

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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Edited by Drew Vogel

drewvogel5255@msn.com

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They said it

"....at the end of the day, this is the direction we had to go in. For you all, you need to let the surveyors in" CMS nursing home director Evan Shulman, reiterating that surveyors need not be vaccinated to enter a SNF

"Those PCR tests are very sensitive, they keep picking up dead virus in your nose for sometimes for weeks, but you can't grow that virus in the lab. You can't spread it, but it can be positive" Chicago Department of Public Health Commissioner Dr. Allison Arwady commenting that some people test positive even after they don't have the virus

"....understandable but disappointing that CMS has chosen not to follow CDC's guidance" Deb Burdsall, PhD, CIC, a consultant with the Association for Professionals in Infection Control and Epidemiology and the Illinois Department of Health commenting that CMS will allow for part time infection preventionists

The Robotic Age Has Reached the Nursing Home

A professor from the University of Minnesota Duluth is rolling out a fleet of robots to nursing homes to provide entertainment and well-being checks.

Arshia Khan programmed a robot known as Pepper, a 4-foot white and silver robot that can tell several hundred jokes as well as stories, games and dances. It also has a more personalized function. Families can upload photos that the robot shows on its screen.

"Let the robots handle the mundane, boring daily tasks, and leave the essential, more tasks that require some thinking and stuff like that for humans to take care of," Kahn explained.

Minnesota Public Radio, 07/07/22

Turnover & Weekend Staffing Now in Your 5 Star

Staff turnover rates and weekend staffing levels in SNFs are now incorporated into providers' Five-Star Ratings.

CMS said last week Care Compare's July 2022 refresh includes the revision into the methodology for calculating staffing star ratings. It also is being less generous with star upgrades for some facilities.

New staffing measures include total nurse staffing hours per resident per day weekends; total nurse staff turnover within a given year; registered nurse turnover within a given year; and number of administrators who have left the nursing home within a given year.

CMS Five Star User Guide, 07/07/22

Huh? Fingerprint SNF Owners for Criminal Checks

Nursing home owners could face heightened fingerprint background screening requirements under a proposal tucked more than 1,000 pages into a huge new proposed physician pay rule.

The CMS-proposed rule would move skilled nursing facilities from a "limited-risk" screening category to the "high" level.

In explaining the rationale, CMS said requiring owner fingerprints for criminal background checks ".... would help us detect parties potentially posing a risk of fraud, waste, or abuse and, with this, the threat of patient abuse."

Fingerprint-based criminal background checks are currently used for owners of home health agencies, durable medical supply providers and others.

McKnight's, 07/08/22

OSHA Eliminates Deadline On COVID Inspections

OSHA has extended its COVID inspection program indefinitely. It's also temporarily increasing its COVID inspection goal from 5% to 10% of

inspections as the agency works to finalize a permanent coronavirus healthcare standard.

The program, which was set to expire July 7, focuses on enforcement efforts toward industries with a high risk for worker exposure to COVID-19, and employers that retaliate against workers who complain about unsafe or unhealthy conditions.

Home Health and LTC are among OSHA's targeted industries.

Dept. of Labor news release, 07/07/22

Part-Time Option Means Juggling Infection Control Staff

While nursing homes have had six years to prepare for new infection preventionist guidance, CMS revealed recently they will not necessarily need to appoint someone to the role full-time.

In a memo to state surveyors, CMS nursing homes will need an IP with "specialized training onsite at least part-time to effectively oversee the facility's infection prevention and control program."

The move could be due to the current labor shortage in skilled nursing — and the fact that 40% of existing IPs are approaching retirement age.

Nevertheless, providers worry SNF remain unprepared for the next major infectious disease outbreak.

McKnight's, 07/04/22

Skilled Nursing Occupancy Steady but Still Low

Skilled nursing property occupancy held steady at 77.3%. However, occupancy has increased 1.4% since January 2022 after Omicron subsided.

In addition, occupancy has increased 5.24% since the low of 72.1% in January 2021 and remains at the highest occupancy level since April 2020.

Managed Medicare revenue decreased from \$456 to \$454 in April and is down 2.1% from last year in April 2021. It has decreased \$111 (19.6%) from January 2012, and continues to create pressure on operators' revenue.

NIC, 06/30/22

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

AMERICA: The seven-day average of COVID-19-related hospitalizations in the U.S. jumped to 34,731 on July 6, up 13% from two-weeks ago and the most since March 7. The daily average of those hospitalized in intensive-care units (ICUs) as increased 14% in two weeks. The rise in hospitalizations comes as the U.S. Food and Drug Administration said pharmacists can now prescribe Pfizer Inc.'s COVID-19 pill Paxlovid directly to patients (*Market Watch*).

WASHINGTON, DC: The U.S. Supreme Court declined to hear a challenge to New York's mandate that healthcare sector workers be vaccinated against COVID-19. The suit was brought by a group of doctors, nurses and others who objected on religious grounds. Turning away an appeal by 16 healthcare workers, the justices left in place a lower court ruling that rejected their claim that the mandate violates the U.S. Constitution's First Amendment prohibition against religious discrimination by the government (*Reuters*).

MECCA: One million fully vaccinated Muslims, including 850,000 from abroad, are allowed at this year's hajj, a major break from two years of drastically curtailed numbers due to the pandemic. Most pilgrims are not wearing masks (*AFP*).

AMERICA: A new COVID-19 wave is emerging in the United States, dominantly propelled by two strong omicron strains. First seen in South Africa, later in Portland, the BA.5 subvariant has been pegged as the "worst version" of omicron by experts, as it evades antibodies and transmits easily. Last week, the BA.5 strain alone made up 36% of cases in the U.S., while BA.4, another omicron subvariant gaining momentum, had a hold on 15.7% of infections (*NBC New York*).

MASSACHUSETTS: The omicron BA.2.12.1 subvariant has been the predominant variant across the region for several weeks, but now the omicron BA.5 subvariant is on the rise in New England. The BA.5 variant now represents 28.7% of new cases in the region, up from 18.9% in

last week's variant report from the CDC. The omicron BA.2.12.1 subvariant now represents 51.4% of new cases, down from 61.7% in last week's report (*The Boston Herald*).

AMERICA: Omicron-based booster shots will roll out this fall, following a decision by the Food and Drug Administration to include a component from BA.4 and BA.5, the omicron subvariants gaining ground in the United States. The new boosters will include the original formula based on the virus that spread in early 2020 as well as a formula tailored to the omicron subvariants (*The Washington Post*).

THE WORLD: A study published in *The Lancet* finds the omicron variant is less likely than delta to cause long COVID, but nearly 5% of people infected with omicron still suffer fatigue, brain fog, headaches, heart problems, or other health issues at least a month after catching it (*National Public Radio*).

COLORADO: Bandimere speedway filed a new lawsuit against the Colorado Department of Public Health and Environment and Gov. Jared Polis, arguing that mandates issued in response to COVID were unconstitutional (*KCNC-TV*).

CALIFORNIA: Final arguments in Scott Peterson's attempt to overturn his murder conviction were postponed Tuesday after one of his lawyers contracted COVID-19 and Peterson was put on "loose quarantine" at San Quentin State prison after his pod was exposed. Peterson was convicted for the murder of his pregnant wife and sinking her body in San Francisco Bay in 2004 (*Mercury News*).

THE NETHERLANDS: The number of positive COVID-19 cases in the Netherlands increased to 34,145 last week. As the number of infections keeps rising, various nursing homes have begun to request that their healthcare workers wear masks to work. Almost 400 nursing homes in the Netherlands have reported new positive COVID-19 cases over the past four weeks (*Euractiv*).

OHIO: A 14-year-old Amur tiger, Jupiter, passed away on Sunday, June 26, 2022, after developing pneumonia caused by the COVID-19 virus. Jupiter had been on

long term treatment for chronic underlying illnesses, which made him more susceptible to this virus. Jupiter is the first animal at the Columbus Zoo to succumb to COVID-19 (*Columbus Zoo news release*).

MONTANA: An East Helena man who admitted lying in a scheme to receive nearly \$1.4 million in Paycheck Protection Program (PPP) loans for coronavirus relief aid and using the money instead for personal benefit, was sentenced to 30 months in prison. Trevor Gene Lanis-McLeod, 48, pleaded guilty to bank fraud and to engaging in monetary transactions in property derived from specified unlawful activity (*Great Falls Tribune*).

CANADA: The provincial government announced it is dropping nearly all remaining COVID-19 restrictions in Nova Scotia. Isolation will no longer be mandatory for Nova Scotians who have tested positive for the covid-19 virus. Instead, isolation will be "strongly recommended." Mask wearing will also shift from strongly recommended to optional (*Huddle Today*).

HONG KONG: Steven Ho, a Hong Kong lawmaker who met President Xi Jinping during a rare visit by the Chinese leader to the territory June 30, says he tested positive for COVID-19 two days after the meeting. It was his first public trip outside the Chinese mainland since the coronavirus pandemic began (*Al Jazeera*).

CALIFORNIA: Los Angeles County health officials Monday reported 15,413 new cases of COVID-19 and 18 additional deaths linked to the virus over the three-day Fourth of July weekend (*Spectrum News*).

COVID-19, 07/09/2022

Global Cases – Deaths
554,537,149 – 6,349,710

U.S. Cases – Deaths
88,547,882 – 1,020,816

221.9M – 67% of the country's population is fully vaccinated

Johns Hopkins University

Surveyors Are Free To Infect Your Building

During a live video address last week at the NADONA convention in New Orleans, Evan Shulman, director of CMS' nursing home division told dismayed nurse leaders State surveyors do not have to be vaccinated against COVID-19 to enter any nursing home.

Providers are incredulous that while the U.S. Supreme Court upheld a CMS requirement that healthcare workers either be vaccinated or receive a waiver, surveyors are under no such obligation.

Worse, they could visit multiple facilities in a given week, acting as unknowing, asymptomatic spreaders, as occurred in the very first US outbreaks in Seattle-area long-term care facilities in 2020.

McKnight's, 07/07/22

Coughs Up \$1.75 Million, But Denies It Vaccinated Donors

MorseLife Health System, A Florida-based operator, has agreed to a \$1.75 million settlement on claims it violated the Pharmacy Partnership for Long-Term Care Program by vaccinating ineligible people.

The DOJ alleged MorseLife knew the program covered only long-term care residents and staff but vaccinated "hundreds of ineligible persons at the clinic by characterizing them as staff and volunteers."

Federal investigators said many of the ineligible people were either donors or targeted by MorseLife for donations.

MorseLife despite "strongly denying" the allegations, said in a statement it "chose to settle this matter to avoid the expense and distraction of protracted litigation."

DOJ news release, 07/01/22

Over a Thousand Workers Threaten Nursing Home Strikes

In New York, more than 1,200 workers at 12 nursing homes have authorized one-day strikes on July 12 and 13 after failed negotiations for a new labor agreement with Elderwood, its operator.

Workers are seeking a \$15 minimum hourly wage, higher starting rates and wage scales for experienced employees, according to 1199SEIU United Healthcare Workers East.

In Detroit, workers at SKLD Bloomfield Hills, a 159-bed skilled nursing facility, have approved a scheduled strike for July 11, according to SEIU Healthcare Michigan. They're seeking better staffing levels and more resources.

McKnight's, 07/04/22

Admissions Cause COVID? It's Just Campaign Fodder

Doug Mastriano, Pennsylvania's Republican nominee for governor, in his stump speeches has alleged Democratic Gov. Tom Wolf's policy of readmitting COVID-19 patients from hospitals to nursing homes caused thousands of deaths.

There has been no evidence that the charges I true.

Layers of inspections by researchers have pointed to entirely something different — nursing home employees bringing in the virus every day — while investigators found administrators flouting staffing requirements or infection-control procedures.

No Pennsylvania SNF has made a claim like Mastriano's, and researchers say the spread of the virus in nursing homes directly correlated to community spread.

U.S. News & World Report, 07/05/22

More Vaccine Doses = Less Long COVID

Long COVID was less likely to occur in healthcare workers who had received two or three mRNA COVID-19 vaccine doses compared with those who weren't vaccinated.

Among hospital workers infected with SARS-CoV-2 in Italy, long COVID prevalence was 41.8% for those who were unvaccinated, 30% with one vaccine dose, 17.4% with two doses, and 16% with three doses.

Lingering symptoms were more common in people infected during the first wave of the pandemic than later periods.

MedPage Today, 07/05/22

ONE COLUMN

Beware! OSHA is not Done With the COVID-19 Initiative

Even though OSHA's Covid-19 focused inspection initiative has ended, LTC operators "should continue to be vigilant."

Fisher Phillips attorney J. Micah Dickie said that includes "excluding employees and vendors from the workplace who have contracted COVID-19" and be sure everyone follows the control you put in place.

Particularly long-term care providers have been under increased scrutiny from OSHA ever since the agency launched the initiative in March to protect workers by controlling the spread of COVID-19.

March 9 to June 9, OSHA was required to devote a full 15% of all of its inspections per region to SNFs and ALFs, general medical and surgical hospitals, and psychiatric and substance abuse hospitals. At the time OSHA also noted that it could adjust or terminate the 15% threshold.

"And as Fisher Phillips' OSHA Inspection Tracker shows," Dickie said, "the actual percentage of inspections on average for all regions was somewhere closer to 6% than 15%."

Even though the initiative has ended, Dickie said long-term care providers remain under OSHA scrutiny.

Several industry associations have referred to proposed rule's requirements "overly prescriptive" and confusing. Nevertheless, OSHA may move forward on the healthcare emergency temporary standard by November.

Beyond it's stated motivation, why is OSHA moving forward? According to attorney Dickie, the initiative was clearly targeted to provide justification for either a final rule closely mirroring the OSHA healthcare [emergency temporary standard] or a preliminary rule covering infectious diseases.

McKnight's Business Daily, 06/27/22

CMS Getting Congressional Pressure to Phase in Cuts

Two groups of House and Senate lawmakers, in separate letters to CMS, urged the agency to reconsider its plans to lower PDPM rates by 4.6% to account for unintentional overpayments. It would amount to a \$320 pay cuts for SNFs in FY2023.

The lawmakers also asked for reexamination of the agency's plans to establish mandatory minimum SNF staffing levels.

Some of the lawmakers argued it would lead to more closures that would be especially difficult for rural communities. Others expressed concerns about implementing a minimum staffing mandate without an increased supply of caregivers.

McKnight's, 07/06/22

Black & Younger Most Likely To Transfer SNF to Hospital

According to the OIG nursing homes transfer roughly 25% of their residents to the hospital at least once, at a cost of \$14.3 billion to Medicare.

But a study by the University of Missouri discovered repeat transfers are much higher for black nursing home residents and those under age 65.

In the study, in *BMC Health Services Research* by MU's Sinclair School of Nursing, found that black nursing home residents, those under age 65 and those with "full-code" status were significantly more likely to be transferred to the hospital, at least four times or more in a year.

MedicalXpress, 07/01/22

PBJ Data May Get You Dinged on a Survey

You'll need to be prepared for the questions surveyors will be asking you about your staffing in future surveys.

CMS now plans to incorporate Payroll Based Journal staffing figures into investigations about potential noncompliance with nurse staffing requirements.

Surveyors will be looking for problems such as insufficient staffing, lack of a registered nurse for eight hours each day, and a lack of licensed nursing for 24 hours a day.

It all part of the updated guidance CMS sent out last week.

McKnight's, 07/01/22

Providers to Gov't: Speed Nurse Immigration Process

A long-term care coalition is calling on the U.S. Citizenship and Immigration Services to address an ongoing issue at its Texas premium processing unit that's causing "significant delays" in tapping immigrant workers for "much-needed nursing positions."

The coalition, whose members include AHCA and LeadingAge, sent a letter recently to the agency complaining that although immigrant petitions that are being processed within a 15-day timeframe, it's taking between four and six months for the file to be transferred to the National Visa Center.

"This delay is frustrating and is defeating the benefit of premium processing," the letter concluded.

McKnight's, 07/01/22

It's a No-No to Cut Residents To Maximize Reimbursement

Plaza Rehab and Nursing Center, an 816-bed facility in Bronx, NY, and its operator, Citadel Care Centers is settling a \$7.85 civil healthcare suit with the Department of Justice.

DOJ said Citadel pressured Plaza Rehab staff to increase the number of residents enrolled in original Medicare in order to increase their reimbursements.

Plaza staff allegedly then disenrolled many residents from their self-selected Medicare Advantage plans and enrolled them into Medicare without getting consent from the residents or their representatives "in many instances."

Dept of Justice news release, 07/01/22

Briefly in the News

LeadingAge California has been awarded more than \$25 million dollars by the CalHHS Department of Health Care Access and Information (HCAI) over the next three years for The Gateway-In Project© to expand on Certified Nurse Assistant (CNA) and Home Health Aide (HHA) pipeline development, training and retention programs. California, with the country's largest number of older adults, has projected an additional 275,000 direct care workers will be needed by 2026 (*LeadingAge California news release*).

Jeff Leer has been appointed president and CEO AlerisLife, a position he has held on an interim basis since April 30. The move comes as the company plans to cut costs and make operational changes to try to increase occupancy. AlerisLife, formerly Five Star Senior Living, operates 140 senior living communities, with approximately \$900 million in annual revenues, but reported a net loss of \$9.7 million in the first quarter this year (*Senior Living*).

Pandemic-era bailouts for hospitals kept small community health centers afloat in the early days of the pandemic, as coronavirus cases burned through their resources. But the \$178 billion bailout also inflated the bottom line for larger, more financially secure hospital systems. Some hospitals with already-healthy budgets reaped as much as \$1 billion in surplus revenue after benefiting from the federal aid, a soaring stock market and surging payments for patient care (*The Washington Post*).

In NIC's Wave 42 survey, providers say rising operating expenses will limit the degree to which operating margins will grow in the next six months. Anticipated increases in operating margins have contracted since Wave 38 survey results were released in March. At that time, 75% of respondents said they expect operating margins to grow (*NIC*).

Doctors and lawmakers in California want cannabis producers to warn consumers of the risk of schizophrenia on packaging labels and advertising, like requirements for cigarettes. The risk is more than four times as great for people who use high-potency marijuana daily than for those who have never used.