

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

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## THEY SAID IT:

*"These findings raise questions as to whether the current number of nursing hours that Medicare specifies is sufficient to keep residents safe from infectious disease"* from a report on staffing and infection control from HHS OIG

*"Our country is perilously short of nurses and those we do have are often not working in the settings that could provide the most value"*

Sarah Szanton, dean of the Johns Hopkins University School of Nursing before a senate committee 2/16

*"Considering how inaccurate the PDPM projections of CMS were with a decade to study and prepare for PDPM, it is unlikely that individual states with one year or less to study PDPM will arrive at accurate reimbursement rates that don't negatively impact the industry,"*

Melissa Brown COO Gravity Healthcare Consulting

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## **Victims Remembered From 2003 Facility Fire**

It was 20 years ago this weekend when 16 people died and several others were injured in a fire at a nursing home in Hartford, Connecticut.

A then-23-year-old woman resident was accused of setting the fire. She said at the time that she accidentally ignited her bed sheets while flicking a lighter.

The investigation brought about a crackdown on nursing homes that did not have sprinkler systems.

The facility, now called the Parkville Care Center, held a ceremony Friday to mark the somber date and discuss safety in nursing homes.

WVIT-TV, 02/24/2023

## **How Many Hours? CMS Still Saying IDK**

Federal officials are still trying to determine just how many minutes or hours a day it takes for direct care staff to perform tasks key to nursing home quality.

Providers are anxiously awaiting the release of a CMS proposal.

Jean Moody-Williams, of the CMS Center for Clinical Standards & Quality, said last week that data related to time requirements "is still being collected and analyzed."

However, she did say a broader study, encompassing a literature review, site visits and qualitative and costs analyses, related to creation of a nursing home staffing minimum is done.

McKnight's, 02/23/2023

## **New Va. Staffing Law, but New CMS Rule May Negate It**

Virginia's General Assembly approved legislation last week that requires 3.08 hours of total nursing care PPD. It will take effect in July 2025, assuming it is signed by the Governor.

Unlike some other states, Virginia allows for any category of nurse to fulfill the required hours, including the DON and administrative nurses.

The law gives the state Health Commissioner discretion to waive sanctions and penalties if facilities show good-faith efforts toward hiring and training skilled nursing staff.

It also links the staffing requirement to facilities' Medicare value-based purchasing program.

McKnight's, 02/21/2023

## **Senate Report: LTC Facilities Unprepared for Emergencies**

The 2021 winter storm that hit Texas and the central plains has spawned a special report from the U.S. Senate Aging and Finance Committees on emergency preparedness in LTC facilities.

That storm led to major electrical grid failure, water outages, the evacuation of

at least 1,400 long-term care residents and the deaths of two ALF residents.

The report identified weather-related long-term care evacuations in 17 states since 2018.

Among the recommendation are increases in both facility and survey staffs; a requirement granting families copies of a facility's emergency preparedness plans and access to on Care Compare; and required emergency power.

"Left in the Dark" – U.S. Senate Report February 2023

## **LeadingAge Calls For End of 3-Day-Stay Rule**

CEO Katie Smith Sloan said in letters and a follow-up statement to Congressional leaders and HHS that rule is outdated, as well as "unreasonable, unnecessary, irresponsible and inequitable."

Sloan noted that audits by Medicare Administrative Contractors (MACs) since 2020 – when the rule was suspended during the pandemic - show that waiving the rule has had no negative effect on patient outcomes, and also has not led to an increase in inappropriate admissions.

CMS also could have rescinded the waiver at any time if it had proven ineffective, which it did not.

McKnight's, 02/20/2023

## **RN's License Revoked For Death of Child**

The Michigan Board of nursing has revoked the license of an RN and fined her \$150,000 in the death of a 3-year-old vent patient.

On June 20, 2022, Judith Maria Sobol, allegedly appeared for her scheduled overnight home care shift under the influence of methamphetamines.

Early in the morning, the child's parents discovered Sobol incoherent and the child unresponsive with her trachea tube disconnected.

Sobol allegedly admitted that she had used methamphetamines on the day she came to work. A small container of crystal meth was discovered in her purse.

Michigan Attorney General  
news release, 02/17/2023

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

**AMERICA:** In an unexpected shift, Moderna has decided not to ask Americans to pay for its Covid-19 vaccine, a move that follows intense criticism over initial plans to charge \$110 to \$130 per dose after the company pivots from government contracts to commercial distribution (**STAT**).

**THE WORLD:** Merck reported that *Lagevrio* – its oral antiviral pill - did not provide a “statistically significant reduction” in the risk of COVID-19. In a trial, over 1,500 participants who were free of COVID-19 and lived with someone who was recently diagnosed with the virus, were treated with *Lagevrio*, but were only 23.6% less likely to develop COVID after 14 days than those on a placebo (**Fierce Pharma**).

**NORTH CAROLINA:** In another example of the waning concern about the coronavirus, the skilled nursing unit at Novant Health Presbyterian Medical Center has reopened as a skilled nursing facility. The 12-bed unit was repurposed in 2020 to help with the influx of patients sick with Covid-19. The skilled nursing unit provides up to 21 days of additional care for patients with chronic or acute diagnoses, or those recovering from surgery (**Charlotte Business Journal**).

**THE WORLD:** An analysis of data from 71 countries shows that over the first 2 years of the pandemic, antibiotic sales increases (cephalosporins, penicillins, macrolides, and tetracycline) were linked with increases in COVID-19 cases. The authors note that while the findings indicate a level of antibiotic overuse and misuse for COVID-19, pandemic-associated lockdowns and other non-pharmaceutical interventions likely kept the increase in antibiotic sales modest by reducing non-COVID infections that drive antibiotic use (**CIDRAP**).

**CHINA:** It's largely who you know to get a hospital bed in China. As COVID ripped across China and filled emergency wards, privileged patients cut hospital queues because they knew someone, offered a bribe or paid people with connections. The practice has long been commonplace in navigating an under-resourced Chinese health system that was severely stretched

after Beijing abruptly ended its zero-COVID restrictions in early December, with widespread reports of packed hospitals and mortuaries (**Reuters**).

**THE WORLD:** The National Institutes of Health has initiated a worldwide, 1500-person multi-site clinical trial to evaluate an investigational antiviral for the treatment of COVID-19. The therapeutic, known as S-217622 or *ensitrelvir fumaric acid*, was discovered by Hokkaido University, Sapporo, and Shionogi & Co both in Japan. The trial is assessing whether S-217622 can improve clinical outcomes for patients who are hospitalized for management of COVID-19 as compared to a placebo (**NIH news release**).

**THE WORLD:** Analyzing the most extensive datasets in the United States, researchers from the Icahn School of Medicine at Mount Sinai have revealed that vaccination against COVID-19 is associated with fewer heart attacks, strokes, and other cardiovascular issues among people who were infected with SARS-CoV-2, the virus that causes COVID-19 (**Journal of the American College of Cardiology**).

**CALIFORNIA:** Researchers at Cedars Sinai Medical Center in Los Angeles studied the medical records of more than 23,000 adults who'd had Covid-19 at least once. The researchers adjusted to account for other diseases and determined Covid-19 apparently increased the odds of a new diabetes diagnosis by an average of about 58% (**JAMA Network Open**).

**CALIFORNIA:** The state's state of emergency will expire this week, three years after it was the first state in the nation to lock down in March 2020. Ending the state of emergency means mass vaccination and testing clinics will no longer be operating. Also, health insurance companies won't have to fully cover COVID vaccines, testing and therapeutics after Nov. 11 (**KNTV-TV**).

**CONNECTICUT:** An appeals court ruled federal workers are generally not entitled to extra pay for being exposed to COVID-19 through their jobs. The 10-2

decision ruled against 188 current and former workers at a federal prison in Danbury who said they deserved hazardous duty and environmental differential pay because they worked with or in close proximity to people, objects and surfaces infected with COVID-19, and were not wearing sufficient protective gear (**Reuters**).

**THE WORLD:** A meta-analysis, i.e., a study of studies, of 65 studies from 19 countries, has concluded that for ten-months after a COVID-19 infection the immune system provides protection against symptomatic illness the next time around. The researchers from the Health Metrics and Evaluation COVID-19 Forecasting Team said their study is the largest review yet of available data on the subject (**CNN**).

**AMERICA:** In an unexpected shift, Moderna has decided not to ask Americans to pay for its Covid-19 vaccine, a move that follows intense criticism over initial plans to charge \$110 to \$130 per dose after the company pivots from government contracts to commercial distribution (**STAT**).

**THE WORLD:** Coronavirus survivors are about 58% more likely to be diagnosed with new-onset diabetes compared to those who haven't contracted the virus, according to a new study by Penn State College of Medicine that adds to the growing mountain of evidence that covid patients are at an increased risk for metabolic and cardiovascular problems after infection (**The Washington Post**).

### **COVID-19, 02/24/2023**

**Global Cases – Deaths**  
**674,892,726 – 6,869,650**

**U.S. Cases – Deaths**  
**103,370,611 – 1,119,546**

229.9 = 71% of the country's population is fully vaccinated

*Johns Hopkins University*

## **Skyline Bossman May Be Close to Copping a Plea**

The former head of a nursing home empire that grew quickly and crumbled even more quickly is close to reaching a plea deal with federal prosecutors that would cover all pending criminal charges.

Joseph Schwartz is under federal indictment in New Jersey, where he was charged with failing to pay \$29.5 million in payroll and unemployment taxes, according to court records.

There are multiple federal and state cases against Schwartz. He grew his Skyline Healthcare chain to more than 100 facilities after 2015 but quickly found himself facing allegations of gross mismanagement and wrongdoing.

*McKnight's, 02/22/2023*

## **Texas Board Charges Nurses in Fake Degree Scam**

The Texas Board of Nursing charged 23 people as part of the reverberations from "Operation Nightingale," which uncovered a national scheme involving thousands of fake nursing degrees.

In mid-February, the board filed formal charges against 23 nurses for "fraudulently obtaining educational credentials.

Nursing students who paid thousands of dollars to the people running the scheme say they attended classes and did clinicals and now are worried about their careers.

Four people in Texas — Anna Itaman, Simon Itaman, Serge Jean and Ludnie Jean — have been charged with leading the scheme.

*Becker's Hospital Review, 02/20/2023*

## **Organizations Seek Huge Boost in Ombudsman Budget**

Saying the federally mandated Long Term Care Ombudsman Program is "woefully" underfunded, AARP representatives and members of the New York State aging committees are appealing to the governor and legislature to boost funding.

The organizations want an increase from \$2.5 million to \$15 million in the next state budget.

There are 1,400 nursing homes or adult care facilities across New York State. with 52% of all facilities failed to receive one visit during a three-month period last year.

The visits, according to AARP, are required on a weekly basis.

*WRGB-TV, 02/19/2023*

## **ALF Sued Over Employee Shot to Death by Resident**

The widow of an assisted living maintenance worker who allegedly was shot and killed in 2021 by a resident has filed two lawsuits, alleging that the community allowed the accused shooter to have a weapon despite knowing that he had made threats against employees and suffered from delusions.

Olivia Carranza, widow of Ricardo Medina-Rojas, originally filed a complaint against the accused shooter, Okey Payne, 95 at the time of the shooting, The Legacy at Lafayette and Madison Realty Equities in March 2022.

She recently added SAL Management Group, which previously managed the community as a defendant.

*Senior Living, 02/07/2023*

## **AG Asks to Recover Funds From SNFs Causing Harm**

Connecticut Attorney General William Tong is asking the legislature for the power to recover state funds from seriously deficient long term care facilities causing harm to residents.

While the Department of Public Health has enforcement authority over violations concerning care of residents in long term care facilities, the state lacks authority to recover state funding, including Medicaid dollars, the facilities may receive while providing deficient care that harms or threatens to harm residents.

The legislation would provide for the recovery of up to three times the damages and impose civil penalties up to \$11,000 for each violation.

*Conn. Attorney General  
News release, 02/16/2023*

## **ONE COLUMN Clock is Ticking for COVID-Related Freebies**

The White House announced this month that the national public health emergency, first declared in early 2020 in response to the pandemic, is set to expire May 11. When it ends, so will many of the policies designed to combat the virus's spread.

Take vaccines. Until now, the federal government has been purchasing covid-19 shots. It recently bought 105 million doses of the Pfizer-BioNTech bivalent booster for about \$30.48 a dose, and 66 million doses of Moderna's version for \$26.36 a dose. (These are among the companies that developed the first covid vaccines sold in the United States.)

People will be able to get these vaccines at low or no cost as long as the government-purchased supplies last. But even before the end date for the public emergency was set, Congress opted not to provide more money to increase the government's dwindling stockpile. As a result, Pfizer and Moderna were already planning their moves into the commercial market. Both have indicated they will raise prices, somewhere in the range of \$110 to \$130 per dose, though insurers and government health programs could negotiate lower rates.

"We see a double-digit billion[-dollar] market opportunity," investors were told at a JPMorgan conference in San Francisco recently by Ryan Richardson, chief strategy officer for BioNTech. The company expects a gross price — the full price before any discounts — of \$110 a dose, which, Richardson said, "is more than justified from a health economics perspective."

That could translate to tens of billions of dollars in revenue for the manufacturers, even if uptake of the vaccines is slow. And consumers would foot the bill, either directly or indirectly.

If half of adults — about the same percentage as those who opt for an annual flu shot — get covid boosters at the higher prices, a recent report estimated, payors would shell out \$12.4 billion to \$14.8 billion.

*National Public Radio, 02/13/2023*

## **What One Court Giveth, Another Taketh Away**

An appeals court in New Jersey has reversed a trial court referee's decision that awarded a CNA who was fired due to "disciplinary action" accrued PTO pay.

The appeals court said the referee in awarding Stephania Warren about \$1400 apparently did not know that the employer, Hackensack Meridian Health, had a written policy negating payment to employee terminated for misconduct.

The appeals court wrote: "We conclude that, because an employer has no statutory obligation to offer or provide PTO in the first instance, accrued PTO does not constitute wages and is not otherwise payable.

*McKnight's 02/24/2023*

## **Alleged Threats to Staff Lands Provider in Court**

A Department of Labor lawsuit charges a Michigan assisted living owner, during an investigation into pay practices, threatened to fire employees if they spoke with investigators and to trick workers into revealing whether they cooperated with the investigation.

Safe Haven Assisted Living of Haslett and owner Tamesha Porter are accused of violating the Fair Labor Standards Act, which protects workers from retaliation for real or perceived cooperation with a DOL investigation.

Ultimately, a judgement required Porter and Safe Haven to pay \$15,238 in back wages to six employees, and a \$3,618 civil penalty.

*Senior Living, 02/16/2023*

## **DOJ: He Withheld Worker's Taxes and Kept the Money**

A federal grand jury has indicted, Paul Walczak, a former nursing homeowner on charges that he failed to pay more than \$6 million in taxes that were withheld from employees' paychecks.

The Department of Justice said Walczak owned multiple healthcare companies including three Florida nursing homes.

A federal grand jury accused Walczak of not paying to the IRS more than \$6 million in withholdings he had collected between 2016 and 2019.

Instead of paying employees' tax obligations, he allegedly used the funds to invest in his businesses, purchase a yacht, lease luxury vehicles and charter private international flights.

*DOJ news release, 02/14/2023*

## **Senators Hear Issues - Could Help Nursing Homes**

An overwhelmed healthcare workforce, the implications of ongoing shortages and fears about a stressed pipeline took center stage during a Senate committee hearing last week.

While testimony did not specifically focus specifically on nursing homes, several in attendance raised labor solutions providers have said will be key to recovery in long-term care — among them immigration reform, nurse training and targeted attention for the direct care workforce.

In addition to its staffing mandate and immigration LeadingAge asked the committee to consider mitigating staffing agencies price gouging, boost wages in LTC and enact meaningful, equitable LTC financing.

*McKnight's, 02/20/2023*

## **Prosecution Rests in Admin Manslaughter Trial**

The manslaughter trial for a former Hollywood nursing home administrator continued Monday in the deaths of 12 patients in 2017 following Hurricane Irma.

Administrator Jorge Carballo is facing nine counts of aggravated manslaughter for not properly caring for his residents, not moving them out of the facility, and then going home.

The defense argued Monday that the environment patients were exposed to in the days leading up to the evacuation were bearable and that moving them could prove to be a risk for the elderly and frail residents.

*WPLG-TV, 02/21/2023*

## **Briefly IN THE NEWS**

Diagnosing gastrointestinal disorders is an uncomfortable process. It might involve sticking a long tube with a camera attached down a patient's throat or inserting a small catheter through a patient's nostril. A team of researchers from the Massachusetts Institute of Technology, the California Institute of Technology, and New York University, looking to explore more comfortable options, has designed an ingestible device that doctors can monitor as it moves through the GI tract (**STAT**).

In a bill introduced by Republicans, all nonprofit hospitals and health systems in Indiana would be required to report the average price of every healthcare service they provide to the state's insurance department, along with all patient service revenues from the year prior. If the department determines a hospital's average price for a service is more than 260% higher than Medicare's price for the service, the state would impose a fine that is equal to up to 10% of the hospital's total patient-service revenue (**Becker's Hospital Review**).

In a study by Harvard Medical School and Brigham and Women's Hospital in Boston and the University of Alabama at Birmingham, less than 15% of board members overseeing the nation's top hospitals have a professional background in healthcare, while more than half have a background in finance or business services (**Journal of General Internal Medicine**).

Elf Bar, a popular Chinese vape company says it is donating thousands of dollars to the American Cancer Society in an effort to stop youth vaping. But the cancer organization says it never agreed to the partnership, and it's ordering the company to stop telling the public the two are working together (**STAT**).

Welltower, in the 4<sup>th</sup> quarters of 2023, began transitioning skilled nursing properties that were formerly part of its ProMedica joint venture to new operators. Overseeing the transition is Integra, which bought an initial 15% state in 54 SNFs last year and an additional 15% in 31 other properties last month (**McKnight's**).