



Not for Profit News¹

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On the Hill

Register Now for Congressional Briefing!



AHCA/NCAL welcomes not for profit (NFP) nursing, assisted living and developmental disabilities (DD) providers to our 2009 Congressional Briefing. Howard Fineman, NBC news analyst and *Newsweek's* senior Washington correspondent, will be a keynote speaker for this year's event, June 3-4, at the Hyatt Regency Washington, DC on Capitol Hill. Fineman is one of the nation's leading

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political reporters and commentators and has won numerous awards for his journalism.

Congressional Briefing is your unique opportunity to meet face-to face with Members of Congress and their staff from your delegation to discuss long term and post-acute care legislative issues at the federal level. To register, look under “Events” at www.ahcancal.org. Questions? Click to contact [Matt Smyth](#).

Obama Appoints Health Care Team

President Obama has appointed members of his health care team including, Kansas Governor Kathleen Sebelius as Secretary of the Department of Health and Human Services, Nancy-Ann DeParle to head his newly created Office of Health Reform and Dr. Don Berwick as Administrator of the Centers for Medicare and Medicaid Services (CMS).

Prior to serving as Governor, Sebelius was the Kansas Insurance Commissioner for eight years. DeParle’s background includes a stint in White House Office of Management and Budget (OMB) overseeing federal health care budgets, administrator of the Health Care Financing Administration (formerly CMS), as well as a position on the Medicare Payment Advisory Commission (MedPAC).

Dr. Berwick, a health-quality specialist from Harvard University, also served in the Clinton administration on the President’s Advisory Commission on Consumer Protection and Quality in the Healthcare Industry. He also serves on numerous health care oriented boards including the Institute of Medicine and the American Hospital Association.

AHCA/NCAL looks forward to working with the administration’s health care team. For more information, please contact [David Hebert](#).

National Safe Patient Handling Legislation to be Introduced

The office of U.S. Representative John Conyers, Jr., (Democrat, Michigan District 14) reports that the national bill advocating use of patient lifting equipment will be re-introduced soon. Formerly known as HR 378, "Nurse and Patient Safety and Protection Act," the new bill will have a different number, and likely a different title.

Notably, some states have already passed safe patient handling legislation, including Maryland, Rhode Island, Washington and Texas.

For more information on the national bill, contact Representative Conyers' Legislative Assistant on Health Policy, Mr. Joel Segal, at (202) 225-5126 or Joel.Segal@mail.house.gov.

Nursing Home Fire Safety Act Introduced In House

The Nursing Facility Fire Safety Act of 2009 was recently introduced by Representatives John Larson (D-CT) and Peter King (R-NY). The bill would provide low interest loans and grants to help facilities become fully sprinklered. AHCA endorses this legislation and looks forward to helping Representatives Larson and King move this important legislation. For more information please contact [MaryAnne Sapio](#).

Tort Reform Introduced in House

Congressman Burgess (R-TX) recently introduced the *Medical Justice Act of 2009 (HR 1468)*. The bill would place caps on non-economic damages when an individual is injured or dies as a result of health care. The caps for any single liable health care institution would be \$250,000 and \$500,000 for the class of liable health care institutions. The legislation's definition of a health care institution includes: nursing facilities, assisted living facilities and ICFs/MR among others. AHCA and NCAL staff are looking closely at this legislation, click [here](#) to access the legislation. For more information, please contact [David Hebert](#).

Card Check Bill Reintroduced in House and Senate

The *Employee Free Choice Act (EFCA) (H.R. 1409/S. 560)* has been reintroduced in both the House and Senate. AHCA/NCAL opposes the bill. Although the bills have fewer co-sponsors this Congress than last, AHCA/NCAL will continue working with the U.S. Chamber of Commerce and the Coalition for a Democratic Workforce to defeat this legislation. The Senate will take up EFCA before the House, most likely later in the year.

To take action or see the positions of your Representative and Senators, click [here](#). In addition, AHCA/NCAL has prepared a free EFCA tool kit for our members, available by clicking [here](#). For more information, please contact [Francesca Fierro O'Reilly](#).

Part D Co-Pay Legislation Introduced in the House and Senate

Recently, Representative Lloyd Doggett (D-TX) introduced the *Home and Community Services Copayment Equity Act of 2009 (HR 1407)* in the House, and Senator Bill Nelson of Florida along with Senators Susan Collins of Maine and Jeff Bingaman of New Mexico introduced the *Home and Community Services Copayment Equity Act of 2009* in the Senate. The bills would eliminate Medicare Part D drug copayments for low-income seniors in assisted living and residential care settings. This legislation is extremely timely, as some states that had elected to cover this co-pay for dual eligible beneficiaries have had to stop due to the economic downturn.

We ask that you [click here](#) to ask your Representative or Senator to cosponsor this important legislation. For more information please contact [MaryAnne Sapio](#).

Long Term Care Arbitration Bill Introduced in the Senate

The *Fairness in Nursing Home Arbitration Act of 2009 (S.512)* has been introduced once again by Senators Mel Martinez (R-FL) and Herb Kohl (D-WI). The bill would prohibit the use and enforcement of pre-dispute arbitration agreements in all long term care settings – including nursing homes and assisted living facilities. *S.512* is the same long term care specific arbitration legislation that was introduced in the 110th Congress.

AHCA/NCAL is asking you to contact your Senators to oppose this legislation and to continue to oppose its House companion, *H.R. 1237*. We will continue discussions with Hill staff on the importance of retaining the ability of long term care providers to enter into pre-dispute arbitration agreements. Please click [here](#) to view the entire text of the legislation and [here](#) to access a tool kit on the legislation. For more information please contact [MaryAnne Sapio](#).

CMS News

AHCA Elevates Opposition to 5 Star Rating System

New media coverage of the CMS' *Nursing Home Five Star Quality Rating* system has elevated our position in challenging the inaccurate and seriously flawed system. Recently, U.S. News & World Report launched a new feature on their website – America's Best Nursing Homes. While the online feature includes some helpful information for consumers looking for a nursing facility for a loved one – including their own step-by-step guide – AHCA is fighting back and opposing the magazine's rankings of the nation's nursing homes as they were based primarily upon the Five Star System. We will be aggressively opposing the rating system through media outlets as well as on Capitol Hill and with the Administration.

As this new feature on U.S. News & World Report may elevate the discussion surrounding the Five Star system, we remind you to check out the information and resources available online and to review AHCA's technical concerns with CMS' system. To find out how you can lend your voice to the growing opposition to the Five Star system, click to contact Susan Feeney.

MDS 3.0 Delayed

CMS officially announced that MDS 3.0 is being delayed until October 1, 2010. The decision to delay was based on the fact that many groups have expressed concern about the short timeline allotted to adopt state-based system changes and to train tool users. CMS will post a revised timeline within the next month here. CMS also announced that the data set that was scheduled to be published this month will be delayed until there is a final MDS 3.0 draft. The data specs are expected to be posted by October 2009, at least one year before MDS 3.0 implementation, to give software developers and system specialists enough time to adopt changes.

CMS stated that the additional time before MDS 3.0 implementation will allow them to make sure all CMS systems can be brought on line when the tool is ready for use. For more information, please contact Sandra Fitzler.

Summary Of New Surveyor Guidance For F 309 – Pain Management

Thanks to the AHCA General Counsel, ReedSmith, we have two summaries of the Revised Surveyor Guidance for F 309 – Pain Management. The first summary provides the previous guidance along with the changes. The second provides a comparison of the draft guidance and the final guidance, including information about comments that AHCA made and if CMS made modifications based on our comments. If you have any questions, please contact Lyn Bentley.

CMS Finalizes Dining Assistant Manual

Dining Assistant Programs in Nursing Homes: Guidelines for Implementation has been finalized by CMS and is now available for use by providers. This manual is the culmination of several years of work and is consistent with the CMS position that they will recognize and permit dining assistant programs in nursing homes when adopted by a state. The manual, according to CMS, is intended to guide management staff through a step-by-step process of assessment, goal identification, program design, implementation and planning for program sustainability. Questions? Click to contact Lyn Bentley.

Assisted Living Highlights

NCAL Launches Advocating Care Excellence



NCAL is proud to announce ACE—Advocating Care Excellence—the slogan for a new repository of all the organization's current and future quality tools and resources. NCAL is leading the profession in performance excellence through its quality initiatives.

NCAL has developed a Quality page located on the Member's-Only site where more information on ACE and the resources can be found. Members will also find links to MyInnerView, the Center for Excellence in Assisted Living, and the Agency for Healthcare Research and Quality. NCAL encourages its members to check out these resources today. For more information, contact Shelley Sabo.

Learn About Performance Measures In Assisted Living: May 5 at 2pm EST

Join leaders from NCAL and My InnerView for a webinar focusing on performance measures in assisted living. As part of NCAL's Satisfaction Initiative, it is important for assisted living providers to understand what to measure when focusing on performance. What measurements are most important to measure in assisted living? How do you use performance measures to ensure you are meeting your quality goals? Join us as leaders explore these questions and look at My InnerView's research and findings on performance measures within assisted living. Register today!

Events Update

National Nursing Home Week

Check your mailboxes as National Nursing Home Week® (NNHW) Planning Guides were recently mailed to members. The Planning Guide is built around the theme “Nurturing a Love that Lasts” and is full of ideas on activities for your residents and how to publicize the event in your community. Remember that the Planning Guide is also online at www.nnhw.org. Be sure to check out the products at the back of the guide- Many are LESS THAN \$1 EACH, including balloons, wrist bands, buttons, and magnetic picture frames. You can also order t-shirts and baseball caps to celebrate NNHW. Order all your NNHW products at 800-321-0343 or through the online bookstore.



Nominate a Future Leader!

AHCA/NCAL will be hosting the fifth annual “Future Leaders of LTC in America” symposium on July 21-23, 2009 in Washington, DC. As in past years, we will be looking to “train and mentor” approximately 20 long term care professionals who are already leaders in their states – and ready to be groomed for future leadership positions with the national association. We encourage you to nominate NFP candidates for this program.

Nominations for candidates, which must come through the state affiliates, will be accepted until Friday April 3, 2009. State Executives will be asked to complete an online nomination form by clicking [here](#), no later than April 3rd. A resume for the nominee should be sent to [Christy Sharp](#).

AHCA/NCAL Annual Meeting - October 4-7, 2009



Join AHCA/NCAL at the 60th Annual Quality Care Plus Convention and Expo, October 4-7, 2009 at Chicago's McCormick Place. Our keynote speaker is Major League Baseball Hall of Famer Cal Ripken, Jr., who will share his insight on *The Keys to Perseverance*. LTC practitioners will gain value from over 60 specialized educational forums, including a **Not for Profit track**, be inspired and energized

by dynamic speakers and become more knowledgeable about the latest products and services from hundreds of exhibitors.

In addition, we are holding our first **“Not for Profit Board and Leadership Training”** event on Sunday, October 4 from 1-5pm. This is an ideal session for NFP Board members, executive and managerial staff, and other professionals interested in learning about NFPs' responsibilities to document community benefit and navigate the new IRS 990 form, as well as other integral aspects of operating a NFP facility. Julie Trocchio from the Catholic Health Association and Ann Tettlebaum, CPA from Williams-Keepers will be presenters.

Check the AHCA/NCAL convention and Expo [website](#) for event updates in the coming weeks.

Webinars

The following webinars are now available for registration or archived for viewing at <http://www.ahcancal.org/events/Pages/Webinars.aspx>:

"The Board As Supervisor": April 1 from 2-3pm EST

This webinar that will review several elements of Board supervision including hiring, setting expectations, holding accountable, providing performance feedback, and dismissing when necessary. Cathie Leimbach from the “Strive!” consulting group will address the NFP Board's role in fulfilling these roles as the supervisor of the Executive Director and each individual Board member. She will also touch on the Board's role to hold the Board as a whole accountable.

OSHA Update Webinar Now Available

This webinar, led by Bradford Hammock from Jackson Lewis, LLP, provided updates on the new OSHA field operations manual, anticipated labor issues under the Obama administration, ergonomics and other items. See “OSHA News” below for a summary of the webinar.

Card Check Webinar Now Available

AHCA/NCAL sponsored a webinar on the card check bill entitled "*The Employee Free Choice Act: What Every Healthcare Employer Needs to Know.*" Hosted by Tom Walsh of Jackson Lewis and Francesca Fierro O'Reilly of AHCA, please click [here](#) to view the webinar and [here](#) to view the PowerPoint presentation. For more information, contact [Dianne De La Mare](#).

ADA Webinar Now Available

How the New ADA Amendments Impact Assisted Living and Nursing Home Workplace Policies and Practices was originally presented on March 3. The archived webinar will help you understand what the new ADA amendments mean and how they impact your business. Presenters from Lane Powell are attorneys Barbara Duffy, Sarah Haushild, and Kirsten Daniels.

QIOs

MedQIC Has Been Updated

Medicare's Quality Improvement Community [web site](#) has been updated. The website contents have been reorganized to reflect the QIO Program's 9th scope of work priorities. Some of the Quality Measure clinical resource information and shared QIO and provider resources that previous viewers used to access under the previous Nursing Home setting page on MedQIC are no longer available. Quality Partners of Rhode Island, who served as the Nursing Home Quality Improvement Organization Support Center during the 7th and 8th scopes of work are in the process of uploading the entire complement of resources to their [corporate website](#). Prior to the resources being available on Quality Partners' website you can contact [Teresa Mota](#), RN, CALA, RAC-CT, Senior Program Coordinator, Quality Partners of Rhode Island, 401-528-3264, for assistance. Questions? Click to contact [Sandra Fitzler](#).

New Career Center

AHCA/NCAL Unveil New Career Center

As a founding member of the newly developed [National Healthcare Career Network](#), we have established the [AHCA/NCAL Long Term Care Career Center](#) which will help our profession attract the well-trained, qualified workforce needed to care for America's frail, elderly and disabled. We are committed to being a solution to the nation's current healthcare workforce shortage as overcoming this shortage will have a tremendous positive impact on patient and resident care and services.

The [AHCA/NCAL Long Term Care Career Center](#) will provide member companies with the only career network dedicated to linking more than 100 participating professional societies and healthcare job seekers to the jobs you are looking to fill. It will also fill a needed gap, providing qualified candidates with a job board featuring healthcare employment opportunities.

To learn more about AHCA/NCAL's Long Term Care Career Center or the National Healthcare Career Network, click to contact [Jennifer Shimer](#).

VA Update

Clarification of VA Policy On NF Contract Renewal

AHCA has learned that it is not Veterans Affairs policy to use CMS' 5 Star nursing home ratings to determine contract renewal. VA's policy from its "VHA Community Nursing Home Oversight Procedures" document states: *Community Nursing Homes are to be excluded from program participation when four of the seven factors in this subparagraph are present:*

1. Three level "G" or worse deficiencies in the current survey.
2. The total number of health requirement deficiencies are twice the State average in the current survey.
3. A level "E" or higher deficiency in the current survey, in one of the following areas: Restraints, Abuse, Staff Treatment of Patients, Dignity or Licensure.
4. RN Hours per resident day are below the state average.
5. Total Nursing Staff hours per resident day are below the state average.
6. A level "E" or higher deficiency in the current survey in one of the following areas: Nursing Services, Nursing Aide Training, Regular In-Service Training, Proficiency of Nursing Aides, or Staff Qualifications.
7. Six or more of the CMS Quality Measures listed in Nursing Home Compare fall above the state average.

For the specific F-tags associated with these factors and more information, see the "VHA Community Nursing Home Oversight Procedures" document [here](#). Although the document has not yet been recertified, VA does not plan to change these 7 factors upon recertification. For more information, contact [Melissa Temkin](#).

OSHA News

OSHA Webinar summary

Brad Hammock from Jackson Lewis, LLP recently led an "OSHA Update" webinar for AHCA/NCAL. Hammock's professional biography includes being an OSHA attorney at the Department of Labor (DOL). He was the agency's lead counsel on OSHA safety standards for three years, worked on the development of an ergonomics standard in 2000, and worked as a regulatory attorney focusing on ergonomics. He had primary responsibility for DOL's comprehensive approach to ergonomics in 2002 which included OSHA's "Ergonomics Guidelines

for Nursing Homes.” He left DOL in 2008 to join Jackson Lewis.

Some webinar points include:

- Hammock recommended that providers review their safety and health management systems, personal protective equipment assessment, and recordkeeping logs for the past three years.
- Companies should have either included or consulted employees in the development of their safety and health management systems. Hammock anticipates that OSHA will publish updated guidance for employers on safety and health management systems.
- Potential areas for rulemaking/guidance include pandemic flu preparedness and respirator stockpiling, as well as a new ergonomics rule.
- By law, a new ergonomics rule would have to be substantially different than the one rescinded by President George Bush in 2000.

Go to <http://www.ahcancal.org/events/Pages/Webinars.aspx> to view the webinar in its entirety.

New OSHA Challenge Pilot: Step to VPP

In response to employers requesting that OSHA provide stages of assistance to participate in the Voluntary Protection Program (VPP), they are now offering the OSHA Challenge Pilot. Challenge participants can link to a general industry track, which includes long term care, and follow a detailed three-stage roadmap that guides them to improve their safety and health management systems and work toward VPP status. Click [here](#) for more information on this new program. To apply, contact the OSHA Office of Partnerships and Recognition at (202) 693-2213.

Trend Tracker

Sign Up For LTC Trend Tracker!

AHCA recently released LTC Trend Tracker™, a new, free, web-based benchmarking and analysis tool for AHCA member nursing facilities to analyze your performance, and compare it against your peers. LTC Trend Tracker™ is designed to assist facilities in identifying target issues you may have in your operations and to provide resources that may enhance performance. For more information click [here](#) or contact [LTC Trend Tracker™](#) or [Bill Hartung](#).

