

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

Edited by Drew Vogel

drewvogel5255@msn.com

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THEY SAID IT:

"We are in full agreement with the arguments made" *LeadingAge CEO Katie Smith Sloan in announcing they would join AHCA's suit to stop the CMS staffing mandate*

"I have repeatedly expressed our firm's position on the plausibility of this well-intentioned but poorly targeted initiative" *Marc Zimmet in a financial impact analysis of the new staffing rule*

"Nursing homes can't afford what the state pays staffing agencies" *Brendan Williams, president and CEO of NHHCA*

"When you unpack the current onboarding standards in the industry, it turns out the bar is shockingly low" *Terra Vicario, chief marketing officer at Viventium*

Maybe They Eat Their Own Young, Too

The Louisiana Nursing Home Association helped quash two bills in the legislative session to revive South Lafourche Nursing and Rehab, one of seven owned by notorious nursing home operator Bob Dean that closed after a botched evacuation for Hurricane Ida in 2021.

Two bills were introduced marking the first significant effort to resurrect a shuttered Dean home under a new owner. Both failed.

Rep. Joseph Orgeron blamed nursing home owners for derailing his bill.

Orgeron said he ran into the "magnanimous buzzsaw that is the Nursing Home Association" because existing owners want to avoid competition from a new operator.

Louisiana Illuminator, 05/28/2024

LeadingAge Teams with AHCA vs CMS Staffing Rule

Saying that "mandates are not the right approach" to caring for the country's long-term care population, LeadingAge announced it intends to join the American Health Care Association's lawsuit against implementation of CMS's staffing rule.

"They [mandates] will without question impact our nonprofit, mission-driven nursing homes' ability to provide care and services" said president and CEO Katie Smith Sloan. "We are committed to using every tool available to us—legislative, legal, and regulatory."

AHCA, the Texas Health Care Association and three skilled nursing facilities filed a lawsuit in federal court last week against HHS and CMS seeking to have the courts strike down the staffing rule.

LeadingAge news release, 05/28/2024

Demand For SNF Workers Outpacing Supply

Demand for full-time workers in long-term nursing facilities is projected to increase by 42% between 2021 and 2036 but the number of people entering the field is not keeping up with demand.

Among direct care workers, demand for psychiatric aides is projected to grow by 135%, nursing assistants by 44%, personal care aides by 40% and home health aides by 38%.

Most administrators say they are struggling to fill current vacancies.

Pay is an issue. In a January HHS report half of direct care workers rely on public assistance.

ABC News, 05/24/2024

Nursing Homes Confident Of Staffing Rule Win

Industry and legal experts are expressing confidence in a lawsuit filed last week that aims to kill a federal nursing home staffing mandate.

AHCA, Texas Health Care Association and three Texas providers brought their case in Federal court in Texas.

It argues that the rule exceeds the regulatory authority of CMS and applies arbitrary and capricious standards that will potentially put nursing home operators out of business.

"This action is both well-conceived and well-crafted," said attorney Mark Reagan of Hooper Lundy Bookman, "CMS plainly lacks the authority to impose the requirements set forth in the final rule."

McKnight's, 05/28/2024

Lawsuit: Residents Tossed Out Without Notice

Back in December Princeton Care Center couldn't make payroll and shut down abruptly - with just a few hours of notice to its 70+ residents.

New Jersey law requires a 60-day notice to residents when a nursing home closes, and a closure plan provided to the state.

On the day of the closure, reports were of some residents crying and distraught, sitting in wheelchairs outside the center with garbage bags of their belongings on their laps. They were dispersed to sixteen facilities across the state.

Last week 11 lawsuits were filed against the former owners for lack of notification.

NJ.Com, 05/28/2024

\$10+ Million Settlement For Improper Medicaid Payments

In a whistleblower case, DOJ has settled civil fraud lawsuit against RiverSpring Living Holding Corp that administers a Managed Long Term Care Plan (the "RiverSpring MLTCP") for Medicaid

RiverSpring collected millions of dollars in Medicaid payments to provide long-term care services as part of its managed care plan, but in many cases either failed to deliver these services or failed to maintain adequate documentation showing that it did so.

RiverSpring will pay over \$10 million – split approximately 60%/40% between New York state and the United States.

DOJ news release, 05/23/2024

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

CAPITOL HILL: Former National Institutes of Health official Anthony Fauci has faced many hostile questions from members of Congress, but when he appears before a House panel on Monday, he'll have something new to answer for: a trove of incendiary emails written by one of his closest advisers. In the emails, David Morens, a career federal scientist now on administrative leave, described deleting messages and using a personal email account to evade disclosure of correspondence under the Freedom of Information Act (*KFF*).

CALIFORNIA: Findings from a large study in California, which distinguished the COVID-19 pandemic period from individual SARS-CoV-2 infections, suggest that SARS-CoV-2 infection is tied to increased preterm birth, high blood pressure during pregnancy, and severe maternal morbidity. Parents with COVID-19 infections were more likely to be Hispanic, have lower education, receive public insurance, and live in lower income neighborhoods (*JAMA Network Open*).

ITALY: Researchers conducting a small study in Rome discover that, compared with healthy controls, children 12-15 years old with long COVID have objective impaired functional capacity as expressed by a low VO₂ peak (oxygen uptake at peak of exercise) during exertion testing. Kids with LC also showed signs of deconditioning (out of shape), and cardiogenic inefficiency (*The Pediatric Infectious Disease Journal*).

HONOLULU: The Department of Health is monitoring a rise in COVID-19 cases in Hawaii. DOH's new respiratory disease tracker shows test positivity is just over 9% — a more than 6% jump from the first week of April. Officials say that COVID-19 is currently at the yellow or medium activity level, meaning the virus is circulating at higher levels than expected based on historical trends. Flu and RSV remain at green or low activity levels (*HawaiiNewsNow*).

AMERICA: The FDA urged home test users, caregivers, and health providers not to use Cue Health's COVID-19 tests for home and over-the-counter use and its

test for point-of-care settings due to an increased risk of false results. The FDA said dispose of the test kits in the garbage. The company said the two tests, which detect nucleic acid from SARS-CoV-2, are identical except for their emergency use authorizations (*CIDRAP*).

THE WORLD: Despite the belief that Covid is no longer a serious virus, the disease is still deadlier than the flu. New research has shown. A study by doctors at the VA St Louis Health Care System found people hospitalized for Covid in the last year were more 35% likely to die than those in hospital for seasonal influenza. But hospitalizations and deaths from Covid have dramatically decreased since the first year of the pandemic, when Covid was five times more deadly than flu (*Daily Mail*).

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*).

SAN DIEGO: Cue Health, the once high-flying San Diego biotech supplying rapid COVID-19 test kits to the NBA and Google, is laying off all employees and shutting down. Cue's closure comes a week after the U.S. Food and Drug Administration warned consumers to throw away its COVID-19 test kits because they could give false results. The San Diego firm said it stopped selling the COVID-19 tests, its only fully FDA-approved commercial product (*San Diego Union-Tribune*).

MINNESOTA: The Midwest Analytics and Disease Modeling Center (MADMC) will work within a national network of research centers across the country, including the Centers for Disease Control and Prevention. The goal of MADMC is to develop tools that allow health officials to make informed

decisions quickly. MADMC hopes to establish a network with public health departments and health systems across the state, including tribal and territorial communities (*Minnesota Public Radio*).

THE WORLD: A new meta-analysis of 17 studies in 38 countries or regions reveals that tuberculosis (TB) and COVID-19 co-infection are becoming increasingly prevalent around the world, with death rates gradually declining but remaining higher than COVID-19 infection alone. The authors found no studies that could provide specific guidance on the best practices for managing TB-COVID co-infections (*PLOS Neglected Tropical Disease*).

AMERICA: COVID-19 patients vaccinated against the novel coronavirus were less likely to have symptoms of long COVID. The study was based on outcomes seen among patients in eight large U.S. healthcare systems. The authors matched 161,531 vaccinated COVID-19 patients to unvaccinated patients using electronic health records. (*Nature Communications*).

THE WORLD: In a study of study trends the authors said the proportion of long-COVID studies investigating potential treatments increased from 45.7% in 2020 to 64.9% in 2023. A total of 312 studies were testing potential therapies for long COVID. The U.S. conducted 18.6% of clinical studies on long COVID between 2020 and 2023. (*International Journal of Infectious Diseases*).

CALIFORNIA: There are growing signs of an uptick in COVID-19 in California thanks to the new FLiRT subvariants. It's far too early to know if FLiRT will be a major change in the COVID picture, so far the impacts have been small. But health officials are taking note and are urging Californians, especially those at risk, to be prepared (*Los Angeles Times*).

COVID-19, 05/31/2024

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

Vaccine Doses Globally
5.47 billion

U.S. Cases – Deaths
103,436,829 – 1,187,125

A Nurse Who Wasn't In A Heap of Trouble in Michigan

A Michigan woman was arraigned on charges of practicing as a nurse without a license and also identity theft.

Cassandra Alvera Gilleylen was charged with 30 counts of the unauthorized practice of a health profession, a 4-year felony, and three counts of identity theft, a 5-year felony.

Gilleylen, 52, is accused of posing as a registered nurse without possessing the requisite licensure or educational background while working at three Oakland County (Detroit area) nursing facilities.

Bond was set at \$75,000.

The Detroit News, 05/21/2024

Health System Can Spend Funds Any Way it Wants To

When Catholic Health System invested some of its nursing home government reimbursements in other parts of its business, whistleblower Michael Quartararo filed suit. Quartararo characterized the spending as a fraudulent diversion of resources.

Last October a court ruled in favor of CHS. It was first-ever clarifying the intent of the Benefits Conversion Statute and confirmed skilled nursing providers can spend pay they earn as they see fit.

Quartararo had worked for the organization for 38 years but was fired in 2012. He claimed that his dismissal was in retaliation for the False Claims case he filed.

The retaliation claim was not resolved until this week, when the court declared the case officially closed.

McKnight's, 05/23/2024

Congress Gives Parkinson Plan a 'Thumbs Up'

The U.S. Senate has joined the House of Representatives in approving The National Plan to End Parkinson's Act, the first piece of federal legislation dedicated to ending Parkinson's disease.

President Biden is expected to sign the bill into law.

The legislation brings public and private sector specialists — Parkinson's patients, their care partners, researchers, clinicians, and members of federal agencies — together in a federal advisory council.

It intends to work to increase federal research funding, create standards and measures to promote Parkinson's prevention, improve earlier diagnosis, develop more effective treatments.

The bill is modeled on the 2011 National Alzheimer's Project Act.

Parkinson's News Today, 05/28/2024

Becoming All Too Common Another Maine SNF Closing

Another skilled nursing home in Maine is closing down, this time in the town of Milbridge.

Residents and their families were told last week that North Country Associates, the Lewiston-based company that operates Narraguagus Bay Health Care Facility, plans to shut it down in 60 days.

Over the past three decades, more than 50 nursing homes in Maine — nearly 40 percent — have closed. . The pace has accelerated in the past decade, with nearly two dozen shutting down, including nine in the past four years.

Bangor Daily News, 05/21/2024

VA Improperly Gave \$10.8M to Senior Executives

Critical skill incentive (CSI) payments are a new recruitment and retention tool authorized by the PACT Act.

CSIs are meant for employees who "possesses a high-demand skill or skill that is at a shortage," to help VA meet a projected increase in staffing requirements.

In 2023 VA awarded \$10.8 million in CSIs to 182 senior executives (from nearly \$39,000 to over \$100,000 each) in the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA) at VA's central office.

The VA cancelled the payments.

VA-OIG news release, 05/09/2024

ONE COLUMN

Staffing Mandate to Cost \$6.5 Billion a Year

The federal staffing mandate handed down by the Centers for Medicare & Medicaid Services will cost the long-term care sector \$6.5 billion each year, according to analyses from the American Health Care Association and a fellow sector observer.

A combination of those costs and the shortage of available long-term care workers also could place as many as 290,000 nursing home residents — nearly one-quarter of the total in the US — in danger of losing access to care.

Using federal data, the report estimated that 94% of nursing homes will need to hire more staff to meet the mandate's requirements — a total of over 100,000 RNs and CNAs.

The analysis emphasized that the costs of the mandate would not be spread evenly across the country.

Rural facilities and those that primarily serve Medicaid beneficiaries are less likely to meet the federal rule's requirements, and thus more likely to incur the brunt of the costs of mandated hiring.

"What our new analysis confirms is what we've been saying for years: An unfunded, one-size-fits-all minimum staffing mandate for nursing homes would be impossible to meet and only threatens to limit access to care for our seniors," said Mark Parkinson, AHCA's president and CEO.

A similar estimate was reached by Zimmet Healthcare Service Group's analysis of the mandate, according to Marc Zimmet, the consulting company's president and CEO.

"We came up with almost the same thing trending forward. If you add it all up, it's just under 6.5 [billion]," Zimmet said.

McKnight's, 05/10/2024

Senate Bill Seeks Billions For Long-Term Care

Describing the nation's caregiving industry as one in crisis, U.S. Sen. Bob Casey proposes injecting billions of dollars into the direct care workforce to improve pay.

Employers are already struggling to hire workers. Turnover at some nursing homes exceeds 100%, with shortages threatening to limit the availability of care.

The Long-Term Care Workforce Support Act would raise the federal match for Medicaid by up to 10% for each state across 10 years, adding an estimated \$220 billion in reimbursements.

At least 85% of the rate increases would be passed through to boost compensation for direct care workers and managers.

The Item, 05/29/2024

Last Ditch Effort Fails Historic SNF Goes Belly-Up

Months of grassroots fundraising, government advocacy and even a last-minute plan to transfer skilled nursing beds and eligible residents to a new assisted living memory care wing have not been enough to keep one historic Rhode Island nursing home open.

After more than 50 years of operation, Linn Health and Rehabilitation submitted plans to the state government to close on July 20.

Linn Health would be the seventh nursing home in Rhode Island to close since 2022. Some of its 48 current residents had relocated to Linn in the aftermath of those closures and now will have to move again.

McKnight's, 05/24/2024

Bill: Families Get Access To SNFs During Emergencies

The Resident Access Protection Act has passed the California Assembly's Aging and Health committees and is now before the Appropriations Committee.

The bill would allow access to chosen support providers who aren't nursing home employees as long as they follow the same safety protocols required of the staff.

The legislation would apply not only to a pandemic but go into effect with any health emergency declared by state or local officials.

It is supported by AARP, the Long-Term Care Ombudsman and other organizations.

KPBS-NPR, 05/13/2024

Task Force Recommends NJ Reduce Reliance on SNFs

A report on the state of long-term care in New Jersey has suggested sweeping changes to policy emphasis, regulations and financial incentives.

The task force, formed in 2020, suggested increasing state investment in home care, incentivizing a transition toward fewer-occupant rooms and "Green House"-style facilities.

The group also recommended standardizing the Medicaid reimbursement system with data-based adjustments over time, increasing audits and financial transparency requirements for nursing homes, and building workforce pipelines into the sector through scholarships and more flexible training programs.

McKnight's, 05/15/2024

New Adult Protective Rule A Two-Edged Sword

A new federal rule has opened the door for more state agencies to investigate nursing homes, but the first national standards for adult protective services also could make such services more accessible when providers need their help.

The new rule establishes stronger protections for clients subject to, or at risk of, guardianship; requires – within 24 hours – state APS officials respond to reported cases that are "life-threatening or likely to cause irreparable harm or significant loss of income, assets, or resources."

The rule also promotes coordination with state Medicaid agencies, long-term care ombudsmen, nursing home licensing divisions and others.

McKnight's, 05/17/2024

Briefly in the News

The U.S. Department of Labor today announced the availability of \$12 million in additional funds to improve job quality and increase the availability of good jobs in critical industries, including an emphasis on training provided for jobs in the care economy such as home, elder and childcare. Successful applicants will use the funding to develop and employ training programs consistent with the Good Jobs Principles the departments of Labor and Commerce have outlined (*DOL news release*).

Health systems and technology companies are betting big on home-based hospital care, despite regulatory uncertainty about the program's future. Hospitals are bullish on at-home acute care because it can save money and make more beds available in their facilities for sicker patients. (*Modern Healthcare*).

Uber has announced a new platform to help caregivers facilitate transportation for those they care for. The move also further expands the company's footprint in the healthcare space. The new offering allows caregivers to request and monitor rides and deliveries of prescriptions, groceries and over-the-counter items. (*Crain's New York Business*).

The roughly 2,220 registered nurses who work for the San Francisco Department of Public Health have voted to authorize a strike over what they say are staffing shortages and unsafe conditions for patients at the city's public hospital and clinics, the union representing the nurses said late Friday. The union, SEIU Local 1021, completed a vote among its members Friday to authorize a strike that would begin after June 30 if the union cannot reach a new contract with the city before then (*San Francisco Chronicle*).

The new spousal impoverishment standards allowances are those that apply when married individuals seek coverage of certain LTC services via the Medicaid program. The minimum monthly maintenance needs allowance, effective July 1, will be \$2,555 in all states except Alaska and Hawaii. In Alaska, it will be \$3,192.50, and in Hawaii, it will be \$2,937.50 (*Senior Living*).