

In this Industry Update you will discover:

- 1) “Just Where Does the Buck Stop with Nursing Homes and COVID-19?”
- **MCKNIGHT’S LONG-TERM CARE NEWS, 8/21/2020; pg. 1**
- 2) “Law Says Providers Must Give PPE to Staff Caring for COVID-19 Residents”
- **MCKNIGHT’S LONG-TERM CARE NEWS, 8/19/2020; pg. 3**
- 3) “Point-of-Care Shipments on Track as One Device Maker Pulls Ahead — But SNFs Will Still Be ‘Tight on Tests’”
- **SKILLED NURSING NEWS, 8/19/2020; pg. 4**
- 4) “CMS to Resume Routine Nursing Home Inspections After COVID Suspension”
- **SKILLED NURSING NEWS, 8/17/2020; pg. 5**

McKnight’s

LONG-TERM CARE NEWS

Just Where Does the Buck Stop with Nursing Homes and COVID-19?

We are still left seeking answers to questions about the responsibilities of our government and those of the corporations while the nursing staff that serve the senior population are left without the proper protection against the COVID virus.

Written by: James M. Berklan

8/21/2020

Little Johnny sauntered into his fifth-grade classroom the morning after report cards were sent home.

Why are you so bouncy? His puzzled teacher inquired.

Well, Johnny said, his father had seen his report card and had immediately said, “*Somebody* is going to be getting a whipping if the grades didn’t improve soon!”

And so the question goes: Who’s going to be getting the whipping if severe shortages of personal protective equipment and staffing don’t improve the next time they’re measured at the nation’s nursing homes?

Both providers and federal regulators agree nursing homes are under siege and in need of help. But each one thinks the other is responsible for halting the carnage. Meanwhile, the problems don’t go away.

A [study](#) released Thursday afternoon shows that shortages in PPE did not meaningfully improve over a two-month period this summer. The measurement window notably came after the June target date when major government and industry stakeholders were expecting the supply pipeline from China to reopen and make the market flush enough for providers to catch up.

So is it Johnny’s — the nation’s nursing homes — fault or the “teacher’s” — the Centers for Medicare & Medicaid Services’ — fault for the stagnant, dangerous numbers that at least one expert called a “massive red flag” and others labeled “unacceptable”?

tracking and shipping of supplies for providers. The agency is also working closely with manufacturers and lab companies to ensure point-of-care tests and results for nursing homes are being prioritized. decrease) between March and July, its higher margin skilled occupancy increased by 571 basis points (or a 37% increase) over the same period.

Clearly, it depends upon whom you ask. CMS has stated its role is actually more like that of a state superintendent than a teacher: Rule from on high. Set policies, pay for a lot with taxpayer money and keep the broader public happy.

CMS has “provided nursing homes the tools they need to stop the virus’ spread and, ultimately, each nursing home is responsible for its residents’ safety,” the agency said in a statement that probably will become accompanied by a social media meme showing a pair of hands washing itself of anything resembling responsibility.

But what of the agency position? What responsibilities do providers ultimately have? Is it fair for them to look to the higher authority to fix the problems? It can be argued that some operators are spending enough to adequately supply and staff up while others, for numerous reasons, aren’t.

The schoolboy Johnny analogy, admittedly, is not entirely fair because the implication is the lad only needs to start buckling down to get better grades. Nobody is saying nursing homes can “fix” their problems by simply applying effort. In the original, Johnny has gotten himself into his own mess, and that is not the way the deadly COVID-19 story has unfolded. Johnny does not need thousands, or even millions, of dollars to get up to speed.

Some will point out that this pandemic is unlike anything any living caregiver or government official has dealt with before. How could “Johnny” or “the teacher” have been prepared for a life-or-death test like this?

Most importantly, however, the question remains: How could Johnny remain vulnerably flapping in the wind, with 1 in 5 nursing homes around the country showing no appreciable gains in dealing with this insidious foe over the deadly summer everyone saw coming?

To some, the responsibility clearly lies with the higher authority.

“We have had no coherent federal response,” slammed Terry Fulmer, the president of the John A. Hartford Foundation. She’s also a member of the administration’s new nursing home quality and safety commission but was not involved with the research.

“We have been slow to provide resources to nursing homes, and when we have provided them, they have been inadequate,” added Harvard health policy professor David Grabowski, one of the study’s three respected authors, and another member of the national commission.

Many promises from the federal government have been either partially fulfilled or delayed, Grabowski added. That includes supplying fast-test COVID-19 detection machines to every facility in the country, which might not have enough ancillary supplies to do much extra good for many months anyway, according to some reports.

“The federal government should really own this issue,” he said.

When it’s a nation diminishing itself through the poor outcomes of its most frail residents, one would certainly think so. When Johnny doesn’t improve, we all flunk out and the penalty is far worse than detention hall or a slap on the butt from Dad.

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LONG-TERM CARE NEWS

Law Says Providers Must Give PPE to Staff Caring for COVID-19 Residents

The Pennsylvania Secretary of Health has produced an order to provide respirators to nursing home staff that directly administer care in to COVID-positive patients. Industry leaders are giving their thoughts on how this can be accomplished without empty promises and an increased toll on the healthcare system.

Written by: Danielle Brown

8/19/2020

Pennsylvania nursing homes are now required to distribute respirators to employees providing direct care to COVID-19-positive residents under a new order by the state's Secretary of Health.

Though the move is welcomed by some, others have concerns about how costly it will be for operators and whether the state is doing enough to support them.

"Our healthcare heroes need support — not order after order — to successfully mitigate COVID-19," Zach Shamberg, president and CEO of the Pennsylvania Health Care Association, said in a statement.

The policy was included in [an order issued Monday](#) that requires providers to develop, implement and adhere to policies and procedures in order to personal protective equipment and distribute that equipment to all staff.

Respirators handed out by each facility must be approved by the National Institute of Occupational Safety or the Food and Drug Administration.

Providers will be required to have their PPE policies in place by Aug. 27. The order also applies to personal care homes, assisted living and private intermediate care facilities.

"Many long-term care facilities have been working diligently to protect their staff from this virus. We have heard also heard from nurses and staff from across the state, and this order responds directly to their safety concerns," Secretary of Health Rachel Levine, M.D., said in a statement.

Moving the goalposts

Long-term care providers in Pennsylvania have struggled to procure the PPE necessary to care for residents since the beginning of the pandemic, according to Shamberg.

He noted that the state's Department of Health released guidance less than two weeks ago deeming facemarks as an acceptable alternative to N95 marks. However, the "goal posts have shifted" under this new order and providers have been left "scrambling to find these masks with only ten days until the order is enforced by the state," Shamberg said.

He added that the state government has been able to secure emergency stockpiles of PPE and \$50 million has been allocated to provide emergency PPE to healthcare facilities across the state.

“Providers must be able to rely on these resources,” Shamberg emphasized.

“On behalf of long-term care providers statewide, we are urging our state government to work with us to ensure staff and residents remain safe. Providers are, once again, being tasked with finding emergency supplies of PPE in addition to caring for their residents.

Shortages persist

LeadingAge PA President and CEO Adam Marles said that organization supports efforts intended to protect residents and staff members but supply chain shortages remain. He added that “state funding simply doesn’t cover the costs for PPE and testing requirements.”

“We hope that this order does not fall to our members as an unfunded mandate they will not have the resources to meet, and look forward to working closely with the administration and lawmakers to address these critical funding needs,” Marles said in a statement.

Skilled Nursing News

Point-of-Care Shipments on Track as One Device Maker Pulls Ahead — But SNFs Will Still Be ‘Tight on Tests’

There is still concern about whether Skilled Nursing Facilities have the proper amount of testing supplies once the point-of-care tests are distributed. The production of the testing devices may take longer than expected, but there is hope that the supplies will be enough.

Written by: Maggie Flynn

8/19/2020

The Department of Health and Human Services (HHS) reaffirmed Wednesday that the federal government is on track to ship point-of-care COVID-19 testing devices to all skilled nursing facilities with the proper waivers by the end of September — as one of two dedicated device manufacturers has emerged to shoulder more of the load.

“We are on schedule to meet that, and we’ll be having some announcements about that probably in the next 48 hours,” HHS assistant health secretary Admiral Brett Giroir said on a call with reporters.

The remarks reiterate [comments Giroir made August 13](#), but he provided more details on the steps HHS is taking during the Wednesday update.

Last month, HHS announced that it would be [sending devices for point-of-care COVID-19 antigen testing](#) to all SNFs in the U.S.

All SNFs [in possession of a Clinical Laboratory Improvement Amendment \(CLIA\) Certificate of Waiver](#) will receive a device, along with enough tests to provide checks for every SNF resident and staff member [once a week for four weeks](#). After that initial tranche from HHS, SNFs can order new tests from Quidel and BD, the manufacturers of the testing devices, [through a “concierge service” for roughly \\$25 apiece](#).

So far, HHS has shipped devices to 3,594 SNFs, for about 1.3 million point-of-care tests. The department is currently calculating estimates of how many tests nursing homes will need on a monthly basis, Giroir said, and the main focus now is to get instruments to all facilities to allow them to test their residents and staff; about 14,000 facilities across the country meet the CLIA requirements and should thus receive the units by next month.

“We are very aggressively working with BD and Quidel,” Giroir said on Wednesday. “BD will carry the primary load on this, and we’ll be getting more detail about that.”

Toward the end of July, some providers had said they were told that securing sufficient testing supplies could take six months, and immediately after the initiative was announced, Giroir had indicated that getting the supply chains in gear could take up until October. But on the Wednesday call, he stressed that HHS would not be undertaking the step if it did not believe supplies would eventually be sufficient.

He also noted that under the most recent round of CARES Act aid, providers can access up to \$2.5 billion to help them secure testing supplies.

“Everybody’s going to be tight on tests through August and September,” he cautioned. “Our main issue is to get instruments to everybody.”

The news came as the federal government has announced several attempts to stem the newly burgeoning tide of cases in nursing homes, particularly across the Sun Belt states, as community cases spike and the Centers for Medicare & Medicaid Services (CMS) continues to identify persistent infection control problems as part of targeted surveys.



CMS to Resume Routine Nursing Home Inspections After COVID Suspension

Nursing home inspections conducted by CMS have been put on pause since March of this year, but the governing body of Medicare and Medicaid has announced that their inspections will resume in the near future. Facilities have to prepare for business as usual even with the continuing spread of COVID.

Written by: Maggie Flynn

8/17/2020

The Centers for Medicare & Medicaid Services (CMS) announced on Monday that routine inspections for all Medicare- and Medicaid-certified providers and suppliers will resume, after suspending them as part of its response to the COVID-19 pandemic in March.

The agency directed the resumption of onsite revisit surveys, non-immediate jeopardy complaint surveys and annual recertification surveys as soon as resources are available in guidance released on Monday.

The agency had previously required State Survey Agencies to perform targeted infection-control surveys at all of

the nation's more than 15,000 facilities; that task is 99.2% complete, according to an update from the agency on Friday. In the same announcement, it also touted \$15 million in civil money penalties (CMPs) for about 3,400 nursing homes during the pandemic.

The surveys that should be resumed when possible are:

- Onsite visits as specified in the revisit policy in the State Operations Manual, for surveys with end dates on or after June 1
- Complaint investigations triaged as "Non-Immediate Jeopardy Medium"
- Annual recertification surveys required to be conducted within 15 months from a provider's last recertification survey

After the first outbreak of COVID-19 at a skilled nursing facility in Washington state, CMS announced on March 4 that it was going to immediately refocus inspections of SNFs to zero in on compliance with the agency's infection control policies and suspend all non-emergency survey work. All CMS locations were directed to suspend all enforcement actions except for unremoved Immediate Jeopardy citations.

"Because survey resources were focused on those activities related directly to the COVID-19 pandemic and immediate threats to patient/resident health and safety, other surveys, including revisits for compliance necessary to end an ongoing enforcement cycle, were suspended," the memo to state survey agency directors noted. "This included stopping the accrual of Denial of Payment for New Admissions (DPNAs) and per day (PD) CMPs."

Now CMS will be focusing on resolving suspended enforcement cases, while providing guidance to close them out. According to the memo, this process entails:

- Expanding the Desk Review Policy for Plans of Corrections
- Processing enforcement cases started before March 23, 2020
- Processing enforcement cases started on March 23, 2020, through May 31, 2020
- Processing enforcement cases started on or after June 1, 2020

"At President Trump's direction, CMS has worked closely with states to complete focused infection control surveys of virtually all nursing homes in the country in just a few months," CMS Administrator Seema Verma said in the release announcing the resumed inspections. "These surveys fortified health care facilities around the country to prepare for and implement actions to prevent transmission of the virus and provided indispensable insight into the situation on the ground."