

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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They said it

"We are confident that restoring the minimum standards for compliance with CMS requirements is really the right direction we should be going in," Jean Moody-Williams, CMS deputy director of the Center for Clinical Standards and Quality on returning to pre-pandemic standards sans waivers

"While the county is a great place to work, benefits are great and wages are fair, that doesn't mean staff can afford to live here" Darcel Vaughn, Gallatin Rest Home Administrator in Bozeman, MT after county passed bill to provide funds for traveling nurses, on difficulties in hiring

"It's certainly not a model we necessarily agree with. That's not the way to drive quality, in our opinion" Ensign CEO Barry Port on the federal government's plan to implement minimum staffing requirements for nursing homes

A Fundraiser, then Ukrainian LTC Residents Evacuated

Residents trapped at a nursing home near the frontline of war in eastern Ukraine are to be evacuated thanks to donations from a fundraiser held thousands of miles away in New Orleans in the US.

Ukrainian-born Katya Chizayeva, who now lives in the Louisiana city, organized the event at a restaurant after reading about the plight of residents at the facility in Chasiv Yar, a village just kilometers away from the frontline. A total of \$8,000 was raised for the nursing home.

The nursing home's director, Levhen Tkachov, said money will go towards making the accommodation suitable for the residents.

The Guardian, 05/02/22

Slim Chance of PDPM Phase-in – But

In April CMS announced plans to lower nursing home PDPM rates by 4.6% — a \$1.7 billion decrease — to account for unintentional overpayments.

And that may still happen. But All hope is not lost for skilled nursing providers hoping for relief from that reduction in reimbursement rates.

The agency is taking comments on the matter through June 10, which, according to Robin Hillier, a reimbursement expert and president of RLH Consulting, may indicate it's still considering phasing in the cuts.

Hillier added that providers should take this opportunity to hope for the best but prepare for the worst.

McKnight's, 05/03/22

Florida's Bid to Close SNF Denied on Appeal

A state appeals court thwarted a move by Florida's health care regulators to rescind the license of Destin Healthcare and Rehabilitation Center, a 119-bed skilled nursing facility in Destin, FL.

The state had issued the emergency order in April after the facility accepted 57 new residents during a two-month period despite having insufficient staff.

Florida law requires nursing homes that fail to meet the minimum staffing requirements for two consecutive days to stop accepting new residents until staffing issues are resolved.

The facility successfully argued that although understaffed, residents were not in danger. About 27 residents remain.

Florida Politics, 05/04/22

Excessive Charges for Installing Grannie Cams

Since Ester's Law went into effect in Ohio a month ago – allowing families to place cameras in resident rooms, some facilities started charging families \$200 to \$800 installation fees.

Steve Piskor, who pushed for Esther's Law after his elderly mother was caught

being abused on a hidden camera, said he feels charging more than what it costs to install is retaliation, which is prohibited under the law.

Complaints were filed, and mostly resolved by the state long-term care ombudsman, but Piskor wants the Ohio Department of Health to make clear such incidents can't happen again.

The Columbus Dispatch, 05/05/22

SCOTUS to Rule on Case Affecting All Nursing Homes

In a case that could add a new right for private lawsuits to the federal Nursing Home Reform Act, the Supreme Court has agreed to review a ruling that revived an injury lawsuit against a nursing home.

The case involves a dementia resident living at an Indiana state-owned facility, whose family alleged the facility failed to comply with the by administering "unnecessary" psychotropic medications, which caused his physical and cognitive condition to rapidly decline.

An Indiana district court dismissed the original lawsuit in 2020. But an appeals court reversed the decision. The provider then appealed to SCOTUS.

McKnight's, 05/03/22

Massachusetts Settles with 5 SNFs Amid Neglect Charges

Attorney General Maura Healey announced during the week that her office has secured settlements with five Massachusetts nursing homes to resolve allegations of patient neglect, insufficient staff training, and inadequate care.

The settlements will return more than \$250,000 to the state, including more than half to the Massachusetts Department of Public Health's Long Term Care Facility Quality Improvement Fund.

The fines include Sarah Brayton Nursing Center, Fall River \$81,500; Heritage Hall North, Agawam - \$55,175; Brandon Woods, New Bedford - \$52,000; Heritage Hall West, Agawam - \$33,725; and Wingate at Silver Lake - \$30,000.

Mass. AG News Release, 5/03/22

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

AMERICA: U.S. regulators on Thursday strictly limited who can receive Johnson & Johnson's COVID-19 vaccine due to the ongoing risk of rare but serious blood clots. The FDA said the shot should only be given to adults who cannot receive a different vaccine or specifically request J&J's vaccine. U.S. authorities for months have recommended that Americans starting their COVID-19 vaccinations use the Pfizer or Moderna shots instead (**FDA news release**).

OHIO: Gov. Mike DeWine signed into law House Bill 120, which allows compassionate care visits in long-term care facilities during an epidemic, pandemic or other states of emergency. The law also requires long-term care facilities to develop and implement a visitation policy (**Mahoning Matters**).

AMERICA: A study of more than 3.5 million fully vaccinated Americans indicates that relative to the Pfizer/BioNTech COVID-19 vaccine, the Moderna version confers slightly more protection against infection—but not hospitalization, intensive care unit (ICU) admissions, or death—90 days after the second dose (**Nature Communications**).

SAN FRANCISCO: BART (Bay Area Rapid Transit) riders are required to mask up once again, effective immediately, after the transit agency's board of directors voted to reinstate a COVID mask mandate through mid-July. (**The Mercury News**).

ITALY: Visitors no longer have to fill out the EU passenger locator form, a complicated online ordeal required at airport check-in. Italy also did away with the health pass that had been required to enter restaurants, cinemas, gyms and other venues. (**The Washington Post**).

WASHINGTON: King County has moved from a "low" community COVID-19 level to "medium," per federal guidance, as infection rates increase. However, despite the movement upward there are no plans to reintroduce past mitigation requirements, such as an indoor masking mandate or vaccine checks (**Seattle Times**).

HAWAII: The only skilled nursing and rehabilitation facility in central Oahu expects to close this summer. Wahiawa General Hospital said it plans to close its long-term nursing center on July 22, citing insufficient reimbursements, continued financial challenges and the inability to hire and retain staff during the COVID-19 pandemic (**Hawaii News Now**).

THE WORLD: People over 60 years old should be getting a second COVID-19 booster shot. Ashish Jha, M.D., the new White House COVID-19 response coordinator, said new data out of Israel is "pretty compelling for people over 60" after being asked about the need for people 50 and older to get a second booster shot (**McKnight's**).

CALIFORNIA: Following spring break at least 60 students at Los Gatos High School near San Jose have tested positive for COVID-19 in the past two weeks. The school sent out more than 2,000 exposure notices reaching almost the entire student body. Fifty of the students who tested positive for COVID-19 were potentially infectious on campus. Only about 10% were discovered through the school's weekly testing system (**The Mercury News**).

GREECE: The civil aviation authority announced that it was lifting all COVID-19 rules for international and domestic flights except for the wearing of face masks during flights and at airports. Previously, air travelers were required to show proof of vaccination, a negative test or a recent recovery from the disease (**The Washington Post**).

DELAWARE: The state Senate has approved a measure that would allow nursing homes and assisted living facilities to make getting a flu shot a condition of employment. Under previous state law, providers weren't allowed to make hiring decisions contingent on staff flu vaccination status. Currently about 17 states have flu shot requirements for long-term care workers (**McKnight's**).

CALIFORNIA: After months of declining numbers, California has recorded a nearly 30% increase in coronavirus cases and smaller rises in hospitalizations. The increase coincides with a loosening of COVID-19 restrictions such as mask mandates and vaccine verification rules as well as the rise of new subvariants of the highly transmissible Omicron strain (**Los Angeles Times**).

SHANGHAI: A nursing home resident was taken to the morgue while still alive. The nursing home apologized, but the error has triggered widespread anger and condemnation among Chinese people. Shanghai is in its fifth week of COVID lockdown, although it was not confirmed that the resident had the virus. Four people were subsequently dismissed from their positions, including the director of the nursing home (**Hindustan Times**).

WASHINGTON, D.C.: Vice President Kamala Harris on Monday tested negative for COVID-19, returned to work Tuesday, six days after testing positive. The Vice President who was prescribed the antiviral treatment *Paxlovid* last was negative on a rapid antigen test (**MSN.com**).

AMERICA: The CDC restated its recommendation that Americans wear masks on planes, trains and buses, despite a federal court ruling last month that struck down a national mask mandate on public transportation. The CDC asked the Justice Department to appeal the decision, which the department did. During the week CDC officials declined to comment on the status of the appeal (**AP**).

COVID-19, 05/07/2022

Global Cases – Deaths
516,792,965 – 6,249,813

U.S. Cases – Deaths
81,831,854 – 997,318

220 million Americans are fully vaccinated –
67% of the country's population

Johns Hopkins University

WHO: Pandemic Death Toll Double Reported Total

The WHO said during the week that nearly 15 million more people died during the pandemic than would have in normal times, a staggering measure of Covid's true toll that laid bare how vastly country after country has undercounted victims.

In Egypt, for example excess deaths were roughly 12 times as great as the official Covid toll.

Most of the excess deaths were victims of Covid itself, experts said, but some died because the pandemic made it more difficult to get medical care for ailments such as heart attacks.

The official report from countries is about 6 million deaths.

The New York Times, 05/06/22

1,000,000 COVID Deaths

This week, if there are a typical number of COVID-19 deaths, AMERICA will record its one-millionth coronavirus death since the pandemic began.

Montana County Approves Traveling Nurse Funding

The Gallatin County Commission approved a contract with a travel nurse agency in an attempt to increase dwindling staff numbers at the county nursing home.

Commissioners approved a contract worth up to \$250,000 with LRS Healthcare, a Nebraska-based travel nurse agency. The contract is a five-year deal, beginning May 1.

The county has struggled with vacancies in a variety of departments, notably 24-hour services like the Gallatin County Rest Home.

Darcel Vaughn, the Gallatin Rest Home Administrator, said that a total of six contracts with other travel nurse agencies, including the one with LRS Healthcare, are up for county approval.

Bozeman Daily Chronicle, 4/26/22

Minn. Senate Passes \$1B Bill Addressing LTC Staffing

The state Senate passed a comprehensive health and human services reform bill that addresses critical short-term and long-term staffing challenges facing personal care assistants, direct support professionals, nursing homes, and other LTC facilities.

This legislation includes a \$1 billion surplus priority for rate increases for Minnesota's long-term care, personal care, and disability waiver rate service industries. That's in addition to the \$322 million rescue package to address the staffing crisis facing care facilities introduced earlier this session.

The bill passed 61-5 with broad, bipartisan support.

Minn. Senate Republican Caucus release, 4/26/22

CMS Confirms a New MDS Is on the Way for 2023

A CMS official confirmed that the agency intends to issue a draft of an updated Minimum Data Set in early 2023 for use starting Oct. 1, 2023.

The MDS and some reporting requirement updates were delayed in May 2020 due to the public health emergency.

"We wanted to provide maximum flexibility for SNFs to respond to the public health threat posed by the COVID-19 PHE," the official said. "We believe this revised date of Oct. 1, 2023, which is a three-year delay is sufficiently far enough in advance."

McKnight's, 04/29/22

Another Nursing Home is Closing -This One in Rhode Is.

The owners of a nursing home in East Providence said the facility will close.

Officials said Elderwood at Riverside was closing because a deal to sell it failed. It's expected to wind up operations before May 31.

According to a release, the closure of Elderwood at Riverside has 57 beds but only 26 residents and 48 staffers.

WJAR-TV, 04/29/22

ONE COLUMN ER Docs Say Urged to Work Sick, Avoid COVID Tests

Several Houston emergency room doctors say representatives for their employer, American Physician Partners (APP) compelled them to work through illnesses and discouraged them from testing for COVID-19 during the most recent surge.

A lawsuit centers on a financial dispute between APP and eight doctors, who allege the organization violated its contract, in part, by underpaying them to save money and a "culture" at APP that they say compromises patient safety. They contend that Dr. Scott Rivenes, an APP medical director, communicated a "4 M's" policy during the pandemic: "1. Motrin, 2. Mask, 3. Man-up, 4. Must not test."

The lawsuit alleges text messages show "APP's unethical practices of requiring doctors with COVID-19 to work."

APP, a Tennessee-based hospital management company, independently staffs and manages emergency room doctors at 15 Houston Methodist facilities through a contract with the hospital system.

Dr. Beau Briese, who is under contract to provide services at nine Methodist locations, voiced concerns during one exchange. "I've been working ill but don't want to make others to have to come in when their (sic) already exhausted and the system is thin," Briese wrote in a group chat on Jan. 1, when Texas Medical Center hospitals were seeing a new record of more than 400 COVID patients per day amid the omicron surge.

The lawsuit does not explicitly say whether Briese had COVID but provided examples of another doctor being asked to work through symptoms consistent with the virus.

The plaintiffs argue that APP's protocol "discourages testing and disregards physician, staff, and patient safety when a doctor does test positive for COVID-19." The pressure to work, the suit continues, "conveys APP's corporate mindset of "profit over patient."

Houston Chronicle, 04/27/22



RN Workforce Numbers Shrank During Pandemic

There were 3.2 million RNs in America at the beginning of the pandemic in 2020. On a per capita basis, that growth represents roughly a doubling, from 52 full-time RNs per 10,000 US residents in 1982 to 100 RNs per 10,000 residents in 2020.

Compared to 2019, just before the pandemic, the total workforce size decreased 1.8% through 2021, which was composed of a 4.0% reduction in the number RNs younger than age 35, a 0.5% reduction in the number of RNs ages 35 to 49, and a 1.0% reduction in the number of RNs older than age 50.

Health Affairs, 04/13/22

Thousands Strike Pennsylvania Nursing homes

More than 2,000 Pennsylvania nursing home workers skipped work and picketed Wednesday in front of more than 32 facilities statewide in a push for better wages, staffing and job standards.

Survey data by the union shows that 96% of nursing home workers in the state say they don't have the staffing necessary to provide the quality of care they would like to residents.

The group has called for no nursing home worker in the state to make less than \$16 an hour.

McKnight's, 05/06/22

WA Insurance Plan Survives First Challenge

Washington state's first-of-a-kind, public long-term care insurance program survived its first legal challenge when a federal dismissed a lawsuit, ruling that he lacked jurisdiction.

The LTC insurance program requires workers to pay a premium of 0.58% of their paychecks; they can use the resulting funds to help pay for nursing care and other long-term services and supports.

Senior Living, 04/29/22

Feds Say MA Plans Delay or Deny SNF Services Too Often

Skilled nursing providers are demanding changes after a new federal report found that Medicare Advantage organizations (MAOs) have improperly denied or delayed services to beneficiaries to increase profits.

In the report the OIG accused MAOs of sometimes delaying or denying Medicare Advantage beneficiaries' access to services, even though the requests met Medicare coverage rules.

OIG also found that MA organizations denied payments to providers for services that met both Medicare coverage rules and MAO billing rules. Post-acute facilities were among the healthcare services often involved in denials that met Medicare coverage rules.

McKnight's, 05/02/22

Dad Died, Son Sues Former NY Gov. Cuomo

A man whose Korean War veteran father died after catching COVID-19 in a Brooklyn nursing home has filed a class action wrongful death suit against ex-Gov. Andrew Cuomo and others in his administration, citing a policy that required nursing homes to admit COVID-19 patients.

Daniel Arbeeney claims his dad contracted the coronavirus and died because of that March 2020 New York state directive.

The suit notes that within a week of the directive being implemented, a field hospital in Central Park, the USS Comfort and the Javits Center could have all accepted coronavirus patients.

The New York Post, 04/28/22

Briefly in the News

Buoyed by the President's comments in the State of the Union address, Sabra Health Care REIT is actively reducing its dependency on skilled nursing facilities and will broadening its asset holdings to include more senior housing and behavioral health facilities (*McKnight's*).

The Ciena Group – including Ciena Healthcare and Laurel Health Care Company – has hired Amy La Fleur as senior vice president of operations. La Fleur replaces Barbara Lombardi who retired in April after 27 years with Laurel Healthcare Company and six years with The Ciena Group. (*Senior Living*).

The occupancy rate for senior housing IL and AL - rose 0.2 percentage point from the fourth quarter of 2021 to the first quarter of 2022. This marked the third consecutive quarterly increase in occupancy. For perspective, it is a 2.5 percentage point increase from the pandemic-related low of 78.0% recorded in the second quarter of 2021 but was 6.7 percentage points below its pre-pandemic level of the first quarter of 2020 (*NIC*).

Ensign Group reported its occupancy increased to 74.2% during the first quarter of 2022 — an increase from 71.1% reported during last year's first quarter. Same-store occupancy also increased 2.9% to 75.1% last year's first quarter. Executives believe the company is in an excellent position to soon reach pre-pandemic occupancy levels after seeing overall growth for the fifth consecutive quarter (*McKnight's*).

Six months after Gulf Coast Health Care filed for bankruptcy, the skilled nursing operator with 28 facilities in Florida, Georgia and Mississippi announced the company has since dissolved. Multiple operators have divided up the centers (*Skilled Nursing News*).

Of the \$1.2 billion of closed deals in the first quarter of 2022, private buyers (companies not publicly traded) represented \$877 million, or 76%, of the volume. Private buyers represented 43% of closed volume in all of 2021; public (*NIC*).