

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"I feel absolute joy and relief that this prison sentence is finally over!"

Debra Saylor of Huntsville, Alabama responding to an NPR poll on the end of the pandemic

"This legislation will provide senior living facilities with the tools they need to hire staff without sacrificing quality care"

U.S. Senator Mark Warner after reintroducing a bill to authorize SNFs to access the National Practitioner Data Bank for background checks

"Private equity-owned nursing homes are associated with higher Medicare costs and increased emergency department visits and hospitalizations"

letter to HHS from a bipartisan Congressional group

MACs Will Be Knocking On Your Door Soon

CMS said every skilled nursing facility in the US will be subject to a five-claim audit starting the week of June 5 as regulators try to better assess and root out improper payments.

Medicare Administrative Contractors in every region will pull five Medicare Part A claims from each facility they cover and review them for potential errors.

The results will lead to basic education, adjustment to prepayment claims and more in-depth, one-on-one education for providers who have errors on more than one-fifth of their claims.

McKnight's, 05/30/2023

Texas Providers Score Big with State Funding

Lawmakers this holiday weekend gave Texas skilled nursing providers a long-

awaited reason to celebrate: the first increase to the state's Medicaid base rate in 10 years and the continuation of supplemental funding to help providers stay afloat until that new rate begins in September.

Many had feared the loss of the \$19.63 PPD add-on

The House and Senate approved both the supplemental funding that extends a COVID-era add-on through Aug. 31 and a \$900 million general Medicaid rate increase as part of the overall state budget that starts Sept. 1.

Both measures now await the governor's signature.

McKnight's, 05/30/2023

The Next Pandemic Has A Name – Well, Not Really

The WHO calls it "Disease X" – it's not an actual disease. It's a placeholder to describe a disease that's unknown to medical science as a cause of human infections.

It may escape from a lab or weaponized by bioterrorist.

Some public health experts believe the next Disease X will be zoonotic, meaning it will originate in animals, then spill over to infect humans.

Ebola, HIV/AIDS and COVID-19 were zoonotic outbreaks.

Another possible source could be "zombie" viruses that have been locked in permafrost or other frozen landscapes for centuries, but are released by a warming climate.

NY Post, 05/24/2023

America Is Birthin' Fewer Babies, Butterfly

Texas and Florida had the biggest increases in births last year, while a dozen other states — half of them in the South — continued to rebound from pandemic lows.

The CDC reports the number of U.S. births plateaued after a modest increase following the worst of the pandemic. Births increased in only 15 states in 2021 and

2022 compared with growth in 43 states between 2020 and 2021.

In Texas and Florida, the number of births was up 4% in 2022 compared with 2021

Illinois, Pennsylvania and Michigan, states where the overall population is declining, experienced the largest decreases in births.

Stateline, 05/25/2023

A Pathway to Nursing Homes For Foreign Workers

An updated version of the Dignity Act, a large package of immigration reforms was introduced in the House in May.

Some of its elements include:

Cutting the legal immigration backlog at ten years, ensuring anyone that has been waiting for a legal visa will be provided with that visa.

Raising the per-country cap set in the Immigration Act of 1990 from 7% to 15%.

Increasing high-skilled employment visas opportunities by only counting the principal applicant not children and spouses.

Currently 20% of CNAs and RNs and 15% of LPN working in nursing homes are foreign born.

LeadingAge, 05/24/2023

Nursing Home Dual-Eligibles Received Worse Clinical Care

In a report by CMS's Office of Minority Health (CMS OMH) Medicare Advantage enrollees, specifically those dually eligible for Medicare and Medicaid, received worse clinical care than those who didn't fall under these plans.

The CMS OMH report showed that dual enrollees and those receiving a low-income subsidy were most vulnerable in certain areas of clinical care compared to those who weren't part of those programs.

The greatest care disparities were found in follow-up visits after a hospital stay for a mental illness, medication interactions for residents receiving dementia care and those who were prone to falls.

Skilled Nursing News, 05/23/2023

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

AMERICA: CMS last week issued a final rule lifting the COVID-19 vaccination mandate for healthcare workers by early August. It withdraws controversial regulations in 2021 that required an initial COVID-19 vaccines for all staff working long-term care facilities. The mandate went into effect in January 2022, following a series of legal challenges that led to a historic Supreme Court decision allowing the mandate to stand. The details came in a document set to be published in the Federal Register on June 5. The rule goes into effect 60 days later (*McKnight's*).

NORTH DAKOTA: Did the vaccine work? Health experts in N.D. say yes. In 2020 there were 1159 COVID-19 deaths in the state. This year so far there have been fewer hospitalizations and just 306 deaths with the year nearly half over (*KFYR-TV*).

AMERICA: An analysis by Centers for Disease Control and Prevention (CDC) scientists of more than 350,000 hospitalized COVID-19 patients reveals that racial and ethnic disparities declined but persisted in the era of vaccination. The researchers assessed data from the COVID-NET from 353,807 patients who had hospital stays at any point from March 2020 through August 2022 (*CIDRAP*).

CHINA: About six months ago the country relaxed what were some of the strictest COVID-19 protocols in the world. Now a new wave has hit the country. Currently about 40 million people are being infected each week and the current wave is expected to peak the end of June at about 65 million weekly. That comes at a time when the infrastructure to fight the disease has largely been dismantled (*NBC News*).

AMERICA: Long COVID now has a working case definition in the U.S. Twelve key symptoms of long COVID include postexertional malaise, fatigue, brain fog, dizziness, gastrointestinal symptoms, palpitations, changes in sexual desire or capacity, loss of or change in smell or taste, thirst, chronic cough, chest pain, and abnormal movements (*MedPage Today*).

UNITED KINGDOM: SKYCovion, the COVID-19 vaccine developed by SK Chemicals, has today been authorized by the Medicines and Healthcare products Regulatory Agency (MHRA). It becomes the 8th COVID-19 vaccine authorized by the UK's independent medicines regulator. The authorization follows advice received from the independent Commission on Human Medicines (CHM). The SKYCovion vaccine combines a part of the SARS-CoV-2 virus spike protein with an 'adjuvant' - an additional ingredient designed to trigger a stronger immune response. It is given as two injections, four weeks apart (*News-Medical*).

CHINA: It is possible that COVID-19 leaked from a laboratory, the former head of China's public health body revealed. "Don't rule out anything," said George Gao, the former director of China's Center for Disease Control (CDC) and Prevention, said in a BBC interview. China released data in March linking the pandemic's origins with racoon dogs sold at an animal market in Wuhan, where the first COVID-19 cases were reported (*Politico*).

NEPAL: Of the total 1,003,294 confirmed COVID-19 cases in the country during the pandemic, 98.8% (991,193) of cases have recovered, 0.01% (70) are active cases, and 1.19% (12,031) are deaths. The Kathmandu Valley area has substantially higher case load with 44.2% of the national total (443,050/1,003,294), and 81.4% of the provincial total (*Relief Web, WHO*).

THE WORLD: Lt. Gen. Michael Flynn, Donald Trump's former national security adviser who pled guilty to lying to the FBI in 2017, is launching an online community dedicated to people who have not been vaccinated for COVID-19. The community is called 4thePURE, and members can connect with blood donors, sperm donors, breastmilk donors, surrogates, and unvaccinated singles, according to the website. It will also have a directory of "COVID-19 unvaccinated patriot businesses." A "full member site" is scheduled to launch in June. A lifetime

founding membership will cost \$2,500 (*Business Insider*).

ECUADOR: Authorities at the National Institute of Public Health Research have reported the appearance of a new strain of SARS-CoV-2 in the South American country and upped the biosecurity measures in force accordingly. The patient lives in Quito and is said to be asymptomatic. The Health Ministry said it found a sublineage of SARS-CoV-2 XBB.116. In April, the WHO labeled this fast-growing sub-lineage as a new variant of concern, although it considered the risk to be low, because it does not appear to cause a more serious disease (*MercoPress*).

AMERICA: Although Medicare coverage for at-home COVID-19 tests ended in May, Medicare advocates around the country who track fraud noticed an 11th-hour rise in complaints from beneficiaries who received tests -- sometimes by the dozen -- that they never requested. It's a signal that someone may have been using, and could continue to use, seniors' Medicare information to improperly bill the federal government (*KFF Health News*).

THE WORLD: SARS-CoV-2 infection leading to COVID-19 rapidly became a worldwide health emergency due to its elevated infecting capacity, morbidity, and mortality. Parkinson's disease (PD) is the second most common neurodegenerative disorder (behind Alzheimer's disease). The relationship between SARS-CoV-2 outbreak and PD, although independent from each other, is being considered. Some evidence suggests that SARS-CoV-2 infection might be a possible risk factor for PD because the exposure to SARS-CoV-2 appears to increase the risk for PD (*Frontiers*).

COVID-19, 05/26/2023

Global Cases – Deaths
759,364,883 – 9,938,353

U.S. Hospitalizations – Deaths
6,169,122 – 1,130,593

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

CMS & WHO

Military Can't Account for Millions in COVID Funds

The VA can't account for at least \$187 million in supplementary COVID-19 Pandemic funding.

Congress and the VA are at odds over the department's handling of nearly \$37 billion in funding it received to address the pandemic, with House Veterans Affairs Committee leaders on both sides of the aisle critical of its failure to account for every dime.

Between 2020 and 2021, the VA received roughly \$37 billion to address COVID-19 response, including an initial \$60 million, followed by \$19.6 billion in the Coronavirus Aid, Relief, and Economic Security Act and another \$17 billion in the American Rescue Plan.

Military.com, 05/23/2023

Tort Reform and New Ownership Rules in Iowa

Operators are praising once-in-a-generation tort reform and new ownership rules designed to attract "good" nursing home operators as key wins in a bountiful legislative session for the skilled nursing sector.

The new law caps noneconomic damages or damages for pain, suffering and emotional distress that individuals can receive through malpractice lawsuits at \$1 million in cases against clinics and individual doctors, including those at nursing homes.

Another new law mandates that new providers entering the state must submit additional information to help vet an applicant's financial stability and regulatory track record in other states.

McKnight's, 05/30/2023

A Quarter of a Million Kicked off Florida Medicaid

The federal government instilled a continuous enrollment provision at the height of the pandemic when people were losing jobs and health insurance coverage.

The number of individuals seeking Medicaid assistance rose from 3.8 million to 5.5 million and two-thirds are children

Some 250,000 people have lost Medicaid coverage since Florida began its redetermination process last month.

About 82% of those people lost coverage for procedural reasons, a/k/a "red tape" – anything from computer glitches to having outdated contact information.

Fifty-two Florida health care and policy organizations signed a letter to Gov. Ron DeSantis urging a pause Florida's current Medicaid redetermination process.

Health News Florida, 05/26/2023

Feds Plan to Cut Funds to Kentucky SNF

CMS plans to cut funding to a Louisville's Hillcreek Rehabilitation and Care weeks after a *Newsweek* investigation revealed the facility faced nearly a dozen wrongful death and negligence lawsuits.

A federal judge granted a temporary restraining order to allow Hillcreek more time to appeal. The facility is also appealing a \$400,000 CMP from March, one of the largest fines ever.

Another Louisville nursing home operated by Hillcreek's parent company, Exceptional Living Centers, was also slated to lose federal funding this month, records show. However, St. Matthews Care Center also received a temporary restraining order delaying the action.

Newsweek, 06/01/2023

Montana SNFs to See 33% 'caid Boost – Enough?

Montana now had 65 nursing homes after losing 12 since February 2022, most due to financial considerations.

The state's facilities are in for a big Medicaid increase - from \$209 PPD to \$268 in fiscal year 2024. Another increase from \$268 to \$278 will come in fiscal 2025.

That's the good news – the bad news is that the Montana Health Care Association says the daily cost of care averages \$349.

Two bills that would have provided funding for communities to reopen closed facilities died in the Senate.

McKnight's, 05/15/2023

ONE COLUMN Mandates Are Not the Solution

Excerpt from article in *The Hill* by AHCA/NCAL CEO Mark Parkinson

Washington often means well, but sometimes the left hand isn't talking to the right. Such was the case earlier this month, when the State Department issued a visa freeze impacting international nurses at the same time that the Biden administration plans to soon issue a minimum staffing mandate for nursing homes.

It wasn't the State Department's fault — there are statute limitations on how many visas can be processed each year. Yet thousands of much-needed nurses are unable to enter the country now. It is an example of a key missed opportunity to help bolster our long-term-care workforce, and how Washington is leaving real solutions to address the labor crisis on the table.

Nursing homes are eager to grow their workforce but are still in the process of rebuilding after COVID-19. The sector lost nearly 250,000 workers over the course of the pandemic — more than any other health care sector. The total number of individuals working in nursing homes today has dipped down to levels not seen since 1995.

In rural states, closures have been rampant. In the Sunflower State, where I also served as governor, the 52nd nursing home since the beginning of the pandemic shut down last month.

One potential solution lies in common-sense immigration reform. One in six registered nurses and one in four direct care workers in the U.S. are immigrants, and research has found that increased immigration has a positive effect on patient outcomes. While it's not a silver bullet, streamlining the immigration system for health care workers can help us tap into a global talent pool and boost our workforce.

Yet Washington's response is a blanket staffing mandate, currently unfunded and without any supporting workforce development programs.

The Hill, 05/31/2023

Sues Shuttered SNF For Pregnancy Discrimination

Tasha Kay Stauffer, former administrator at Pleasant View Home filed a discrimination lawsuit against the closed Albert City, Iowa nursing home. that fired her. She was pregnant when she was hired and did not reveal her condition to the board.

In May 2022, Pleasant View Home offered Stauffer an administrator position. Stauffer found out she was pregnant two months before accepting the position.

The lawsuit claims Stauffer was fired in August 2022 after board members balked at a maternity leave request.

The facility closed this year due to a lack of staffing.

The Storm Lake Times, 05/26/2023

Citing “burden on taxpayers.” Gov. Vetoes Help for LTC

Legislation billed in part as ensuring steps to maintain access to assisted living communities for Medicaid recipients has been vetoed by Montana Gov. Greg Gianforte.

SB296 would have revised funding laws related to AL communities and SNFs, established procedures for calculating personal needs allowances and room and board costs for assisted living residents, and required money appropriated for nursing homes services to be used only for those purposes.

Under the bill, assisted living would move from the Big Sky Waiver program to Community First Choice, a state and federally funded program that provides in-home care assistants or clinicians.

Independent Record, 05/30/2023

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.

It is designed as a hub to provide technical support, training and more to each of the nation's 15,000 Medicare-certified nursing homes.

Staff at the center and across 10 regions can work directly with providers who ask for assistance, with no concerns about triggering survey activity.

McKnight's, 05/10/2023

LTC Better with LGBTQ+ Non-discrimination Policies

The Human Rights Campaign Foundation and SAGE recently released the 2023 Long Term Care Equality Index including 200 senior living communities in 34 states, encompassing 23,000 residents and 17,000 employees.

The index revealed that 90% of participant communities had updated their resident and employee nondiscrimination policies to include protections based on both sexual orientation and gender identity. That compares to only 18% in 2021.

A majority indicated that they have resident admission materials using inclusive language when collecting a person's chosen name (89%) and partner relationships (83%). Most collect data on sexual orientation (55%) and gender identity (54%).

Senior Living, 05/23/2023

\$1 Million Plus for Some Minnesota Nursing Homes

Senate Republicans released details of a \$300 million deal to help Minnesota nursing homes.

The agreement will include direct grants totaling \$173.5 million split into two payments in August 2023 and August 2024, as well as facility rate increases, and a workforce incentive fund that adds up to about \$1.1 million for every nursing home in the state.

Each facility would receive at least \$225,000, plus addition funds based on active beds. An average 50 bed SNF could receive \$465,000 in grant funding.

*Minnesota Senate Republican Caucus,
news release, 05/22/2023*

Briefly IN THE NEWS

Last November after complaints of unsafe working conditions, OSHA opened an investigation at the Big Lots Behavioural Health Pavilion at Nationwide Children's Hospital, an acute behavioural health hospital with intensive outpatient programs in Columbus, Ohio. OSHA proposed an \$18,000 fine after it determined the facility did not protect its employees from violent incidents with patients in which nurses and mental health staff suffered concussions, lacerations, contusions and sprains, nor did it keep proper records of employee injuries as required (*OSHA news release*).

Three new members have been appointed to the Government Accountability Board' Medicare Payment Advisory Commission (MedPAC): R. Tamara Konetzka, PhD, University of Chicago; Brian Miller, MD, MBA, MPH, Johns Hopkins University; and Gina Upchurch, RPh, MPH, of Senior PharmAssist. Konetzka and Miller's terms expire in 2026. Upchurch was appointed to serve out the remaining term of a commission who resigned. Her term will expire in 2024 (*GAO news release*).

A federal appeals court in New York has cleared the way for a bankruptcy deal for opioid manufacturer Purdue Pharma. The deal will shield members of the Sackler family, who own the company, from future lawsuits. The Sacklers earned billions of dollars from the sale of OxyContin and other opioid pain medications. The ruling overturns the lower court's December 2021 decision and clears the way for a deal hashed out with thousands of state and local governments. The Sacklers are expected to pay roughly \$5 to \$6 billion and give up control of Purdue Pharma (*NPR*).

American Senior Communities announced that CEO Donna Kelsey, in collaboration with the ASC board, has appointed Steve Van Camp to succeed her effective June 1. Kelsey has been CEO for seven years and will transition to senior advisor, a role in which she will focus on leadership development and government advocacy for the senior care profession. Van Camp has been the company's CFO the past five years (*ASC news release*).