

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

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## THEY SAID IT:

*"My overwhelming emotion is gratitude"* Mark Parkinson in statement announcing his resignation as president and CEO of AHCA/NCAL

*"This time last year, we started to sense a window of opportunity opening to return to external growth in a meaningful way"* CareTrust REIT President and CEO Dave Sedgwick announcing a multi-million dollar acquisition spree

*"Increased reliance on agency staff may reduce the financial resources available to increase nursing staff levels and improve the quality of care"* from a recent study in Health Affairs

## **Fake Nurse, Fake Physical Therapist Busted**

An Ohio woman has been charged with impersonating a nurse and a physical therapist to work at local medical facilities.

Amanda Maynard Murphy, 33, allegedly used the numbers and identities of other women with her same name in order to pass background checks.

She is charged with illegally working at facilities in at least four cities in north-central Ohio near Sandusky.

Police report that when Murphy was arrested at her home, she was not then employed but was nevertheless wearing scrubs and a stethoscope.

She has been charged with at least two felonies.

WTVG-TV, 02/20/2024

## **AHCA's Parkinson to Step Down Next January**

Mark Parkinson, the US nursing home industry's most influential spokesman for at least a generation will be stepping down from his post as president and CEO of AHCA/NCAL January 15, 2025.

Considered a rare "unicorn" leader for his unique blend of business, political background and street credibility as a former facility operator, Parkinson's announcement had been expected in inner circles for months.

Parkinson stepped into the AHCA/NCAL top post in January 2011, after declining to run for another term as governor of Kansas and successfully led the battered sector through some of its most harrowing days during the COVID-19 pandemic.

McKnight's, 02/20/2024

## **Woman Trapped in Nursing Home Freezer Dies**

Dementia resident Rickie Rubick, 75, died on Jan. 22, four days after staff found her in the kitchen's walk-in freezer at The Meadows at Escalante in St. George, Utah.

When she arrived at the ER, she had severe frostbite of her hands and feet. Her body temperature was 79 degrees.

The state has fined the facility. Her son intends to sue Integral Senior Living LLC, the management company of The Meadows.

Among the cited violations are failing to document injuries and accidents and failing to have an administrator on the premises for sufficient periods of time.

Inside Edition, 02/17/2024

## **Agencies Are Intrusion in SNF's Day-to-Day Ops**

Before the COVID-19 pandemic, approximately 23% of nursing homes in the U.S. used agency nursing staff, equivalent to about 3% of all nursing hours worked. By 2022, almost half of nursing homes used such staff, accounting for approximately 11% of all nursing hours worked.

In addition to the increasing numbers of temporary staff in the period studied, almost 14% of nursing homes were using agency staff every day by 2022 to help address chronic staff shortages.

In 2018, agency nurses cost \$17.20 per hour more than permanent staff. That figure had increased to \$23.93 per hour more by 2022.

Fierce Healthcare, Health Affairs, 02/19/2024

## **He's Guilty, But No More Slammer Time for Esformes**

Philip Esformes on Thursday pleaded guilty to one count of health care fraud, resolving the Justice Department's years-long effort to prosecute the convicted fraudster after then-President Donald Trump commuted his 20-year prison sentence. He was sentenced to time served – four years.

The DOJ dropped five other counts against him.

Although He will face no further restrictions or fines, Esformes will pay a total \$5.5 million in restitution to Medicare, at least \$14 million from the sale of his business assets toward an outstanding forfeiture penalty of \$38.7 million — the amount he received from Medicare through fraudulent billing.

CNBC, Miami Herald, 02/21/2024

## **Look for a Brief Freeze In the 5 Star Ratings**

Staffing measures used to calculate nursing homes' federal ratings will freeze in April, further complicating a system based on often outdated and constantly changing metrics, experts warned last week.

The temporary freeze will run through July, when the Centers for Medicare & Medicaid Services will refresh its rating system to include a staffing measure based on the Patient Driven Payment Model's case mix methodology.

The refresh also will incorporate a new penalty for providers that failed to submit accurate staffing data, a change that is supposed to incentivize providers to participate fully,

McKnight's, 02/20/2024

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

**AMERICA:** A Maryland study suggests patient-administered BinaxNow COVID-19 rapid antigen tests (RAT) have similar accuracy as those performed by a clinician. Of the 177 positive COVID-19 tests, patients and staff accurately identified 145 (81.9%) as positive on RAT. Nine infections (5.1%) were missed by participants (false-negatives) but correctly identified by staff. Twenty-two cases (12.4%) were missed by both participants and staff. In one case (0.5%), staff incorrectly interpreted the result as negative after the participant correctly interpreted it as positive (*CIDRAP*).

**AMERICA:** The CDC is reportedly mulling one of the biggest overhauls to its COVID-19 isolation guidelines in years—one that would end the agency's long-standing recommendation that people who test positive for COVID-19 stay isolated indoors for five days, and instead feel free to venture out once they're relatively symptom-free. If it happens it would be the first time since late 2021 that the agency has changed the isolation rules (*The Washington Post*).

**WASHINGTON, DC:** The Biden administration has dedicated an additional \$515 million to a major initiative to study long Covid, a nearly 50% increase to the project's budget. The research initiative at the National Institutes of Health, dubbed RECOVER, was created in 2020 with a \$1.15 billion investment in research to understand and investigate treatments for long Covid (*STAT*).

**AMERICA:** Nearly one in 10 people who were pregnant at their initial COVID-19 infection, developed long COVID. Of 1502 pregnant women in the study 9.3% developed post-acute sequelae of SARS-CoV-2 infection (PASC) or long COVID. Pregnant women are at higher risk of developing severe COVID-19, ICU admission, and death. Researchers intend to investigate the differences between pregnant and nonpregnant populations to determine if there's something unique about pregnancy that can provide insight into the pathophysiology of long COVID (*MedPage Today*).

**VETERANS:** Over the full year post-COVID, infected veterans had 9.59 more primary care visits than those who were still uninfected during that time. Half of the increased visits took place via telehealth. The increase was highest for veterans aged 85 years and older (6.1 visits), compared with those aged 20 to 44 (4.8 visits), and unvaccinated participants (4.5 visits), compared to 3.2 visits of their vaccinated peers (*JAMA Network Open*).

**AMERICA:** US hospitals transferred fewer patients than usual to other acute-care facilities during caseload surges throughout the COVID-19 pandemic, which could have put some patients at risk. Researchers with the National Institutes of Health analyzed data for adult patients at 681 US hospitals. A total of 1.3 million patient transfers occurred during the study period, 32.7% of them from rural hospitals. Overall, 21.7% of hospitals experienced high-surge weeks during the pandemic, while 15.1% did so before the pandemic, and 14.5% did so in both periods (*JAMA Network Open*).

**THE WORLD:** The CDC reports that the omicron subvariant JN.1 is causing nearly all new coronavirus cases in the U.S. The strain, which was responsible for just over 3% of infections in mid-November, has virtually taken over the COVID-19 variant scene in the U.S. in recent months. It was responsible for more than 96% of new infections over the past two weeks. JN.1, is also the top variant globally. The World Health Organization in a risk assessment said that the additional public health risk posed by the strain is still assessed as low at the global level (*U.S. News & World Report*).

**AMERICA:** The Centers for Disease Control and Prevention is considering whether to recommend yet another COVID booster shot this spring, especially for people most at risk for severe complications of the illness. ... While it's unlikely that the majority of Americans would opt for another dose — just 21.9% of adults received the latest version of the vaccine — experts say that it's critical to make it available sooner rather than later (*NBC News*).

**WASHINGTON, DC:** HHS is filling eight vacancies, including the chairmanship, on an important advisory panel on vaccine policy that was down to less than half of its normal roster for months. It's still not clear why so many positions were left unfilled on the Advisory Committee on Immunization Practices. The committee, which advises the CDC on vaccines saw its membership dwindle because HHS had not appointed replacements for seven members whose terms expired in 2023, and had not replaced one member, Nirav Shah, who resigned from the committee after he was named principal deputy director of the CDC (*STAT News*).

**TEXAS:** Nonmedical vaccine exemptions continued to hit record levels among Texas schoolchildren last year amid state lawmakers' attempts to weaken immunization requirements further. During the 2022-23 school year, 3.24% of Texas kindergartners received an exemption "for reasons of conscience," which includes religious beliefs, from at least one immunization required to attend school. That's almost double the rate from 10 years ago, data shows (*Houston Chronicle*).

**UNITED KINGDOM:** An 8-week online rehabilitation program helped long-COVID patients improve their quality of life. UK patients who completed online group sessions as part of the REGAIN program saw less fatigue, pain, and depression, in one of the first trials to measure outcomes of a long-COVID rehab program. At 3 months, 17% of the intervention group reported that their overall health was "much better." By 12 months participants in the REGAIN group showed significant improvements (*The BMJ*).

### **COVID-19, 02/23/2024**

**Global Cases – Deaths**  
774,681,444 – 7,031,216

**U.S. Hospitalizations – Deaths**  
6,834,006 – 1,180,042

**CDC, WHO**

## **Nursing Homes Sue Medicaid Claiming Massive Underfunding**

Three Ohio nursing home associations have sued the state's Department of Medicaid alleging it incorrectly calculated quality incentives passed by the state legislature.

The associations last week requested that the Ohio Supreme Court issue a writ of mandamus compelling the state's Medicaid program to correct the planned incentive payments.

The Department of Medicaid, however, says applying terms in the manner suggested by the associations "would result in an expenditure of \$285.6 million more per year than was authorized by the General Assembly."

*McKnight's 02/23/2024*

## **One-Day SNF Strike Upcoming in Twin Cities**

Roughly 600 workers at seven Twin Cities nursing homes will stage a one-day strike March 5, hoping to pressure their employers to boost pay and stop the exodus of nurses and caregivers from elder-care facilities.

SEIU is advocating a \$25 per hour wage.

Staffing shortages have worsened since the COVID-19 pandemic. Minnesota lost 26 nursing homes since 2019 and saw its statewide nursing home capacity shrink by more than 3,000 beds since 2020.

The seven strikes at once appear to be the largest simultaneous job action against nursing homes in Minnesota history.

*Star Tribune, 02/20/2024*

## **Gig App CNAs Can Pursue Suit Against Provider**

A Kansas judge has ruled two certified nursing assistants hired as contractors through a gig work app can continue pursuing back wages from provider Medicalodge they argue treated them as employees.

The outcome of the case likely hinges on alleged worker misclassification claims.

The CNAs were contracted through ShiftKey – a gig app – but claim they were treated as employees not

contractors – required to stay late, wages deducted for breaks not taken, etc.

The plaintiffs filed suit in August—arguing, in part, that these employee-like working conditions entitled them to "gap time" pay under the Kansas Wage Payment Act.

*McKnight's, 02/20/2024*

## **Sex Discrimination SNF Coughs Up \$50K**

A skilled nursing operator must pay \$50,000 and enhance its anti-harassment policies in an EEOC settlement.

The EEOC found that a housekeeper was the victim of sexual harassment by an administrator of Nazareth Living Care Center in El Paso, TX, including repeated suggestive comments and "forcible kissing.

The housekeeper's supervisor reported it to HR, but, the EEOC reports, the housekeeper and supervisor were subjected to taunting and criticism.

The supervisor who sought intervention from upper management to assist the aide was later given a written disciplinary warning for 'gossiping.' Ultimately, both were constructively discharged."

The administrator was never disciplined.

*EEOC news release, 02/12/2024*

## **Some Insights to the Final Three Years of Life**

Researchers from Rutgers Health have analyzed millions of Medicare records, uncovering vital insights into the end-of-life care trajectories of older Americans.

The researchers found that 59% of patients predominantly spent their last three years at home.

Another 27% of patients were part of the "skilled home care" cluster, where nurses and other skilled professionals supplemented the care provided by family and friends within the patient's home.

The remaining 14% fell into the "institutional care" cluster, spending most of their last years in hospitals or nursing homes.

*Earth.com, 01/28/2024*

## **ONE COLUMN**

### **OIG to Focus on Nursing Home Fraud**

Last month the HHS-OIG took a specific stance with regard to updates in its assessment of nursing homes and nursing home fraud, by updating its guidance. The new guidance falls into four general categories:

**Protect Resident from Fraud, Abuse & Neglect:** The OIG seeks to investigate nursing homes that "victimize" residents. The agency intends to partner with DOJ to focus on neglect and inadequate care by nursing facilities and address those violations through False Claims Act.

**Promote Emergency Preparedness:** OIG is focusing on nursing home administrators who fail to plan and execute appropriate emergency preparedness response policies and procedures to deal with emergencies such as infectious disease, natural disasters and safety threats.

**Frontline Oversight:** OIG is also focusing on state on-site surveyors at nursing facilities, and OIG is clearly not pleased with each state agency's effectiveness in surveying facilities for non-compliance with federal requirements. As a result, OIG will continue to point out shortcomings with state-conducted on-site surveys in an effort to strengthen and bolster frontline surveys of nursing homes.

**Support Federal Monitoring:** OIG will work with the Centers for Medicare & Medicaid Services to focus on ways that CMS can better monitor state agencies to ensure that nursing homes meet federal requirements for quality and safety. OIG is calling on the state agencies to juice up the survey process and intends to utilize and leverage data from nursing homes to increase its oversight of nursing homes and, in particular, state agencies that survey nursing homes.

In all, nursing homes should not think the OIG is focused only on the egregious healthcare fraud that most often appears in the headlines. OIG is clearly out to ferret out fraud in nursing homes, especially through the survey process.

*McKnight's, 02/20/2024*

## **LTC Corp. Execs = Moderate Raises, Big Buck Bonuses**

Corporate executives of multi-site long-term care organizations banked an average raise of 3.7% in 2023 – but the big money was in bonuses.

Among long-term care providers, the highest total compensation went to CEOs in organizations with revenues of \$100 million or more – average total compensation of \$822,507.

That's nearly twice the total compensation for CEOs of companies with revenues of \$40 million to \$99.9 million (\$456,499) and those heading companies with revenues under \$40 million (\$439,768).

Metrics used to determine actual bonus amounts included, in order of importance, operating margin and income; revenue growth; quality metrics; and employee turnover.

Hospital & Healthcare Compensation Service  
McKnight's, 02/22/2024

## **Lawsuit Alleges Worker Fired for Reporting Abuse**

Shyohnte Shetworth-Ware, a dietary aide, is suing West Des Moines' Promedica Skilled Nursing Center in federal court alleging she was fired for reporting abuse of residents.

Shetworth-Ware says soon after she began working at the facility, she became concerned about "the abusive and undignified way Promedica's staff members, including management, treated residents."

During a visit she told surveyors of her concerns and ultimately was fired, although according to the suit most of her allegations were substantiated by the state.

Last year surveyors were at the home to investigate 23 separate complaints and substantiated 19 of them.

Des Moines Register, 02/20/2024

## **Is More Staff Really The Answer?**

Barbara Bowers, a professor emerita at the University of Wisconsin-Madison's School of Nursing who has studied the

long-term care industry, also said innovation is needed.

Bowers said her research has found that the majority of resident concerns center around the lack of staff at facilities.

On top of being short-staffed, she said the typical nursing home model is "stuck in the past," with nurses and aides working separately instead of utilizing a team approach to patient care.

"If we had more staffing just by itself and didn't do anything else, I don't think we'd see the improvements we're looking for."

Wisconsin Public Radio, 02/19/2024

## **Good Sam to Build Big New Concept Campus**

Good Samaritan Society, after reducing from 22 to seven states, has announced it is developing a new, \$200 million comprehensive senior living and healthcare campus in Sioux Falls, South Dakota.

The new community will be known as Founder's Crossing and by 2028 will include 510 units, including up to 180 skilled nursing and short-term rehab beds – all under one roof in deference to S.D.'s winter weather.

The vision is to produce one interconnected community that relies on the provider's integration with Sanford Health to deliver everything from physicians to labs and X-rays to prescriptions and groceries on the 60-acre campus.

McKnight's, 02/14/2024

## **Paid Caregiving Policies More Common**

Eighty-four percent of the 517 employers participating in a new survey said they are planning to make changes to their leave policies within the next two years.

Paid leave for caregiving may see some of the most substantial increases.

Almost one-fourth of survey respondents said that they already offer paid leave for caregiving, and an additional 22% said that they are planning or considering adding it over the next two years.

Senior Living, 01/24/2024

## **Briefly IN THE NEWS**

Denver-based Healthpeak Properties saw a record year of entrance fee sales and cash collection in 2023 for its portfolio of 15 continuing care retirement communities. The news comes as the REIT prepares for its merger with Physicians Realty Trust, an all-stock deal that was valued at approximately \$21 billion when it was announced in October (*Senior Living*).

During the pandemic CMS temporarily expanded access to telehealth services. Medicare Part B paid approximately \$10.3 billion for Evaluation and Management (E/M) services, including telehealth provided to Medicare enrollees. HHS-OIG audited a sample and determined that 105 of 110 physicians and other practitioners that provided E/M services via telehealth generally complied with Medicare requirements. (*HHS-OIG*).

A study by Brandeis University found that after a steep drop in 2021, RN employment bounced back, with the total number of FTE RNs rising to 3.37 million by 2023 – a 6% jump from 2018 and 2019. Looking ahead to 2035, the number of employed RNs will continue to grow to approximately 4.56 million, which is close to pre-pandemic forecasts (*JAMA Health Forum*).

The U.S. Food and Drug Administration is warning smartwatches and rings that claim to measure blood sugar levels for medical purposes without piercing the skin could be dangerous and should be avoided. The caution applies to any watch or ring, regardless of brand, that claims to measure blood glucose levels in a noninvasive way. The FDA has not authorized, cleared, or approved any smartwatch or smart ring that is intended to measure or estimate blood glucose values on its own (*FDA.gov*).

About 1 in 4 U.S. adults 65 and older, more than 14 million people, suffer a fall each year. Falls are the leading cause of injury for that group even though not all falls result in an injury. About 37% of older people sustained a fall injury that required medical treatment or activity restrictions (*Washington Post*).