

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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They said it

"We have been actively listening to and engaging with healthcare providers and have heard clearly the concerns and challenges many of you are facing, particularly around staffing, burnout and workforce turnover" Lee Fleisher, MD, CMS' chief medical officer and director of the agency's Center for Clinical Standards & Quality

"The long-term sequelae of past COVID-19 exposure is emerging as a dominant public health concern" From a study by UK Biobank that found many COVID-19 sufferers develop other health issues

"They have fought for us. They've sacrificed for us. The least we can do is take care of them with the best state-of-the-art healthcare and facilities" Kentucky Gov. Andy Beshear at the groundbreaking of the state's newest Veterans Home

Ida's Warehoused Residents Score \$12.5 Million

A Louisiana judge approved a class-action lawsuit over nursing home owner Bob Dean's deadly evacuation of residents during Hurricane Ida.

The ruling calls for 843 residents to receive about \$12.5 million in insurance funds.

A special master has been appointed to divvy up the money, minus 22.5% in attorney fees. Each resident will receive almost \$12,000.

Dean is facing criminal charges in multiple states for the botched evacuation of seven of his nursing home properties to what was described as a "nightmarish" warehouse. Residents were forced to sleep on mattresses on the floor without adequate staff and poor sanitation.

WVUE-TV, 11/07/22

ProMedica Out (Almost) of Nursing Home Business

REIT Welltower in December will move 147 skilled nursing facilities currently operated by ProMedica Senior Care into a joint venture between Welltower and Integra Health.

The move is among the final steps ProMedica is taking to exit nursing homes.

"The communities have enjoyed a strong rebound in occupancy over the last six months but have been impacted by the elevated use of agency labor," Welltower CEO and Chief Investment Officer Shankh Mitra said in a statement.

ProMedica Senior Care will continue to operate 10 skilled nursing facilities that are not part of the Welltower transaction.

McKnight's, 11/08/22

Some CCRCs Cutting Back On Skilled Nursing

As labor challenges continue in long-term care, some CCRCs are cutting back on the skilled nursing services they offer, according to a new Fitch Ratings labor dashboard.

CCRC employment levels were approximately 12.6% below pre-pandemic levels in the current Fitch Ratings report. That compares with employment being down 14.2% at skilled nursing facilities and just 2.6% in ALFs.

In the Fitch analysis, approximately 8% of CCRCs reported that they had "right-sized" or reduced the number of beds in their skilled nursing units. The greater number of communities appear to be weathering the storm for now, however.

McKnight's Business Daily News, 11/07/22

Families Say SNF Responsible For COVID Deaths

Families filed a class action lawsuit against the Villages of Orleans, a facility in the Buffalo, NY area, alleging that mistakes made during the Covid-19 pandemic led to their loved one's deaths.

The lawsuit claims residents died due to public health law violations, including failure to properly separate COVID-positive residents, a lack of protective equipment

for staff, and dangerously low staffing levels.

Brown Chiari, the law firm representing the families, said 38 deaths were reported as of July of 2021.

The families will be "seeking for damages relative to suffering, the harm that was caused and their ultimate death."

WKBW-TV, 11/07/22

Infection Control Failure Bans Mass. Owner from LTC

Sea View Retreat, a Massachusetts nursing home, is out of the business and its owner out \$175,000 due to a legal settlement over an alleged "wholesale failure to implement infection control" at the beginning of the pandemic.

An AG complaint alleged Sea View and owner Steven Comley II, a third-generation owner, provided insufficient infection prevention practices at the start of the pandemic including resident cohorting, surveillance testing, screening, and training on correct use of PPE.

Those failures allegedly resulted in residents contracting, and at least one, dying from COVID-19.

The settlement prevents Comley from participating in LTC in Massachusetts.

McKnight's, 11/07/22

ER Nurse Called 911 To Report Her Own ER

A union, UFCW 3000, which represents hospital workers, is circulating a no confidence petition that calls for the resignations of both the president and chief nursing office of St. Michael Medical Center in Silverdale, Washington.

The union said the situation includes staffing issues and specifically pointed to Oct. 8.

That day, an emergency department nurse called a nonemergent line at Kitsap County's 911 dispatch center to request help from the local fire department because of unsafe staffing.

The union contends that rather than immediately addressing the staffing issues hospital administration fired the emergency department director.

Becker's Hospital Review, 11/02/22

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

AMERICA: Almost two years since the first COVID-19 vaccines became available, still one in 5 Americans haven't rolled up their sleeves even once, despite the fact that the shots are free, widely available and thoroughly tested, with more than 640 million doses administered in the U.S. alone. Recent CDC data indicates people who were unvaccinated were six times more likely to die of COVID-19 compared with people who were fully vaccinated, and they were eight times more likely to die of the disease than people who were vaccinated and boosted (*Los Angeles Times*).

OHIO: A Cincinnati man has been charged with a federal hate crime on suspicion of assaulting an Asian-American college student because of his race in 2021 – an attack in which the defendant allegedly blamed the student for Covid-19 and threatened to kill him. Darrin Johnson, 26, was indicted by a federal grand jury on the hate crime charge last week (*MSN.com*).

CHINA: COVID lockdown measures have generated a wave of fear and unrest inside the world's largest iPhone manufacturing complex, in north-central China. The plant, and its 200,000 workers, went into lockdown in mid-October as coronavirus cases were rising. Stories of food shortages among quarantined employees filled social media, and large numbers of workers fled the facility (*New York Times*).

AMERICA: The Food and Drug Administration revised its emergency use authorizations for all COVID-19 antigen tests to authorize serial testing and require updates to product labeling regarding serial testing. As recommended in August, the revised EUAs and labeling call for users with COVID-19 symptoms to repeat testing at least twice over three days and users without symptoms to repeat testing at least three times over five days, with at least 48 hours between tests (*FDA news release*).

AMERICA: Among nearly 10,000 nursing home residents in the United States included in a recent VA-led study, second mRNA COVID-19 vaccine booster

doses provided significant additional protection over first booster doses against severe COVID-19 outcomes. The vaccine effectiveness of a second booster dose against the severe composite outcomes of SARS-CoV-2-associated hospitalization or death was 73.9% – and 89.6% for death alone (*U.S. Medicine*).

CALIFORNIA: Walt Disney has told a string of its TV shows that it will no longer require cast and crews to be vaccinated against COVID-19 as hospitalizations wane. The productions will no longer require workers in front of and behind the camera in the most high-risk areas of their sets to be vaccinated, said people with knowledge of the matter who were not authorized to speak publicly. The use of vaccination mandates was agreed to by unions and producers as part of the so-called Return to Work agreement last year. About a dozen shows are affected (*Los Angeles Times*).

MONTANA: The state health department announced that free COVID-19 testing services will no longer be available to most organizations after Dec. 11. Throughout the pandemic, HHS has provided free rapid antigen test kits and PCR testing services for long-term care facilities. Testing support in public schools, early childcare facilities and local and Tribal public health will continue through June 30, 2023, when CDC funding runs out (*Billings Gazette*).

AMERICA: Among the nation's largest nonprofit providers of senior living in the LZ200 report the use of telehealth and remote patient monitoring jumped from 20% to 44% in the 2020 report, stayed there for the 2021 report before dropping to 41% in the 2022 report. the use of technology for infection control and state and resident screening also dropped slightly during the pandemic (*Senior Living*).

MAINE: A Skowhegan man who pleaded guilty to defrauding a federal COVID-19 relief program was sentenced to 20 months in prison. Nathan Reardon, 44, obtained loans for \$60,000 early in the pandemic intended for business and payroll expenses. Reardon used most of the money for personal expenses. In July,

Reardon pleaded guilty to five counts of bank fraud (*WABI-TV*).

AMERICA: The FDA said last Monday that Commissioner Robert Califf tested positive for COVID-19 the previous weekend while traveling on an official agency business. Califf, who is experiencing mild symptoms, had not recently been in close contact with President Biden or VP Harris (*Reuters*).

SWITZERLAND: Swiss drugs regulator Swissmedic is examining potential risks in connection with bubbles that appeared in vials of COVID-19 vaccine boosters retooled to target the Omicron variant of the coronavirus. The vials contained bubbles after being removed from the refrigerator and seems to be accentuated when the syringes were prepared several hours in advance (*Reuters*).

WASHINGTON, DC: Georgetown University, starting in mid-November, will transition to a new COVID-19 testing system on its campuses. Saliva-based PCR tests will be available at no charge to Georgetown community members via six "smart" vending machines. The tests are ordered via smart phone, picked up at the vending machine and deposited in drop boxes (*Georgetown University news release*).

UNITED ARAB EMIRATES: After nearly 2 1/2 years of strict Covid-19 rules and precautionary measures, the UAE government announced the lifting of all restrictions. Rules on wearing masks have been further eased. Health officials announced that masks will be optional in all open and closed facilities, including places of worship and mosques. However, it will be mandatory to wear masks in health facilities and disability centers. Praying on personal mats will be optional at mosques (*Khaleej Times*).

COVID-19, 11/12/2022

Global Cases – Deaths
635,088,804 – 6,609,907

U.S. Cases – Deaths
97,995,355 – 1,074,484

227.4 = 70% of the country's population is fully vaccinated

Johns Hopkins University

Wisconsin Nurse Accused of Amputating Resident's Foot

Nurse, Mary K. Brown, 38, Spring Valley Health and Rehab Center, faces two felony charges for allegedly amputating a dying, frostbitten patient's foot.

Coworkers told investigators they had witnessed the man's foot still attached to his body by several inches of tissue on the morning of May 27, then that night, Brown fully amputated his foot.

Some coworkers interviewed believed Brown wanted to take the amputated foot home and preserve it. Several nurses said Brown wanted to display the preserved foot with a sign that would read, "Wear your boots kids."

KSTP-TV, 11/05/22

NJ Veterans Home Cited For Immediate Jeopardy

New Jersey surveyors have cited the states Veteran's Home at Menlo Park with "Immediate Jeopardy" over serious shortcomings in care.

The troubled nursing home for veterans was cited for what one report called "incredible medical mistakes" including a resident who did not receive ordered medication.

In another incident a registered nurse who apparently did not know how to remove a catheter — a skill taught in nursing school — simply cut it with a scissor. The resident ended up in the emergency room and then was transferred to a hospital to be treated for a serious urinary tract infection.

NJ.com, 11/07/22

State Veterans Home Still on the CMS Hot Seat

The state-run veterans home at Union Grove, Wisconsin was cited for six violations in its latest annual survey.

Depending on the scope and severity, six is not a terrible number, but Union Grove has received 76 deficiencies in five surveys and is in the top five veterans homes in the country (there are 117) for the most violations and fines.

In the latest survey the facility was cited for not thoroughly investigating or reporting an allegation of abuse, did not prevent residents from falling and for giving residents potentially unnecessary medications, including antipsychotics.

Milwaukee Journal Sentinel, 11/02/22

Some SNFs Should Be Preparing for End of PHE

Early 2023 could see challenges for SNFs that continue to benefit from pandemic-era waivers.

Deputy administrator Dara Coorigan said CMS was preparing guidance on sunseting waivers that would be issued before the public health emergency ends.

Many providers remain hopeful for another PHE extension so that they can continue to benefit from regulatory relief meant to ease administrative and care burdens during COVID-19.

A key coverage is an exception that allows some non-certified nurse aides to work while they await the opportunity to test. CMS granted waivers to 15 states last month; most expire at the PHE's end.

McKnight's, 11/02/22

SNF Regards Worker as Impaired, Loses in Court

A jury has returned a verdict against Nashville nursing home West Meade Place violated the ADA when it fired a laundry aide who suffered from anxiety throughout her adult life.

The facility objected to the employee missing work to deal with her condition but did not discipline her.

The SNF also said she was not eligible for FMLA and claimed she submitted a fake doctor's note but could not produce the note.

She was awarded \$6000 plus \$6,146.72 in back pay.

The incident dates to 2015, but EEOC said since COVID-19, anxiety and depressive disorders have increased more than 25%.

EEOC News Release

ONE COLUMN

Remember COVID-19 Tactics As Dangerous Flu Season Looms

As with most viruses, the youngest and oldest are hit hardest by infection, so nursing home staff and residents should be on highest alert to continue what COVID-19 fears jump-started: extreme source control and hand hygiene, so said APIC consultant Deborah Burdsall, PhD RN-BC, CIC.

"While we were in the height of the COVID pandemic and people were staying home and masking, the number of cases of other respiratory illnesses dropped precipitously. We didn't have a normal flu season, we didn't have a normal RSV season, we didn't have a lot of the respiratory virus that we see that causes major outbreaks in congregate settings," Burdsall explained.

"Based on what we have seen in parts of the Southern Hemisphere, flu has the potential to hit us hard this year," said NFID Medical Director William Schaffner, MD. "On a positive note, we have more preventive behaviors in our toolbox than we did before the COVID-19 pandemic.

Burdsall said the danger this year is people dropping their COVID guard. The CDC recently loosened its masking guidelines for nursing homes, telling them know it's their call based on their surrounding area's infection data.

"Because people have mask fatigue and PPE fatigue, people aren't as careful as they were in, say, 2020 and in the 2020-2021 flu season," Burdsall said. "If masks are not used, we're back to a situation where it's easy to transmit respiratory infection, especially in congregate settings.

Make sure policies and procedures align with best evidence," she advised providers. "People aren't going to be stuck in masks forever but when there's a lot of viruses floating around out there, people should do what they need to do to protect themselves and their residents."

McKnight's, 10/06/22

Occupancy? Sure, We're Better But It Still Ain't Good

Skilled nursing occupancy rose almost one half of one percent (0.48%) in August to end the month at 78.8% - the highest occupancy since April 2020.

There has been positive occupancy momentum throughout 2022, up 5.8% since the low point reached in January 2021 (73.0%).

Occupancy remains 8.4 percentage points below the pre-pandemic February 2020 level of 87.2%. As staffing, wage growth, and general inflation pressures persist, operations for many operators will be under pressure but the long-term demand for skilled nursing services is expected to grow over time.

NIC, 11/03/22

States Using Creativity To Boost Direct-Care Pay

At least 19 states are actively implementing strategies to address direct care worker wages, a report by the National Governors Association Center for Best Practices found.

The report summarized approaches to increase wages, with a focus on those that have reporting requirements, enforcement vehicles or other mechanisms to help ensure funds go to intended recipients.

In Illinois, for example, state officials are trying to support direct care workers and CNA retention with supplemental payments – an extra \$1.50 hourly for the first year retained, and then \$1 more hourly for every additional year, up to a max of \$6.50 per hour.

McKnight's, 11/04/22

CMS Docks 44% of U.S Hospitals for Readmissions

The federal government has eased its annual punishments for hospitals with higher-than-expected readmission rates due to the upheaval the COVID-19 pandemic has caused, resulting in the lightest penalties since 2014.

Hospitals with high readmission rates could lose up to 3% Medicare payments for a whole year. However, the average

reduction this time around is less the one-half-of-one percent (0.43%).

CMS penalized 2,273 of the country's 5236 hospitals.

In its three-year calculation, CMS excluded the first half of 2020 as well as Medicare patients readmitted with pneumonia because of the difficulty in distinguishing them from patients with COVID.

Kaiser Health News, 11/01/22

Health Officials Warn of an Especially Harsh Flu Season

The CDC reports early increases in U.S. influenza activity especially in the southern areas. The cumulative U.S. hospitalization rate was higher the week of October 28 than it has been in 12 years.

The agency for the first time advised older patients to take a high-dose flu vaccine over standard vaccines whenever possible

The number of U.S. nursing homes reporting at least one flu-positive test among residents is also rising, although it remains low, at 0.5%.

Monitoring of countries in the Southern hemisphere, often a harbinger of what is to come, have shown an earlier-than-usual uptick in cases with hospitalizations.

Senior Living, 11/01/22

A Health Policy Rand Paul & Elizabeth Warren Agree On

In a bipartisan letter last week, nearly half the Senate (46 Senators) asked leadership to address looming Medicare payment cuts to providers before the new year, when they would take effect.

The letter came a day after CMS released its final rule confirming the required-by-law cuts. Providers had been pushing for Congress to act even before CMS published its final rule.

The Senators are looking for a quick fix, but also sustainable change. "Going forward, we support bipartisan, long-term payment reforms to Medicare in a fiscally responsible manner," the senators wrote.

Politico, 11/02/22

Briefly in the News

Healthcare providers, including doctors and therapists who treat nursing home patients, will see a key payment factor cut by 4.4% next year. CMS announced the change to the Medicare Physician Pay Schedule conversion factor in a broader physician payment rule published last week. The conversion factor is part of a CMS formula used to reimburse for Part B care including physician and nurse practitioner services, rehab therapy, lab work and X-rays for Medicare patients in nursing facilities (*McKnight's*).

The FDA has designated the recall of 60,500 filters used in breathing systems a Class I recall, meaning the devices may cause serious injury or death. Teleflex recalled the Iso-Gard S filters. The FDA also alerted health care providers to a shortage of tracheostomy tubes, used to help people breathe after a tracheotomy, including a tube made by ICU Medical for pediatric patients. The agency recommends providers and other caregivers consider using certain conservation strategies (*American Hospital Assn*).

Kentucky Department of Veterans Affairs has broken ground on its latest State Veterans Home – the fifth in the state. Located in Bowling Green, KY, the 80,000 square foot, \$50 million facility will employ 120 people and serve 60 veterans (*WNKY-TV*).

Modernizing Medicine, a Florida-based EHR technology vendor, has agreed in a whistleblower case, to pay \$45 million to resolve alleged False Claims Act and Anti-Kickback Statute violations. The government alleged ModMed paid for referrals and caused its users to report inaccurate information in connection with claims for payment from federal programs. The whistle was blown by a former Vice President of Product Management (*The National Law Review*).

Flu activity continues to increase while flu vaccine uptake is lagging according to CDC's FluVaxView. So far this season, flu vaccination coverage in adults and pregnant women is significantly lower compared to this time last season (*CDC*).