

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"The rule is ludicrous on its face simply because the labor isn't available. You can expect to see both legal and legislative action to overturn this" Sabra Healthcare CEO Rick Matros

"Once the market hit a critical mass of nursing homes, there was no more incentive to build new homes, and thus we have an infrastructure that's stuck in the Ford administration." Alex Spanko, director of communications and marketing for the Center for Innovation

"The importance of immigrant direct care workers to meeting our country's long-term care needs and ensuring the quality of that care will only grow as the long-term care sector struggles to fill an estimated 9.3 million direct care job openings in the next decade" Jake McDonald, PHI senior state policy advocacy specialist

Skyline Nursing Home Owner's Plea Deal Rejected

A federal judge has rejected a plea deal involving Joseph Schwartz, the former owner of Skyline Management admitted his role in a nearly \$39 million fraud scheme that led to the financial collapse of dozens of facilities.

Schwartz admitted his guilt on two counts of willfully failing to pay employment taxes withheld from employees and willfully failing to file an annual financial report with the Department of Labor for his employees' 401K Plan.

The agreement called for a year and a day in prison and a \$5 million restitution payment. When sentenced in July, Schwartz could receive a harsher sentence.

McKnight's, 05/24/2024

AHCA Sues to Dismiss Nursing Home Staffing Rule

AHCA, the Texas Health Care Association and three skilled nursing facilities filed the long-awaited suit against HHS Secretary Xavier Becerra and CMS Administrator Chiquita Brooks-LaSure, declaring the rule "effects a baffling and unexplained departure from the agency's longstanding position" on nursing home staffing.

The association asked the court to strike the law, arguing that CMS is a "creature of statute" and "possess[es] only the authority that Congress has provided."

The suit further claims CMS does not claim federal statute empowers it enact the rule, but instead claim that power is "lurking in 'various provisions' of the Medicare and Medicaid Acts."

McKnight's, 05/24/2024

AARP Fighting Rollback of New Staffing Standard

AARP sent a letter to all members of Congress urging them to reject efforts by federal lawmakers to overturn new minimum nursing home staffing standards.

"If a nursing home does not have enough staff to care for its residents, it should not be admitting new residents," Nancy LeaMond, AARP chief advocacy officer, wrote in the letter. "AARP does not believe this to be a burdensome regulation; it is common sense."

LeaMond noted that CMS included "significant flexibility" for facilities in areas most impacted by staffing shortages, such as those in rural communities, including a longer timeline for meeting the requirements.

AARP news release, 05/09/2024

iQIES Will Lockout Inactive Users

The iQIES through which CMS-certified providers submit assessments and access communications sent notification on May 16 that it will soon implement an inactive user policy for safety and security.

System audits will be conducted starting this month to identify users who have not logged in for more than 60 days. Inactive

users will be notified by email that they must login to maintain active accounts.

Inactive users who fail to login after notification will have their user roles revoked and access to the system suspended. To restore the account, users will need to login and re-request user roles.

LeadingAge, 05/17/2024

La. SNFs Looking at Other Lawsuit Protection Means

Lobbyists for the Louisiana Nursing Home Association are quietly pressing lawmakers to insert controversial language into unrelated legislation that would shield health care operators from lawsuit damages.

Last week, three prominent nursing home lobbyists and former House Speaker Jim Tucker, who runs a nursing home company, asked senators to tack the proposal onto other, unrelated bills.

The media has dubbed the bill the "Bob Dean Protection Act" – a reference to the notorious former nursing home owner who sheltered more than 800 nursing home patients in an old pesticide warehouse after Hurricane Ida.

Louisiana Illuminator, 05/20/2024

Iowa SNF Cited – Abuse, Med Errors, etc. – \$44K CMP

The state has proposed a series of fines totaling \$44,250 against the Montrose Health Center, Montrose, Iowa.

That amount includes a \$10,000 penalty for inadequate nursing services that was tripled to \$30,000 because it was the second time in less than a year that the home was cited for the violation.

Violations are related to: resident-to-resident abuse; medication errors; treatment of pressure sores; incontinence care; improper pain management; and inadequate staff training.

In 2020 the facility received an IJ for co-habituating residents with COVID-19 with those who did not test positive and allowing infected staff to work.

News From the States, 05/16/2024

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

CALIFORNIA: It happened back on April 2, by the end of the day, a silent victory emerged: the day had passed without a single Californian dying from COVID. Over the next several weeks, as death certificates were filed and processed, it would become official that it was the first day without an official COVID death since March 18, 2020, the day before Governor Gavin Newsom announced a statewide stay-at-home order (*The Mercury News*).

THE WORLD: There are no mild cases of Multisystem Inflammatory Syndrome (MIS-C) in children. MIS-C is a rare but severe condition that develops in children two to six weeks after a COVID-19 infection. Most kids recover but MIS-C can be fatal. Instances pop up when rates of the virus spike, as they did in the fall of 2023. In children with MIS-C, the immune system kicks into overdrive and begins to attack the same organs it initially tried to protect from COVID (*Pittsburgh Post Gazette*).

AMERICA: CMS established an add-on payment to incentivize laboratories to promptly complete COVID-19 tests. Ultimately \$339.4 million in Medicare add-on payments were made to 9,380 laboratories for COVID-19 diagnostic for tests more than 4 million people. The OIG said it believes it is important for CMS and the MACs to provide oversight of add-on payments to prevent fraud, waste, and abuse in the Medicare program. It recommended CMS issue specific guidance on the documentation that is expected (*HHS OIG*).

PARIS: Pharmaceutical giants Sanofi and Novavax have announced an exclusive licensing agreement to co-commercialize COVID-19 vaccines beginning in 2025 and jointly develop novel flu-COVID-19 combination vaccines. The agreement will allow the partnership to commercialize Novavax's current stand-alone adjuvanted COVID-19 vaccine and include a sole license to Novavax's adjuvanted COVID-19 vaccine for use in combination with Sanofi's flu vaccines, and a non-exclusive license to use Novavax's Matrix-M adjuvant (immune-booster) in vaccine products (*Sanofi news release*).

THE WORLD: Raccoon dogs may carry and transmit COVID-19—causing SARS-CoV-2 to humans. Coronaviruses such as SARS-CoV-2 are known for their ability to jump species. Raccoon dogs are small, burly, foxlike canines native to East Asia that are thought to have been a possible intermediary in the SARS-CoV-2 interspecies jump to humans, which led to the COVID-19 pandemic (*PLOS*).

AMERICA: People hospitalized in 2020 with the then-novel respiratory disease were five times more likely to die of their illness than were patients who had been hospitalized with influenza. Immunity from vaccines and past coronavirus infections has helped tame COVID-19 to the point that when researchers compared the mortality rates of hospitalized COVID-19 and seasonal influenza patients during the height of the 2022-23 flu season, they found that the pandemic disease was only 61% more likely to result in death (*Los Angeles Times*).

THE WORLD: The first study of COVID-19 vaccine effectiveness in a large population of adult heart-failure patients suggests that vaccinated participants are 82% more likely to live longer than their unvaccinated peers. Researchers in South Korea searched the records of 147,118 heart failure patients and also found that relative to one or no vaccination, COVID-19 vaccination was also tied to a 47% lower risk of hospitalization for heart failure, and a 13% reduced risk of infection over 6 months (*CIDRAP*).

MISSOURI: The blood-retinal barrier is designed to protect vision by preventing microbial pathogens from reaching the retina where they could trigger an inflammatory response with potential vision loss. Researchers at the University of Missouri School of Medicine have discovered the virus that causes COVID-19 can breach the eye's blood-retinal barrier with potential long-term consequences in the eye (*MedicalXpress*).

UNITED KINGDOM: Interventions such as testing patients for COVID-19 upon admission, isolation of ill healthcare workers and universal worker masking significantly reduced SARS-CoV-2 transmission among patients and staff in UK hospitals. The research suggests that, without those infection-prevention protocols twice as many patients could have been infected in the first 2 years of the pandemic (*BMC Infectious Diseases*).

"Wrinkles will only go where the smiles have been."

~Jimmy Buffet

AMERICA: A new analysis of pre-vaccine data from scientists at the CDC shows that 18% of hospitalized patients and 44% of those admitted to ICU for COVID-19 died. The study was based on 2,479,423 cases in 2020. Before the mid-December 2020 introduction of COVID-19 vaccines, the pandemic caused approximately 480,000 hospitalizations, and 350,000 deaths in the United States (*Emerging Infectious Diseases*).

AMERICA: During the 2023-24 respiratory virus season, hospitalized US COVID-19 patients were at a 35% higher risk for death from any cause than those admitted for influenza, compared with a 61% higher risk the winter before. VA researchers in Missouri used records from the Department of Veterans Affairs. From October 2023 until March 2024 a total of 8,625 patients were hospitalized for COVID-19 at 30 days – unadjusted death rate, 5.70%, and 2,647 were admitted for flu – unadjusted death rate, 3.04% (*JAMA*).

COVID-19, 05/24/2024

Global Cases – Deaths
775,481,326 – 7,049,376

U.S.
Hospitalizations Past week
-16.7%
Total Deaths 1.2 Million

Insurance Rates Spiral in Weather-Vulnerable Areas

Already facing the same staffing and reimbursement funding challenges as other US providers, several Florida senior care operators have sounded the alarm about the further burden of skyrocketing insurance premiums.

Studies in recent years have highlighted that facilities in various regions of the country are often insufficiently prepared for natural disasters like hurricanes and wildfires that have been exacerbated by climate change.

Florida is particularly vulnerable due to hurricanes. Insurance premiums have increased 125% in the past five years – 27% in 2023 – far exceeding the national average of 6%

Bloomberg, 05/20/2024

Infrastructure Issues Will Close Historic SNF

An unsuccessful, years-long bid to find a partner willing to finance needed capital improvements or help redevelop a historic nonprofit nursing home in South Boston will lead to its closure this summer.

The 366-bed Marian Manor, owned and operated by New York's Carmelite Sisters for the Aged and Infirm, has operated for 70 years.

But in today's environment, just the cost of needed updates was enough to push the community landmark out of operation.

The doors will close for the last time by September, according to papers filed with the Massachusetts Department of Public Health last week.

McKnight's, 05/21/2024

Arbitration Agreements Under Fire in Arizona

Arizona's AG, Kristin Mayes, is attempting to intervene in a lawsuit against Sun West Choice Health & Rehab, arguing the facility's attempt to compel arbitration and enforce a "secrecy clause" makes a signed agreement legally unenforceable.

Arbitration agreements are strictly voluntary under federal law and cannot be forced on a resident.

The case involves a resident who died at the Ensign Group facility in 2022.

Mayes said she would ask the court to invalidate secret arbitrations for "every patient in every facility operated by The Ensign Group, Inc.," which she said has more than 5,000 beds in the state.

McKnight's, 05/21/2024

Racism Prevalent in Long-Term Care Facilities

Eighty-eight percent of nurses working in LTC facilities have experienced racism or discrimination from clients or residents.

A University of Chicago survey on behalf of the Robert Wood Johnson Foundation, additionally found that 62% of responding LTC nurses have experienced racism or discrimination from colleagues.

According to the data gathered from across care settings, seeing or experiencing racism or discrimination from residents/patients/clients occurred more frequently (79%) than seeing or experiencing racism or discrimination from colleagues (59%).

The percentages were higher for nurses working in nursing / residential care facilities, and home healthcare compared with the other settings.

Senior Living, 05/21/2024

Like Sloopy SD Trying to Hang On To Its Nursing Homes

During the last legislative session, South Dakota lawmakers agreed to an increase in Medicaid reimbursement rates.

In addition, the Legislature also authorized \$5 million from the American Rescue Plan funding package from the federal government for telehealth services in nursing homes and various health facilities.

The action comes at a critical time. Since 2019, fifteen of the state's then-113 nursing homes have closed (14%). And South Dakota's population is GING. It's projected that by 2030 a fifth of the state's population will be older than 65.

KMIT Radio, 05/02/2024

ONE COLUMN

Government Shouldn't Micromanage Nursing Homes

Government diktats, however well-intentioned, won't address the issues behind staffing shortages. Nursing homes have long had to contend with low reimbursement rates from Medicaid, which make it hard to attract and retain employees. Simply telling nursing homes to hire more staff won't address that problem.

A March survey from the American Health Care Association found that 99% of nursing homes have job openings. Eighty-nine percent are actively searching for RNs. About 90% recently increased wages, while roughly seven in 10 have invested in staff training and education.

Still, the supply of professional caretakers isn't rising. Ninety-four percent of the 441 nursing homes surveyed said it's difficult to attract new employees. Two-thirds observed "a lack of interested or qualified candidates as an extremely big obstacle."

No wonder, given the exhausting nature of the work. One study of 540 nursing homes found that almost one-third of RNs "exhibited high levels of burnout." Nursing homes lost around 15% of their workforce during the first two years of the pandemic. Today, it would take more than 130,000 additional workers to make up the difference.

President Joe Biden's new regulations won't change the underlying mismatch of supply and demand. They'll instead force nursing homes to compete for scarce workers by raising wages. Federal estimates indicate the new rules could cost the nursing home industry around \$40.6 billion over 10 years.

They can ill afford those additional costs. As Stephen A. Moses of the Paragon Health Institute has observed, Medicaid, the facilities' chief payer, reimburses nursing homes at a lower rate than do other insurers. Indeed, in 2019 Medicaid failed to cover the cost of care at roughly 80% of nursing homes.

Washington Examiner, 05/05/2024

No More 3-or-4-Bed Rooms in Connecticut

The House Monday passed a bill addressing reforms in Connecticut's elder care sector, including reducing the number of people who can reside in a nursing home room, adding consumer protections at assisted living centers and beefing up oversight of nursing home management companies.

The measure, introduced by Gov. Ned Lamont, advanced with a vote of 143 to 7. All no-votes came from Republicans.

The bill would phase out three-and four-bed nursing home rooms beginning in 2026 by halting new admissions in rooms that already have two people. Seventeen SNFs in Connecticut are affected.

CT Mirror, 05/06/2024

There's Free Virtual CNA Training in Texas

Texas regulators have opened a new pathway to make it easier for new nurse aides to enter long-term care.

The Texas Health and Human Services Commission opened up a no-cost, full virtual training program for certified nursing assistants aiming to help providers meet the new federal requirements.

Texas now allows CNAs in training to complete all 60 required hours of classroom time online. Candidates would then join a traditional Nurse Aide Training and Competency Evaluation Program to complete 40 more hours of in-person training in a nursing home.

The program launched in March, 427 people have already completed it.

McKnight's, 05/10/2024

U.S. Court of Appeals Hears SNF Emergency Pay Case

With a COVID outbreak among its residents and as many as 70% of its staff staying home from work, Fountain Bleu Health and Rehabilitation Center in Livonia, MI, in spring 2020, temporarily hired non-union workers and raised pay by \$2 per hour.

By June, when no residents were testing positive, the facility returned the wages to the original level.

The union said it should have been informed and was not. The NLRB agreed facility had the right to the initial emergency hiring and wage increases but should have informed the union along the way.

It ordered the \$2/hour reinstated.

McKnight's, 05/13/2024

New England Nursing Home Closures Up

According to the Boston Federal Reserve's latest report on nursing home closures that was released Tuesday, more of New England's older adults are aging in place, with state programs and family members often providing care.

Some states are also adopting programs that encourage the aging in place trend and reduce the need for long-term care.

From 2010 to 2023, the number of nursing homes in New England decreased by 15%, while census in facilities declined by 23%.

The rate of nursing home closures in New England since 2010 is three times that of the U.S.

Skilled Nursing News, 05/15/2024

In Ireland, a Demonstration To Keep a SNF, a SNF

A major demonstration took place in Nenagh, Co Tipperary by citizens angered by a decision to use a new 50 bed community nursing home as a temporary stepdown facility to alleviate hospital overcrowding.

The new facility is a replacement LTC facility for residents of St Conlon's nursing home in the town, just over 20 residents currently live there.

Residents and families anticipated they would be moved to the new facility shortly, until a decision by authorities to use the beds to alleviate the significant congestion problems at University Hospital Limerick, the region's only acute hospital.

RTE News, 05/11/2024

Briefly in the News

A review of US emergency department visits involving antibiotic prescribing found that more than a quarter had inappropriate antibiotic prescriptions, and nearly half of those didn't even have a plausible indication for antibiotics. Of the more than 152 million ER visits with one or more antibiotic prescription, 27.6% resulted in inappropriate prescribing (***Antimicrobial Stewardship & Healthcare Epidemiology***).

Sen. Bernie Sanders (I-Vt.), Chairman of the Senate Committee on Health, Education, Labor, and Pensions introduced legislation to address the "dental care crisis" in America. The proposed law would expand Medicare, Medicaid, and the VA to provide comprehensive dental coverage to seniors, veterans, and low-income individuals particularly in rural and under-served areas (***Sen. Sanders news release***).

Sen. Bob Casey of Pennsylvania has introduced *The Preventing and Treating Substance Use Disorders Among Older Adults Act* to address drug abuse among nearly 4 million Americans over the age of 65. The bill would establish a grant program that would allow for grants for eligible entities, particularly those located in areas of high need, to improve SUD treatment and prevention services for older adults (***Sen. Casey News Release***).

A push to create universal health care in California got shot down in committee May 16th. The bill would have made California the first state to create universal health care through a single-payer system. The proposal, Assembly Bill 2200 from Bay Area Democrat Ash Kalra, would have established CalCare, a state-run insurance system for all residents without premiums, deductibles or copays (***Politico***).

United Kingdom: British drugmaker GSK (GSK.L) has raised 1.25 billion pounds (\$1.52 billion) from a sale of its remaining stake in consumer healthcare company Haleon to institutional investors. The sale will allow GSK to sharpen its focus on vaccines, cancer and infectious diseases, which are part of CEO Emma Walmsley's plans to boost earnings at the drugmaker (***Reuters***).