

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"The law is still very burdensome, but this helps address some of our concerns"

Stephen Hanse, president and CEO of the New York State Health Facilities Association after the state Supreme court upheld a law which requires nursing homes spend a minimum of 70% of revenue on patient care and mandates that 40% of that portion be spent on staffing

"I've said for years that spouses serve and need to be appreciated"

Florida Gov. Ron DeSantis in signing into law a bill to allow spouses of veteran live in the state's veteran homes

Perhaps most fundamentally, Chevron's presumption is misguided because agencies have no special competence in resolving statutory ambiguities. Courts do" from the SCOTUS majority opinion in the Chevron case

SCOTUS Ruling Could Unravel Staffing Mandate

The Supreme Court Friday threw out a long-standing doctrine that has given regulatory agencies, including CMS broad discretion to set rules for the entities they cover.

Abandonment of the so-called Chevron doctrine will likely have implications for nearly every US industry and could even affect the outcome of a lawsuit challenging CMS' authority to issue a nursing home staffing mandate.

Existing practice requires courts to give federal regulators deference when a statute is unclear or could be interpreted two ways, but experts have predicted a change will embolden more lawsuits seeking to unravel "ambiguous" federal statutes.

Becker's Hospital Review, 06/28/2024

The Second Largest SNF In USA Dodges a Bullet

After fighting for years to avoid closure, one of the nation's largest nursing homes has achieved Medicare recertification — clearing a vital final hurdle for its future viability.

San Francisco's Laguna Honda Hospital and Rehabilitation Center — a massive, 150-year-old nursing home spread across multiple connected buildings — has now had its primary sources of funding fully restored.

While only a small percentage of the 769-bed nursing home's residents are Medicare recipients, the recertification is an important milestone and a signal of the facility's future health.

San Francisco Chronicle, 06/20/2024

A Low-Tech EMR Scam Just a Fax Machine

The health care industry faces a growing threat from scammers who don't have to use sophisticated cyberattacks; they can use the most routine task to steal information from unwitting and well-intentioned employees.

CMS has identified a scam in which medical records requests are faxed to providers asking for medical records.

CMS noted that scams may also be spotted through identification of the following: poor grammar, misspellings, or strange wording; incorrect phone numbers; skewed or outdated logos; or graphics that are cut and pasted.

An example of the scam document CMS provided can be viewed here:

<https://www.cms.gov/files/document/med-cal-record-phishing.pdf>

Baker Donaldson, 06/21/2024

Feds Charge Hundreds in \$2.75 Billion Fraud Schemes

DOJ has filed criminal charges against 193 defendants for their alleged participation in fraud schemes involving around \$2.75 billion in intended losses and \$1.6 billion in actual losses

In an Arizona case, the Justice Department accused two owners of wound care companies of accepting more than \$330 million in kickbacks as part of a scheme to fraudulently bill Medicare for amniotic wound grafts.

Nurse practitioners were pressured to apply the wound grafts to elderly patients who didn't need them, including people in hospice care. Some patients died the day of or shortly thereafter they received the grafts.

Justice, 06/27/2024

Complaints re: Complaints Maryland Survey Dir. Out

The long-time head of the Maryland agency tasked with nursing home surveys has resigned.

A lawsuit filed in May accused the agency of violating the ADA by failing to inspect facilities and address more than half of a backlog of 13,173 complaints in the last three years.

Maryland has the second-highest percentage of overdue annual nursing home inspections in the nation, after Kentucky.

More than 80% of the state's nursing homes have recertification surveys at least 17 months late, and the state has failed to inspect 104 nursing facilities for more than four years.

*The Washington Post, 06/20/2024
WTOP-TV, 06/21/2024*

Masks: From Mandate to the Slammer in Some States

State authorities are reinstating dormant laws that criminalize mask-wearing to penalize pro-Palestinian protesters who conceal their faces.

Republican lawmakers in North Carolina are poised to overturn Democrat Gov. Roy Cooper's recent veto of legislation to criminalize masking.

New York Gov. Kathy Hochul (D) said earlier this month she supports legislative efforts to ban masks on the subway, citing an incident where masked protesters on a train shouted, "Raise your hands if you're a Zionist. This is your chance to get out."

The Washington Post, 06/24/2024

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

AMERICA: A summertime wave of COVID-19 infections is arriving earlier than last year across a growing share of the country as a new variant called LB.1 could be on track to become the latest dominant strain of the virus. For the first time in months, the CDC estimates that no states or territories are seeing COVID-19 infections slow this past week. Key virus indicators appear to be worsening fastest across a number of western states, where trends first began climbing this month (**CBS News**).

AMERICA: A study by the University of Pennsylvania School of Nursing suggests chronically understaffed US hospitals had higher rates of COVID-19 deaths early in the pandemic. The study found that the likelihood of surviving COVID-19 was related to hospitals' investments in nursing services prior to the pandemic—in terms of hiring sufficient numbers of RNs, BSNs and having "favorable work environments" (**International Journal of Nursing Studies**).

UNITED KINGDOM: Socially connected older adults had a larger drop in quality of life and life satisfaction, and increased feelings of loneliness, during the COVID-19 pandemic than their more isolated counterparts. University College London researchers expected that older adults who already were isolated before the pandemic would be more vulnerable to its disruptions and restrictions. "In fact, our study suggests the opposite — that isolated older people were somewhat protected from the negative aspects of pandemic restriction, perhaps because they had less to lose in terms of social connections," co-author Andrew Steptoe, PhD said (**Proceedings of the National Academy of Sciences**).

AMERICA: Black and Hispanic adults were twice as likely than their White peers to be unable to renew their Medicaid enrollment after the end of the COVID-19 public health emergency (PHE) in spring 2023. Researchers from Northwestern University analyzed data from seven waves of the US Census Bureau's Household Pulse Survey to estimate the racial distribution of adult Medicaid disenrollment from March to October 2023 (**Jama Internal Medicine (JAMA Internal Medicine)**).

MIDWEST: Researchers at Washington University School of Medicine in St. Louis have determined cannabis use is linked to an increased risk of more serious COVID-19 outcomes, including hospitalization and ICU admission—similar to risks from tobacco use. Among the 72,501 participants 70.4% needed hospitalization, 6.5% required an ICU visit, and 3.7% died. Of the study participants, 13.4% currently smoked; 24.4% formerly smoked; and 9.7% reported current use of cannabis (**JAMA Network Open**).

AMERICA: The initial closure of schools was not a mistake, Dr. Anthony Fauci said Tuesday on "CBS Mornings," but he questioned the length schools were kept shut. "How long you kept it was the problem," Fauci said, "because there was a disparity throughout the country. I kept on saying, 'Close the bars, open the schools. Open the schools as quickly and as safely as you possibly can.' But initially to close it down was correct. Keeping it for a year was not a good idea." (**CBS News**)

SAN FRANCISCO: A University of California – San Francisco study suggests headache, fatigue, malaise, and chills after COVID-19 vaccination are signs the immune system is marshalling a strong response against future infection, suggests a study posted today in the *Annals of Internal Medicine*. "Generally, we found that the higher the number of side effects, the higher the level of antibodies," said first author Ethan Dutcher, MD, PhD (**Annals of Internal Medicine**).

THE WORLD: Scientists have discovered differences in the immune response that could explain why some people seem to reliably escape Covid infection. The study, in which healthy adults were intentionally given a small nasal dose of Covid virus, suggested that specialized immune cells in the nose could see off the virus at the earliest stage before full infection takes hold. Those who did not succumb to infection also had high levels of activity in a gene that is thought to help flag the presence of viruses to the immune system (**The Guardian**).

CALIFORNIA: As the COVID-19 summer swell intensifies, many people who have previously recovered from the virus are falling ill again due to new variants known as FLiRT. UCSF infectious disease specialist Dr. Peter Chin-Hong noted that this trend is becoming more common with omicron offshoots, as the coronavirus falls into a predictable pattern of surging approximately every six months. (**San Francisco Chronicle**).

SPAIN: Cancer patients who are up to date on vaccines and have received COVID-19 boosters are more protected against death and serious complications than unvaccinated patients. Spanish researchers found that that cancer patients had 51.8% protection against COVID-19 hospitalization and COVID-19 death, respectively after full (two-dose) vaccination and 77.9% and 80.2% (95% CI, 63.0% to 89.4%) after a booster dose (**Nature Communications**).

AMERICA: Johns Hopkins researchers have found that women are more than twice as likely as men to report local adverse events (AEs) after influenza or COVID-19 vaccination, with more disruptions in daily life. Most (53%) reported no inconvenience, 23% reported mild inconvenience, 18% reported moderate inconvenience, and 5% reported severe inconvenience (**Biology of Sex Differences**).

WASHINGTON, DC: In a Children's National Hospital study infants of mothers with high anxiety and stress levels amid the COVID-19 pandemic showed differences in brain development. Newborns of mothers with elevated distress showed median reductions in brain volumes of white matter compared with infants of women with low distress (**JAMA Network Open**).

COVID-19, 06/28/2024

Global Cases – Deaths
775,615,736 – 7,051,736

Vaccine Doses Globally
5.47 billion

U.S. Cases – Deaths
103,436,829 – 1,188,935

CDC, WHO

Covid-19 Cases on the Rise in Nursing Homes

In the first two weeks of June 2024, rates of infection among both staff and residents surged by approximately 30% compared to the four weeks ending May 26.

Vaccination rates declined. In the week ending May 26, only 30% of nursing home residents and a mere 10% of staff were up to date on their COVID-19 vaccinations.

In May 2023, 55% of residents and 22% of staff were up to date; in May 2022, 72% of residents and 48% of staff had at least one booster. In June of 2021, 78% of residents and 57% of staff were fully vaccinated.

CIDRAP, 06/24/2024

Citywide Action to Stop Legionnaire's Disease

Grand Rapids, a city of about 11,000 people in Northeast Minnesota, has begun permanently chlorinating its water, in hopes of curbing a Legionnaires Disease outbreak that has sickened at last 23 people in the past year.

Twenty were hospitalized. None have died.

Last Monday, the city began disinfecting its water supply with chloramine — a combination of chlorine and ammonia. It will take about a week for the chloramine to make its way through the city, depending on how much water people use.

Minnesota Public Radio, 06/25/2024

A Rise in Cannabis-Related Disorder Encounters in Seniors

From 2017 to 2022, there was an increase in the rates of cannabis-related disorder encounters among U.S. Medicare beneficiaries aged 65 years or older.

Silvia Perez-Vilar, PhD, PharmD, and colleagues at the Food and Drug Administration characterized trends in healthcare encounters with cannabis-related disorders among Medicare beneficiaries aged 65+.

The eligible population included 55,941,880 unique beneficiaries. Researchers with the FDA found that from 2017 through 2022, there was an increase in the rates of healthcare encounters with cannabis-related disorders, regardless of state or territory cannabis legal status.

HealthDay News, 06/17/2024

ALF Group Sued for Alleged W/C Discrimination

After sending in testers to pose as family members seeking admission information for relatives using wheelchairs.

The Fair Housing Justice Center filed a disability discrimination lawsuit against Harbor View Senior Living Residence LLC, the owners and operators of several adult care and assisted living facilities in New York state.

The complaint alleges the owners/operators violated the Fair Housing Act and the Affordable Care Act by applying a blanket policy of turning away wheelchair-users in favor of prospective residents who did not use wheelchairs.

The FHJC alleged some operators' websites and promotional materials promote discriminatory policies against wheelchair users.

Senior Living, 06/18/2024

Customers Being Notified In The 'Change' Cyberattack

Change Healthcare is starting to notify customers that they may have had patient information exposed in the massive cyberattack.

The company also said it expects to begin notifying individuals or patients in late July.

Change Healthcare, a subsidiary of health care giant UnitedHealth Group, provides technology used to submit and process billions of insurance claims a year. Hackers gained access in February to its system and unleashed a ransomware attack that encrypted and froze large parts of it.

After the attack, UnitedHealth paid a \$22 million ransom in bitcoin.

Associated Press, 06/20/2024

ONE COLUMN

Marine Died Alone, Forgotten But Not at His Funeral

Former U.S. Marine Gerry Brooks died alone at a nursing home in Maine, abandoned and all but forgotten.

He was widowed and lived in Augusta. He died less than a week after entering a nursing home.

The funeral home and authorities reached his next of kin, but no one was willing to come forward or take responsibility for his body.

Then the funeral home posted a notice asking if anyone would serve as a pallbearer or simply attend his burial.

Within minutes, it was turning away volunteers to carry his casket.

A bagpiper came forward to play at the service. A pilot offered to perform a flyover. Military groups across the state pledged a proper sendoff.

Hundreds of people who knew nothing about the 86-year-old beyond his name showed up on a sweltering afternoon and gave Brooks a final salute with full military honors at the Maine Veterans' Memorial Cemetery in Augusta.

Patriot Guard Riders on motorcycles escorted his hearse on the 40-mile route from the funeral home in Belfast, Maine, to the cemetery.

Members of the Veterans of Foreign Wars paid tribute with a 21-gun salute. Volunteers held American flags next to the casket while a crane hoisted a huge flag above the cemetery entrance.

Some saluted while filing by. Others sang The Marines' Hymn.

"It's an honor for us to be able to do this," said Jim Roberts, commander of the VFW post in Belfast.

Roberts said the VFW is called a couple times a year about a deceased veteran with no family or with one that isn't willing to handle the funeral arrangements. But "we will always be there."

Associated Press, 06/21/2024

You Did it Wrong? Uncle Sugar ‘Gonna’ Get You

The IRS said it plans to deny tens of thousands of improper, high-risk employee retention credit claims from employers, totaling billions of dollars, after a review found “a large number of improper claims.”

The fraud reduction effort comes as the IRS starts a new round of processing of lower-risk claims for eligible taxpayers.

Insights gleaned from the review of “risky” activity will be used “to deny billions of dollars in clearly improper claims and begin additional work to issue payments to help taxpayers without any red flags on their claims,” IRS Commissioner Danny Werfel said in a statement.

McKnight's, 06/25/2024

Pennsylvania Nurse Changed With Pilfering Pain Pills

In Pennsylvania an agency nurse is accused of taking prescription painkillers and anxiety and panic disorders meds from 13 residents at nursing home in the Pittsburgh area.

Monica Blackwell allegedly told the state Attorney General’s agents that she took hydrocodone and oxycodone for her own use.

Pills were removed from their blister packs but not recorded on the MAR. In some cases, more doses of oxycodone were taken from than were prescribed for the patient.

Blackwell is also accused of forging a letter from a UPMC Behavioral Health doctor in order to return to her nursing job with another nursing home.

Tribune Review, 06/21/2024

New Jersey Groups Push For \$103 Million for SNFs

With a July 1 deadline, leaders with the Health Care Association of New Jersey and LeadingAge New Jersey & Delaware made their final push for an additional \$103 million to address caregiving and staffing issues – a reduction from the original goal of \$200 million.

Both groups say they need the funding to ensure that vulnerable seniors are not neglected in the state budget.

Meanwhile, the state’s Office of the Long-Term Care Ombudsman has made a parallel push supporting legislation that would nearly triple the personal needs allowance received by Medicaid recipients each month — from \$50 to \$140.

McKnight's, 06/25/2024

Spouses Can Now Live In Florida Veterans’ Homes

Florida Gov. Ron DeSantis signed legislation during a press conference Thursday at Baldomero Lopez State Veterans' Nursing Home in Pasco County north of Tampa, that will allow spouses of military veterans to be admitted to the state’s veteran homes.

Spouses of former military members are now fifth on the priority list to be admitted to one of the state's nine veterans' care facilities - eight SNFs and one assisted living facility.

The new law also gives free hunting and fishing licenses to disabled veterans and requires public schools to teach about Veterans Day and Memorial Day.

WUSF-FM, 06/21/2024

A Loss and a ‘No Decision’ For NY Nursing Homes

Providers lost a lawsuit against NY’s so-called “70/40” spending requirement in a 2021 law that requires nursing homes to spend a minimum of 70% of revenue on patient care and mandates that 40% of that portion be spent on staffing.

Providers filed suit, charging the rule is a regulatory overstep and unfairly singles out nursing homes in violation of equal protection clauses in both the state and US constitutions.

A New York Supreme Court judge ruled against the contention that the spending requirement is unconstitutional and did not yet rule on other parts of the lawsuit.

McKnight's, 06/24/2024

Briefly in the News

The drug is called *Leqembi*. It’s taken by people with mild dementia, but there has been a rare complication – brain swelling and bleeding. Three people have died. The complication is called ARIA - short for “amyloid-related imaging abnormalities,” with imaging referring to the MRI scans needed to find the brain bleeding and swelling. (*Los Angeles Times*).

Missouri’s delays in processing Medicaid applications — among the worst in the nation — have the attention of federal regulators, who will conduct a “focused review” of the problem, according to a letter obtained by The Independent. CMS sent a letter to the state last month saying it is concerned the state is not doing enough to “achieve and sustain” compliance with federal rules on Medicaid. Because of these concerns, the agency will intervene to help Missouri identify strategies to come back into compliance (*St. Louis Public Radio*).

A.G. Rhodes officially opened its new \$37 million 72-bed “household-model” building. The new memory care-focused SNF in Marietta, Georgia, as well as an attached building that was renovated, are the first fruit of the 120-year-old nonprofit’s commitment to transitioning all three of its locations to single-occupancy rooms (*McKnight's*).

The Feb. 21 ransomware attack on Change Healthcare, a subsidiary of UnitedHealth Group that serves as a clearinghouse for insurance payments and pharmacy prescriptions, disrupted operations at hospitals and clinics nationwide, including the Defense Department and VA. Four months after a crippling cyberattack on a company that manages prescription processing and community provider payments for the Department of Veterans Affairs, the VA continues to address the fallout, with officials saying Tuesday they are taking steps to clear a backlog of payments to pharmacies and medical providers (*Military.com*).

A bipartisan group of lawmakers is urging the Biden administration to prohibit Medicare Advantage insurers from using artificial intelligence tools to deny care until it completes a systematic review of their accuracy and effects on patients (*STAT*).