

IN THE NEWS

**News for LTC Professionals
in 100 Words-or-Less**

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They said it

"This is terrible policy, and represents a life-threatening change for at-risk individuals" In an online essay, Jeremy S. Faust, MD an emergency medicine physician at Brigham and Women's Hospital in Boston, commenting on the CDC's loosening of its mask policy

"Anyone who thinks the pandemic is over should visit our hospitals right now, where we still see the impact of people struggling with Covid-19" Canadian Prime Minister Justin Trudeau when asked if he, like U.S. President Joe Biden, wants to signal an end to the pandemic

"It produces anxiety for the individual, and the individual actually has to teach the agency staff person how to care for them" Dana Weaver, CEO of LeadingAge Kansas

Bed Sore Amputations Facility Pays \$2.75 Million

An unnamed Miami nursing home has paid a \$2.75 million settlement to an 87-year-old resident who developed severe and infected bed sores. Both legs became gangrenous and necrotic and ultimately had to be amputated.

Court records indicate the resident complained to her nurses for at least three days that her legs were going numb and sore but was ignored.

During the preliminary lawsuit it was revealed that the facility failed to follow its own care protocol by not turning and repositioning the resident every 2 hours and was not charting correctly in her medical record.

Law Firm Newswire, September 29, 2022

Most Evacuated Residents Are Back Home – Not All

Of four dozen nursing homes that evacuated before or during Hurricane Ian, nine remain closed due to flooding and other storm damage.

The nine facilities are scattered across hard-hit areas of the state, including Southwest Florida, the Orlando area and Daytona Beach.

State health and emergency management officials must inspect each nursing home before it can reopen.

Residents are staying in nearby skilled nursing facilities, some of which are owned by the same companies that manage the buildings they left.

Some 78 nursing homes lost power during Ian. The majority of those facilities have since had it restored.

WUSF, NPR, 10/06/22

Associations Set Up Florida Hurricane Relief Funds

At least two organizations have established funds to help the facilities devastated by Hurricane Ian.

The Florida Health Care Association and LeadingAge have each set up relief funds for to assist members affected by the storm.

If you wish to donate, the links are:

https://www.fhca.org/about_us/hurricanefund, or

<https://leadingage.org/donate-support-disaster-relief>

LeadingAge.org
OHCA.org, 10/2020

Lesson Learned, All Florida Facilities Have Generators

In advance of Hurricane Ian Florida officials said "100 percent" of nursing homes and assisted living facilities are in compliance with a state requirement that they have backup power generators and fuel.

The requirement came after 12 deaths in 2017 at a sweltering Hollywood, Florida (Broward County, SE Florida) nursing

home after Hurricane Irma knocked out electricity.

State Division of Emergency Management Director Kevin Guthrie said Pinellas County (Tampa area) evacuated about 90 assisted living facilities and nursing homes as Ian approached.

CBS News Miami, 09/27/22

Blanket Waiver is History, TNAs in 15 States OK

Providers in 15 states averted the loss of thousands of frontline workers Thursday, when CMS let expire a blanket national waiver allowing the use of non-certified nurse aides.

Those states had been awarded new waivers through an application process, meaning they demonstrated testing backlogs or other delays that kept providers from converting TNAs into permanent certified nurse assistants.

Rhode Island, Massachusetts, Washington, Indiana, Louisiana, Maryland, Minnesota, Oklahoma, Pennsylvania, Texas, Vermont, New York, Georgia, New Jersey and Tennessee are the 15 states now under waivers.

Those waivers expire on various dates – some through the end of the PHE.

McKnight's, 10/07/22

AHCA Disappointed - Had Urged CMS To Keep Wavier

When the federal reprieve didn't come Thursday, AHCA/NCAL didn't hide its disappointment.

"CMS waited until the last few days to approve virtually every statewide waiver request that came across their desk," Holly Harmon, AHCA's senior vice president of quality, regulatory & clinical services, said in a statement. "The more sensible and streamlined approach would have been to reissue the blanket waiver nationwide.

"It's time to cut the red tape and bring certainty to these heroic caregivers and their residents who have come to rely on them," said Mark Parkinson, association president, and CEO last week.

McKnight's, 10/07/22

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

THE WORLD: A Frankfurt University Hospital (Germany) study of 349 patients with COVID-19 and no prior cardiac disease or notable comorbidities indicated cardiac symptom may linger at least a year in some patients who recover from mild cases of COVID-19. At a 329-day follow-up, 57% of the participants continued to have cardiac symptoms (*Nature Medicine*).

AMERICA: A Pew Research Center survey published on Oct. 5 polled nearly 11,000 American adults from Sept. 13 to 18 and found that 69% of Americans believe new variants won't have a major impact on the U.S.'s ability to contain the disease. Just 29% said a new variant will be a big setback to the U.S. (*Time Magazine*).

THE WORLD: Numbers 200K. 4 trillion. 3 months. Researchers have published more than 200,000 studies on the coronavirus, which is four times more than the number of research papers written on the flu in the past century. Another number: The U.S. government has spent almost \$4 trillion in its response to the pandemic. The CDC recommendations, people should wait at least three months after their last coronavirus infection before getting the new bivalent booster (*The Washington Post*).

NEW HAMPSHIRE: The state has resumed COVID-19 mobile vaccination clinics and a homebased vaccination program. Three mobile vaccination vans are available to provide free COVID-19 vaccine, both primary series and update booster doses. Public and private clinics will be available statewide. The programs are funded through the American Rescue Plan and will run through March 2023. (*WMUR-TV*).

THE WORLD: COVID-19 vaccination temporarily lengthens the menstrual cycle. A recently published study of more than 19,000 subjects confirms that vaccination can increase the length of menstrual cycles by not quite a day, although number of days of menses (vaginal bleeding) is unaffected. On

average, there was a 0.71 day increase after the first dose and a 0.56 day increase after the second dose (*BMJ Medicine*).

AMERICA: Researchers at Case Western Reserve University School of Medicine reviewed more than 6 million health records and found that "for every 1,000 seniors with covid-19, seven will be diagnosed with Alzheimer's within a year, slightly above the five-in-a-thousand diagnosis rate for seniors who did not have covid (*The Washington Post*).

CAPITOL HILL: The U.S. Supreme Court has declined to hear a legal challenge to the CMS COVID-19 vaccination mandate for healthcare workers at nursing homes and other facilities that receive federal dollars. The justices rejected an appeal brought by attorneys general in 10 states after a federal Court of Appeals to hear their petition. Approximately 10.4 million healthcare workers across the country are subject to the mandate, which allows for medical and religious exemptions (*Senior Living*).

CALIFORNIA: In a law just signed by Gov. Gavin Newsom Doctors could receive disciplinary action if they knowingly give their patients false information about COVID-19. Critics of the law, including many mainstream doctors who have advocated passionately for masks and vaccines, say it could end up curbing well-intentioned conversations between patients and physicians about a disease that's still changing from one month to the next (*Los Angeles Times*).

EUROPE: At least 17 million people in Europe suffered from long Covid within the first two years of the pandemic A study by the World Health Organization found that 10% to 20% of all Covid-19 cases reported in 2020 and 2021 resulted in lingering affect-effects lasting at least three months. Women were twice as likely as men to experience long Covid (*CNBC*).

THE WORLD: The FDA updated its guidance on the use of the intramuscular injection *Evusheld*, which is given to immunocompromised patients as a way to prevent coronavirus infections. The

agency cautioned prescribers to be aware of data released that showed a 1,000-fold decrease in the efficacy of the treatment against the omicron subvariant BA.4.6. Which means the pre-exposure prophylaxis could provide minimal effectiveness against that variant (*The Washington Post*).

COLORADO: Governor Jared Polis extended the COVID-19 disaster recovery order until October 15. That keeps Colorado among a small number of states with some type of active COVID-19 emergency order in place. The Recovery Order is in place primarily to suspend the Medicaid eligibility statutes, needed for Colorado to continue to access additional federal Medicaid funding (*KDVR-TV*).

AMERICA: The rate of children without health insurance declined during the COVID-19 pandemic, likely the result of a provision passed by Congress that barred states from dropping anyone from Medicaid during the public health emergency. According to an analysis of new U.S. Census Bureau data by Georgetown University's Center for Children and Families, the child uninsurance rate in 2021 was 5.4%, compared with 5.7% in 2019, the year before the pandemic (*Stateline*).

AMERICA: CMS has rescinded the enforcement discretion that allowed Certificate of Waiver labs to perform SARS-CoV-2 molecular and antigen Point of Care (POC) tests on asymptomatic individuals outside of the test's authorization. The agency also rescinded the rule that allowed non-waived labs to perform SARS-CoV-2 molecular and antigen tests on asymptomatic individuals outside of the test's authorization without establishing performance specifications (*CMS news release*).

COVID-19, 10/09/2022

Global Cases – Deaths
621,011,061 – 6,556,904

U.S. Cases – Deaths
96,986,904 – 1,062,513 – 1,062,513

225.9 = 70% of the country's population is fully vaccinated

Johns Hopkins University

Don't Get too Excited about The Looser Mask Mandate

Despite the CDC's loosened masking requirements for nursing homes many long-term care facilities will not be able to take advantage of them. That's because they are bound by their respective states' stricter mask mandates.

The revised guidelines make mask requirements optional for healthcare facilities in areas where community transmission is not labeled "high."

As of October 1, that only applied to about 39% of all US counties.

"You could make a better case to relax [the policy] anywhere except nursing homes," said health researcher Michael L. Barnett of Harvard University.

McKnight's, 10/03/22

A 10,000% Mark Up On a Simple Urine Test

The law firm Hagens Berman has filed a lawsuit against Concord, Calif.-based John Muir Health accusing the health system of "unconscionable" billing practices.

The proposed class-action suit alleges the health system charged a patient more than \$6,000 for a routine drug screening during an emergency department visit.

The lawsuit alleges John Muir charges about 10,000 percent of the Medicare rate for the simple urine test, which has a Medicare reimbursement amount of \$62.14.

The firm also alleges the health system has been charging more than \$5,300 for this drug screening since at least 2018.

Becker's Hospital Review, 10/04/

Kansas – Like Everywhere – Is Struggling with Staffing

During the pandemic, 35 long-term care facilities in the state have either closed, or reduced admissions and capacity.

Example: one nursing home administrator said her facility closed a quarter of its residential capacity because it couldn't find enough workers. She added that in the past year,

approximately 20 of 51 certified nursing assistant positions have remained vacant.

The Kansas issues are but a microcosm of major troubles facing nursing homes nationwide where staff shortages from before the pandemic have intensified during the public health emergency and continue today. Further, federal pandemic money is drying up.

McKnight's, 09/29/22

Ass'n Asks State to Drop New 3.5/PPD Staffing Regs

The New York State Health Facilities Association has asked state officials to repeal spending and staffing mandates adopted in August.

In a letter the association wrote, "The current regulations are ill-conceived and blind to the realities of the current healthcare staffing shortage and unprecedented inflation that are confronting nursing homes in New York State."

DOH proposed rule revisions would remove a \$300 per day minimum penalty if nursing homes can claim an "extraordinary circumstance," such as union conflict or severe staffing shortages. A \$2000 daily fine remains for facilities that can't demonstrate they tried to meet the hiring standard.

McKnight's, 09/26/22

Billed for X-rays of Dead People, He Gets 15 Years

Thomas G. O'Lear, President of Portable Radiology Services, was convicted and sentenced to 15 years in prison for billing for thousands of x-ray-related services that his company did not provide to residents of mostly Ohio nursing homes and other long-term care facilities.

The false claims included approximately 151 x-rays of people who had already died.

Evidence proved that O'Lear billed dates when the beneficiaries were not at the facilities; took multiple x-rays in one day but billed for multiple days; and re-used the same image repeatedly as different images of the same patient and even as images of different patients.

DOJ news release, 09/30/22

ONE COLUMN

Making a Good Case for A Second COVID-19 Booster

A study in *Nature* with 563,465 participants ages 60 to 100 who had received their first booster more than four months previously found substantial reductions in hospitalizations and deaths among those who received a second booster, compared with those who had received only their first booster.

Only 270 of the 328,597 people who received a second booster were hospitalized during the 40-day study period, compared with 550 of the 234,868 who did not get a second booster.

Additionally, 92 of those who received the second booster during the study period died due to COVID-19 compared with 232 who had received just one dose. The likelihood of death increased with age.

According to CDC's COVID Data Tracker, in April 2022, people age 50 and up who received the primary vaccine series but only one booster dose had a 4-fold higher risk of death from COVID-19 compared with those who received both booster doses.

A CDC public affairs official said in an email that the failure of those eligible to get up to date with their COVID immunizations is a growing problem that has resulted in "a doubling of hospital admissions since spring, and it's essential that eligible individuals get their booster shots right away."

The tracker shows that only 27.7% of those age 50 and up and only 34.4% of those age 65 and up have received their second booster.

Some clinicians told *MedPage Today* that if their patients express any reluctance to get all their booster shots, he refers them for blood work to see whether and how much protection from prior doses may have waned.

At a White House COVID-19 Response Team briefing, team coordinator Ashish Jha, MD, said "getting one now protects you for the rest of the summer into the fall."

MedPage Today

Warp Speed 2.0 Dragged Down By Lack of Funding

As Covid's Omicron wave ebbed earlier this year, top Biden administration health officials began developing a plan they called Project Covid Shield to fortify the nation's defenses against the next potentially dangerous coronavirus strain.

But months later, it's barely taken off — stymied by fading political interest in prolonging a war against a pandemic that even the president has declared “over.”

Mired in a standoff with Republicans over more Covid response money, the administration has yet to invest heavily in any of the promising vaccine targets it's identified.

Politico, 10/05/22

Controversial California SNF Licensing Bill is Now Law

A bill aimed at fixing aspects of California's nursing home licensing system has been signed by Gov. Gavin Newsom.

The bill closes a loophole that allows nursing home operators to run a facility without first receiving a license, something advocates refer to as “squatting.”

It also will require the Department of Public Health to look at an applicant's track record over several years before granting a license.

In a significant plot twist, the bill's original sponsors, California Advocates for Nursing Home Reform, not only pulled their support last summer, but came out in “strong opposition” to the bill.

Cal Matters, 09/28/22

Missouri Baptist Interested In Two County Nursing Homes

The board of trustees of the Baptist Homes & Healthcare Ministries has approved an executive team to enter into negotiations with two county nursing home districts in Missouri lease, operate and possibly buy two facilities.

Initially, the arraignments are six-month temporary management agreements with

Lawrence County Manor, Mt. Vernon and Tri-county Care Center in Vandalia.

But the contracts also provide options for purchase, or renewal of the management agreement.

The Pathway, 09/29/22

No Cognition Decline During Lockdowns

Residents in long-term care did not suffer steeper cognitive declines because of COVID-19-related isolation, countering a fear widely held early in the pandemic.

The Canadian study, published in JAMA, reviewed assessments of more than 120,000 nursing home residents in Ontario, where tight isolation protocols restricted visitation for months, sometimes longer, mirroring US conditions.

“Isolation, no matter what, has led to distress,” said senior researcher Peter Tanuseputro, MD, of the Department of Medicine at the University of Ottawa, “That distress undoubtedly had some suffering associated with it. It's just that we didn't see cognitive decline specifically associated with that suffering.”

McKnight's, 09/14/22

NJ Wants to Limit Rent Increases for SNFs

Nursing home business owners and operators who lease their buildings would have their annual rent increases capped under a bill before the New Jersey General Assembly.

The bill prohibits someone who leases or rents land or a building to an owner or operator of a nursing home from raising annual rent by more than 4%.

It also allows for exemptions to the rent cap for things like increases in maintenance and utilities costs, real estate taxes and property insurance.

The bill now heads to the state Assembly Aging and Senior Services Committee for consideration.

Senior Living, 09/26/22

Briefly in the News

The Global Long-Term Care Insurance Market size was estimated at \$25.67 billion in 2021, \$27.55 billion in 2022, and is projected to grow 7.48% to reach \$39.59 billion by 2027 (**Business Wire**).

In Canada more than 90% of Ontario's long-term care homes are now providing air conditioning in all resident rooms — an update that comes now that temperatures across the province are dropping. Legislation passed last year required that homes meet that air conditioning standard by June 22 of this year, but many did not. In August, the Ministry of Long-Term Care said 554 out of the province's 627 homes were compliant (**The Canadian Press**).

Legacy Health, Providence Health & Services and PeaceHealth filed a lawsuit in the Oregon U.S. District Court in Eugene alleging OHA has forced acute care hospitals to provide long-term care for those who are civilly committed. These community hospitals are neither designed nor equipped to provide long-term treatment for mental illness. As a result, the health systems believe OHA has violated the civil rights of Oregonians with severe mental illness (**Peace Health**).

Philips' respiratory device-focused Respiroics business has announced another recall of its CPAP and BiPAP machines and other ventilators — the fifth one this year. Initially the company identified a potentially fatal safety issue with the sound-muffling foam of around 5.5 million of its CPAP and BiPAP machines (**Fierce Biotech**).

New FDA rules would change the definition of “healthy” to reflect “current nutrition science.” Under the new rules, more foods like nuts, seeds and certain oils would be permitted to be labelled as “healthy.” Foods labeled as “healthy” would need to have “meaningful” amounts of at least one food group or subgroup that is recommended by the federal government's Dietary Guidelines. The products would also have to meet certain limitations on nutrients like saturated fat, sodium and added sugars (**The Hill**).