

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"We emphasized our commitment to providing high-quality care, noting that potentially taking money out of nursing homes with CMP (civil monetary penalties) for not complying with ratios would detract from quality and inequitably harm small, single-site providers" Ruth Katz LeadingAge senior vice president of public policy after meeting with OMB on proposed staffing rule

"Sustained congressional oversight of agencies' efforts to address the effects of the pandemic is important" from GAO report criticizing CMS for its lack of guidance to nursing homes on infection prevention

Defrauding the government during a pandemic - at a time when millions of hardworking entrepreneurs struggled to make payroll and rent - is pouring salt in a wound" statement from U.S. Attorney for the Northern District of Texas, Leigha Simonton after 14 people were charged in a multi-million-dollar COVID-19 fraud

Regular Hearing Aide Use Greatly Reduces Falls

Older adults with hearing loss have a 2.4 times greater risk of falls than their peers with normal hearing. Those with hearing loss in both ears are half as likely to fall if they use hearing aids compared to their peers who do not use the devices.

The researchers from the University of Colorado-Anschutz Medical Campus compared prevalence of falls and fall risk between hearing aids users and non-users and found that hearing aid use reduced the odds of experiencing a fall by 50%.

Falls and their outcomes are also costly, at an estimated \$50 billion a year.

Journal of the American Geriatrics Society, 06/14/2023

COVID-19 SNF Cases Stay In State Courts – For Now

The PREP Act early in the pandemic offered healthcare providers immunity from liability.

It's been used as a defense tactic by nursing home attorneys seeking to push cases into federal courts.

After the U.S. Supreme Court's refusal to hear a case that could have determined whether such lawsuits should be heard by federal or state juries, a federal court in late June denied appeals on COVID-related cases against 21 different nursing homes, and sent the cases back to state courts,

The Eleventh Circuit, with jurisdiction over federal courts in Alabama, Florida, and Georgia, is currently considering that legal question.

McKnight's, 07/05/2023

New Staffing Standards Would Cause a Lot of Hiring

Whenever new minimum staffing rules are enacted most facilities will be hiring staff.

A KFF study revealed that just over half (55%) of nursing facilities would meet a requirement for 3.5 hours and only 29% could comply with 4.0 hours without hiring new staff.

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if staffing levels are set at 4 hours PPD, facilities meeting the standard would range from just 12% in Texas and to 94% in Oregon and 100% in Alaska.

KFF, 07/14/2023

New Alzheimer's Drug Outdoes One Newly Approved

Patients in the early stages of Alzheimer's may soon have a new option to stave off the loss of memory and thinking.

At the Alzheimer's Association International Conference in Amsterdam a study was reported in which in more than 1,700 people, the experimental drug

donanemab slowed the progression of Alzheimer's by about 35%.

The result, suggests that donanemab is more effective than newly approved *Leqembi* which was found to reduce progression by about 27%.

But experts caution that *donanemab* is no cure, its benefit amounts to only about a seven-month delay in the loss of memory and thinking.

NPR Shots, 07/17/2023

CMS Still Dropping the Infection Prevention Ball

In a follow-up report the GAO said CMS has yet to create certain infection prevention standards for nursing homes.

The Government Accountability Office's review of data from CMS found that six of eight key indicators had improved slightly from 2020 to the 12-month report period, which ended in April 2023. But those indicators were worse when compared to 2019.

The report was critical of CMS' performance with infection control guidance stating that until the agency gets it act together "state survey agencies will continue to face uncertainty about how to inspect nursing homes for adherence to infection prevention control requirements"

McKnight's, 07/12/2023

Murder-Suicide in NJ Nursing Home Two Seniors Dead

An elderly couple was found dead of an apparent murder-suicide at a New Jersey nursing home on Saturday.

Initial reports suggest that Michael Zaccario, 73, shot his terminally ill wife, Patricia Zaccario, 76, and then turned the gun on himself at the CareOne at Wellington facility in Hackensack.

"We are deeply saddened by the tragedy that took place at our Wellington building today," CareOne spokesperson Anna Robinson told NorthJersey.com. "Our hearts go out to the victim's family and loved ones. We will be providing our staff and residents with the support they need in this difficult time."

The Daily Beast, 07/16/2023

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

AMERICA: The U.S. has reached a significant pandemic-related milestone: the number of so-called excess deaths in America has dropped to pre-COVID-19 levels. At the peaks of the pandemic, the number of Americans dying daily above what is deemed as normal levels skyrocketed. CDC data shows that at some points, it was almost 50% higher than expected nationwide. In California, the rate was more than 100% higher. But now, the number of excess deaths is no longer at abnormal levels (*New York Times*).

KENTUCKY: After a three-year COVID hiatus the African Heritage Festival returned last weekend in Louisville. The festival would have been the eighth annual had not COVID appeared in 2020. The festival is a celebration of “unity, art, culture and history” (*WHAS-TV*).

AMERICA: At a dinner in NYC last week Robert F. Kennedy, Jr reportedly implied that COVID-19 is targeted to attack Caucasians and Black people and that the people who are most immune are Ashkenazi Jews (making up most of the American Jewish population) and Chinese. Kennedy said he didn’t say that, although a video of the event indicates he did (*CNN*).

CAPITOL HILL: House Speaker Kevin McCarthy said Monday he disagrees with “everything” Robert F. Kennedy Jr. reportedly said last week about Covid-19’s being bioengineered “to attack Caucasians and Black people” and about Jewish people’s being “most immune.” But McCarthy, R-Calif., rejected calls by Democrats to cancel Kennedy’s public appearance before a Republican-controlled House committee. (*NBC News*).

AMERICA: Nearly 64% of nursing homes residents reported feeling depressed in 2020, compared to 61.5% in 2021. In addition, 19.3% of residents reported unexplained weight loss in 2020 compared to 17.4% in 2021, according to the report. In 2019, 60.2% of nursing homes residents reported feeling depressed and 15% experienced sudden weight loss (*GAO*).

THE WORLD: A research team led by Department of Ophthalmology, Shiraz University in Iran found although rare, there were complications associated with the COVID-19 vaccinations. The most significant complications were “retinal macro- or microvascular occlusions, uveitis, and central serous chorioretinopathy which untreated could cause serious visual impairment” (*Modern Retina*).

SCOTLAND: The provisional total number of deaths registered in Scotland in week 27 of 2023 (3rd of July to 9th July) was 1,068 (18 or 2% above the 5-year average). As of 9th of July 2023, there have been a total of 17,718 deaths registered in Scotland where COVID-19 was mentioned on the death certificate. In week 27 there were 8 deaths involving COVID-19 – 2 fewer than the previous week (*National Records of Scotland*).

AMERICA: Per capita consumption of ethanol from all alcoholic beverages combined in 2021 was 2.51 gallons, representing a 2.9 percent increase from 2.44 gallons in 2020 and a 5.5% increase from 2.34 gallons in 2019. It was the largest two-year increase since 1969, when there was a 5.9% jump. The rise seemed to come almost entirely in the form of hard liquor (*The Washington Examiner*).

MICHIGAN: Health officials monitoring data in the state say that hundreds of cases of COVID continue to roll in while dozens of people die each week from the illness. The resurgence may become part of the norm as time goes on and the virus continues to mutate (*WJBK-TV*).

CALIFORNIA: The family of an 81-year-old Alzheimer’s patient who died of COVID-19 complications in 2020 have settled their lawsuit against the Burbank, California nursing home where their loved one allegedly acquired the virus. The estate of Vernon Robinson Sr. filed court papers last week stating the case was resolved. No terms were divulged. Robinson’s family alleged that the nursing home was responsible for wrongful death, elder abuse and neglect, concealment and violation of the resident’s Bill of Rights (*Burbank Leader*).

NORTH CAROLINA: Governor Roy Cooper has tested positive for COVID-19. This is the second time the North Carolina governor has tested positive for COVID. He was last diagnosed with the virus in June 2022. The Governor said he has mild symptoms and expects to be “out and about” by the weekend (*Spectrum News*).

AMERICA: Just 18% of COVID cases in nursing homes were treated with antiviral medications, and the rate increased only slightly after oral treatments were approved. The research, Treatment of SARS-CoV-2 Infection in U.S. Nursing Homes, 2021-2022, found that by the end of 2022, an “alarming” 40% of nursing homes reported that they had never used any of the antiviral treatments (*JAMA*).

GEORGIA: Researchers at Georgia State University via a \$1.85 million grant from the U.S. Department of Education are doing a deep dive into efforts to help students recover from the learning loss due to the COVID-19 pandemic. Researchers already know that math scores have suffered the most, dropping 10 to 15 percentage points among some elementary school students. Federal grants for some pandemic-related programs are about to run out. The study will help guide where school districts should focus funding in the future (*WXIA-TV*).

ITALY: A large (over two million people) retrospective study out of Italy showed a second booster with an mRNA bivalent vaccine offered the best protection against severe COVID-19 due to the Omicron BA.5 variant in older adults, and protection appeared to wane less than with the monovalent shot (*MedPage Today*).

COVID-19, 07/07/2023

Global Cases – Deaths
768,237,788 – 6,951,677

U.S. Hospitalizations – Deaths
6,209,122 – 1,135,364

Global – U.S. Vaccination Doses
13,474,267,147 – 144,182,870

CDC & WHO

Feds Say Lab Duped M'care In SNF COVID Scheme

The Justice Department filed a False Claims Act complaint against Patrick Britton-Harr and multiple laboratory companies claiming he preyed on nursing home clients to bilk Medicare out of at least \$7 million.

The complaint alleges the respiratory pathogen panel, (RPP) tests were not medically necessary because the beneficiaries had no symptoms of a respiratory illness, and many were not physician-ordered.

In at least 300 claims, the government charges, the company stated a nasal swab test sample was collected from a Medicare beneficiary on a date after that individual had died.

McKnight's, 07/21/2023

LTC Reps Lobby Gov't on Staffing Rule

LeadingAge met with OMB, members of the White House Domestic Policy Council, and HHS and CMS leaders in what the organization described as "preemptive advocacy." OMB listened to concerns but didn't ask questions or comment itself.

AHCA has been working closely with members of Congress opposed to a staffing minimum, many of whom are keeping the pressure on while the bill rests with OMB.

In a letter to OMB, Sen. Jon Tester (D-MT) emphasized that any staffing mandate should include flexibility for rural facilities. Tester sent the letter in mid-June then released it publicly.

McKnight's, 06/30/2023

CCRC Bankrupt – Families Owed Millions

Friendship Village of Schaumburg, the largest nonprofit retirement community in Illinois, filed for bankruptcy last month after it said it could not recover from losses brought on by the pandemic.

Families now fear they will not receive the full contractually owed refund they were promised.

Among its listed debts are dozens of families who are owed entrance fee or deposit refunds, ranging from more than \$100,000 to \$500,000 each.

Twenty-nine families are owed a total of about \$5 million. An Illinois lawmaker is now proposing a system that would mandate how communities repay those fees.

WMAQ-TV, 07/20/2023

More Transparency in Conn. LTC Ownership

Connecticut's nursing home operators will be required to disclose ties to private equity companies or REITs under a new state law.

Lawmakers approved new accountability and transparency measures designed to reveal who is making decisions or profiting from nursing home operations.

The information gleaned from these new reports that could show if "owners and operators are collecting large salaries or administrative fees" could be used to introduce more bills "requiring facilities to direct a certain portion of state funds toward direct care only."

Operators who fail to disclose that information could be fined up to \$10,000 for each violation.

Hartford Courant, 06/17/2023

Increase in Connecticut PPD Would Cost Too Much

Connecticut lawmakers have conceded that the money needed to increase mandatory, direct-care hours (PPD) at nursing homes is not available. As a result, the staffing minimum is likely to remain at 3.0 hours PPD instead of increasing to 4.1.

The bill included ratios for specific nursing positions – something provider association had warned against.

Both Connecticut Health Care Association and LeadingAge Connecticut opposed the proposal, which would have required almost \$60 million more in Medicaid funding over the next three years.

McKnight's, 05/10/2023

ONE COLUMN

"Beyond Applause"

Money and Training Needed

After the public applause offered to healthcare workers in the early days of the pandemic faded, long-term care workers began to experience lower job satisfaction as well as more physical and psychological strain. A report from the Organization for Economic Co-operation and Development advocates for better treatment of these employees.

The report examined policies in European countries, which had harsher lock-down policies than the United States. But the recommendations and lessons learned are applicable to long-term care workers worldwide, stated report's authors in *"Beyond Applause? Improving Working Conditions in Long-Term Care."*

The report stated "This challenge will grow tremendously with aging prospects. We need to go *Beyond Applause*, and this requires taking significant measures to improve wages and working conditions."

"Beyond Applause?" notes that the total employment in the LTC sector in Europe relative to all industry workers increased from 1.7% in 2011 to 1.9% in 2021.

Meanwhile, AHCA/NCAL reported that in the US, nursing homes lost approximately 210,000 jobs during the pandemic, the lowest employment levels since 1994.

The AHCA/NCAL also recounted that in January that 96% of facilities continue struggling to hire new workers.

The report includes a number of recommendations – primary among them is increasing government funding to facilities and wages in the public sector as a way to force privately owned companies to follow suit.

Other recommendations include promoting social recognition, strengthening training programs, increasing the use of technology and embracing new technologies, and strengthening preventive health policies, especially among older populations.

Organization for Economic Co-operation
and Development McKnight's, 06/28/2023

SNF Sued for Not Protecting Staff from Racial Attacks

A federal judge ruled that a Vermont nursing home Elderwood of Burlington, must face an EEOC lawsuit. Plaintiffs allege management failed to take appropriate measures to stop physical assaults and racial slurs from residents toward Black staff members.

The judge ruled that the facility can be held liable under Title VII for a hostile work environment if it is shown it did not take steps to remediate a resident's behavior.

In a September *McKnight's* article, legal experts said that nursing homes would draw attention from the EEOC not because of residents' behavior but rather if staff management failed to stop harassment.

McKnight's, 07/20/2023

SNFs Sell – Costs Rise, Quality of Care Drops

As acquisitions in US seniors housing and senior care continue at record levels, a new paper in an international medical journal finds such transactions typically bring about a rise in costs and a drop off in quality.

Public health and epidemiology researchers from five universities in three countries reviewed dozens of studies on private equity ownership and found that an escalation in private equity takeovers across healthcare settings has led to higher costs for patients and payers.

Several studies also found more ensuing harmful health outcome impacts than beneficial ones.

BMJ, 07/19/2023

Pays Feds \$3.8M In Kickback Settlement

A California skilled nursing facility run by the state's largest nursing owner has, in conjunction with its management firm, agreed to pay \$3.8 million to settle kickback allegations brought by a whistleblower.

Alta Vista Healthcare & Wellness Centre and Rockport Healthcare Services faced

False Claims Act charges of paying physicians to send them more patient referrals over an 11-year period.

The government said Alta Vista, "under the direction and control of Rockport," paid some physicians \$2500 to \$4000 monthly as "medical directors" and provided gifts including expensive dinners, golf trips, massages, tablets, and gift cards worth up to \$1,000.

DOJ news release, 06/21/2023

OSHA Final Rule Means More Reporting for LTC

In an amended regulation published during the week in the Federal Register certain businesses – including SNFs and ALFs and other LTC concerns – with at least 100 employees will be required to electronically submit information from Forms 300 and 301.

The agency will publish some of the information on its website.

OSHA will not collect employee names or addresses, names of healthcare professionals, or names and addresses of facilities where treatment was provided if treatment was provided away from the worksite.

It was termed "a huge expansion of what employers must send to OSHA" by workplace safety attorney Micha Dickie.

OSHA news release,
Senior Living, 07/17/2023

Not Many Specific Programs For Dementia Residents

A recent study by Univ. of California, VA in LA and Univ. of Chicago found that only facilities with at least 90% of residents with Alzheimer's and related dementias (ADRD) provide high-quality dementia care.

Fewer than half of the three million ADRD residents live in facilities where ADRD patients comprise 60% to 90% of the home's total population.

The study found that ADRD patients living in facilities with diverse populations may be less likely to receive specialized care and that SNFs with special care units for residents with dementia aren't always available to the people who need them.

McKnight's, 06/06/2023

Briefly IN THE NEWS

On the morning of July 12 one resident died when a fire broke out in a nursing home in Talsi, Latvia in the European Union. Initial information shows that the fire could have occurred due to the resident smoking in the bed. The bed linen and mattress was made of synthetic material, allowing the fire spread quickly, causing a lot of smoke (*Latvia Public Broadcasting*).

Walker & Dunlop has structured a \$30.9 million HUD 232/223(f) loan for the refinancing of Clark Manor, a nursing home in Chicago. Clark Manor provides services such as short-term, post-hospital physical rehabilitation, full-time physical, occupational and speech therapists, and a secure dementia and Alzheimer's floor. (*Rebusiness Online*).

Habitat for Humanity South Central Minnesota is extending its reach to help older adults stay in their homes longer and delay going into a nursing home or assisted living facility. The nonprofit's Aging in Place program is geared for those older than age 65 to implement repair and modifications to their homes based on a sliding-scale fee (*The Free Press*).

For every eight hours that office-based physicians have with patients, they spend more than five hours in the EHR. Nine organizations will examine elements of EHR use to discover ways to improve workflow, teamwork and resource allocation at the practice level thanks to nearly \$600,000 in grant funds from the AMA (*AMA news release*).

Assisted living accounted for 42% of the publicly announced senior living and care acquisitions in the second quarter of 2023. Skilled nursing properties accounted for 36% of the deals; independent living, 10%;, continuing care retirement / life plan communities, 7%; and affordable senior housing, 6% (*LevinPro LTC*).

CMS has required around a half-dozen states to pause procedural terminations to correct errors through the Medicaid redetermination process. CMS Administrator Chiquita Brooks-LaSure said the agency would not name the specific states it had required to pause procedural dis-enrollments (*Becker's*).