

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

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## THEY SAID IT:

***"Facilities are more leery to take difficult patients. There's a fear of incurring that kind of risk on surveys"***

Brian Ellsworth, vice president of Health Dimensions Group's Public Policy and Payment Transformation

***"We could hire another dozen [CNAs] tomorrow and put them to work right away if they could pass the test"***

Bill Graves, president and CEO of the South Cove Manor in Quincy, Mass where the state is allowing Spanish and Chinese CNAs testing

***"No matter how you slice it, the people at the top — the CEOs of these companies — are making enormous gains every year compared to ordinary Americans"***

John McDonough, a health policy professor at Harvard commenting on the combined \$4 billion the CEOs of the top 300 healthcare companies realized in 2022

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## **He Fell Off the Pot, Then Lost the Lawsuit**

A Superior Court upheld a lower court ruling that Somerton Center, a Philadelphia nursing home, is not liable for additional compensation for injuries sustained by janitor Troy White, who on break, fell from a toilet seat that supposedly was not properly fastened.

Under state law, employees must pursue work-related injury claims through the workers compensation system and cannot also sue their employers for negligence.

White already received workers' compensation benefits through Serene Health Service, operators of the facility but he also sued Somerton, alleging the facility was negligent for not properly securing the toilet seat and bore overall liability.

McKnight's, 08/14/2023

## **California's Largest SNF Back in Good the Graces**

California's Medi-Cal program has fully restored funding to San Francisco's Laguna Honda Hospital more than a year after the public nursing facility was threatened with closure.

Federal and state regulators decertified Laguna Honda from Medi-Cal and Medicare in 2022 after finding numerous health and safety shortcomings across multiple inspection surveys, which were triggered after the hospital self-reported two non-fatal overdoses on-site.

Laguna Honda, a 156-year-old nursing home, is the largest public nursing facility in the state and is home to nearly 500 medically fragile residents.

KQED, 08/15/2023

## **COVID-Devastated Veterans Home Is Being Replaced**

Three years after a COVID-19 outbreak at the Holyoke Soldiers' Home resulted in at least 76 veterans' deaths, and several investigations, lawsuits and an oversight reform law, Massachusetts broke ground on a new Holyoke Veterans Home.

The \$483 million facility will house 234 long-term care beds for the state's medically vulnerable veteran population.

The new home is expected to be completed in the summer of 2028.

Builders will follow a "phased construction" schedule, aiming to keep veterans in place in the older building during the construction period before transitioning them to the new facility on the same site.

WBUR, 08/15/2023

## **Keep Your DONs and LNHas To Reduce Your Complaints**

Hold on to your directors of nursing and administrators as well as your nurse aides and you'll likely face fewer consumer complaints — and have fewer of them substantiated.

Miami University in Ohio reviewed of four different data sets across hundreds of Ohio nursing homes found that

administrator and DON turnover was significantly associated with an increase in both total complaints and substantiated complaints.

Conversely, when the researchers crossed nearly 10,000 complaints against building-level data, they found higher CNA retention rates and family satisfaction scores were significantly associated with fewer total complaints and substantiated complaints.

JAMDA, 08/11/2023

## **Mixed Rulings in COVID-era Wrongful Death Case**

Connecticut's highest court backed a provider's interpretation in wrongful death case that operators were protected in cases where short staffing due to COVID-19 conditions affected the ability to care for any patients in a healthcare facility.

Coverage applies even when the affected patient doesn't have COVID.

In a companion ruling last week, the state Supreme Court also decided in *another case* the immunity granted by Gov. Ned Lamont's 2020 executive order broadly applies to services meant to prevent, diagnose, or treat COVID, but not to those taken after the virus had been ruled out.

McKnight's, 08/14/2023

## **State Funding to Help SNFs Recover From Pandemic**

Funding from a bipartisan bill to help stabilize local nursing facilities across Minnesota facing financial hardship and to help them recover from the COVID-19 pandemic was delivered on Aug. 1.

In May, the Minnesota legislature passed a bill that provided **\$173 million** in new state funding to support local nursing facilities.

The bill was not only supported by Republicans and Democrats it was supported by all. It passed the Minnesota House, **132-0**, and the Minnesota Senate, **67-0**.

KAAL-TV, 08/03/2023

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

**THE WORLD:** Delta Air Lines agreed to a settlement in a class action lawsuit resolve claims it breached its ticket contracts by refusing to refund flights that were canceled during the COVID-19 pandemic. The settlement benefits Delta ticket holders who received credit for a non-refundable ticket for a flight scheduled to depart between March 1, 2020, and April 30, 2021, that was later canceled by Delta Air Lines ([TopClassActions.com](http://TopClassActions.com)).

**AMERICA:** CDC Director Dr. Mandy Cohen said currently spreading COVID-19 variants such as EG.5, or Eris, do not represent a major shift and updated vaccines in September will offer protection. COVID-19 vaccine manufacturers have created new versions of their vaccine, which were updated to target the so-called XBB.1.5 subvariant. Those Updated vaccines should be available by mid- to late September ([Reuters](http://Reuters.com)).

**AMERICA:** More than 2.5 years after the National Institutes of Health received a \$1 billion mandate from Congress to study and treat long Covid, the agency has finally launched clinical trials for the often-debilitating condition. But both scientists who study long Covid and patients who have struggled with it say the trials are unlikely to deliver meaningful treatments, suggesting the federal government's landmark Covid research effort may have been wasted ([KFF](http://KFF.org)).

**MICHIGAN:** A judge has ruled for the first time that a drug manufacturer is not protected by the Public Readiness and Emergency Preparedness (PREP) Act in a case where a man suffered two strokes and a leg amputation after receiving a COVID-19 contaminated medication. The PREP Act was declared by HHS for emergency use to shield manufacturers, administrators and distributors of vaccines from liability claims of loss caused by a drug. The case, filed on behalf of Dan Nowacki, focuses on how Nowacki suffered a stroke after receiving *Remdesivir* that was contaminated with glass particles ([WWMT-TV](http://WWMT-TV.com)).

**AMERICA:** Women who experienced COVID-19 had a 1.45-day adjusted increase in cycle length during COVID-19 infection compared with the three cycles before infection while those who were vaccinated against COVID-19 had a 1.14-day adjusted increase in cycle length after being vaccinated compared to previous cycles ([MedPage Today](http://MedPage Today.com)).

**OREGON:** Staff, board and the CEO at Pioneer Place in Vale, Oregon are trying to come up with solutions to keep doors open at the skilled nursing facility. The 33-bed SNF was doing ok until the pandemic hit, but the cost of PPE and other COVID-related necessities have taken their toll. A special town hall meeting was called during the week to address key issues and answer community questions ([Argus Leader](http://Argus Leader.com)).

**AMERICA:** Older adults who are in the hospital with COVID-19 die at double the rate compared to people who are hospitalized for flu complications. A team from the Beth Israel Deaconess Medical Center (BIDMC) in Boston used Medicare data from 883,394 Medicare beneficiaries over the age of 65 in the study. Though people with COVID-19 had lower rates of comorbidities, they had a 10.9% risk of dying within 30 days of discharge compared a 3.9% risk among people who had the flu ([The BMJ](http://The BMJ.com)).

**THE WORLD:** A study in the British Journal of Sports Medicine from researchers at the Amsterdam University Medical Centers (UMC) reviews all current literature on athletes, sudden cardiac arrest, and myocarditis following COVID-19 vaccines. It found that athletes engaged in intensive activity are not at increased risk for heart complications following vaccination. On social media platforms, COVID-19 vaccines have been named the cause of cardiac arrest in young athletes, most recently Bronny James, LeBron James' college basketball-playing son who suffered a sudden heart attack while practicing last month ([CIDRAP](http://CIDRAP.org)).

**AMERICA:** Although it won't kill the virus, a new device can quickly identify COVID cases using a quick breath test. The device is still being tested to improve accuracy, but could prove to be a valuable tool for LTC facilities or other community spaces where there is a risk for rapid spread of illness, the developers say ([McKnight's](http://McKnight's.com)).

**JAPAN:** Another new coronavirus variant – EG.5 – is spreading fast in Japan, though experts say there is little evidence so far that it causes more severe symptoms compared with previous strains that also belong to the omicron family. First discovered in February, EG.5 has been reported in 51 countries, including the U.S., South Korea, China, Australia, Singapore and Britain ([The Japan Times](http://The Japan Times.com)).

**AMERICA:** Physician propagation of COVID-19 misinformation on social media -- primarily discouraging people from getting the COVID vaccine -- was limited but still potentially harmful. The bad misinformation was attributed to 52 U.S.-based physicians: 80.8% posted vaccine misinformation and 38.5% posted misinformation on five or more platforms. Major themes cited in a University of Massachusetts study included that the vaccines were unsafe or ineffective, the promotion of unapproved medications and treatments, the ineffectiveness of wearing masks ([Jama Network Open](http://Jama Network Open.com)).

**CONNECTICUT:** Sage Steele, the veteran sportscaster who became better known in recent years for her stances on hot topics like coronavirus vaccinations, has left ESPN. Steele, who joined ESPN in 2007, said on social media that she had recently settled a lawsuit with her employer after she was suspended in 2021 for comments she made on an outside podcast about among other things – getting vaccinated ([Variety](http://Variety.com)).

### **COVID-19, 08/18/2023**

**Global Cases – Deaths**  
769,744,646 – 6,955,141

**U.S. Hospitalizations – Deaths**  
6,244,216 – 1,137,742

**SHOTS Global – U.S. SHOTS**  
13.5 billion – 152.5 million

**CDC & WHO**

## **Pandemic Was Very, Very Good to Some CEOs**

The health care industry provided a stable stream of wealth for top executives, who collectively pocketed billions of dollars in what was otherwise a rough patch for the economy.

No CEO made more than Moderna's Stéphane Bancel, who took in nearly \$400 million after governments around the world quickly bought the biotech company's Covid-19 shot.

The 10 highest-paid CEOs made a combined \$1.4 billion. That amount is roughly what the National Institutes of Health spends annually to study drug abuse and addiction.

Not all cashed in, however. Leonard Schleifer of Regeneron Pharmaceuticals, for example, saw his compensation decline \$446 million.

Stat, 08/17/2023

## **LTSS Sucks Up Lion's Share of Medicaid Bucks**

Medicaid enrollees who used long-term services and supports had "disproportionately high" spending in 2020, but just 24% who utilized the benefit did so in an institutionalized setting.

In a study, KFF found that 5.6 million people in total used Medicaid LTSS in 2020, but just 1.4 million utilized institutional care.

Medicaid spending was nearly nine times higher for LTSS beneficiaries compared to regular Medicaid patients.

What's more, those using LTSS comprised only 6% of the total Medicaid enrollment but consumed 37% of federal and state spending.

McKnight's, 08/15/2023

## **California Latest State Pondering Tougher Scrutiny**

California is looking to join New York, Washington, Minnesota and other states in ratcheting up its oversight of all kinds of healthcare mergers and acquisitions, with most states setting revenue triggers

that will easily pull many skilled nursing operators in for additional scrutiny.

Draft regulations detail new 90-day notification requirements and information that must be sent to a statewide board to determine if a formal cost- and market analysis should be conducted.

The proposed new rules could affect private equity investments in or purchases of nursing homes.

McKnight's, 08/15/2023

## **Staffing Agency Will Pay for Not Paying**

Staffing agencies increasingly have been criticized for their classification of and sometimes inadequate payment to per-diem employees, while also charging historic rates to providers in many states.

Now a Greenville, Mississippi staffing agency has been fined more than \$314,000 after denying overtime pay.

Prime Care Nursing paid employees straight-time instead of required overtime when they worked more than 40 hours a week.

DOL required the firm to pay back wages and damages to a total of 91 nurses, some of whom had worked as many as 84 hours in a single week.

DOL news release, 08/17/2023

## **In Mass. CNAs Can Test In Spanish and Chinese**

Massachusetts Gov. Maura Healy has approved options for CNA candidates to take their written tests in Spanish or Chinese by next year.

Nursing home executives and industry advocates cheered the change, calling it a win for immigrant CNAs and residents who speak other languages.

Advocates said the written exam being offered only in English has likely prevented hundreds of non-native speakers from going to work in nursing homes. Trained nurse aides who had worked in healthcare before coming to the US could pass the clinical portion of the test, conducted orally, but often failed the written portion.

MassLive, 08/15/2023

## **ONE COLUMN**

### **Vaxxers Scorn Anti-vaxxers But Don't Want Them to Die**

When people who publicly reject COVID-19 vaccines later die from the disease, observers have complex reactions to their fates, a new study suggests.

While very few rejoice in the deaths of anti-vaxxers, some people believe those who are dogmatic against vaccines are deserving of worse outcomes – and that reaction is related to the political party affiliation and vaccination status of the person evaluating the anti-vaxxer.

Democrats and those who were vaccinated were more likely than Republicans and the unvaccinated to think anti-vaxxers who died got what they deserved – but even 63% of Democrats in the study thought an anti-vaxxer deserved to have a full recovery from the disease (compared to 80% of Republicans).

Only 4.6% of people in the study thought an anti-vaxxer who contracted COVID-19 deserved death.

What we found indicates that people may view those on social media as characters in a morality play," said study co-author Matthew Grizzard, associate professor of communication at The Ohio State University. "Our results show that people -- particularly those who were vaccinated themselves -- are likely to judge those who shared misinformation about the COVID vaccine as immoral and deserving of some level of retribution."

But this study suggests a more nuanced interpretation of those who judged anti-vaxxers who got sick and died, said study co-author Rebecca Frazer. "We have people who are judging anti-vaxxers and considering them deserving of some level of suffering, but on the other hand, there's very little positive emotion about watching them suffer."

The study was inspired by the "Herman Cain Award" forum named for a Republican politician who contracted COVID-19 and died, and whose social media accounts continued to disseminate COVID-19 misinformation after his death.

Ohio State News, 07/24/2023

## **If at First You Don't Succeed Try .... Oh, You Know!**

In June, the Big Bend Regional Hospital District was presented with the results of a second feasibility study looking into the possibility of bringing a nursing home to Alpine, Texas.

The study showed the majority of the demand was for, mostly Medicaid, skilled nursing beds.

Alpine Valley Care Nursing Home abruptly shuttered in 2012. Alpine, less than 100 miles north of Mexico, has been without a nursing home ever since.

Two other attempts to open a facility have failed.

Current efforts are being undertaken by local nonprofit Alpine Community Projects, which aims to use the "Green House" model.

*The Big Bend Sentinel, 08/16/2023*

## **July Saw a Historic Jump in Nursing Home Costs**

Costs for nursing homes and adult care rose a whopping 2.4% in July. The Bureau of Labor Statistics reported the jump is the largest single-month gain since 1997.

But Beth Mace, an economist and senior advisor at NIC said it could be a "one-time aberration," adding that before the huge jump there were three months of decline in April, May, and June.

Those rising costs and the need to increase wages have hit nursing homes with a one-two punch, and the resulting pressures are putting facilities into a financial bind.

*McKnight's, 08/14/2023*

## **Board Says 'No' To County Home Referendum**

In Merrill, Wisconsin the Lincoln County Board of Supervisors decided to not hold a referendum to increase taxes to fund the Pine Crest Nursing Home.

The rejected plan was to raise the amount collected in property taxes by the county by \$3,000,000 per year for ten years.

Pine Crest Nursing Home is a 180-bed skilled nursing facility in Merrill currently owned by Lincoln County. On average only about 80 residents reside there due to understaffing and an inability to meet wage standards.

The nursing home has been plagued by financial problems for the past several decades, with mounting repairs needed.

*WXPR, 08/17/2023*

## **New Hampshire Law Clamps Down on Agencies**

The "hostage situations" for nursing homes learning at the last minute that a staffing agency has double-booked a worker are nearing an end in New Hampshire.

A new law approved last week prohibits staffing agencies from scheduling nurses or licensed nurse assistants at multiple assignments and then pushing facilities into bidding wars to obtain staff.

The law also prohibits agencies from using the presence of a "communicable virus" to increase their fees.

A clause that would have forced agencies to disclose fees compared to what they pay workers was eliminated from the law.

*McKnight's, 08/17/2023*

## **More Injury Claims Not Necessarily Bad**

Long-term care facilities that created a favorable work environment actually drew more worker's injury claims than their peers.

But that's not necessarily bad.

In a study of 25 nursing homes in Alberta Canada researchers reviewed nearly 3,500 workers' compensation claims to understand their association with a building's staff, organizational and resident characteristics, and severe injury to workers.

Facilities with the most favorable work environment also had the highest frequency of claims, "somewhat counterintuitively," the researchers noted.

*Human Resources for Health, 08/16/2023*

## **Briefly IN THE NEWS**

Kaiser Permanente built on 2023's strong start with \$2.08 billion in profit during the second quarter, bringing its midyear total to about \$3.29 billion. The numbers are both a sequential improvement and a stark turnaround from 2022. By the midpoint of last year, Kaiser Permanente was reporting a \$1.3 billion net loss for the quarter (**Fierce Healthcare**).

The total balance of senior housing delinquent loans saw a notable increase in the first quarter of 2023, though still lower than the high levels seen in the third quarter of 2020. Delinquencies in senior housing in the first quarter 2023 rose by 68.9%, while those in nursing care climbed by 16.0% from the prior quarter. Delinquencies as a share of total loans rose to 2.1% for senior housing, up from 1.3% in the fourth quarter of 2022. For nursing care, the delinquency rate edged up to 1.2% (**NIC**).

Hospitalized older adults who walk as little as 25 minutes a day can counteract the physical impacts of bed rest. Researchers in Spain found that physical activity and slow-paced walking were most effective. Walking was more than 80% effective optimally for about 50 minutes a day and minimally for 25 minutes per day (**British Journal of Sports Medicine**).

CareTrust acquired 12 new facilities in the second quarter, including seven nursing homes and one skilled nursing/assisted living campus; six of those properties are being run by operators new to CareTrust. Overall revenue was up \$1.6 million to \$47.7 million in the second quarter (**McKnight's**).

Some private insurers are balking at paying for the first drug fully approved to slow mental decline in Alzheimer's patients. Insurers in North Carolina, Pennsylvania and New York, among other states indicated they won't cover *Leqembi* with insurance offered on the individual market and through employers because they still see the \$26,000-a-year drug as experimental. In contrast, Medicare will cover most residents who take the drug (**AP**).