

# IN THE NEWS

News for LTC Professionals  
in 100 Words-or-Less

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## THEY SAID IT:

*"I don't believe that the idea of ending poverty for long term care workers is crazy"* – Rob Baril president SEIU 1199NE at rally to raise Connecticut LTC worker pay

*"We're protecting seniors' life savings by cracking down on nursing homes that commit fraud, endanger patient safety and prescribe drugs that are not needed"* - President Joe Biden during the State of The Union Feb 7

*"Not only is the U.S. the only country we studied that does not have universal health coverage, but its health system can seem designed to discourage people from using services"*

— from Commonwealth Fund study that found the U.S. had worse outcomes than other rich nations

## **Arizona Senate Wants Two Annual Surveys**

An Arizona Senate Committee has reported out a bill that would privatize nursing home surveys and double the number of annual surveys to two a year.

The legislation stems from an audit of the state Department of Health Service in 2019 that found neither inspections nor follow ups on complaints were happening. Five recommendations had not been implemented as of 2022.

Dave Voepel, CEO of the Arizona Health Care Association in testimony before the committee pointed out that the state would have to pay for 100% of the second survey because CMS only pays for 60% of the first.

McKnight's, 02/08/2023

## **Administrator on Trial - 12 Died After Irma in 2017**

Although 12 patients died at the Rehab Center of Hollywood Hills (Florida) nursing home following Hurricane Irma in 2017, Jorge Carballo was charged with nine counts of aggravated manslaughter of an elderly person or disabled person.

The storm knocked out a transformer linking the main air-conditioning unit to the power grid, sending temperatures soaring to 108 degrees inside the facility.

The state says the fault lies with administrator and CEO Carballo because he failed to get the elderly residents to safety. A fully functioning hospital was right across the street.

The trial is expected to run two more weeks.

WPLG-TV, 02/06/23

## **Provider to Pay for Job Switcheroo to Avoid OT**

The owner of three Michigan nursing homes owes more than \$69,000 in back wages after regularly switching the employment status of 45 managers from hourly to salaried to evade overtime pay.

The US Department of Labor's Wage and Hour Division recovered the wages for employees at the Detroit-area facilities after an investigation found that owner Ameer Patel paid hourly wages when the managers worked fewer than 40 hours per week but paid salaried wages when the workers exceeded 40 hours.

The division also assessed \$7,938 in civil penalties for repeated violations of the Fair Labor Standards Act.

DOL news release, 02/08/2023

## **Bill Would Eliminate Fees for Hiring Agency Staff**

Some agencies require facilities to buy out a worker's contract for thousands of dollars if the worker goes to work as an employee of the facility.

The Colorado House has passed a bill that prohibits agency collection of those "conversion fees." It covers agency staff in nursing homes, assisted living facilities

and all other healthcare facilities in the state.

Earlier this year, the Federal Trade Commission also proposed barring employers across the country from requiring workers to sign non-competes. That rule is widely viewed as applying to independent contractors as well as company employees.

McKnight's, 2/12/2023

## **Residents Evacuated in Record Cold Temps**

Residents Oceanside Rehabilitation and Nursing Center in Rockport, Massachusetts were evacuated last week when a water main broke and flooded the facility.

The residents were evacuated to other facilities amid-record breaking cold temperatures with wind chills in the -30 to -40 range.

Rockport is a coastal town about 40 miles northeast of Boston.

WCVB-TV, 02/05/2023

## **Biller Charged with Ripping Off Relative and the SNF**

The replacement for a billing coordinator fired for drunkenness at a New Hampshire nursing home noticed discrepancies in an account which led to the former billing coordinator, Jennifer Bryant, being charged with stealing over \$74,000 from an elderly relative who was a resident of the facility.

Prosecutors say Bryan used her position at Riverside Rest Home in Dover to zero out the relative's account, then deposited the Social Security checks in her own account.

Among the illicit expenditures was \$11,200 in salons, \$10,000 in restaurants, \$7100 on alcohol and 10,000 in cash withdrawals.

She could get 15 years in prison.

Fosters Daily Democrat, 02/03/2023

The Johns Hopkins Coronavirus Resource Center plans to cease operations March 10. It has been an invaluable source of information about the coronavirus the past three years (**NPR**).

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

**AMERICA:** It's been three years since the first Covid-19 case was diagnosed in the United States, on January 20, 2020. In the time since, nearly 1.1 million Americans have died from the coronavirus; the US has reported 102 million Covid cases, more than any other country, according to Johns Hopkins University. Both figures, many health officials believe, are likely to have been undercounted (*CNN*).

**THE WORLD:** Diabetes is a strong risk factor for adverse COVID-19 outcomes. Individuals with diabetes experienced a substantially greater likelihood of hospitalization and death as a result of COVID-9 infections compared with those without (*IDF Diabetes Atlas*).

**CALIFORNIA:** The state will drop its plan to require school children to get vaccinated against COVID-19 once the state's pandemic state of emergency order ends on Feb. 28. "We continue to strongly recommend COVID-19 immunization for students and staff to keep everyone safer in the classroom," the California Department of Public Health said in an email to EdSource, confirming the change (*San Francisco Chronicle*).

**WASHINGTON, D.C:** The acting director of the National Institutes of Health pushed back against Republicans' assertions that a lab leak stemming from taxpayer-funded research may have caused the coronavirus pandemic. Dr. Lawrence A. Tabak told lawmakers the viruses being studied at a laboratory in Wuhan, China, bore no resemblance to the one that set off the worst public health crisis in a century (*The New York Times*).

**GERMANY:** On February 2, the obligation to wear masks on trains and long-distance buses ended throughout Germany. This requirement has now also been lifted in public transport in all federal states. This step, which is not based on any scientific evidence, opens the door to the spread of new, even more dangerous variants of the coronavirus (*World Socialist*).

**TENNESSEE:** Nearly 300,000 Tennesseans who enrolled in Medicaid during the COVID-19 pandemic are expected to lose their coverage this year now that state officials are once again allowed to bump people from the government-funded health insurance program. A spokesperson for TennCare, the state's Medicaid program, said no removals will occur until April 1, although the "redetermination process" will begin in March (*Kaiser Health News*).

**AMERICA:** Brown University found that vaccination rates for COVID-19 for nightshift workers in nursing homes significantly lag their dayshift counterparts, creating a higher-risk environment for residents and other staff. Reason? Clinics were often held at inconvenient times for nightshift and testing was more sporadic (*Health Affairs*).

**THE WORLD:** People older than 60 years of age accounted for over 80% of global estimated COVID-19 deaths, but vaccination coverage for this age group remains below the WHO goal, especially in many middle- and low-income countries. WHO is recommending countries prioritize populations at risk, such as older people, with COVID-19 vaccinations by setting a goal of 100% of the populations with at least a complete primary series (*CDC*).

**CAPITOL HILL:** The House passed a bill that would force executive agencies to end teleworking policies implemented during the COVID-19 pandemic. The number of government employees teleworking increased rapidly amid the pandemic. The number of government employees who teleworked increased from roughly 483,000 in 2018 to more than 1 million by 2021. Rep. James Comer (R-Ky.), the chairman of the House Oversight and Accountability Committee, argued the legislation "offers a much-needed solution to this problem of federal agencies and federal employees putting their own comfort before our constituents' needs" (*The Hill*).

**THE WORLD:** Children lost out on more than one-third of a school year's worth of learning when in-person instruction was halted during the coronavirus pandemic. Two years later, they still haven't overcome those deficits in the opinion of a just published sweeping global study (*Nature Human Behavior*).

**KANSAS CITY:** Researchers at Nationwide Children's Hospital and Montefiore Medical Center analyzed rates of COVID-19 infection, symptom severity and vaccine side effects among 10,935,541 vaccinated children aged 5 to 11 years compared to 2,635,251 unvaccinated children. They found vaccinated children had lower rates of infection and less severe symptoms if they did end up infected. (*ABC NEWS*).

**NEW ORLEANS:** A lawyer representing Navy Seals who do not want to be vaccinated against Covid-19 told a federal appeals court that their lawsuit over a now-withdrawn vaccine mandate isn't moot even though Congress passed legislation last December ordering the policy canceled. The attorney said the service members still face the possibility of discipline over their refusal to get vaccinated and the government has not ruled out taking vaccination status into account when doling out future assignments (*Politico*).

**WASHINGTON, D.C:** In testimony before the House Ways and Means Committee, the DOL's Inspector General Larry D. Turner identified nearly \$30 billion more in pandemic unemployment benefits that were wrongfully sent out than previously estimated. Turner's office pegged the amount of questionable payments at about \$191 billion up from the previously estimated \$163 billion (*Politico*).

### **COVID-19, 02/11/2022**

**Global Cases – Deaths**  
672,681,753 – 6,852,937

**U.S. Cases – Deaths**  
102,841,339 – 1,114,341

229.7 = 71% of the country's population is fully vaccinated

*Johns Hopkins University*

## **'Double Dog' Subvariant Rears Its Ugly Head**

Omicron subvariants XBB and XBB 1.5 caused concern among public policy officials when they first surfaced, as did BQ and BQ 1.1. Those four subvariants account for 95.9% of new cases of the virus in the U.S. for the week ending Feb. 3.

An Ohio State University study notes that a new subvariant designated, CH.1.1, contains a mutation seen in Delta, but not in Omicron, and this may give CH1.1 the ability to become more infectious than other Omicron strains.

CH.1.1 has been nicknamed Orthus, after the two-headed dog in Greek mythology.

*Fierce Healthcare, 02/06/2023*

## **Study: Complaint Surveys Better Info for Consumers**

Researchers have opined that a new Care Compare complaint-focused quality metric – one that lists complaints and annual surveys separately - would better represent the needs of residents and family consumers searching nursing home ratings.

Currently, inspections triggered by complaints are bundled into a single "health inspections" category on the website, along with results of routine recertification surveys.

Researchers at the Scripps Gerontology Center at Miami University ran several scenarios and found that just 30.9% of nursing homes earned the same star rating for their annual and complaint surveys.

*JAMA Network Open, 02/07/2023*

## **More \$\$\$ for Colorado SNFs and Home Health - Maybe**

The Colorado Department of Health Care Policy and Financing has asked the state legislature for \$85.2 million in the fiscal year starting in July to raise rates – about a 1.7% increase in the agency's state funding.

The agency's budget request includes \$19.6 million to increase rates paid to nursing homes and \$28.5 million to increase wages paid to home health care workers.

Another \$9.8 million would increase Medicaid rates by 0.5% for most providers.

About \$2.2 million of the request would go directly to reducing costs for Coloradans covered by Medicaid by getting rid of most copays.

*Denver Post, 02/05/2023*

## **NY Providers Want a 20% Reimbursement Boost**

New York state nursing home advocates want a 20% Medicaid boost to pay rates, a demand struggling for traction while the governor's budget framework puts money into home-based care instead.

The demand was delivered officially to Gov. Kathy Hochul in a letter signed by the heads of five organizations representing nursing home providers and healthcare workers.

The providers warned that without changes, more beds will be taken out of service and some facilities could close.

New York requires nursing homes to provide a minimum of 3.5 hours of care per resident per day. Facilities are also required to spend at least 70% of revenue on resident care with 40% of that amount patient facing.

*McKnight's, 01/30/2023*

## **GAO tells CMS to Use KISS Principle on Care Compare**

Keep it simple, Stupid!

The Government Accountability Office (GAO) in a study of CMS's Care Compare website found it's difficult for consumers to determine whether an owner is associated with nursing homes of high or low quality.

GAO suggested Care Compare use "plain language" to define ownership and to provide consumers easy access to a list of all facilities under common ownership, their respective star ratings, and a distribution of star ratings across nursing homes with common ownership.

In response, SMS agreed with the recommendations.

*GAO news release, 02/03/2023*

## **ONE COLUMN**

### **U.S. Spends the Most, Yet Has the Worst Outcomes**

A study by the Commonwealth Fund found that the U.S. spends the most on healthcare compared with peer nations, but still has the lowest life expectancy at birth, the highest rates of deaths from avoidable or treatable causes, the highest maternal and infant death rates and the highest rate of people with multiple chronic diseases.

The researchers examined how the U.S. measured against Australia, Canada, France, Germany, Japan, the Netherlands, New Zealand, Norway, South Korea, Sweden, Switzerland and the UK. They also compared the US with the OECD average for 38 high-income countries – 3-to-4 times more than South Korea, New Zealand or Japan.

"Americans are living shorter, less healthy lives because our health system is not working as well as it could be," said Munira Gunja, the Commonwealth Fund's International Program in Health Policy and Practice Innovation senior researcher.

People in the U.S. see doctors less often than those in most other countries, which is probably related to the U.S. having a below-average number of practicing physicians, according to the report, and the U.S. is the only country among those studied that doesn't have universal health coverage.

In 2021 alone, 8.6% of the U.S. population was uninsured – approximately 28-million people.

"Affordability remains the top reason why some Americans do not sign up for health coverage, while high out-of-pocket costs lead nearly half of working-age adults to skip or delay getting needed care," researchers wrote in the report.

"To catch up with other high-income countries, the administration and Congress would have to expand access to health care, act aggressively to control costs, and invest in health equity and social services we know can lead to a healthier population."

*CNN, 02/02/2023*

## Living Woman Pronounced Dead – Facility Fined

In early January, a 66-year-old hospice resident at Glen Oaks Alzheimer's Special Care Center in Urbandale, Iowa was found unresponsive and ultimately pronounced dead and sent to the funeral home.

When funeral home staff unzipped the bag, the woman's chest was moving and she gasped for air. She was transferred to the emergency room for further evaluation, then returned to Glen Oaks for continued hospice care.

The state found Glen Oaks "failed to ensure residents received dignified treatment and care at end of life," And is now facing a \$10,000 fine.

NPR, 02/04/2023

## Study: Spending Set Percentage Won't Fix Staffing

Researchers who reviewed spending and staffing at over 12,000 nursing homes found that due to different state Medicaid rates that drive wide variations in staff spending, CMS, without an increase in federal funding, may be hard-pressed to develop a minimum staffing rule that is both effective and widely accepted.

Some advocates have called for a PPD rate that includes only direct, hands-on care.

The Scripps Gerontology Center study found that staffing levels would not necessarily rise with a mandated spending threshold because costs could go up for higher wages, without adding more workers or hours to a facilities payroll.

McKnight's, 02/07/2023

## How Many Nursing Homes Closed Last Year?

Staff shortages, low reimbursements and other financial struggles have led to the abundance of nursing home closures throughout the year.

A report from the CMS Quality, Certification and Oversight Reports shows 128 facilities closed or merged in the past year.

However, Mark Parkinson, president of the American Health Care Association, said the actual count was significantly higher, because the federal reports tend to lag behind what's happening on the ground.

Texas had the most closures in 2022 with 13, followed by Nebraska (9) and Ohio (8).

Becker's Hospital Review, 02/01/2023

## Four Massachusetts Facilities To Be Shuttered

Four nursing homes in the same Massachusetts county are closing.

The Northeast Health Group has confirmed that four Hampden County (Springfield) nursing homes will be closing by June 6, citing the state's two-beds per room regulation as the reason.

The group's facilities were designed for three and four residents per room. Attempts to obtain a waiver failed.

The facilities have been in the county for 30 years. Northeast Health Group said it has given formal notice to the Massachusetts Department of Public Health of the intent to close and is working on a timeline for the closures.

WWLP-TV, 02/08/2023

## More Docs Died Than Expected Early in Pandemic

Stanford University researchers estimated the expected deaths of active and nonactive physicians 45 to 84-years-old between March 2020 and December 2021.

They determined 622 more physicians died than expected, but that there were no excess deaths after April 2021 when vaccines were broadly available.

Physicians of all age-groups had substantially lower excess death rates than the general population.

The researchers wrote, "The findings suggest that personal protective equipment use, vaccine requirements, infection prevention protocols, adequate staffing, and other workplace-based protective measures were effective in preventing excess mortality."

CIDRAP, 02/07/2023

## Briefly IN THE NEWS

At a meeting to simplify the nation's COVID vaccination policy, the FDA's panel of experts could agree on only one thing: Information is woefully lacking about how often different groups of Americans need to be vaccinated. The committee voted unanimously to support the FDA's proposal for all vaccine-makers to adopt the same strain of the virus when making changes in their vaccines and suggested they might meet in May or June to select a strain for the vaccines that would be rolled out this fall (**Kaiser Health News**).

Ensign Group has set another record quarter for earnings and an eighth consecutive quarter of overall occupancy growth in 2022. Those gains came as the company picked up facilities in five states — including 20 buildings in a partnership with Sabra Health Care REIT — and focused on building census and attracting short-stay patient (**McKnight's**).

Banner Health has paid a \$1.25 million settlement to HHS in connection with a 2016 hacking data breach in which the PHI of 2.81 million people were disclosed. The settlement is related to the HIPAA security rule which is designed to protect electronic PHI from cybersecurity attacks (**Becker's Hospital Review**).

Centene Corp. has agreed to pay more than \$215 million to California over allegations it overcharged the state for pharmacy services — the biggest payout to date by the nation's largest Medicaid insurer over its drug pricing practices. The agreement makes California at least the 17th state to settle pharmacy billing claims totaling \$939 million with the St. Louis-based insurance giant. Centene reported \$144.5 billion in revenue in 2022, up 15% from the previous year (**KHN**).

Settlements and judgments under the False Claims Act exceeded \$2.2 billion in the fiscal year ending Sept. 30, 2022. The government and whistleblowers were party to 351 settlements and judgments, the second-highest number of settlements and judgments in a single year. (**DOJ**)