

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

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## THEY SAID IT:

**"Ultimately, this is the right thing to do, and it shouldn't have required a strong negotiation to get it done"** Minnesota Senate Minority Leader Mark Johnson on the just-passed \$300 million nursing home package

**"It's a little scary"** Pete Wolkin director of operations at Nightingale Healthcare on Washington's funding for nursing homes for only two years

**"The jury rejected the plaintiffs' argument that influenza protocols would have prevented COVID-19 from entering our facility and spreading as rapidly as it did"** Statement from Life Care Centers of America after a jury found it not liable for early COVID deaths in a Kirkland, Washington SNF

**"Today's approval demonstrates that Paxlovid has met the agency's rigorous standards for safety and effectiveness, and that it remains an important treatment option for people at high risk for progression to severe COVID-19"** Dr. Patrizia Cavazzoni, director of the FDA's Center for Drug Evaluation and Research after the agency announced Paxlovid has been fully approved

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## Dallas Area Cops Looking For SNF Crooks

Midlothian, Texas police are asking for the public's help finding a trio of suspected thieves accused of targeting LTC residents.

A woman went to Legacy Senior Living Community, identified herself as a nurse. The staff said she even had credentials.

Police said the woman went room-to-room stealing credit cards.

She was later seen on video at a Best Buy with two men using the stolen credit cards.

WDFW-TV, 05/23/2023

## First Major COVID-19 SNF Not Liable for Deaths

A Washington jury turned away charges that a nursing home caused the COVID deaths of two residents in the early days of the pandemic.

Families of two women had sued Life Care Centers of America and the Kirkland, WA facility claiming the provider's negligence led to wrongful deaths.

Reminding jurors just how little was known about the virus, how it was spread or how to prevent it was a key element of the trial.

The case is important for LTC which is still trying to understand how well some legal protections instituted during the pandemic's early days will hold up.

McKnight's, 05/23/2023

## Nursing Home Evictions Added To OIG 'Hit List'

The HHS OIG has put nursing homes on notice that it will be checking out evictions to determine whether facilities are meeting CMS standards for "facility-initiated discharges."

The announcement noted media stories "highlighted a rise in nursing homes eviction" and that 2011 to 2016 data from the Long-Term Care Ombudsman Program found that evictions are the most frequently cited complaint about facilities.

But Mark Reagan general counsel for the California Association of Health Facilities, said that unless the IG makes a significant effort to understand the reasons facilities take such drastic action, the effort is likely to "miss the mark."

McKnight's, 05/16/2023

## Nurse Aide Training Bill Introduced in Congress

A bill that would allow more nursing homes to train their own nurse aides has been introduced in the U.S. Senate.

The proposed law would remove a blanket lockout that has stopped many facilities from providing training when they've been cited for too many deficiencies.

A similar bill was introduced in the House earlier this month.

Since its passage in 1987, the lockout provision has confounded providers as being counterintuitive for those who have typically exhibited a demonstrable need for more staff training, not less.

McKnight's, 05/22/2023

## Assisted Living Employee Charged with Sexual Assault

A housekeeper at an Arlington Heights (Chicago-area) assisted living facility was charged with sexually assaulting an 88-year-old resident with "significant cognitive impairment."

A certified nursing assistant was walking down a hallway and overheard the victim shouting for help.

The CNA entered the patient's room where they saw the suspect, identified as Filipe De-Gyves, 67, engaged in a "sexual act" with the victim as she laid in her bed.

De-Gyves was arrested at his home several hours later and allegedly admitted to the assault.

WBBM-TV, 05/22/2023

## By June Cincy Will Have Three Fewer SNFs

Three Cincinnati nursing homes are closing this month, forcing the relocation of roughly 200 elderly residents.

Residents were given a 90-day notice, but many workers left as soon as they heard about the closures, leaving facilities short-staffed.

The facilities: Highlands Post-Acute, Judson Care Center, and Solivita of Oak Pavilion are run by separate operators with multiple facilities.

The companies were attempting to keep the residents in company-operated facilities which in at least one case resulted in police getting involved when aggressive admissions persons attempted to move a resident to a building where he didn't want to go.

WCPO-TV, 05/22/2023

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

**WASHINGTON, DC:** Supreme Court Justice Neil Gorsuch made it clear where he stands on the pandemic-era emergency response. Gorsuch called it "the greatest intrusion on civil liberties in the peacetime history of this country." His statement came in response to a Republican-led effort to extend Title 42, a restrictive immigrant policy. The measure — initially implemented by the Trump administration and expanded under President Joe Biden — expired this month. The US Supreme Court last week rejected a push by Republican-led states to keep it in place (*Business Insider*).

**AMERICA:** During the pandemic one headline claimed ventilators were responsible for the death of patients with COVID-19. That has now been proven to be untrue. The study being referenced found that a secondary pneumonia associated with mechanical ventilation contributes to a patient's death when it doesn't respond to treatment. But a study author said that the patients placed on a ventilator would have died without that intervention, and that COVID-19 is still the primary cause of death (*AP*).

**OKLAHOMA:** Medicaid providers are about to get hit with what will effectively be a 20% loss in funding. SNFs have been receiving an extra \$36 PPD through the Oklahoma Health Care Authority, but the final payment was made earlier this month. The projected cost of care as of July 1 will be \$246 per day, but without the supplemental funding, providers will receive just \$189 (*McKnight's*).

**TANZANIA:** After a slow start by Dec 30, 2022, Tanzania had received more than 46.8 million COVID-19 vaccine doses providing full-dose coverage for more than 37.7 million people, representing 62% of the total population and close to 100% of all eligible adults 18 and older. The coverage places Tanzania only behind Rwanda in eastern Africa and exceeding many countries on the entire African continent (*The Lancet*).

**AMERICA:** Researchers from the National Institutes of Health examined data from 9,764 adults about 88% of whom had COVID-19. They estimated

that about 6% of those infected with the virus continue to experience and suffer from the many symptoms termed together as long COVID. Of patients who had a first COVID-19 infection on or after Dec. 1, 2021, when the Omicron variant was circulating, about 10% experienced long-term symptoms or long COVID after six months (*JAMA*).

**CAPITOL HILL:** Congressional Democrats are having second thoughts about taking back unspent coronavirus funds as part of a debt limit deal, concerned that doing so could have serious consequences for myriad public health initiatives. The COVID-19 relief funds were supposed to be the low-hanging fruit in any debt ceiling compromise and have been overshadowed by more contentious issues like spending caps and Medicaid work requirements (*AXIOS*).

**AMERICA:** The FDA has fully approved the antiviral medication *Paxlovid* to treat mild-to-moderate COVID-19 in adults at risk for severe infections. *Paxlovid* had been available for adults and teens in the U.S. under an emergency use authorization, or EUA, which strictly limited how the medication could be prescribed. The FDA's standards for full approval are stricter than those for an EUA (*WLWT-TV*).

**WISCONSIN:** the Legislative Audit Bureau has found that during the pandemic the state awarded hundreds or thousands of dollars to LTC and EMS providers for vents without receiving sufficient documentation to justify the payments. The audit also determined that the state did not properly track some of the ventilators it purchased for COVID-19 patients. Department of Health Services Secretary Kirsten Johnson defended the agency. "We operated in a collaborative, dynamic manner which allowed us to administer the supplemental funds fairly and effectively" (*Milwaukee Journal Sentinel*).

**AMERICA:** Skilled nursing providers will soon see significant changes to COVID-related data-reporting requirements. Among the changes are: less required detail on the vaccination status of those

who have a positive COVID result; removal of staffing and PPE shortage data; the requirement to report staff deaths will end. Also, a new element capturing COVID hospitalizations of residents has been added. The new rules could become effective as early as June 26 (*McKnight's*).

**CALIFORNIA:** The Justice Department has indicted Lourdes Navarro, 64, of Glendale, CA, in connection with more than \$358 million worth of COVID-related tests that nursing home clients said they neither wanted nor needed. DOJ alleged some of those tests were procured through illegal kickbacks and bribes and were ineligible for reimbursement (*DOJ*).

**ATLANTA:** CDC's 2023 Epidemic Intelligence Service Conference in April brought together approximately 1,800 in-person attendees at a hotel in Atlanta. On April 27, several in-person attendees notified conference organizers that they had tested positive for SARS-CoV-2. In a follow up survey this month Among 1,443 survey respondents 181 reported testing positive; 1,435 (99.4%) of respondents reported at least one COVID-19 vaccine dose; 70% of respondents reported not wearing a mask; none were hospitalized (*CDC news release*).

**THE WORLD:** The BCG vaccine was developed to prevent tuberculosis infection. Recently, it has been proposed to prevent respiratory illness. However, it was not understood whether the incidence and severity of COVID-19 among adult healthcare workers is lower in those who previously received the BCG vaccine. A study has now found that BCG vaccination did not reduce the risk of COVID-19 among healthcare workers (*2 Minute Medicine*).

### **COVID-19, 05/26/2023**

**Global Cases – Deaths**  
766,895,075 – 6,935,889

**U.S. Hospitalizations – Deaths**  
6,161,372 – 1,129,838

**U.S. Updated Booster Doses**  
56,478,510 or 17% of U.S

*CMS & WHO*

## **RN Charged with Killing Nursing Home Residents**

Pennsylvania has filed numerous charges against registered nurse Heather Pressdee, who is accused of killing two residents and attempting to murder a third at Quality Life Services, a SNF in Chicora, near Pittsburgh.

AG documents allege Pressdee gave the residents large doses of unprescribed insulin to create fatal levels of hypoglycemia.

The charges include two counts of homicide, one count of attempted murder.

Investigators reported that Pressdee was disciplined “for abusive behavior toward patients or staff” at several facilities, leading her to quit or be fired from 11 facilities since 2018.

*McKnight's, 05/26/2023*

## **Proposed Senate Bill Would Juice Up Background Checks**

U.S. Sens. Mark R. Warner (D-VA) and Tim Scott (R-SC) reintroduced bipartisan legislation to protect seniors by empowering nursing homes to better screen and vet potential employees.

The *Ensuring Seniors' Access to Quality Care Act* would allow nursing home operators to access the National Practitioner Data Bank (NPDB) – a national criminal background check system – to verify the records of potential caregivers.

Currently, senior living facilities are not authorized to use the NPDB and instead must rely on state-level criminal background checks that can often omit key details about an employee's background.

*Sen. Warner & Scott news release, 05/22/2023*

## **Fogg: Provider Could Support Minimum Staffing Rule, If .....**

Phil Fogg, board chairman of the American Health Care Association, said providers must be confident that they won't be punished for not meeting what could be an impossible standard, given the current workforce challenges.

“You just can't send a rule out and expect people to comply when there's absolutely no chance of it because of the workforce shortages,” said Fogg, CEO of Consonus Healthcare & Marquis Companies.

The Centers for Medicare and Medicaid Services has not yet released the minimum staffing rules but has promised to do so this spring.

*McKnight's, 05/24/2023*

## **Storm Rips Roof From Florida Nursing Home**

The roof collapsed at Palm Terrace nursing home in Clewiston, Florida Wednesday afternoon as a strong cell of thunderstorm swept across the area.

As many as 117 residents were evacuated.

Although a neighbor was trapped in her car with her daughter, no one in the nursing home was injured.

Fire officials said no part of the building is safe to stay in.

“I just did a walk-through, and it's pretty bad,” said Steve Whidden, Hendry County Sheriff. “The entire roof on one section, as you can see, is gone and missing, so they're very luck, very lucky.”

*WINK-TV, 05/24/2023*

## **Fewer Staff Equated to More Resident Deaths**

Self-reported nurse staffing shortages in United States nursing homes during the height of the pandemic were linked to less care and an increase in resident deaths.

A University of Southern California study used payroll data from 2020-2022 to determine staffing PPD and compared it to weekly resident deaths.

Among the more than 15,000 SNFs represented, between 18% and 33% reported staffing shortages during any given week. Those shortages were directly related to declines in nursing PPD – 1.8% RN, 1.7% LPN, 2.4% CNAs

Staffing shortages during any week were associated with a 10.5% increase in total resident deaths.

*JAMDA, 05/08/2023*

## **ONE COLUMN**

### **Underreporting of Falls & Pressure Sores “Widespread”**

A University of Chicago six-year study found that underreporting of falls and pressure ulcers in nursing homes was frequent and “widespread.” The study questions whether those conditions were accurately reflected on Care Compare.

Over the six year investigation, 40% of hospitalizations related to major fall injuries, found in hospital claims, were not reported in facility-level MDSs.

For pressure ulcer hospitalizations, 33.3% went unreported between 2011 through 2017. Overall, the researchers examined records from 13,179 nursing homes and found 131,000 long-stay residents had to be hospitalized due to either condition.

Underreporting of those hospitalizations wasn't limited to a few bad actors. Rather, the study showed about 70% of nursing homes reported less than 80% of their patients' fall and pressure ulcer hospitalizations. Lower reporting rates also were associated with certain racial and ethnic patient populations.

Lead author Prachi Sanghavi, PhD, and co-author Zihan Chen, also of the University of Chicago, noted that CMS has tried in recent years to improve accuracy by using more objective data sources such as claims data.

“Underreporting of clinical events to CMS was widespread during the study period,” wrote Sanghavi. “Although CMS appears to recognize this situation, as evidenced by the lower weighting of quality measures in the ratings, the measures remain on public display. In other words, the quality measures are in limbo, but the public may be using these measures to make important life decisions.”

Nursing homes with a higher, or more accurate, fall reporting rate were more likely to be in rural areas, hospital-based, had more RN hours per 100 resident days, were more likely to have a high percentage of White residents and a smaller share of dual-eligibles.

*JAMA Network Open, 05/23/2023*

## **Medicaid Redetermination a Concern with Demise of PHE**

An area of concern and uncertainty remains the Medicaid redetermination process that states use to ensure that Medicaid enrollees continue to be eligible for Medicaid coverage.

During the PHE, Medicaid recipients could not be disenrolled based on the Families First Coronavirus Response Act (FFCRA). The end of the PHE means that states, which received an increased federal reimbursement from Medicaid, will have to discontinue both the continuous coverage policy and the additional state reimbursements.

In essence, returning to the pre-pandemic system of redetermining Medicaid eligibility and reimbursements introduces uncertainty for providers and for Medicaid recipients.

*Skilled Nursing News, 05/10/2023*

## **Class Action Denied Against Shuttered SNF**

While sympathetic to nursing home residents' claims that they received "deficient" care, a federal judge has ruled their case cannot be certified as a class action because claims and damages related to understaffing would be unique to each plaintiff.

The April 20 ruling is a win for the private equity group Portopiccolo, which was the last owner of the now-closed Salisbury Center in North Carolina.

Allegations in the lawsuit revolve around a decline in staffing levels there after the firm took control of the one-time Genesis Healthcare facility in early 2020.

*McKnight's, 04/25/2023*

## **Most Elders Would Like To Take Fewer Meds**

A movement to reduce the number or dosage of medications prescribed to older adults appears to have gained traction in the older population.

The University of Michigan National Poll on Healthy Aging found that 80% of folks 50-to-80 years would be willing to stop at least one med if their clinician okayed it - 26% already have.

About 82% of that age group take prescription meds, and 28% said their medication list is too long.

*Senior Living, 04/24/2023*

## **Open Season on Nursing Home Residents in Australia**

The family of 95-year-old Clare Nowland is demanding answers from police after the great-grandmother was tasered in her aged-care home in New South Wales.

She remains in a critical condition and is receiving end of life care in hospital.

Shortly after that story surfaced, a shocking new video shows police double-handcuffing a distressed, and frail, 81-year-old dementia patient at a Sydney, Australia nursing home.

The woman's angry family has released the recording (video), claiming police have learned nothing after tasered 95-year-old dementia patient Clare Nowland.

*7News, 05/21/2023*

## **Assn. Tells Members to Be Careful Until HHS Responds**

Therapy leaders are advising physical and occupational therapists, as well as speech language pathologists, to minimize their use of telehealth in nursing homes until federal regulators provide more clarity on payment procedures in the post-pandemic era.

"Providers in certain settings should take a careful approach," the therapy association told its members May 11 after it was clear that regulators would not be responding before the PHE expired that day.

*McKnight's, 05/15/2023*

## **Feds Helping with Drug Abuse & Mental Health Treatment**

A new center for mental health and substance abuse is ramping up to equip providers with additional resources and training.

The federal Center for Excellence for Behavioral Health in Nursing Facilities was funded in 2022 through a \$5 million partnership between the Substance Abuse and Mental Health Administration and CMS.

*McKnight's, 05/10/2023*

## **Briefly IN THE NEWS**

After being stripped of leases for 24 facilities in partnership with Sabra, North American Health Services is regrouping around a dozen core operations and returning to its quality roots to fuel a potential rebound. The operator, in business since 1986, is now running eight buildings in Southern California and four in Northern California, each privately owned. The remaining client relationships leave North American free from the particularly onerous rent burdens it faced in partnership with a REIT (*McKnight's*).

A judge has ordered that a receiver assume control of Pawtucket Falls Healthcare Center in Rhode Island following the filing of a petition for a court-appointed receiver by the Rhode Island Department of Health (RIDOH) and the state's Attorney General. The action came after months of regulatory action by RIDOH related to health and safety concerns at the nursing home (*Go Local Prov.*).

Despite "a tumultuous couple of years," prices to buy nursing homes remains high and is expected to go higher despite relatively low average industry occupancy – so said Evans Senior Investments Director Kris Lowes in an online seminar last week. Most buyers and banks are forecasting a higher occupancy, forecasting a more stabilized margin. Lending in the skilled nursing market is still available, unlike the senior housing market (*McKnight's*).

The National Guard was called out in many states to help nursing homes at the height of the pandemic. How well did the so-called strike teams perform? A team lead by Yale University researchers studied the Massachusetts response but was unable to reach a definitive conclusion due to a lack of information. "We suggest that future strike team interventions capture real-time mortality and resident characteristics that are meaningful predictors of mortality, such as age, comorbidities, and cognitive and functional status," the researchers wrote (*Journal of the American Geriatrics Society*).