

IN THE NEWS

News for LTC Professionals
in 100 Words-or-Less

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THEY SAID IT:

"The SEIU and other labor unions that represent healthcare workers have been pushing for higher nurse-to-patient ratios. I expect those kinds of fights to continue" Adam Dean, PhD, George Washington University

"... it'd be great if in the future we can predict the next pandemic, prepare for it, protect ourselves and maybe even prevent it" Ohio Rep. Brad Wenstrup on Dr. Anthony Fauci Congressional upcoming testimony this week

"While many of our state's non-profit homes have exceeded safe staffing requirements, the majority of for-profit nursing homes continue to rack up massive profits while crying wolf about safe staffing fines" Jesse Martin of SEIU 1199SE after R.I. Gov. Dan McKee issued an Ex. Order eliminating low staffing fines

HHS-OIG Reports End of FY23 Enforcement Actions

In the second half of fiscal 2023 HHS-OIG generated 65 audit reports and 22 evaluation reports identifying \$82.7 million in expected recoveries and \$1.2 billion in questioned costs.

OIG's report also summarized work of the entire fiscal year 2023, projecting expected recoveries worth more than \$3.44 billion. OIG expects returns of more than \$283 million from audit findings and \$3.16 billion based on investigations.

There were 707 criminal enforcement actions against people and organizations suspected of crimes against government programs, as well as 746 civil actions and exclusions of 2,112 people and organizations from participating in federal health care programs.

Medical Economics, 01/04/2024

One Resident Still Missing In SNF's Sudden Closure

Nearly three weeks after the sudden closure of a St. Louis nursing home, a former resident remains missing. That individual's name has not been released.

Thirty-two newly-trained case workers are fanning out to check on former residents who were put out of the home on Dec. 15, 2023, with little or no warning and without their belongings or medical records in a still-unknown number of cases.

The City of St. Louis's Department of Human Services hosted a training session for the caseworkers on Tuesday to help those former residents who've ended up with other homes in the city.

KTVI-TV, 01/03/2024

Board Allocates \$174,000 For Displaced Residents

Executive board members from the St. Louis City Senior Fund voted unanimously to allocate up to \$174,000 for some Northview Village nursing home residents who were displaced when the facility suddenly closed in December.

Someone came into the nursing home after it closed on Dec. 15 and ransacked the facility, stealing residents' televisions, telephones and other personal items.

The Missouri Department of Health and Senior Services transferred 185 residents to 14 different nursing homes. But many were transferred without any of their belongings or their medical charts, and with only the clothes on their back.

St. Louis Public Radio, 12/26/2023

HHS Boss Concerned About SNF Vax Rates

HHS Secretary Xavier Becerra met with nursing home leaders Wednesday to discuss what he called concerningly low COVID-19 vaccination rates among long-term care residents.

The leaders of LeadingAge and AHCA responded by reminding Becerra that federal authorities have obligations of their own to better enable vaccine uptake and education.

The group asked Becerra to enable single-dose vaccine orders for nursing

homes and sked for a new policy to allow pharmacies to bill Medicare Part B for vaccinating residents during a Part A stay.

LeadingAge asked Becerra encourage hospitals to offer vaccines on discharge, and to communicate more directly with residents/families.

McKnight's, 01/04/2024

Rhode Island Gov. Suspends Staffing Fines

Rhode Island Governor Dan McKee signed an Executive Order that suspending fines against nursing homes that don't meet the state's requirements for minimum staffing.

In 2021 McKee signed a law which levied fines on nursing homes that fail to meet certain minimum staffing.

In issuing the executive order McKee indicated enforcing the minimum staffing levels would be too costly for nursing homes and potentially result in more facility closures.

Others disagreed. Jesse Martin, of SEIU 1199NE said that the problem is with the for-profit out-of-state ownership and that non-profit facilities comply with the staffing requirements.

GoLocalProv, 01/01/2024

Fines in Limbo In New York, Too

New York is facing similar enforcement challenges after it also passed a staffing mandate in 2022, which went into effect in April.

That state notified nursing homes that were in noncompliance with the rule in August of 2023. Continued noncompliance could result in \$2,000 per day fines for those facilities.

But the fines are still in limbo at the New York Department of Health for at least the next several weeks, and the department admitted that a severe shortage of healthcare workers is widespread across the state.

This could allow nursing homes to formally appeal the penalties.

McKnight's, 01/03/2024

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

CAPITOL HILL: Former White House chief medical adviser Anthony Fauci will once again face questions on the origins of COVID-19, vaccine mandates and how to prevent something like the pandemic from happening again in his upcoming closed-door congressional interview this week. Fauci stepped down from government work at the end of 2022 and has since joined Georgetown University's School of Medicine faculty as a distinguished professor in the Division of Infectious Diseases (*The Hill*).

THE WORLD: Does the darkness of the color of the band on a test strip tell how much COVID an individual has? Nope. Although some people think they do. It's important to remember that these assays were not developed to be quantitative, meaning they can't officially tell you how much virus is in the sample. They're also not authorized by the FDA to do so (*Scientific America*).

THE WORLD: French researchers estimate 16,990 people in six countries — France, Belgium, Italy, Spain, Turkey and the U.S. — may have died as a result of taking *hydroxychloroquine* during the first wave of COVID. The researchers point out in their paper, published in *Biomedicine & Pharmacotherapy* that the anti-malaria drug was prescribed to some hospitalized patients "despite the absence of evidence documenting its clinical benefits" (*Politico*).

OHIO: With expiration dates passing and few requests to tap into the stockpile, Ohio auctioned off 393,000 gowns for just \$2,451 and ended up throwing away another 7.2 million, along with expired masks, gloves and other materials. The now expiring supplies had cost about \$29 million in federal money (*AP*).

AMERICA: While COVID has now claimed more than one million lives in the United States alone, these aren't the only fatalities caused at least in part by the virus. A small but growing number of Americans are surviving acute infections only to succumb months later to the

lingering health problems caused by long COVID for which there is no formal diagnostic tests or standard treatments

available. The CDC estimates at least 4600 Americans have died from long COVID since the start of the pandemic (*Medscape*).

OHIO: After 10 weeks of steady gains, the number of new COVID-19 cases in Ohio finally dropped last week, from 15,152 to 14,814. Weekly case numbers had been rising since mid-October and remain well over the 10,000-case benchmark. At least 1,154,493 Ohioans have reportedly received the updated one-dose COVID-19 vaccine, an increase of 24,775 people from the prior week, and representing 9.8% of the state's population (*Cleveland.com*).

NEW YORK: NYC Health + Hospitals, the city's public health system, issued a mask mandate for all employees amid rising rates of Covid-19, flu and respiratory syncytial virus, H+H confirmed. Staff and visitors are required to mask up at all 11 of New York City's public hospitals, as well as at community health centers and post-acute care facilities (*Crain's NY Business*).

FLORIDA: The state's Surgeon General is again calling for a halt in the use of COVID-19 mRNA vaccines, going against the FDA's recommendations. In December Dr. Joseph Ladapo sent a letter to the FDA claiming among other things that "DNA integration poses a unique and elevated risk to human health and that there haven't been enough clinical trials for the vaccine. The FDA responded that with over a billion does administered (13.5 billion to date) "no safety concerns related to residual DNA have been identified" (*WFLA-TV*).

THE WORLD: The public's waning concern over Covid is the main reason cited for plunging stock prices and impending layoffs at Pfizer. The company bet big that people would sign up for annual Covid-19 mRNA boosters the way they do for flu shots. But people aren't: The CDC reported that only 18% of adults had gotten the latest Covid shot, compared with 42% who'd gotten a flu shot (*Bloomberg*).

MINNESOTA: One of the most reliable sources of COVID-19 tracking in

Minnesota is coming to an end. David Montgomery started his thorough tracking of COVID-19 numbers as a data reporter at MPR News. He has since left the newsroom, but he kept up his COVID-19 tracking for more than three years. That tracking ended as 2024 began (*Minnesota Public Radio*).

AMERICA: In 2021 and 2022, the proportion of hospitalized COVID-19 and influenza patients admitted to a US intensive care unit (ICU) were similar, but COVID-19 patients admitted during the Omicron BA.5 variant period were more likely to die in the hospital, according to a study published late last week in (*Open Forum Infectious Diseases*).

CALIFORNIA: Hospitals are getting busier with more COVID-19 and flu patients, some of whom are suffering from both viruses at the same time. The simultaneous sickness is another wrinkle in an already hectic respiratory virus season. The viral cocktail could also include coronavirus or flu with RSV. Sometimes a common cold virus, like rhinovirus, is in the mix (*The Seattle Times*).

AMERICA: Through government programs that included the expansion of the Supplemental Nutrition Assistance Program (SNAP), food insecurity among low-income US adults dropped by nearly 5% during the early pandemic but rose by 2022. Adults aged 18 and older were included in the survey, and low-income adults were those with household incomes at or below 200% of the federal poverty limit (*Annals of Internal Medicine*).

COVID-19, 01/05/2024

Global Cases – Deaths
773,449,299– 6,991,842

U.S. Hospitalizations – Deaths
6, 657,219 – 1,165,118

U.S. % Positive Tests Last Week
12.4% Down - 0.1%

Wanna Live Longer? Get an Ear Trumpet

A recent study found that adults who regularly wore their hearing aids had a 24% lower risk for dying compared to those who need them but didn't wear the devices.

Even when researchers adjusted for severity of hearing loss, income, age, ethnicity, education and other factors, the findings were similar in that there was a lower risk for dying among those who wore their hearing aids.

Previous research has linked untreated hearing loss with falls, reduced cognition and a higher prevalence of dementia.

About 65% of older adults have hearing loss and just 29% of them use hearing aids.

The Lancet Healthy Longevity, 01/03/2024

CMS Proposes Appeals For Observation Stays

SNF patients who had their benefits denied after a change of classification would have multiple ways to appeal the change under a proposed CMS rule, including both a standard and an expedited process.

The expedited process would allow patients to appeal while still in a hospital or facility and receive a ruling within a day,

Patients given observation status, even if in the hospital for days, previously had no way to appeal their status. And without a three-day stay, traditional Medicare patients are not eligible for covered post-acute skilled nursing care, long an issue for the sector.

McKnight's, 01/02/2024

Slow Continual Recovery Predicted For Healthcare REITs

US REITs should experience a slow but continual recovery in 2024.

Credit rating agency Fitch Ratings expects the credit profiles of most healthcare REITs to remain stable over the coming years as operations improve in the aftermath of the pandemic.

Although occupancy in skilled nursing facilities and senior living communities has yet to reach pre-pandemic levels, notable occupancy growth has occurred in recent months and staffing challenges are beginning to ease.

Fitch noted that companies "with less leverage," such as Omega Healthcare Investors, have had to "sell equity and assets in order to maintain investment-grade credit metrics."

Fitch Ratings, news release, 01/02/2024

Unlicensed Operator Pay\$ For Illegally Running a SNF

The unlicensed operator of a closed New York nursing home has agreed to pay the U.S. government \$656,000 to resolve allegations that he violated the False Claims Act by causing the submission of worthless services to residents of Saratoga Center.

Chaim "Mutt" Scheinbaum is one of several individuals who paid a total \$7,168,000 to resolve similar allegations at Saratoga Center.

Among the allegations some Saratoga Center vendors were not paid and certain services were denied to residents including, hot water, hot food, laundry services, garbage collection, pest control and the fire alarm system was not maintained.

DOJ news release, 12/21/2023

New Requisite May Push SNFs to Consultant Dieticians

Starting Jan. 1, new dietitians seeking to be registered will have to have at least a master's degree before they can take the exam. The change will not affect current registered dietitians or dietitians who are eligible to take their exams before the new rule takes effect.

But the new educational standard from the Commission on Dietetic Registration is likely to impact the long-term care workforce in the future.

There is already a shortage of RDs in the LTC workforce, and the new requirement from the commission adds another obstacle for nursing homes.

McKnight's, 12/12/2023

ONE COLUMN

Hey CMS – Back Off CNA Training Enforcement

For all its increased regulatory pressure on nursing homes in recent years CMS hasn't fully embraced the Biden administration's full agenda for long-term care.

Consumer advocates are now pushing the agency to tighten enforcement.

CMS spotlighted a 2017 RULE that makes it possible for some facilities to maintain nurse aide training and competency evaluation programs through waivers from even after those NATCEPs would have been suspended due to regulatory penalties or extended surveys.

The Trump-era rule gave CMS the discretion to use case-by-case judgment to allow facilities to maintain their training and evaluation programs — a power which has proved contentious.

But staffing shortages across the country have left many in the long-term care sector frustrated by regulations that suspend the programs working to bring more care staff into the workforce.

Some policymakers sympathize with that sentiment. A bipartisan House bill currently in committee would remove NATCEP suspensions for facilities that didn't endanger residents, and also offer facilities more and simpler ways to reinstate their programs after correcting deficiencies.

AHCA and LeadingAge have endorsed the bill as a way to improve workforce numbers and quality of care nationwide. Some experts have gone so far as to suggest CMS should stop suspending NATCEPs entirely until the staffing crisis has been adequately addressed.

Staffing shortages and proposed regulation are set to continue as vital issues for skilled nursing next year.

Whether CMS continues to offer some leniency on NATCEPs or follows advocates' suggestions and takes a firmer hand could have consequences for already struggling facilities.

McKnight's, 12/19/2023

Slammer Time for Nursing Home Operators?

The Biden administration is ramping up efforts to investigate what it calls corporate “power and control” over healthcare. Consequently, skilled nursing operators could find themselves the subject of more criminal investigations in 2024.

The effort involves the addition of new, high-ranking healthcare attorneys at three federal agencies with healthcare oversight.

The growth of regional and national strike teams, along with continuing anti-corporate rhetoric from the White House, portends more trouble ahead for skilled nursing providers.

Indeed, the DOJ healthcare fraud unit already employs more criminal healthcare prosecutors than many US Attorneys offices have attorneys.

McKnight's, 01/03/2024

State's 20/20 Work Week To Retain/Advance CNAs

An innovative “educational leave” program for CNAs being implemented in Wyoming allows frontline workers to split their time between nursing home shifts and pursuit of additional nursing degrees.

The number of weekly hours dedicated to education varies based on the needs of the employee and the logistical needs of their facility.

After the completion of that education, the employee — now a licensed practical nurse or registered nurse — is given a contract ranging from two to five years to work with the state and fill the needs of the state's most chronically understaffed facilities.

McKnight's, 12/02/2024

Investors Predict 3%-7% Senior Living Rent Increases

Seventy-two percent of respondents to the annual CBRE's Senior Housing & Care Investor Survey anticipate rent increases of 3%-to-7% this year in senior living and care, followed by active

adult communities (63.3%) independent living (61.3%); assisted living (56.3%); and memory care communities (53.1%).

Of those who said they expect greater than 7% rent growth, 28.1% predicted that it will occur in assisted living, 25% anticipated that it will happen in memory care.

By comparison, only 47.8% in this group said they expect such increases at SNFs.

Senior Living, 01/02/2024

Cal. SNFs Must Now Give Info Before Eviction

Threat of eviction is one of the biggest problems facing California's nursing home residents. Residents often don't even know why they're being forcibly discharged.

A new state law taking effect today seeks to rectify this with a simple change: nursing homes are now required to offer residents copies of any information that explains why they're being evicted.

That includes providing copies of the discharge plan and the date, place and names of witnesses to any incidents related to the discharge. In some places, it could also include information about why the facility can not meet the resident's needs.

Cal Matters, 01/01/2024

WA Conservatives File to Get Out of LTC Tax

In Washington state, citizens would be able to vote on an initiative to stop paying for the new long-term care.

The proposed ballot measure, adds a requirement that “an employee or self-employed person in Washington must elect” to have money deducted from their paycheck for coverage and be able to “opt-out at any time.”

Current law requires most employees in the state to pay the payroll tax and are eligible for the lifetime benefit of \$36,500.

Critics say not everyone who pays in will qualify for the benefit and thus should be able to opt out of the program.

Washington State Standard, 12/30/2024

Briefly IN THE NEWS

In adjusting to new case-mix systems under PDPM, the changes to reimbursement rates might be more widespread and large-scale than anticipated, posing financing threats to the nursing home sector because lenders are basing loans on rate projections that are expected to be scaled back. **(Skilled nursing News).**

A report from the Florida Center for Nursing found there are more Florida nursing students but fewer qualified applicants. The survey of more than 500 programs found there was a decrease in nursing faculty, largely because nurses are paid more in clinical setting than in nursing schools **(Health News Florida).**

California will gain access to free health care starting Monday under one of the state's most ambitious coverage expansions in a decade. The effort will eventually cost the state about \$3.1 billion per year and inches California closer to Democrats' goal of providing universal health care to its roughly 39 million residents **(Yahoo Finance).**

A recent survey of 2000 people revealed average Americans rate themselves only 70% healthy, and 42% could not even recall the last time they felt in peak health. The definition of health, according to the survey respondents, predominantly revolves around eating nutritious foods (45%) and maintaining regular physical activity (41%). Surprisingly, only 29% of participants recognize the importance of 7-9 hours of sleep, while a mere 25% appreciate the value of a positive mindset. **(StudyFinds).**

In the annual "Best Diets" rankings from *U.S. News & World Report* the Mediterranean diet once again took top billing. With its emphasis on intake of fruits, vegetables, olive oil, and fish as well as on diet quality rather than a single nutrient or food group, the Mediterranean diet has held the top spot for seven consecutive years **(MedPage Today).**

One woman died of Legionnaires disease, another was hospitalized following a stay at the Mountain View Grand Resort & Spa in Whitefield, New Hampshire **(WPFO-TV).**