

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

Edited by Drew Vogel

[drewvogel5255@msn.com](mailto:drewvogel5255@msn.com)

Vol 7

04/16/2023

## THEY SAID IT:

***"This is just the beginning of a complex and large educational and procedural change for all facilities"***

Leah Klusch, executive director of Alliance Training Center on the new 450-page RAI manual

***"We have successfully overcome the pandemic in Germany and also with a good balance sheet"***

German Health Minister Karl Lauterbach

***Rather than people just flocking to their political tribe, we said, 'Let's see how much they actually work'***

Dr. Aodhan Breathnach an author of a British study that found that masking in healthcare settings is no longer necessary

***"We hope this indicates that CMS is taking the time to thoughtfully consider how we marry policy with practicality"***

American Health Care Association statement after CMS did not issue a minimum staffing rule, as expected

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## **Not Now - MedPAC Rules Out Safety Net for Some SNFs**

MedPAC says it is "ruling out" – at least for now – recommending safety net payments to nursing homes like one it previously embraced for hospitals serving a large share of low-income Medicare patients.

Staff with the Medicare Payment Advisory Commission set out to identify safety-net providers for short-stay patients covered by Medicare in both the skilled nursing and home healthcare sectors.

But when they looked at payments made to those providers, they found average margins actually exceeded those of other skilled nursing providers.

*McKnight's, 04/14/2023*

## **CMS Info on Care Comp Lacks Accuracy**

Medicare's Care Compare site did not accurately reflect nursing home deficiencies in two-thirds of listings reviewed by HHS' OIG.

The OIG found CMS at times reported deficiencies to Care Compare that were not found in survey documentation; and that scope and severity levels were inaccurate for a third of nursing homes.

OIG said CMS' processes for reviewing "were not adequate," because it relied on state survey staff to confirm accuracy after posting.

For over 40% of the sampled nursing homes, CMS did not report yearly fire safety and emergency preparedness inspections.

*McKnight's, 04/12/2023*

## **Follow up .....**

### **CMS Says It's Taking OIG Report Serious**

CMS said it is taking "seriously" a damning OIG report that questioned the accuracy of information posted on Care Compare.

"CMS examined the root causes of OIG's findings, and — while the audit review sample size only included 100 nursing homes — CMS takes the findings seriously and has already corrected each issue identified."

But the agency also said missing data didn't necessarily affect consumers' use of the site.

The American Health Care Association said it supports efforts to resolve the identified issues. But it also sought to illustrate continued inaccuracies as another reason to improve CMS' approach to nursing home regulation.

*McKnight's, 04/13/2023*

### **Illinois SNF will Pay \$400K For Pregnancy Discrimination**

Symphony of Joliet, a skilled nursing facility, will pay \$400,000 and furnish other relief to settle a pregnancy discrimination lawsuit brought by the EEOC.

In its lawsuit, the EEOC charged that Symphony, a skilled nursing and rehabilitation facility, implemented a policy requiring employees to inform the company of any pregnancy and to obtain a note from their doctor releasing them to work without restrictions.

The EEOC also alleged that Symphony denied employees with pregnancy-related restrictions reasonable accommodations and terminated them though other employees with similar restrictions were provided accommodations.

*EEOC news release, 04/12/2023*

### **A Billion Dollars to Fund Rural Facilities in One State**

In Minnesota Brown County Commissioners have unanimously approved a resolution asking state lawmakers to spend \$1 billion over the next four years to alleviate the workforce crisis that is disproportionately hitting rural nursing homes.

The commissioners also want to see wages for caregiving start at \$22 per hour.

How bad is it? The administrator of a 94-bed SNF said it has an admissions' wait list of about 200 people and declined to admit 240 seniors last year. He said they are just now receiving reimbursement for 2020 expenses. In addition, Medicaid is reimbursing 80% of care costs.

*New Ulm Journal, 04/06/2023*

### **This Bill Would Allow VA to Pay for Assisted Living**

Michigan Congresswoman Elissa Slotkin has re-introduced a bill to expand long term care for veterans. Slotkin said the Expanding Veterans' Options for Long Term Care Act, which she says would help senior veterans live more independently and cut costs for the VA.

The legislation creates a three-year pilot program for eligible veterans to receive assisted living care paid for by the VA. The agency currently is barred from paying for assisted living.

In a report to Congress, the VA said the number of veterans eligible for nursing home care is expected to rise 535% in the next twenty years.

*WHMI-FM, 04/08/2023*

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

**WASHINGTON, DC:** President Joe Biden last Monday, April 11, signed a Republican-led resolution to end the national COVID-19 emergency, a month earlier than originally planned. The national emergency is one of two COVID-19 emergencies that have granted special permissions and provided support during the pandemic. Although the signing of the bill immediately ends the COVID-19 national emergency, the public health emergency (PHE) remains in effect (*SHRM Online*).

**WASHINGTON, DC:** On April 11 the U.S. Department of Health and Human Services' Office for Civil Rights (OCR) announced that the Notifications of Enforcement Discretion issued under HIPAA and the Health Information Technology for Economic and Clinical Health (HITECH) Act during the COVID-19 public health emergency will expire at 11:59 pm on May 11, 2023, due to the expiration of the COVID-19 public health emergency (*HHS news release*).

**WASHINGTON, DC:** Tuesday April 18, Select Subcommittee on the Coronavirus Pandemic Chairman Brad Wenstrup (R-Ohio) will hold a hearing titled "Investigating the Origins of COVID-19, Part 2: China and the Available Intelligence" to examine China's complicity in the origination of COVID-19 and explore the intelligence surrounding COVID-19 origins. At the Select Subcommittee's first hearing on COVID-19 origins in March, expert witnesses revealed new evidence that COVID-19 likely originated from a lab leak in Wuhan (*Select Committee news release*).

**NORTHERN IRELAND:** The Public Health Agency (PHA) in Northern Ireland has launched a spring booster vaccine program against Covid-19 for people most at risk of serious illness from the disease. It is being offered to people over 75, care home residents and people with a weakened immune system. Starting last Wednesday, vaccines were rolled out through public health agencies (*BBC*).

**NEW YORK:** In a lawsuit Sean Newman of Nassau charges former governor

Andrew Cuomo's "unmitigated greed" and mismanagement of the COVID-19 pandemic led to the "needless" deaths of thousands of elderly New Yorkers including Newman's mother and father. In the filing Newman also claims Cuomo, his top aide Melissa DeRosa, and state and health officials exhibited "deliberate indifference" toward nursing home residents, leading to as many as 15,000 avoidable COVID deaths (*New York Post*).

**VERMONT:** Covid-19 community levels were "low" in the past week, the Vermont Dept. of Health reported Wednesday. Covid metrics remained mostly level with the previous week. Twenty-three people were admitted to Vermont hospitals compared with 22 the week before, which was one of the lowest admission totals Vermont had reported in months. The department reported 265 Covid cases, up from 201 last week. Covid case data is primarily based on PCR testing and does not include at-home antigen tests (*VT Digger*).

**THE WORLD:** WHO chief pressed China on Thursday to share its information about the origins of COVID-19, saying that until that happened all hypotheses remained on the table. "Without full access to the information that China has, you cannot say this or that," said WHO Director-General Tedros Adhanom Ghebreyesus in response to a question about the origin of the virus (*Reuters*).

**GERMANY:** Health Minister Karl Lauterbach said the COVID-19 pandemic is over in Germany. Lauterbach, an epidemiologist, said he made this assessment based on looking at virus variants, vaccination rates and hospital cases. Lauterbach, known for his initially cautious COVID-19 policies during the global health crisis, has adopted a different tone lately (*Politico*).

**MISSOURI:** Covid-19 isn't "just a flu. Greater immunity against the coronavirus, better treatments, and different virus variants lowered Covid's mortality risk to about 6% among adults hospitalized in the US last winter from 17-21% in 2020, researchers at the Clinical Epidemiology Center of the Veterans Affairs St. Louis

Health Care System in Missouri found. That was still much higher than the flu's death rate of 3.7% (*Bloomberg*).

**THE WORLD:** The WHO's vaccine experts have revised their global COVID-19 vaccination recommendations. The group recommends primary vaccinations and first booster doses for children and adolescents with health risks and healthy adults under the age of about 60. WHO recommends additional booster doses for high-priority groups such as older people, immunocompromised people of all ages, front-line health workers and pregnant women six or 12 months after their last booster dose; healthy kids and teenagers considered low priority may not need to get a shot (*CNN*).

**CALIFORNIA:** Graham Nash of the singing group Crosby, Stills, Nash and Young has revealed that David Crosby died at his home in Santa Ynez during a bout with COVID-19. At the time of the singer's, death on January 19, his family said in a statement that Crosby died following a "long illness," though no exact cause of death was provided. Crosby had COVID-19 at least one other time (*Rolling Stone*).

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### **COVID-19, 04/16/2023**

**Global Cases – Deaths**  
762,791,152 – 6,897,025

**U.S. Cases – Deaths**  
104,348,746 – 1,128,404

**U.S. Fully Vaccinated**  
55,517,285

*CMS & WHO*

## **iQIES Transition and Timeline for MDS and RAI**

All provider MDS submissions are currently on hold — until 8 a.m. ET Monday morning, April 17, — while all previous records, submissions and reports are transitioned into the previously announced Internet Quality Improvement and Evaluation System (iQIES).

Providers had until 8 p.m. Thursday night to submit material to the old QIES ASAP system before they were locked out for an 84-hour transition period.

Looking ahead, the agency plans to post the final version of the new MDS data specifications in May and the final MDS RAI 3.0 manual in August in advance of the Oct. 1 implementation.

*McKnight's, 04/14/2023*

## **SNF Complex Ownership Tested in Multi-state Case**

Concordia Lutheran Ministries (CLM), a Pennsylvania holding company, must face claims related to operations of a facility it owns in Florida.

The estate of a former Florida nursing home resident alleged a number of violations including a wrongful death at Concordia of Florida in Tampa.

A Florida court refused to dismiss the suit, ruling that CLM didn't adequately refute allegations that it committed a claimable offense in Florida.

That makes it subject to the state's "long-arm" statute, despite CLM's efforts to distance itself from its out-of-state operators.

That decision could be a blow to nursing homes' often complex ownership structures.

*Bloomberg Law News, 04/06/2023*

## **AHCA & AHA on the Same Page in Staffing Issue**

After CMS delayed the long-awaited minimum staffing rule until "later this Spring," some providers took it as a sign that the agency could be truly trying to balance the reality of current hiring

conditions with the altruistic goal of increasing direct care.

Then the American Hospital Association took the unusual step of standing alongside AHCA on what has traditionally been viewed as a post-acute issue. In a letter sent to CMS Administrator Chiquita Brooks La-Sure, the two heavyweight associations urged not to enact a staffing mandate that could further harm the nursing home sector's workforce.

*McKnight's, 04/07/2023*

## **Bill to 'Juice Up' LTC Pay Heard in Massachusetts**

The omnibus "nursing home bill" that would increase LTC staff pay to a "living wage," received a hearing last week before a Massachusetts legislative committee.

Advocates argue that low wages for high-responsibility jobs have caused many nurses to move on, some to temporary or travel agencies where they can make double or triple the amount they earn as a nursing home employee.

The bill would establish an extended care career ladder grant program for CNAs, and other entry-level workers in LTC, create a grant program for supervisory and leadership training, and provide tuition reimbursement program for certified nursing assistant training.

*WWLP-TV, 04/10/2023*

## **ALFs Afraid SNFs Will Syphon Off Staff**

The Biden administration is widely expected to release details of what would be the first-ever federal nursing home staffing mandate sometime this month, raising anxieties among nursing facilities. But the potential ramifications extend to other provider types as well.

Assisted living communities and personal care homes in Pennsylvania (and likely elsewhere) are worried they could lose staff members to nursing homes if a minimum staffing requirement is implemented.

Overall, in a Pennsylvania Health Care Association member survey 97% of ALFs have staff openings. Twenty-nine percent have 6-to-10 open positions.

*Senior Living, 04/05/2023*

## **ONE COLUMN**

### **Diversity and COVID They're Apparently Related**

The United States has the dubious distinction of suffering the highest COVID-19 mortality rate among the world's high-income countries. But that national average — 372 deaths per 100,000 people as of last summer — hides the fact that pandemic outcomes differed greatly from state to state.

Scores of researchers from across the country extracted data on states' demographic characteristics prior to the pandemic, looking for ways in which their behaviors and policies diverged as the pandemic proceeded.

Race, ethnicity and socioeconomic factors were the most powerful predictors of a state's COVID-19 death toll, researchers found. The larger the proportion of residents who identified as Black or Latino, the higher the poverty rate, the greater the share of residents without health insurance and the lower the education level among adults, the more deaths there were per capita.

That may not be much of a surprise. But the researchers also discovered that the more people in a state trusted one another, the lower their collective risk of dying of COVID-19. That result underscores how America's growing divisiveness seems to have made us uniquely vulnerable during the pandemic.

"How we feel about one another matters," said political scientist Thomas J. Bollyke, one of the study's lead authors. "The solidarity between people — the feeling that others will also do the right thing, that you're not being taking advantage of — is a big driver in your willingness to adopt protective behaviors."

The report, published last week in the medical journal *Lancet*, is based on troves of U.S. pandemic data from January 2020 to July 2022. Bollyke called the undertaking "the most comprehensive statement to date on the drivers of outcomes in the pandemic."

*The Los Angeles Times, 03/27/2023*

## **Union and Governments 'Buddy Up' to Train Staff**

Two upstate New York municipalities and a caregivers' union have joined forces to develop a novel program that brings together two often-opposing parties for a common goal: addressing nursing homes' workforce problems.

The Monroe County Industrial Development Agency (\$300,000) and the city of Rochester (\$500,000) will each invest hundreds of thousands of dollars in programs to train low-income workers for healthcare jobs.

The programs will help train certified nurse assistants, patient care technicians, pharmacy technicians, phlebotomists and sterile processing technicians.

Many states have LTC worker shortages, but NY's 3.5 PPD creates additional staffing issues.

*McKnight's, 04/12/2023*

## **Delaware: 80% ALF and 51% SNF Complaints Skate Free**

Assisted living facilities have no federal oversight, which means it is up to states to serve as a watchdog.

Delaware's Division of Health Care Quality, which oversees about 80 assisted living facilities and nursing homes, has struggled for about a decade to investigate complaints.

That state agency, as of March, had 1,474 complaints for nursing homes and assisted living facilities in its backlog.

From 2013 to 2021, an average of only about 22% of the assisted living complaints and 49% of nursing home complaints were investigated by the state each year.

*Delaware News Journal, 04/12/2023*

## **Shrinking or Closing Kansas SNFs Hard-Hit by Pandemic**

Gove County Medical Center is closing down its long-term care facility in Quinter, which has 29 residents and employs 34 people in a community of fewer than 1000 residents.

Fifty-two facilities have either closed or reduced capacity in Kansas since the pandemic started - 24 nursing homes have shuttered; 28 others have delicensed parts of their buildings or campuses.

Eleven of the shuttered facilities were nonprofits.

Leading age Kansas reported this year that 85,000 people living in areas with just one SNF within 30 minutes; for 23,000 a facility is at least one hour away.

*McKnight's, 04/13/2023*

## **Maryland State-Owned Homes Receive Serious Oversight**

The Maryland Senate gave preliminary approval to a bill to increase oversight of state-owned nursing homes following reports of abuse at a state veterans home.

The measure requires operators of state-owned nursing facilities notify various state agencies and the governor of any citations issued or enforcement actions by state or federal regulators and provide a plan of correction.

The Senate bill, which is sponsored by all 47 senators, passed on a voice vote and without debate. An identical bill is awaiting action in the House.

*Maryland Matters, 04/06/2023*

## **Medicaid Revenues Are Up But Medicare is Down**

Staffing shortages are still leading the drag on skilled nursing operations, especially as the acuity level of patients has risen, NIC's Bill Kauffman noted on his blog.

Staffing, wage growth and general inflation are the big three making it harder on operators everywhere.

Medicaid revenue per patient day (RPPD) hit an "all-time high" of \$269 in January. That was up 2.79% year over year, while Medicaid revenue mix in January was at 49.8%, up almost 1% from a year earlier.

Meanwhile, Medicare PPD revenue dropped \$2 in January 2023 to \$592.

*McKnight's, 04/03/2023*

## **Briefly IN THE NEWS**

The US National Institute on Aging is moving forward with efforts to build a real-world Alzheimer's disease database as part of its aim to improve, support and conduct more dementia research. The NIH confirmed Tuesday that plans are underway to fund the Alzheimer's disease and Alzheimer's disease-related dementias' real-world data platform. The National Institute on Aging intends to commit \$50 million per year, starting in fiscal year 2024, to fund one award (**CNN**).

The Sanford Health system, the parent of the Good Samaritan Society, and Fairview Health Services, which includes Ebenezer Senior Living, have delayed their announced merger until late summer. The original closing goal was March 31. It was changed to May 31 and now until August (**The Star Tribune**).

The Illinois Department of Public Health (IDPH) issued over 200 fines to long-term care homes throughout the state, totaling more than \$2.88 million during the fourth quarter of 2022. The fines ranged from \$500 to \$77,200 with two facilities receiving the larger amount and a third nursing home fined \$75,000 (**The Country Herald**).

The U.S. government intends to publish the final guidance for its Medicare drug price negotiation program in early July and is currently talking to companies about its contents. The guidance will finalize the details of how the Administration's signature drug pricing reform will be carried out. The U.S. Centers for Medicare and Medicaid (CMS) released a draft in March and gave a 30-day window for public comments. It is unclear how much will change in the final guidance (**Reuters**).

Sen. Bernie Sanders plans to call the chief executives of the country's largest insulin manufacturers to testify before his health committee, according to insulin maker Eli Lilly and others. The move will keep the pressure on the companies over their prices despite the fact that they have said they plan to lower the list price of their older insulin products (**STAT**).