

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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Edited by Drew Vogel

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They said it

This unplanned experiment demonstrates the importance of regulatory flexibility enabling rapid response in an emergency Ann M. Nguyen, an assistant research professor at Rutgers and Implementation Scientist at the Center for State Health Policy on a study to establish temporary emergency reciprocity of healthcare licenses during an emergency such as the pandemic

I think our results suggest that when push comes to shove, staff typically elect to get vaccinated rather than lose their job Brian McGarry, PhD, Univ. of Rochester, Div. of Geriatrics and Aging

"The increase before the reduction was bigger than expected. "I believe they did listen and I thank CMS for that" Sabra CEO Rick Matros on CMS phasing in the PDPM overpayment over two years

Lawsuit: NY Woman's Body Was Left To Rot

Jean Bryan, 86, died in September after a stay at Upper East Side Rehabilitation Center, a NYC rehab facility.

When she died, her niece, Xiomara Nichols, promptly called Lawrence H. Woodward Funeral Home, where Bryan's funeral was pre-arranged.

In a recent lawsuit, Nichols claims no one called back.

Bryan's body sat in the rehab center without being refrigerated for two to three days before finally being taken to the city morgue.

The funeral home didn't respond to Nichols messages until seven days after Bryan's

death when it declared her body "was so decomposed it was unviewable," according to the lawsuit.

NY Post, 07/30/22

CMS Assessing 3K Comments On Biden's Staffing Proposal

A CMS official revealed last week a seven-month study meant to fortify a new federal nursing home staffing minimum will end in December.

In its 2023 final pay rule, CMS acknowledged there had been a "significant response" to its request for information on establishing mandatory minimum staffing levels.

Policy analyst Cameron Ingram said CMS is evaluating over 3000 comments on the proposed staffing rule.

Comments typically pitted the concerns of consumer groups against those of nursing home providers, who have expressed concern about the ability to recruit and pay additional frontline workers.

McKnight's, 08/05/22

Why Bother? SNF Added to SFF List After It Closed

An Iowa nursing home that closed last month in the wake of an emergency court ruling that residents there were at risk has been added to a list of facilities eligible for designation as a Special-Focus Facility.

The addition of the 125-bed Touchstone Healthcare Community in Sioux City came six days after the home was shut down and the last of its residents moved out.

Since 2019, Touchstone was cited for 116 deficiencies and subjected to \$195,000 in federal fines. It was a SSF for four years before dropping off this year, then being reinstated after it closed.

Iowa Capital Dispatch, 08/02/22

CNA Receives Nearly \$4 Million for Facility Fall

Jazmon Morrison slipped on a wet floor at Williamsville Suburban Safire Nursing and Rehabilitation Center hitting the back of her head She suffered a traumatic brain injury that ended her ability to work as a CNA at the age of 25.

Last week, six years after the accident, a Buffalo-area jury awarded Morrison \$3.9 million for her lawsuit against the nursing home.

Most of the money granted to Morrison, \$2.5 million, covers her medical expenses over the next 30 years.

The award also includes \$895,000 future loss of wages \$177,000 for past missed wages and \$400,000 for pain and suffering.

The Buffalo News, 08/02/22

License Waivers Show Promise for Staffing Crisis

At the height of COVID-19's first wave, temporary licensing waivers allowed nursing homes to hire desperately needed help from out of state.

Researchers from Rutgers University examined changes in New Jersey law that allowed healthcare providers from other states to work in inpatient and outpatient settings during the pandemic.

They found the increased workforce supply particularly bolstered hospitals and other inpatient care such as nursing homes.

The research team expressed the opinion that keeping those relaxed regulations or building in flexibility permanently could be key ways to address the nation's ongoing nurse staffing crisis and improve patient access to care.

McKnight's, 08/02/22

Montana SNFs Are Closing At an Alarming Rate

In the past six months, Montana has lost approximately 10% of its nursing home beds. Seven nursing homes have announced they are closing because they can't continue to sustain a loss of more than \$100 per resident day.

The problem has been most pronounced in rural communities but Bozeman has seen its largest nursing home close, leaving just one facility with 69 beds to serve the community of nearly 50,000 people.

Two factors are fueling the closures – low reimbursement rates and high staffing costs.

Daily Montanan, 08/01/22

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

THE WORLD: Globally Coronavirus cases fell 9% in the week ending July 31. The World Health Organization reported the number of deaths were flat for the week. Japan reported the largest increase in cases at 1.4 million, followed by the U.S. with 923,366 new cases (*MarketWatch*).

TURKEY: Researchers examined pulmonary function in 53 hospital workers in Turkey who had persistent complaints after returning to work after a bout with COVID. Nearly half (47%) of the study participants had ongoing COVID-related health issues at three months. A Six Minute Walk Test (6MWT) and DLCO lung capacity test measurements helped workers decide when to return to work if they are experiencing ongoing symptoms (*American Journal of Infection Control*).

WASHINGTON, D.C: HHS in collaboration with the Department of Defense (DOD) announced an agreement to purchase 66 million doses of Moderna's bivalent COVID-19 vaccine booster candidate for potential use in the fall and winter. This contract announcement follows a recommendation by the FDA last month that vaccine manufacturers update their existing COVID-19 vaccines to create a bivalent booster that can target BA.4 and BA.5 Omicron subvariants. The purchase is in addition to the 105 million bivalent COVID-19 vaccine booster doses purchased recently from Pfizer (*HHS.GOV*).

THE WORLD: Moderna, Inc. on Wednesday maintained its full-year COVID-19 vaccine sales forecast of \$21 billion as canceled orders from low- and middle-income nations through the COVAX program offset gains from new booster dose orders. Moderna has begun producing a redesigned booster shot targeting both the original coronavirus as well as the BA.4 and BA.5 Omicron subvariants. It signed a \$1.74 billion deal with the U.S. government last week for 66 million doses to be available this fall and winter, if cleared by health regulators (*Fox Business*).

THE WHITE HOUSE: President Biden has finally tested negative for COVID-19. He had tested positive for Covid-19 a second time, but he experienced no significant symptoms. Biden's new positive test was an example of a rebound Covid-19 case, a phenomenon that has happened in some cases after people take *Paxlovid*. When he initially tested positive for COVID, July 21, the president experienced mild symptoms in the upper floors of the White House, where between the two positive tests he stayed for 17 days (*Politico*).

RHODE ISLAND: Visiting Nurse Home & Hospice, the nonprofit home healthcare and hospice agency founded in Newport more than 72 years ago, announced cost reduction and reorganization plans that includes downsizing 15 positions, outsourcing and other cost-reduction measures. Agency leaders said a complex "perfect storm" of financial challenges, especially astronomical unbudgeted pandemic costs, significantly strained their already limited resources (*Newport Daily News*).

INDIANA: On Tuesday, Aug. 2, 2022, more than half of Indiana was classified in the high-risk category for spreading COVID-19. There were also 35 more Indiana counties listed as "medium" risks. Hamilton, Boone, Starke and Union counties are the only ones currently listed as "low" risks for spreading COVID-19 (*WTHR-TV*).

CHINA: The 25-member Politburo indicated in a monthly meeting that China will maintain its "zero-COVID" policy even if it means hindering the economy in the short term. According to notes of the meeting - "we must be steadfast in placing the importance on the people and life above all else, adhere to external defense against imported cases, internal defense against a rebound in cases, and adhere to the dynamic cleaning strategy" (*China Briefing*).

AMERICA: U.S. regulators say they are no longer considering authorizing second COVID-19 booster shots for all adults under 50 this summer. Instead, the Food and Drug Administration said it will await revamped vaccines targeting the newest

viral subvariants that are expected by September (*WRTH-TV*).

NEW MEXICO: Zookeepers in Albuquerque started giving shots to the most vulnerable animals, and there's a lot of training that led up to this moment. They train the animals to lean in the body part where they'll get the injection. They're then trained on what kind of touch to expect. Sometimes the zookeeper staff uses a syringe with a paper clip or a blunted needle to mimic what the syringe with a needle for a vaccine would be like (*KOB-TV*).

CAPITOL HILL: Congressman John Yarmouth of Kentucky is the latest member of Congress to test positive. Yarmouth is fully vaccinated and has had two booster shots. He is experiencing only a light cough (*The Hill*).

AMERICA: Country legend Dolly Parton has been awarded the 2022 Carnegie Medal of Philanthropy. The medal has been awarded every two years since 2001, with 2021 being an exception due to the COVID-19 pandemic. Along with Parton, Carnegie will be honoring Dallas entrepreneur Lyda Hill, Kenyan industrialist Manu Chandaria, and Oklahoma investment family members Lynn and Stacy Schusterman (*The Examiner*).

MINNESOTA: Lumberjack Days made a triumphant return to the banks of the St. Croix River, injecting life into Stillwater, Minnesota after a two-year hiatus due to COVID-19. The long-running summer event dates back to the 1930s (*KARE-TV*).

COVID-19, 08/06/2022

Global Cases – Deaths
583,077,626 – 6,416,403

U.S. Cases – Deaths
92,185,176 – 1,034,123

223.2M – 68% of the country's population is fully vaccinated

Johns Hopkins University

Mandated Shots Did the Trick with No Loss of Staff

In states that mandated COVID-19 vaccines for nursing home staff achieved the desired effect and did not lead to mass resignations and or staffing shortages.

In states without such mandates, however, nursing homes did experience staff shortages during the study period, researchers reported in *JAMA Health Forum*.

Data collected from mid-June to mid-November 2021 from NHSN showed that in 12 states with COVID-19 vaccine mandates, staff vaccination coverage rates ranged from 78.7% to 95.2%.

States without mandates had consistently lower staff vaccination coverage and higher rates of reported staff shortages throughout the study period.

GMA Network, 08/03/22

Mandate Staff Boosters? Researchers Say Yes

The number of vaccinated nursing home workers is now just below 90%, but only 54.5% received booster shots.

Mandating shots produced no corresponding extra staff shortages. From August 2021 to March 2022 during a time when the U.S. Supreme Court upheld CMS's federal mandate that healthcare workers become vaccinated, staff vaccination rates jumped 25% to 88%.

"Our findings suggest that if states took ownership of mandating booster doses," said Brown University researcher Betsy White, PhD, "that could be an effective policy tool to ensure broader up-to-date vaccination coverage among staff."

McKnight's, 08/01/22

SNF Staffing Got Worse After COVID Outbreaks

A Johns Hopkins University study of 2,967 nursing homes saw a significant drop in staffing levels during and after severe outbreaks due to elevated absences and staff departures.

The staffing losses were greatest among CNAs, primarily due to a

"Disproportionate lack of hiring to fill losses."

Researchers suggested policymakers consider funding for nurse "strike teams" at the state and federal level to help nursing homes with emergency staffing during severe outbreaks.

They also said policymakers should consider a broad investment in nursing home workers through better pay and benefits, such as potentially increasing Medicaid reimbursements to facilities.

Clinical Daily News, 08/01/22

NY Groups Want COVID Commission with Teeth

Several organizations urged Gov. Kathy Hochul to go further with her plans to have New York review the state government's response to the pandemic by creating a commission with subpoena power.

The move could lead to a more robust investigation of the state's pandemic policies. The governor has taken initial steps toward having an independent consulting group review how the crisis was handled.

Signing onto the letter: Reinvent Albany, Common Cause New York, the League of Women Voters and the New York Public Interest Research Group, as well as Empire Center, which successfully sued to have the state release nursing home fatality data.

Spectrum News, 08/03/22

Owner Seeks to Close Three SNFs in Iowa

QHC Facilities, owner of eight nursing homes and two assisted living centers in Iowa, is considering closing its facilities in Mitchellville and Dysart, as well as one facility in Humboldt.

The company is actually trying to sell all 10 homes after filing bankruptcy earlier this year.

QHC also owns the Federal government over \$2 million.

KCCI-TV, 07/22/22

ONE COLUMN

It's Taps for a Notorious New Jersey SNF

A week before federal funding is to be terminated over shocking allegations of neglectful care, a facility has told its 250 employees in formal layoff notices that it will close Aug. 8

Woodland Behavioral and Nursing Center in Andover will cease operations on Monday, a week before its federal funding was to be terminated over allegations of neglectful care, according to published reports.

The facility has been mired in controversy for several years after police discovered 17 deceased residents in a makeshift morgue at the building at the height of the pandemic. Andover Subacute and Rehabilitation Center changed to its current name after the incident. Residents' families had accused the providers of acting negligently in their handling of the pandemic and causing patients' COVID-19 deaths.

CMS recently fined Woodland more than \$220,000 for major infection control violations.

Before a state takeover, the facility was operated by Alliance Healthcare Holdings of Lakewood under CEO Chaim "Mutt" Scheinbaum and Louis Schwartz. Schwartz's father, Joseph Schwartz, pleaded not guilty in February to a multi-million dollar federal tax fraud scheme in connection with Skyline Healthcare, a failed nationwide nursing home chain.

Other troubling issues with the beleaguered New Jersey facility included state surveyor accusations that the facility was operating with just 23 certified nursing assistants despite state regulations requiring 58; staff failures to perform CPR or call 911 for two unresponsive residents who later died; and failure to give monoclonal antibodies to a COVID-positive resident (who later died) after a doctor ordered that they receive immediate treatment.

Only 15 residents remained at press time in the sprawling community where more than 500 residents once lived.

nj.com, 08/04/22

4 Residents Died - SNF To Stop Ordered Transfers

After two residents suffered nonfatal overdoses, San Francisco's city-run 769-bed Laguna Honda Hospital & Rehabilitation Center was terminated from the Medicare and Medicaid programs.

The facility was ordered to close, and CMS directed it to discharge or transfer all its residents before the Sept. 13 closure deadline.

But as residents began leaving, local media reported at least four deaths occurred, some attributed to "transfer trauma," within days or weeks of the patient moving out.

Late last week, under pressure from the city's Congressional representatives, and the SF Department of Public Health, CMS agreed to pause the transfers.

FOX News, 08/01/22

Hospital Readmission Bonus? Only the Gov't Wins

CMS says it will not apply the value-based purchasing (VBP) measure of 30-day all-cause readmission in fiscal 2023.

In the final pay rule all skilled nursing facilities will see a 2% reduction in the coming year, with those who still report data as required getting 1.2% back, and CMS pocketing the unreturned 0.8% for the program's continuation.

Under VBP, providers who have the least readmissions are supposed to receive incentive payments, while those who do poorly are penalized. But the measure was suppressed last year due to what CMS called unfair data discrepancies due to COVID-19.

McKnight's, 08/02/22

Mixed Emotions in CMS's PDPM Final Rule

Although many skilled nursing providers let out a sigh of relief after CMS announced a 2.7% net pay increase for SNFs in 2023 others were still expressing concern.

The final rule contained a 3.9% pay hike for SNFs, but also a 2.3% decrease from

over payments in PDPM and a two-year phased in repayment.

Not everyone is happy "Spreading the impact of the adjustment over two years is helpful, LeadingAge President and CEO Katie Smith Sloan said, "but the end result adds to the chronic financial neglect of our nations' nursing homes - in a time of real crisis."

McKnight's, 08/01/22

Collections - Some SNFs Suing Family and Friends

Some nursing homes nationwide have developed a strategy to collect debt by suing the families and friends of residents, *Kaiser Health News* reported July 28.

The strategy is rooted in admission paperwork, which often designates the signer as a "responsible party" for the nursing home to collect payments or enroll residents in Medicaid.

"The level of aggression that nursing homes are using to collect unpaid debt is severely increasing," Lisa Neeley, a Massachusetts elder law attorney.

In The Rochester, NY area 24 SNF filed 238 debt collection cases from 2018 to 2021 with two-thirds targeting family and friends.

Becker's Hospital Review, 07/28/22

Iowa Finally Investigating Nursing Home Complaints

Fifteen months after a woman was hospitalized with a broken hip sustained in a fall at Correctionville Specialty Care in Western Iowa, the state finally investigated the matter and fined the facility \$16,750.

One worker told surveyors the woman fell because staff failed to use a required gait belt.

Another employee said as the woman lay on the floor, crying and moaning with her legs twisted underneath her, several CNAs gathered and "discussed what to say and how to word the incident."

Iowa has 410 uninvestigated complaints at least 30 days old – 24 were filed more than a year ago.

Iowa Capital Dispatch, 07/22/22

Briefly in the News

A former receptionist at The Landing of Southampton in Bucks County, Pennsylvania is suing the facility in Bucks County court, alleging she was wrongfully terminated for refusing to stop alerting others about problems she believed endangered resident safety. Jeanne Black alleges a family photo on her desk was vandalized, she was left a threatening note, and received reprimands after bringing attention to concerns about resident safety (*Bucks County Courier Times*).

Ensign has acquired *Park Manor of McKinney*, a 138-bed skilled nursing facility located in McKinney, Texas. The acquisition brings Ensign's portfolio to 259 healthcare operations across thirteen states. (*Globe Newswire*).

The Department of Justice announced criminal charges against 36 defendants in 13 federal districts across the U.S. for more than \$1.2 billion in alleged fraudulent telemedicine, cardiovascular and cancer genetic testing, and durable medical equipment schemes. The nationwide coordinated law enforcement action includes criminal charges against company executives and DOJ seized luxury vehicles, a yacht and over \$8 million in cash. Additionally, CMS took administrative actions against 52 providers involved in similar schemes (*Med Net Concepts*).

In a new book, *American Cartel*, Scott Higham and co-author Sari Horwitz make the case that the pharmaceutical industry operated like a drug cartel, with manufacturers at the top; wholesalers in the middle; and pharmacies at the level of "street dealers." What's more, Higham says, the companies collaborated with each other — and with lawyers and lobbyists — to create legislation that protected their industry, even as they competed for market share (*NPR*).

Omega Healthcare Investors saw sequential improvement in both adjusted funds from operations and funds available for distribution during the second quarter. Occupancy is trending upward for Omega's skilled nursing holdings and in the senior living portfolio, where occupancy has improved from 83% in January to 87.9% in mid-July (*Omega news release*).