

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:

"It's impossible to exaggerate the challenges that providers face in providing care because of the inability to hire workers" Mark

Parkinson, president and CEO AHCA.NCAL, which initiated a program to boost hiring in LTC facilities

"We are in a full-blown crisis and a staffing mandate will not help produce the staff we need and desire" Shelly Peterson, North Dakota Long Term Care Association

"The company basically said no to every proposal that the union made"

Colleen Mahony, LPN at Pine Creek Manor in Michigan where there could be a strike of 1000 SNF workers soon

"I don't think anybody in the public is interested in lowering standards for nurses" Linda Aiken, PhD, RN of the

University of Pennsylvania School of Nursing in Philadelphia.

Senators Challenge Biden Staffing Mandate

Thirteen U.S. Senators, Republicans and Democrats, are calling on the Biden Administration to halt its plan to mandate staffing levels in nursing homes, saying it's the wrong step to take as facilities are already struggling to retain and hire professional staff.

In a letter to CMS the Senators said the program would be detrimental to access to care for residents.

"Additionally," the letter points out, "blanket staffing standards may not provide enough flexibility to nursing homes in light of well-known and long-standing obstacles to the recruitment and retention of direct care workers, especially in rural and underserved areas."

McKnight's, 01/24/2023

Failure to Reposition Cost SNF \$31 Million Judgment

A jury in California has awarded the family of a man who died in a nursing home over \$31 million.

Sam Rios Jr., was treated at a hospital for a broken hip and was discharged to Pine Creek Care Center in Roseville, CA where in a two-week stay the lawyers for the family said he was only repositioned once in 42 shifts. He developed pressure sores on his heels.

Once he was discharged to home, his family said they were not given any instructions on how to prevent pressure ulcers on his heels, which worsened and contributed to his death.

Sacramento Bee, 01/26/2023

The Last One May Mark The End of the PHE

When the Biden administration renewed the public health emergency this month, it could be the last time.

Senior Biden officials are targeting an end to the emergency designation for Covid as soon as the spring. Such a move would represent a major pivot point in the country's pandemic battle.

The decision, which has not yet been finalized amid more immediate efforts to manage a recent spike in Covid cases, would trigger a complex restructuring of major elements of the federal response — and set the stage for the eventual shifting of greater responsibility for vaccines and treatments to the private market.

Politico, 01/10/2023

Mariner Hit with Injunction - Staffing and Sexual Assault

Alameda County, California court ordered Mariner Health to increase staffing at five facilities and comply with discharge laws at all 19 of its facilities.

The order stems from a 2021 lawsuit in which the state charged that understaffing in the facilities was responsible for unreported sexual assault

cases and left residents vulnerable, and the inadequate care resulted in unnecessary amputations.

Further, it claimed staffing issues led to the safe discharge of residents and that Mariner falsified staffing numbers to CMS to advertise inflated 5-Star ratings.

The facilities will also be subject to oversight by a court-appointed monitor.

Calif. Attorney General news release, 01/10/2023

New Life for Federal Bill To Restore TNA Programs

A bill that would allow non-certified nurse aides to work in nursing homes longer than four months has been reintroduced in the House of Representatives.

The bill would waive a requirement for temporary nurse aides to complete 75 hours of state-approved training and a competency evaluation in four months.

Earlier in the pandemic, a similar waiver provided nursing homes with a new staffing supply after thousands of trained caregivers fled their jobs.

The Centers for Medicare & Medicaid Services allowed the waiver to sunset last summer, forcing TNAs in most states to get certified by October or leave their positions.

McKnight's, 01/23/2023

Court Shoots Down Parts of NLRB Union Election Rule

The US District Court of Appeals for Washington, DC, has rejected parts of a Trump-era National Labor Relations Board rule meant to slow the union election process.

The three-judge panel in a 2-1 decision, affirmed the lower court's invalidation of three provisions, finding that they dealt with substantive rather than procedural rights.

The decision came in a lawsuit that was brought against NLRB by the AFL-CIO in March 2020. The largest federation of unions in the United States said that the NLRB violated the federal Administrative Procedure Act by adopting the rule without first soliciting public comments.

Senior Living, 01/18/2023

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

AMERICA: The FDA wants to simplify the Covid-19 vaccine process to look more like what happens with the flu vaccine. That could include streamlining the vaccine composition, immunization schedules and periodic updates of Covid-19 vaccines. The agency said it expects to assess circulating strains of the coronavirus at least annually and decide in June which strains to select for the fall season, much like the process to update annual flu vaccines (*CNN*).

CHINA: In his first public comments on the wave of Covid-19 infections sweeping across the country, Chinese President Xi Jinping said he was most worried about its spread in China's vast countryside, where medical services and resources are insufficient. Speaking to healthcare workers, Covid patients and local cadres via video links in a Lunar New Year message, Xi also called on frontline medical workers to increase self-protective measures during the current wave of infections, which he described as "fierce and serious" (*South China Morning Post*).

THE WORLD: Hybrid immunity of infection and immunization provides up to 12 months of protection against hospitalization or a severe, second COVID infection. Researchers reviewed 26 other studies from around the world involving patients with varying levels of immunization and illness. People who had COVID but were not fully vaccinated still had some immunity at 12 months, but infection alone gave limited protection (*The Lancet*).

GERMANY: Recently, German Health Minister Karl Lauterbach announced that Germany would impose testing requirements for all passengers from China in an effort to contain the further spread of the virus. Since January 9, however, only three passengers from China have tested positive for the coronavirus upon their arrival to Germany. A total of 628 random tests that have been carried out (*SchengenVisaInfo.com*).

THE WORLD: The journal *Pediatric* reports that when Covid-19 patients younger than 5 also test positive for

another respiratory virus, they tend to become sicker and develop more severe disease, a new study suggests. Among hospitalized children younger than 5, testing positive for both Covid-19 and another respiratory virus at the same time is associated with about twice the odds of severe respiratory illness than those who tested negative for other viruses (*CNN*).

CHICAGO: The new and highly contagious COVID variant known as XBB.1.5, or informally as the "kraken" variant, quickly rose to dominance in the Northeast, but experts in the Chicago area are bracing for a similar situation to unfold here soon. The variant has already been detected in Chicago (*NBC Chicago*).

WASHINGTON D.C.: Federal Reserve Board Chair Jerome H. Powell tested positive for COVID-19 and is experiencing mild symptoms. Chair Powell is up to date with COVID-19 vaccines and boosters. Following Centers for Disease Control and Prevention guidance, he is working remotely while isolating at home (*Federal Reserve news release*).

AMERICA: The new and highly contagious COVID variant dubbed XBB.1.5 roughly doubled its prevalence in the Midwest over the last week and experts say that growth will likely continue in the weeks ahead. The variant now makes up 43% of cases in the U.S. and more than 14% of cases in the Midwest, climbing in both metrics from 30.4% and roughly 7% the week prior (*CDC*).

UTAH: Dr. Michael Kirk Moore Jr., a plastic surgeon and three others were charged in the United States District Court with allegedly destroying at least \$28,028.50 worth of government-provided COVID-19 vaccines through the distribution of at least 1,937 doses worth of falsified Vaccination Record Cards. The District Court noted that these fake vaccinations were administered in exchange for direct cash payments or direct donations of \$50 per person to "charitable organizations" linked Moore's Plastic Surgery Institution (*KJZZ-TV*).

WASHINGTON, DC: The CDC and the FDA on Friday said they plan to investigate a preliminary safety signal of a possible increase in a certain kind of stroke in people 65 and older who recently got one of the updated Pfizer boosters. The CDC is still recommending people get boosted even if there is a potential health risk, but some are wondering if the pros outweigh the cons (*KATU-TV*).

AMERICA: As of last August only 41% of US adults with impaired immune systems, who are at high risk for poor COVID-19 outcomes, have received four doses of mRNA vaccine, and less than 1% had received the recommended five doses recommended by CDC. Researchers from Kaiser Permanente looked at 42,697 people with impaired immune systems. Participants 65 years and older were more likely to receive at least four vaccine doses than younger patients (*Kaiser Health News*).

NEW ENGLAND: More than 70% of COVID-19 cases in the Northeast are believed to be a new variant – XBB.1.5. pegged by the WHO as "the most transmissible" descendant yet of the omicron variant, the Centers for Disease Control and Prevention estimates XBB.1.5 rose from barely 2% of U.S. cases at the start of December to more than 27% the first week of January (*The Washington Post*).

AMERICA: An early signal of stroke risk was detected in older adults who received Pfizer-BioNTech's bivalent COVID-19 vaccine, the FDA and CDC announced in a joint statement late this month yet the agencies found no link in further analyses and are not recommending a change in COVID-19 vaccination practice (*MedPage Today*).

COVID-19, 12/09/2022

Global Cases – Deaths

670,225,871 – 6,823,259

U.S. Cases – Deaths

102,280,952 – 1,107,645

229 = 71% of the country's population is fully vaccinated

Johns Hopkins University

Antipsychotic Prescriptions Spiraled During Pandemic

Researchers in the UK and Hong Kong examined data from six countries including the US and determined that among dementia patients antipsychotic drug prescriptions increased during the pandemic.

In an accompanying editorial, U.S. physicians and researchers said the study highlights how the pandemic created the conditions for worsening behavioral and psychological symptoms (BPSD) of dementia. Clinicians likely compensated for these disruptions by increasing their use of psychotropics.

Efforts to reduce the use psychotropics in older adults had been met with some success. One campaign in 2012 led to a 30% decrease among nursing home residents with Alzheimer's disease.

JAMA Psychiatry, 01/25/2023

IDRs Now on Care Compare Before They're Resolved

CMS has updated Care Compare to show whether facilities were formally disputing cited deficiencies.

Just over 1,000 disputes were noted, some dating back several years in a system that is supposed to take 60 days to review challenges.

Previously, such allegations were not added to Care Compare until after the dispute resolution process was complete, and then only if a panel found against the facility.

In about 25% of cases, providers are able to prove they should have received a reduced citation or none at all.

McKnight's, 01/26/2023

ACHCA Re-Establishing Certification Programs

The American College of Health Care Administrators is re-launching its advanced certification program for nursing home administrators. The certification program was begun around 1990 and discontinued four years ago.

A new and improved exam will measure licensed nursing home administrators' knowledge and capabilities in skilled nursing-related subject matter across five domains.

ACHCA also announced it was restoring its Certified Assisted Living Administrator program.

The two certifications are scheduled to roll out at the association's annual meeting in April.

McKnight's, 01/23/2023

AHCA Begins LTC Job Education Campaign

AHCA has launched a national campaign to boost hiring in the face of an unprecedented worker shortage that is curtailing capacity and threatening the ability to serve residents.

The association launched a job education [website](#) called Careers in Caring, which gives providers tools and resources to aid in hiring. They include research-tested methods to reach job candidates, informational videos about working in the industry, messaging materials, social media tools, and templates for press releases.

The site also includes a template for Myth-Fact documents to help push back against disinformation.

McKnight's, 01/12/2023

..... And Another One Bites The Dust

In Vermont, Newport Health Care Center will shut down in 60 days.

About 30 resident will be displaced and must find other long-term care accommodations.

An official at the facility says it's largely because of a staffing shortage and financial struggles, including those caused by hiring travel nurses.

Officials say they are helping families find other places for the residents that live there.

WCAX-TV, 01/18/2023

ONE COLUMN

It's All Greek to Me! Why XBB.1.5 Will Not Get A Greek Letter

The XBB.1.5 omicron subvariant does not warrant its own Greek letter name — at least not yet — because data suggests it is behaving similarly to other omicron sublineages in terms of transmissibility, severity, immune escape and its effect on interventions, according to the World Health Organization.

"When that changes, we will be using these Greek letters. We're not afraid to use these Greek letters or to assign different subvariants, but we have a criteria by which we do this through our technical advisory group for virus evolution," Maria Van Kerkhove, PhD, the WHO's technical lead on COVID-19, said during a Jan. 11 media briefing.

Health officials are still learning about XBB.1.5, with current assessments based on limited sequencing data that is mostly from the U.S., where the strain is estimated to account for at least 28 percent of cases.

"It's an incredibly transmissible variant like all [omicron sublineages] are," Dr. Vankerkhove said.

"We don't yet have data on severity, and that is under assessment in the United States but also elsewhere ... there's no indication of an increase of severity or decrease of severity compared to other omicron subvariants," she said.

Scientists have been at odds over whether nicknames such as "Kraken," now being used to refer to XBB.1.5, are necessary to help people keep track of and communicate about the strains.

A WHO spokesperson said the unofficial names are not necessary, because different omicron sublineages should not require different mitigation measures among the public.

Becker's Hospital Review, 01/13/2023

Skilled Nursing Deals Led Record Year For LTC

The number of publicly announced LTC acquisitions rose 17% in 2021 from the previous year.

There were 507 transactions last year valued at about \$14 billion. Although the number of sales increased, the value of those sales decreased about \$5 from 2021.

The largest single transactions was the sale of 17 Stonerise skilled nursing facilities and ancillaries businesses in an estimated \$615 million complex deal involving White Oak Healthcare Partners and CareTrust REIT.

Industry experts say, however, An economic slowdown is predicted for the first part of this year, which could lead to a rush of sell-offs,

McKnight's, 01/12/2023

Two States Sue HHS Over WHO's U.S. Authority

Texas and Oklahoma are suing HHS for granting the World Health Organization the authority to determine and define what constitutes a public health emergency in the U.S.

The lawsuit — filed Jan. 18 in the U.S. District Court for the Northern District of Texas — takes aim at a provision enacted during the Obama administration that granted the global agency the authority to invoke emergency health powers for domestic purposes, which the plaintiffs claim infringes on "U.S. and state sovereignty."

In July, 15 states petitioned HHS to delete the rule. The petition was denied by the Biden administration in October.

Becker's Hospital Review, 01/24/2023

Travel Nurse Salaries as High as \$4000 Per Week

Average weekly travel nurse pay in December in the U.S. varied across states compared to the month prior, with some seeking increases and others seeing decreases, according to a report from Vivian Health, a national healthcare hiring marketplace.

As of Jan. 5, there were 645,243 active RN travel jobs on the Vivian Health platform nationwide in the last 90 days. Salaries varied from over \$4000 a week in California to about half that in most southern states from Texas, Arkansas and Missouri eastward.

In the vast majority of states — 34 in addition to California — the travel nurse salaries exceed \$3000 per week.

Becker's Hospital Review, 01/09/2023

Nursing Exam Pass Rates Declined in Recent Years

The share of candidates who pass the licensure exam to work as a registered nurse has significantly dropped in recent years. But most leading nurse academics say that's a good thing.

The percentage of U.S.-educated candidates taking the National Council Licensure Examination for registered nurses for the first time and passing fell from 88.2% in 2019 to 82.5% in 2021, while the pass rate for all candidates fell from 72.8% to 68.9%.

Pass rates continued to decline in 2022, with an average pass rate of 80.9% for all first-time U.S.-educated candidates, and a rate of 66.6% for all candidates.

MedPage Today, 01/12/2023

SNF Workers Strike In the Works in Detroit

Around 1,000 workers at a dozen Metro Detroit nursing homes could go out on strike soon. SEIU says contract talks have stalled and they feel there is no other choice.

The healthcare industry says lack of workers and poor reimbursement is the real culprit.

Melissa Samuels of the Health Care Association of Michigan said since 2019 Medicaid reimbursement has increased 5% in Michigan, but costs has increased 15%.

Samuels said the Legislature could change the Medicaid reimbursement rates. She added that \$67 million in state grant funds meant to promote workforce retention in SNFs have yet to be disbursed.

McKnight's, 01/25/2023

Briefly IN THE NEWS

Enrollment in Medicare Advantage (MA) has topped 30 million, according to new data from the Centers for Medicare & Medicaid Services. This represents coverage across 776 contracts, according to the data, as of Jan. 1 payments, which reflect enrollments accepted through Dec. 2. Enrollment in standalone prescription drug plans was also about 22.7 million, bringing total enrollment across all types of private Medicare plans to nearly 50.3 million (*Fierce Healthcare*).

DOJ is suing pharmaceutical giant AmerisourceBergen, accused it of fueling the opioid crisis by failing to report suspicious drug orders. DOJ said AmerisourceBergen violated federal laws that require opioid manufacturers to alert the DEA Administration of any suspicious orders. The complaint states that AmerisourceBergen and two of its subsidiaries since 2014 had systematically refused or negligently failed to flag suspicious orders by pharmacy customers when it had reason to know that opioids were being diverted to illegal channels (*MedPage Today*).

A bill in the Montana legislature would expand a pharmacist's authority to prescribe medications and devices. Supporters said the measure could help fill health care gaps, while opponents worried it would give pharmacists physician-like authority without the same education. Eleven states including Montana give pharmacists power to prescribe certain medications, such as birth control, naloxone, and nicotine patches (*Kaiser Health News*).

The panel voted 21-to-0 to direct vaccine manufacturers Pfizer/BioNTech, Moderna, and Novavax to "harmonize" the primary series of their vaccines — the first doses that people receive — with the new booster shots that contain both the original strain of the SARS-CoV-2 virus and a new Omicron strain. Members of the panel were also supportive of the FDA's plan to move to a single annual vaccine dose for most Americans (*STAT*).

