways and Means Committee, the DOL's Inspector General Larry D. Turner identified nearly \$30 billion more in pandemic unemployment benefits that were wrongfully sent out than previously estimated. Turner's office pegged the amount of questionable payments at about \$191 billion up from the previously estimated \$163 billion (*Politico*).

COVID-19, 02/17/2022

Global Cases – Deaths
673,919,928 – 6,862,205

U.S. Cases – Deaths
103,121,205 – 1,117,482

229.8 = 71% of the country's population is fully vaccinated

Johns Hopkins University

California Lawmakers Propose \$25 Minimum Wage

Union-aligned Democrats introduced legislation mandating a statewide \$25 minimum wage for health workers, likely setting up a pitched battle with hospitals, nursing homes, and dialysis clinics.

The bill would also require health facilities and home health agencies to give raises to many support employees, including nurse technicians, housekeepers and security guards.

If the SEIU-backed bill is approved and signed into law, one labor leader estimated 1.5 million California workers could get a wage hike come January 2024.

Last year a similar measure made the ballot in two California cities – winning in one.

Kaiser Health News, 02/14/2023

One-in-Five of Montana's SNFs Closed Last Year

When Friendship Villa in Miles City, Montana announced it would be shutting down operations for good in December, it was the 12th senior care facility to close in Montana in 2022.

Twelve is not a big number, but it is 20% all senior care facilities in Montana.

Help may be on the way. Gov. Greg Gianforte's proposed budget includes \$21 million to supplement Medicaid payments for nursing home.

The bill is now before the state's Legislature.

KTVQ-TV, 02/09/2023

South Dakota Not Spared from Nursing Home Closures

In the area around Sioux Falls the towns of Ipswich, Clear Lake, Huron, and Lennox have all lost nursing homes and the problem is statewide.

"We've had 15 closings in the last five years and of those 15 closings 7 of them have taken place in just the last year," said Mark Deak, Executive Director of the South Dakota Health Care Association. "I would say it is a crisis quickly becoming a catastrophe."

As elsewhere, two main factors driving SNFs out of business – staffing and Medicaid funding. Estimates are facilities lose about \$35 dollars PPD on Medicaid residents.

KELO-TV, 02/13/2023

Lawsuit Seeks to Stop 'Warehousing' of Residents

A federal class-action lawsuit accuses Massachusetts of leaving thousands of people with disabilities "to languish and often deteriorate" in nursing facilities.

The suit calls for Massachusetts to create new programs to transition people with disabilities out of nursing homes and to fund adequately existing programs.

"It's considered a violation of the Americans with Disabilities Act to unnecessarily keep people with disabilities warehoused in institutional settings when people could safely live in a more integrated setting in the community," said Deborah Filler, a lawyer with Greater Boston Legal Services.

WGBH-TV, 01/30/2023

Non-Employees Spoil Florida's \$15 Wage

Florida last year passed a \$293 million Medicaid increase for nursing homes, to drive higher payments to frontline workers and help address widespread labor shortages.

SEIU 1199, however, argues that subcontracted employees are also subject to the nursing home minimum wage. The union alleged that about 40 (5%) of the state's 700 nursing homes are under paid.

The Florida Health Care Association said nursing homes were in fact following the letter and spirit of the law, with the workers receiving under \$15 an hour specifically exempted by the wage law because they are not directly employed by nursing homes.

McKnight's, 01/24/2023

America College of Health Care Administrators 60th Annual Convocation April 24-27 in Baltimore.
ACHCA.org to register

ONE COLUMN

Cause & Effect – SNFs Close Units, Hospital Beds Backup, Nursing Homes Lose Bucks

Nursing homes in Washington state may get a reprieve from a labor crisis that is stranding potential residents in hospitals.

Unable to attract enough workers to meet staffing minimums, many nursing homes across the US have closed wings or units or restricted new admissions over the past year. That means hospitals have far fewer options when it comes time to refer patients for post-acute care.

Companion bills introduced in the Washington Senate and House introduced late last month would update Medicaid funding rates for skilled nursing facilities every year instead of the current system's every two years and create an inflation adjustment to better estimate the cost of care.

The two bills each have a Democrat and Republican lead sponsor, which typically removes a significant barrier to passage.

Although the state's skilled nursing facilities have been struggling against a labor shortage for some time now, the worsening hospital logjams led the Washington State Hospital Association to make increased post-acute care funding a legislative priority in 2023.

In Washington, nursing homes were underpaid by \$620 million over the last five years, according to information from the Department of Social and Health Services, which, combined with pandemic-related labor shortages have resulted in understaffed facilities that are closing units or wings or halting admissions.

The problem is not unique to Washington. Hospitals backups have become a hot-button issue for health systems. Facilities in states like New Hampshire and Nebraska have reported extensive waiting lists, understaffed nursing homes threaten to block up the entire care continuum.

McKnight's, 02/06/2023

Florida Pauses Operations At 7 Nursing Schools

LeadingAge Ohio has launched a public awareness campaign hoping to change the narrative around LTC, generate career pathways, highlight real stories and experiences, and support policy priorities that benefit older adults and their caregivers.

Gateways to Care features a website that includes links to job boards, Ohio's aging data, policy ideas, stories from frontline caregivers, and the latest news from the sector.

LeadingAge said by 2040, 44% more frontline, medical and social support personnel in senior living communities will be necessary to maintain current staffing levels. Ohio's top three in-demand jobs are home health aides, personal care aides and RNs.

Senior Living, 02/15/2023

"Wrong-Headed" Law Proposed in New Jersey

Proposed New Jersey legislation would prohibit anyone employed by or connected to a nursing home from managing the financial affairs of residents unless appointed as a guardian.

the bill in response to a spate of local media reports about nursing home residents losing savings, pensions, even vehicles and other possessions after signing over control of their financial assets to a third-party fiscal agent for the facilities.

But Andy Aronson, CEO of Health Care Association of New Jersey called the bill "wrong-headed" and said it would harm residents without resources to hire attorneys.

McKnight's, 02/15/2023

Two Jurors Dismissed in Florida Administrator Trial

Two jurors have been stricken from the manslaughter trial of the former administrator of a nursing home in Hollywood after a court deputy claimed to have overheard them discussing the case and the attorneys' conduct Wednesday

morning while they were in the reception area.

The defense team for the defendant, Jorge Carballo, called for a mistrial, but the judge instead chose to dismiss those two jurors and move forward.

Carballo was charged with manslaughter after twelve residents died when the facility lost power after Hurricane Irma and temperatures soared as high as 108 degrees.

Palm Beach Post, 02/15/2023

Fight Heats Up Against NY's Healthcare Vaccine Rule

A group of 10 New York lawmakers is targeting the state's COVID-19 vaccine mandate for healthcare workers.

In a letter to Gov. Kathy Hochul the lawmakers express concern about staffing shortages they say have been exacerbated by the mandate.

Lawmakers wrote the letter days after a state Supreme Court judge struck down the mandate, calling it "null, void and of no effect."

In his ruling, Judge Gerard Neri said the governor and the State Department of Health overstepped their authority by making the requirement permanent because the COVID-19 vaccine is not included in the state's public health law.

Becker's Hospital Review, 01/24/2023

Another Struggling County SNF Asking for Voter Help

CMS reported recently that 129 nursing homes closed in 2022. Maple Lawn Nursing Home in Palmyra, Missouri is trying not to join that group.

Maple Lawn, one of 25 county-lead nursing homes in Missouri, is asking for the public's help for an April ballot initiative that can help keep them financially stable.

The facility, opened in 1980, has 110 beds but only 54 residents, is asking for its first tax hike ever - from .13 to .25/ \$100.

If voters say NO, the facility may be sold to a corporation.

KHQA-TV, 02/07/2023

Briefly IN THE NEWS

Minnesota has started screening all newborns for congenital cytomegalovirus. Officials say the state is the first in the nation to do so universally. "With early detection through newborn screening, we will be able to provide these babies with the interventions and care they need to improve their future health and well-being," Minnesota Health Commissioner Dr. Brooke Cunningham (*Minnesota Public Radio*).

Despite financial woes tied to inflationary costs and staffing shortages, long-term care corporate executives with multi-facility organizations were paid 3.17% more in 2022 compared to the previous year. The Hospital & Healthcare Compensation Service report covered nursing home corporate executive compensation, along with larger revenue CCRCs and assisted living communities, from 37 multi-facility companies (*Skilled Nursing News*).

Behavioral health issues were third among hospital CEOs' top concerns, rising from fourth in the 2021 survey. Respondents noted a lack of appropriate facilities, not enough dedicated funding and insufficient reimbursement levels as hospital operators have been forced to treat patients in their emergency departments for long stretches because their traditional outpatient and residential referral partners at capacity (*Modern Healthcare*).

One in 10 new drugs were cleared by federal drug regulators in recent years based on studies that didn't achieve their main goals. A study by Harvard and Yale researchers found that of 210 new therapies approved by the FDA from 2018 through 2021, 21 drugs were based on studies that had one or more goals, or end points, that weren't achieved. Those 21 drugs were approved to treat cancer, Alzheimer's and other diseases (*USA Today*).

A government advisory committee voted unanimously on Wednesday to recommend that naloxone nasal spray, a medication used to reverse opioid overdoses, be sold and distributed without a prescription. While the FDA isn't bound by the result, it almost always adheres to the recommendations of its scientific advisory committees (*STAT*).