

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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They said it

"Flu is here. It started early, and with COVID and RSV also circulating, it's a perfect storm for a terrible holiday season" Dr. Sandra Fryhofer, board chair of the American Medical Association

"There isn't any doubt that there are going to be three active respiratory viruses this season" William Schaffner, M.D., infectious disease specialist and professor - Vanderbilt University School of Medicine

"It just left everyone worse off and as of today, since that meeting, we are all scrambling" Celeste Tracy, daughter of a resident at Long Island, NY's Peconic Bay Medical Center's nursing home who were told in November the SNF is closing

Santa Sheriff & His Posse of Elves Bring Gifts & Smiles

Some of Santa's most precious deliveries in Guadalupe County, Texas have already made it to their destination. It wasn't Rudolph's red nose leading the procession, either – it was the red and blue lights of squad cars.

Santa Sheriff a.k.a. Guadalupe County Sheriff Arnold Zwicke delivered not only dozens and dozens of red gift bags to area residents but left behind plenty of smiles and laughs at each of the seven nursing homes that he and his law enforcement elves visited across the county.

Santa Sheriff has made this annual trek in each of the past 11 years.

Sequin Today, 12/07/22

Providers See 'Mess' If Congress Delays Spending Bill

Providers are hoping a 2023 Congressional appropriations bill will give relief from physician fee services cuts set by CMC.

But there was concern during the week when Senate Minority Leader Mitch McConnell said it might be best to pass a long-term continuing resolution to keep the government funded into 2023.

McConnell said it might be too late to pass another short-term continuing resolution after some members of Congress signaled that was their goal.

If Congress would wait until January or February and there's a retroactive fix, it would be a mess because providers would have to resubmit claims.

McKnight's, 12/08/22

Electrical Substations Shot Up – Nursing Homes OK

Someone shot up a couple of power stations in Moore County, N.C. last weekend putting 45,000 customers out of electrical power, including nursing homes.

The country was warned about terror attacks which could target U.S. infrastructure and certain groups days before shootings, but although this could be classified as a terrorists attack it apparently is not in the same category as 9-11.

Authorities believe it was an attempt to disrupt a drag show in nearby Southern Pines that had drawn the ire of religious and right-wing groups.

The county's nursing homes operated on generator-power during the blackout.

WRAL-TV, 12/06/22

Dues Dispute – SEIU Sues Two Nursing Homes

SEIU has sued two St. Louis area nursing homes, Royal Oak and Oakwood Estates, alleging they failed to pay union dues or participate in the grievance process by selecting an arbitrator.

SEIU ask a Missouri federal judge to require arbitration of its dispute with the nursing homes, which it said had withheld dues from workers' paychecks but failed to pay to the union.

According to the complaint, Royal Oak has refused to turn over dues since Sept. 30, 2021, and Oakwood Estates has refused to pay dues since Oct. 4, 2021.

The facilities are owned by the same company.

Law360, 12/05/22

Alleged Amputating RN May Not Work as a Caregiver

Mary K. Brown, a Wisconsin RN who in May allegedly amputated a resident's severely frostbitten foot without permission, is charged with physical abuse of an elder person intentionally causing great bodily harm and mayhem.

Her bond was set at \$150,000 at Tuesday's initial appearance for Brown with conditions that she have no contact with her former employer, Spring Valley Senior Living Facility, or the victim's family.

As a condition of her bond, she is also not allowed to work in any capacity as a caregiver, whether employed or as a volunteer.

WEAU-TV, 12/06/22

Flu & COVID Rising, Deaths Will Likely Break Record

Approximately 78,000 people have been hospitalized with the flu since the start of October – 19,500 in the week ending Nov. 27. HHS said that's nearly double the flu hospitalizations reported the prior week.

The CDC estimates that the flu has already caused 8.7 million illnesses since Oct. 1. That's close to the 9 million cases estimated for last year's entire flu season.

Flu deaths are already approaching last season's total as well. The CDC estimates this year's toll to be at least 4,500 since Oct. 1, compared to 5,000 in all of last season.

COVID cases have increased about 16%.

NBC News, 12/05/2022

COLORADO/CALIFORNIA: Two western states have seen a recent surge in COVID-19 cases among the elderly. California's skilled nursing facilities have perhaps seen it the worst: a quintupling in November alone. In Colorado at least 124 COVID outbreaks occurred in residential healthcare centers in November. That accounted for 92% of all November outbreaks. Nationally, people 65 and up account for nearly 90% of COVID-19 deaths. (*The Washington Post*).

CALIFORNIA: A lower court's ruling striking down San Diego's mandate requiring COVID-19 vaccinations for students will remain in effect after a California appeals court slapped down an appeal lodged by the second-largest local school district in the state. A San Diego Superior Court Judge previously found that only the state can implement such a mandate. The California Legislature currently requires schoolchildren to be vaccinated for 10 diseases, but COVID-19 is not one of them (*The Epoch Times*).

THE WORLD: In a large study researchers compared about 200,000 people who took the antiviral drug *Paxlovid* with 500,000 who did not. There was a 51% lower hospitalization rate among those who received treatment. But the bad news is that just 28% of people eligible for the medication were prescribed it. (*The Washington Post*).

WYOMING: Jackson's newest skilled nursing and memory care center – which opened in the middle of the pandemic – has had zero COVID deaths. But they have had COVID. "We've been in outbreak more than we've not been," said Executive Director Seth Robertson. Avoiding a death, the residents for the first year were pretty much restricted to their rooms, activities were cut back, and family visits were restricted (*Jackson Hole News & Guide*).

THE WORLD: The CDC and the World Health Organization say measles immunization has dropped significantly since the coronavirus pandemic began, resulting in a record high of nearly 40 million children missing a vaccine dose last year. The organizations said millions

of children were now susceptible to measles, among the world's most contagious diseases. In 2021, officials said there were about 9 million measles infections and 128,000 deaths (*Associated Press*).

FLORIDA: Some 1,292,165 SARS-CoV-2 test results from residents and employees of 361 long-term care facilities in Florida were analyzed by researchers. A 1% increase in testing resulted in a 0.08% reduction in cases three weeks after testing began. The researchers concluded Increasing SARS-CoV-2 testing frequency is a viable tool for reducing virus transmission in those facilities (*MedScape*).

THE WORLD: Researchers with the University of Southampton, in the U.K. found that individuals who've been diagnosed with long COVID are—perhaps counterintuitively—more likely to feel stigmatized than those who haven't been diagnosed. "The reason is not clear," the study said. "It may be that this group were exposed to more stereotyping or dismissal of their experience during their journey to obtaining a clinical diagnosis" (*Fierce Healthcare*).

LOS ANGELES: LA County Public Health Director Barbara Ferrer said the largest county in the U.S. had reached "medium" COVID-19 transmission levels and will require face coverings if it reaches the "high" category. As of Dec. 1, Los Angeles County is averaging 2,490 new COVID-19 infections every day, the highest number recorded since Aug. 26 (*MSN News*).

CONNECTICUT: Olajuwon "OJ" Harrington, 30, was charged with access device fraud and aggravated identity theft for allegedly submitting multiple fake applications for Pandemic Unemployment Assistance using the names of people he knew without their knowledge. The state awarded unemployment benefits to Harrington's fraudulent applicants and mailed debit cards to the addresses he provided. He could get 15 years (*The Hartford Courant*).

ALABAMA: In his monthly message, State Health Officer Dr. Scott Harris urged

Alabamians to get vaccinated or boosted for the holidays. "Family, friends, and others you encounter in the days to come are vulnerable to infection and may not be able to protect themselves from the virus," he said. "Anyone infected with COVID-19 can spread it, even without symptoms" (*WHNT-TV*).

ENGLAND: Researchers in England found that COVID-19 was responsible for 1.2% of all deaths in persons under 20 "with an Infection Fatality Rate (IFR) of 0.70/100,000 SARS-CoV-2 infections in this age group," which is 0.0007%. The overall mortality rate was found to be 0.61/100,000 (*Plos Medicine*).

AMERICA: COVID-19 patients treated with the oral antiviral *Paxlovid* have a 51% lower risk of hospitalization within 30 days of diagnosis when compared with those who receive no *Paxlovid* treatment. The benefit was seen among those who were vaccinated and those with immunity from a prior infection. The observation was made during a period in which multiple omicron subvariants predominated in the U.S. (*CDC Study*).

AMERICA: Southwest Airlines Co. said it would reinstate its dividend following a pause of more than two years, becoming the first major US carrier to resume the shareholder payouts after they were suspended during the pandemic as a condition of receiving government aid (*Bloomberg*).

WASHINGTON, DC: Lawmakers in the U.S. House agreed to scrap the military's coronavirus vaccine mandate in an \$847 billion compromise defense policy bill that also gives the troops its largest raise in 20 years. The agreement adds \$45 billion to the fiscal 2023 budget request from the White House for defense programs, and notably rebukes the administration's stance on coronavirus vaccinations for service members (*Stars and Stripes*).

COVID-19, 12/09/2022

Global Cases – Deaths
648,706,775 – 6,652,145

U.S. Cases – Deaths
99,402,420 – 1,084,402

228.6 = 70% of the country's population is fully vaccinated

Johns Hopkins University

Two National Vaccine Mandates Could Go Away

The Biden Administration in negotiations with the Republicans, is considering rescinding the military's 2021 COVID-19 vaccine mandate as part of the National Defense Spending bill.

If the military mandate is rescinded it could spread the healthcare workers mandate going away. That was established by HHS in 2021.

The Supreme Court upheld both earlier this year.

That healthcare worker mandate has been the target of two recent efforts by some states including one in which some attorney generals described the mandate as irrational and adding to the sector's staffing problems.

The Washington Post, 12/05/22

Wife Fell Out of Bed and Died Husband Suing

A man has sued an Overland Park, Kansas nursing home two years after his wife fell from her bed at the facility and died.

The lawsuit contends Betty Miller, 87, fell out of bed after 11:00 PM Dec. 1, 2020, and the fall wasn't discovered until 7:30 the next morning. She sent to the hospital Dec 3 where it was determined she had a dislocated shoulder and a broken arm.

She died five days later.

John Miller is suing both the facility, Advanced Health Care, and the doctor who admitted her, Neal Erickson, for negligence.

Blue Valley Post, 12/06/22

Lawsuit: Bad Background Check led to Sexual Assault

In Pennsylvania, a former CNA is suing the Grove at Irwin and Med Plus Staffing claiming both firms failed to conduct an adequate criminal background check, which led to her being sexually assaulted last year by a coworker.

She said she was sexually assaulted by Daniel A. Odu, in a resident's bathroom.

In the lawsuit, the woman claimed the Grove and the nursing agency were negligent in not conducting an adequate background check that would have discovered Odu had a previous conviction for domestic assault in 2017.

Odu will be tried for attempted rape and other charges in January.

Trib Live, 12/04/22

Archdiocese Sells LTC To Pay for Sex Scandal

Ongoing financial difficulties and a need for money to settle sexual-abuse cases is forcing the Archdiocese of New Orleans to sell its nursing homes and other elder care interests.

Notre Dame Health System, a nonprofit run by Archbishop Gregory Aymond, sold Notre Dame Home Health and Notre Dame Hospice recently to CommCare Corp., an operator of 15 Louisiana nursing and rehabilitation centers.

The Archdiocese of New Orleans filed for Chapter 11 bankruptcy protection in May 2020 in the middle of claims related to a child sexual abuse scandal.

The Times-Picayune, 12/02/22

Baseless False Claims May Decline With SCOTUS Ruling

The Supreme Court heard arguments from federal lawyers seeking to dismiss False Claims allegations in which the government chooses not to intervene, a move that would likely reduce the number of meritless cases providers face.

SCOTUS must decide whether the government can seek to dismiss cases in which it doesn't see merit, and what standards should be adopted to allow those dismissals.

The decision is a major one for nursing homes, whose owners are often targeted in high-dollar suits in which private individuals attempt to bring a case on the government's behalf alleging misuse of federal dollars.

McKnight's, 12/05

ONE COLUMN

LeadingAge Challenges USA Today Report on Staffing

LeadingAge head Katie Smith Sloan, in a letter to the editor of *USA Today* and posted on the association's website, disputed the investigative report the newspaper published on December 1, 2022 that examined staffing levels in nursing homes (*"Many nursing homes are poorly staffed. How do they get away with it?"*).

LeadingAge said *USA Today* presented a "narrow and inaccurately skewed" account of the staffing situation and did not contact the organization for comment before running the story.

Sloan said the story was a "disservice to readers by mischaracterizing the intention and commitment of thousands of workers in the aging services sector."

Sloan pointed out that LTC leadership has a "well documented history" in developing quality standards and led efforts to reduce and eliminate the use of physical restraints in nursing homes (which the *USA Today* story suggests is a result solely of regulatory crackdown).

"America," she continued, "needs an adequate system of funding, support and policies that address the workforce crisis.

That includes raising Medicaid reimbursement rates to cover the cost of care, government commitments to investments in programs to increase the pool of potential workers coupled with Administration-supported policies on immigration reform, passed by Congress."

Sloan called for "prioritization of our too-long-ignored" aging services system."

On workforce, we have raised our voice repeatedly to the Biden Administration, CMS, Congress and other stakeholders. We have presented plans and policies that will address chronic staffing needs in the sector.

There must be sustained prioritization of our too-long-ignored aging services system and the professional caregivers who serve older adults and families.

She concluded that, "Finger pointing and blame helps no one.

LeadingAge open letter, 12/05/22

You Can't Hand-Slap a Resident No Matter What

A federal court has ruled a nursing home worker's hand-slapping of a groping resident is not protected under the West Virginia Human Rights Act,

Worthington Healthcare Center fired Dorothy Bills after she slapped the hand of a mentally challenged resident who had been groping her.

Bills sued for wrongful termination and WVNH Emp LLC, the company that owns Worthington, asked for a summary judgment.

In issuing the dismissal, the court noted, "it is clear that physically punishing a patient is not a reasonable means of opposing sexual harassment in the workplace."

McKnight's, 12/05/22

Apprenticeship Program May be Staffing Solution

A healthcare apprenticeship program in rural Colorado is showing a broader embrace of apprenticeship programs might help address the nation's healthcare worker shortage.

The program, run through Western Colorado Area Health Education Center in Grand Junction, is meant to get people in the door of healthcare settings. Founded in 2019, the program was boosted by a \$2 million grant from the US Department of Labor last year.

Almost 60 employers including nursing homes provide on-the-job training to apprentices, who have to stay a year after they have learned to become personal care aides.

Kaiser Health News, 11/29/22

Another County Home Searching for Answers

Sullivan County Nursing Home in Claremont, New Hampshire saw 21 staffers leave in October – some full-timers, some per diem.

The reasons include a significant lack of housing in the area, a disinterest in retiring in New Hampshire, per-diem employees not concerning themselves with benefits,

as well as the revolving door of employees that come from one of the five hiring agencies that the facility uses.

Ironically, the departures come as Sullivan County prepares to break ground on a \$60 million dollar renovation and construction project to update and improve the facility.

Laconia Daily Sun, 11/29/22

Buckeye State SNFs Could Get Major Financial Windfall

Ohio nursing homes would get a \$615 million infusion if the state Senate follows the House's lead and votes to approve the measure. The House approved the funding on a 63-12 vote.

The Senate bill would combine \$204 million in state money with a \$411 million federal match.

Forty percent of the funding would be allocated using the state funding system based on direct care, ancillary support, capital and tax costs. The rest would go to facilities that satisfy quality of care incentives related to health outcomes such as lower rates of pressure sores and UTIs.

McKnight's, 12/05/22

Home Ends Bid to Block Inspection Report Publication

Esker Ri Nursing Home in Offaly, Ireland has ended a months-long High Court action which sought to block the publication of an inspection report that found a series of COVID-19-related infection control failings at the 130-bed facility.

The report of the November 2020 inspection could not be published until the nursing home's legal action was resolved.

The report stated that the home was "visibly clean throughout," cleaning equipment and cleaning trolleys were found to be "dirty" and there was "no procedure in place to ensure this equipment was cleaned."

The Health Information and Quality Authority has now published the report.

Independent.ie, 11/27/22

U.S. health officials will begin testing wastewater for poliovirus in select locations around the country. The testing will happen in communities that have low polio vaccination rates or those with possible connections to New York communities that are linked to a recent case of paralytic polio in Rockland, New York. The collection will not identify how many people or households have someone with the virus, merely that someone in the community is shedding the virus. It can help with investigation of suspected polio cases (**HealthDay**).

HCA and Tenet had positive operating margins throughout the pandemic. CHS had positive operating margins in all but two quarters of the pandemic, and one of those quarters was at the beginning of the pandemic. For nine out of the last 11 quarters, HCA had operating margins of at least 10%. During the same period, Tenet reported operating margins of at least 5%, while CHS' margins were lower than 5%. CHS also had lower margins than HCA and Tenet before the pandemic (**Becker's Hospital Review**).

The healthcare added 45,000 jobs in November, compared to about 54,000 in October, according to preliminary data from the U.S. Bureau of Labor Statistics. Ambulatory health services led the gains with 23,000 added jobs, followed by hospitals, nursing and residential care facilities, each adding about 10,000 jobs (**HealthCareDive**).

An autopsy study has indicated Vitamin D levels in post-mortem brain tissue were linked with cognitive function. Higher concentrations of 25(OH)D₃ -- the main form of vitamin D assessed in the study -- in four areas of the brain were tied to 25% to 33% lower odds of dementia or mild cognitive impairment. However, relationships between vitamin D and cognition have been investigated previously with mixed results. A spokesman for the Alzheimer's Association said, "Some studies found a connection; some did not" (**MedPage Today**).

