

# **IN THE NEWS**

**News for LTC Professionals  
in 100 Words-or-Less**

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## **They said it**

**"It's going to be a painful couple of years. We have to be getting smarter at looking at our workforce not as an endless commodity ... we have a finite supply"** Rebecca Love, chief clinical officer for IntelyCare

**"Differences across HCWs may be related to how emergency funding was deployed to healthcare organizations and which service lines were prioritized"** From a JAMA study that indicated physicians were unemployed at a lower rate than other health care workers

**"It really becomes semantics and about how you want to spin it"** White House Medical Director Anthony Fauci walking back President Biden's comments that the pandemic is over

**"Taking an antibiotic is not harmless"** Lauri Hicks, director of the CDC's office of antibiotic stewardship

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## **Satisfaction Increasing, But Many Considered Leaving**

In a sign that industry efforts to make long-term care jobs more attractive may be working, 44% of workers surveyed indicated they were satisfied or very satisfied with how supported they were at work, a 13% increase from 2021. Fear due to COVID-19 decreased 38%.

Those were among the findings of a survey of 1800 current and former LTC workers by recruitment and scheduling software firm OnShift.

However, 57% said they have considered leaving their jobs in the last year, with most saying they'd be enticed by better pay and benefits.

Respondents ranked stress and burn-out the largest challenges (49%).

McKnight's, 09/27/22

## **CMS Posts New Info to Help Tell Who's Who**

CMS is making more nursing home ownership data available as part of the White House's push to increase transparency.

While welcomed by some provider groups and not entirely unexpected, the move continues to add pressure on nursing home owners, some of whom have been accused of creating complex ownership networks and infrastructure to inhibit public tracking.

The intent is to give state licensing agencies, state and federal law enforcement, researchers and the public ability to identify common ownership of nursing homes in various locations

The information will be posted at [data.cms.gov](https://data.cms.gov) and will be updated monthly.

McKnight's, 09/26/22

## **Feds Scrutinizing COVID Antibiotic Misuse**

Antibiotic-resistant infections and deaths increased during the first year of the pandemic, in part because a lack of knowledge on how to treat Covid-19 led medical professionals to turn to antibiotics.

The CDC is sending funds to dozens of local health departments for programs to stop improper antibiotic prescribing following the rise in deadly bacterial and fungal infections during the Covid-19 pandemic.

The agency has already issued \$120 million to departments in New York City, Los Angeles County, and more than 60 other jurisdictions to expand programs to improve antibiotic and antifungal prescribing within health-care settings.

Bloomberg Law, 09/23/22

## **Shot Across the Bow Lawsuit Cites Understaffing**

Residents of six area nursing facilities filed a class action suit against the Alden Group, one of the largest LTC providers in Illinois, seeking to end what was described as chronic and intentional understaffing.

Aided by AARP, the complaint alleges Alden attracts thousands of residents to its facilities, and then systematically understaffs those facilities, leading to neglect, injuries and illnesses, and dangerous and often grossly unsanitary living conditions for the residents.

In what is seen as a warning to other providers, the plaintiffs seek monetary and attorneys' fees to correct dangerous conditions that have resulted from understaffing at the facilities.

AARP news release, 09/28/22

## **MDS Nurses' Heads May Spin Tons of ICD-10 Changes**

Providers are trying to wrap their heads — and their software — around almost 1,200 ICD-10 coding updates that went into effect Saturday.

New mapping guidelines were established in the final pay rule for skilled nursing.

There are updates in many categories of diagnoses, but dementia saw what experts described as an explosion of changes in severity diagnoses.

Ensure teams have the tools necessary to correctly code diagnoses, including updated ICD-10 coding manuals, training for staff and let your docs know they should expect diagnose-related questions.

McKnight's, 09/30/22

## **Grant Launches Training Program for CNAs**

The Center for Caregiver Advancement received a \$14 million grant from the California Workforce Development Board to launch a statewide CNA Registered Apprenticeship Program and to pilot a CNA to Licensed Vocational Nurse registered apprenticeship program.

The program will train 500 people to become CNAs, and 12 CNAs to become LVNs by the end of the three-year funding period.

The apprenticeships are available to unionized skilled nursing facilities that are in the Education Fund, a training fund for members of SEIU Local 2015.

PRNewswire, 09/20/22

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

**CAPITOL HILL:** A White House request for emergency funding to support coronavirus and monkeypox response efforts is missing from the recent must-pass spending bill rolled out by Senate Democrats after staunch GOP opposition. Senate Republicans pushed for the funding to be offset and also expressed more opposition to the funding in light of Biden's recent comments declaring the COVID-19 pandemic "over" (*The Hill*).

**UNITED KINGDOM:** After seeing a downward trend for the past few weeks, the Zoe Health Study saw a 30% increase in reported COVID-19 cases within the past week. The study, which has been running since the days of the first lockdown in England in 2020, has accurately captured the start of each wave. What happens in the U.K. is reflected about a month later in the U.S. (*CNN*).

**NEW YORK:** With thousands of people out of work during the pandemic New York passed an emergency law that declared any tenant who filed a hardship claim was shielded against eviction. The eviction moratorium ended on Jan. 15, evictions, although still very low, have crept up since then, from three in March-June 2020 and 10 in January-June 2021 to 718 in the first six months of this year. Pre-pandemic, the rates were more than 8,000 evictions from January-June 2018 and more than 5,000 in the first half of 2019 (*City&StateNY.com*).

**AMERICA:** The FDA will now review only a small number of emergency use authorization requests for COVID tests that are likely to have a significant benefit to public health, including fulfilling an unmet need. The agency is revising its COVID-19 test policy in light of the current manufacturing status and number of cases (*Reuters*).

**IOWA:** Another grim milestone as the Iowa Department of Public Health reported the state's 10,000th COVID death. At a minimum, 1 of every 318 Iowans has died from COVID-19 complications. The state's official death toll for the pandemic is now 10,051 (*Des Moines Register*).

**CALIFORNIA:** A surgeon is speaking out against a bill that would punish doctors for spreading COVID-19 "misinformation" on key issues, including vaccinations and medications. Dr. Peter Mazolewski ripped the proposal that now sits on Gov. Gavin Newsom's desk. Sen. Ron Johnson, R-Wis., and Dr. Pierre Kory also urged Newsom to "kill this terrible bill and prevent a hostile takeover of medicine by oppressive government censors" (*Fox News*).

**WEST VIRGINIA:** The Department of Health and Human Resources (DHHR) reports as of September 26, 2022, there are currently 1,402 active COVID-19 cases statewide. There have been 14 deaths reported since the last report, with a total of 7,396 deaths attributed to COVID-19 (*WVA – DHHR news release*).

**AMERICA:** CMS has rescinded the enforcement discretion that allowed Certificate of Waiver labs to perform SARS-CoV-2 molecular and antigen Point of Care (POC) tests on asymptomatic individuals outside of the test's authorization. The agency also rescinded the rule that allowed non-waived labs to perform SARS-CoV-2 molecular and antigen tests on asymptomatic individuals outside of the test's authorization without establishing performance specifications (*CMS news release*).

**NEW YORK:** A new study led by researchers at NYU revealed that two people with kidney transplants who were treated with immunosuppressive drugs, and who later had a lengthy COVID-19 infection, developed a version of the virus with a genetic change (mutation) that made it resistant to the antiviral therapy *remdesivir*. *Remdesivir* is especially important for people who have received transplants since the more recently developed *Paxlovid*, can interfere with immunosuppressants sometimes prescribed for those patients (*NYU Langone Health*).

**THE WORLD:** A longitudinal study at Pontificia Universidad Católica Argentina in Buenos Aires indicated persistent smell loss after SARS-CoV-2 infection predicted cognitive impairment in older adults. One year after acute infection, anosmia was more strongly associated with cognitive

impairment than the severity of SARS-CoV-2 infection (*MedPage Today*).

**WASHINGTON state:** Insurance Commissioner Mike Kreidler. The emergency orders requiring health insurers to waive copays and deductibles for any consumer requiring testing for the coronavirus; the order protecting consumers from receiving surprise bills for lab fees related to diagnostic testing for COVID-19; and the order requiring health insurers to cover coronavirus vaccine counseling. None be renewed after Oct. 31 (*Insurance Commissioner news release*).

**AMERICA:** In a JAMA study therapists, technicians, aides and other healthcare workers became unemployed at a higher rate than doctors in both the pre-pandemic and pandemic periods. Nursing homes have been the hardest hit. Hundreds of thousands have left post-acute settings, especially skilled nursing. Staff recovery rates for nursing homes have severely lagged other healthcare settings (*JAMA*).

**GERMANY:** German Chancellor Olaf Scholz tested positive for coronavirus and was showing mild symptoms of a cold. Scholz cancelled all his public appearances for last week but attended scheduled meetings remotely. Meanwhile, Germany rolled out booster vaccinations for older and clinically vulnerable citizens going into winter (*Reuters*).

**CANADA:** Starting October 1, Canada ended the COVID measures at its border. incoming travelers to Canada won't have to test, quarantine, declare their vaccination status or use ArriveCAN, a digital tool at the center of a political debate. The government has also ended masking requirements on planes and trains (*POLITICO*).

### **COVID-19, 09/30/2022**

**Global Cases – Deaths**  
617,451,613 – 6,545,227

**U.S. Cases – Deaths**  
96,354,363 – 1,059,306

225.0 - 69% of the country's population is fully vaccinated

*Johns Hopkins University*

## Alzheimer's More Common In Seniors Who Had COVID

A recent study of more than 6 million people 65+ found that seniors who had COVID-19 had a substantially higher risk of being diagnosed with Alzheimer's disease within a year.

The study does not show that COVID-19 causes Alzheimer's, but it adds to the growing body of research drawing links between coronavirus infection and cognitive function.

The study found that there were about seven new diagnoses of Alzheimer's disease for every 1,000 seniors who had a documented case of COVID-19 in the past year, compared with about five new diagnoses for every 1,000 who did not.

*Journal of Alzheimer's Disease, September 2022*

## County Sued - Gave Bonuses For Not Taking Sick Leave

A former employee of Archuleta County in southern Colorado, Lacy Brown, has sued the county over its policy of giving \$2,000 bonuses to employees who did not take sick leave due to COVID-19 during the pandemic.

The suit alleges the bonus structure was illegal because taking sick leave for COVID-19 is protected by federal law and employees cannot be penalized for doing so.

Additionally, the county's own policies required employees to stay home if they showed any symptoms of illness during the pandemic.

Brown eventually submitted her resignation in October 2021, but the county instead fired her.

*The Denver Post, 09/27/22*

## Figure Bonuses into OT Pay, Provider Forks over \$120K

A Detroit-area residential healthcare facilities management company has paid \$121,525 in back overtime wages to 640 employees.

Advantage Living Centers – paid non-discretionary bonuses to employees for perfect attendance, working in the Coronavirus isolation unit and for mentoring and training new employees,

but failed to include the bonuses into an employee's rate of pay when calculating overtime rates.

"Overtime rates must be calculated on an employee's average hourly rate of pay, including any non-discretionary bonuses paid," said Acting Wage and Hour District Director Angela Telang in Detroit.

*DOL Wage & Hour Div. news release, 09/26/22*

## NY and PA Propose LTC Programs Like Washington's

Two states have proposed long-term care legislation modeled after WA Cares, Washington state's emerging long-term care program. While wording for portions of the bills seems to mirror Washington's law, some experts question the wisdom of copying an untested plan.

Pennsylvania's proposed plan would provide long-term services and support. It would be administered by the Department of Human Services and financed by a new payroll tax.

The New York proposal would establish a state long-term care trust program to provide a public benefit available to all New York workers for long-term care services and support, financed by a payroll withholding tax.

*The Center Square, 09/05/22*

## CNA Receives Nearly \$4 Million for Fall in Facility

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.

In July, 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*

## ONE COLUMN

### PHE Declared in Florida SNFs & Hospitals Evacuated

As Hurricane Ian came ashore on the cusp of a Category 5 storm preparations were already in the works. HHS Secretary Xavier Becerra had declared a public health emergency in Florida Sept. 26.

Additionally, HHS pre-positioned two 15-person medical task force teams from its National Disaster Medical System, a 13-person incident management team and two pharmacists to assist with the response.

Over than 40 nursing homes evacuated around 3,400 residents before the storm set in, according to the Florida Health Care Association, a trade organization. Most are located in the southwestern part of the state and transferred residents to affiliated facilities outside the storm's path. At least another 115 assisted living facilities also evacuated residents.

In Orlando 106 residents were rescued from a nursing home when the water quickly rose inside the building. About 30 of those residents were rescued by a boat brought inside the facility.

some Tampa Bay area nursing homes in flood hazard zones evacuated residents to other facilities.

Ahead of the storm, for example, Tampa General Hospital announced some ambulatory location closures and cancelled elective surgeries and procedures.

The hospital, which is built on an island in Tampa Bay and connected by a short bridge to the downtown area, also built an AquaFence wall around the facility and lifted generators above the ground to ensure the hospital was functional

Additionally, about 40 patients were evacuated from HCA Florida Pasadena Hospital. Other evacuated patients were taken to HCA Florida Trinity Hospital in Pasco County, north of Tampa. HCA also suspended services and evacuated patients from hospitals in South Tampa and West Tampa, as well as from its Central Tampa emergency facility.

*The Tampa Bay Times, The Weather Channel, MedPage Today, ABC News*

## **Food Service Manager's Experience Now Counts**

Previously the regulation for LTC dietary manager required a certification or at least an associate's degree.

Now (Oct. 1) would-be dining directors will have to have had two or more years of experience in the position or – as stated in the final rule in the *Federal Register* – complete “a minimum course of study in food safety that includes topics integral to managing dietary operations, such as, but not limited to: foodborne illness, sanitation procedures, food purchasing/receiving, etc.”

The National Consumer Voice for Quality Long-Term Care, a consumer advocacy group, complained that the changes would endanger residents' health by lowering standards.

*McKnight's*, 09/28/22

## **Private Equity Under Microscope in UK, Too**

Private equity involvement in the British long-term care sector is now experiencing complaints about private equity involvement similar to what has been reported in the U.S. in recent years.

Just as in America, government funding is constantly attacked for not being enough to properly care for residents.

A recent study, funded in part by a British labor union, found big changes for the worse in the quality of care after private equity investors get involved.

As one analyst said, “What you find in America with private equity is much the same here.”

*Kaiser Health News, McKnight's*, 09/27/22

## **A Push to End 24-hour Home Health Shifts**

Home health aides and their advocates are pushing the New York City Council to pass legislation that would restrict their hours – a move that is facing pushback from the union that represents them.

The bill, a Councilman who represents Lower Manhattan, would limit a home care aide's shift to 12 hours. It would also cap the total to 50 hours per week.

This would effectively end 24-hour shifts, a practice common in New York City. SEIU Local 1199, said it supports the effort “to end this exploitative practice” of the 24-hour shifts but does not support the bill's current language.

*Spectrum News*, 09/19/22

## **Large CCRC Closing Its Nursing Home – Lay Offs**

Wittenberg Village in Crown Point, one of the larger retirement communities in Northwest Indiana, plans closes its nursing home and lay off 71 workers next month.

The layoffs will take effect between Oct. 9 and 31.

The rest of the senior living community, including the residential living and assisted living sections, will remain open.

*The Times*, 09/22/22

## **Bill Advances – Would Protect Nursing Home Residents**

A bill has received the approval of a New Jersey House committee that mandates regular staff testing, requires SNFs to cohort residents, and maintains indoor visitation during outbreaks.

It also allows family members to appoint personal physicians to deliver direct care to a resident.

The bill was drafted in memory of 99-year-old Sally Griscavage Florek, who died in April 2020 after she was treated in the hospital for a fall and released back to the nursing home despite testing positive for Covid-19.

*InsiderNJ*, 09/19/22

## **Briefly in the News**

Members of Medicare Advantage plans used post-acute care less than people with traditional Medicare, according to an analysis of 62 studies. Overall, the investigation could not determine whether beneficiaries' lower post-acute care use was associated with better or worse outcomes. The review included studies conducted since 2016 (*McKnight's*).

A Western Kentucky nonprofit nursing home has received a nearly \$1 million federal grant from the U.S. Department of Agriculture Rural Development to help build a new facility to replace an existing building that's more than 50 years old. The grant will help fund construction of a 56-room nursing home for the nonprofit Clinton and Hickman County Hospital (*WKMS, Public radio*).

The United States slipped one spot to No. 18 out of 44 developed countries in the Natixis Investment Managers 2022 Global Retirement Index (GRI). The annual index shows erosion in key factors affecting the financial security and material wellbeing of US retirees. The market downturn and sharp increase in food, gas, housing, and medications have hit retirees particularly hard. New market risks, namely inflation, low but rising interest rates, and ongoing volatility, will make it harder for retirees to make up for lost ground (*Business Wire*).

Two studies found Medicare Advantage enrollees were less likely to receive care from the highest-quality skilled nursing facilities and home health agencies. Six studies generally found that Medicare Advantage enrollees were less likely than traditional Medicare beneficiaries to receive care from the highest or lowest rated hospitals overall (*McKnight's*).

DOL has obtained a judgment that will recover \$9.3 million in back wages for 1,756 employees of a Philadelphia healthcare staffing company. U.S. Medical Staffing will pay \$4,650,000, in back wages and an equal amount in liquidated damages, and a civil money penalty of \$700,000. The company that provides staff to schools and group homes, claimed it was only a registry in some cases and misclassified workers as contractors in others (*U.S. Dept. of Labor*).