

National Academy Releases Report On Assisted Living Policy

Almost 15 percent fewer assisted living facilities opened their doors for business between 2000 and 2002 than during the two-year period between 1998 and 2000.

In 2002, states reported a total of 36,399 licensed facilities with 910,486 units or beds. This constitutes a 14.5 percent increase since 2000, compared with a 30 percent growth rate between 1998 and 2000, according to the National Academy for State Health Policy's (NASHP's) "State Assisted Living Policy: 2002" report.

In 2002, three states—California, Florida, and Pennsylvania—accounted for 34 percent of all the beds or units in the United States, down slightly from 36 percent in 2002.

Between 2000 and 2002, Arizona and Kansas reported a 40-percent-plus growth rate in assisted living units, and the number of units in Nebraska, Nevada, and New Jersey increased between 36 and 38 percent. Over the same period, the growth rate exceeded 20 percent in Alabama, Delaware, Hawaii, Kansas, Louisiana, Michigan, New Jersey, Oregon, Utah, and Wisconsin.

But assisted living didn't expand in all states. Oregon placed a moratorium on new facilities, and the number of facilities declined—although the number of units increased modestly—in seven states: Colorado, Florida, North Carolina, Oklahoma, Pennsylvania, South Carolina, and Tennessee.

More states are using the term "assisted living." Thirty-two states and the District of Columbia have a licensing category or statute that uses the term. Seventeen states have revised assisted living regulation since June 2000, and 29 states were in the process of revising regulations.

Since 2002, eight more states added requirements for facilities caring for people with dementia. Eighteen states require

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Worker's Health Insurance Premiums Increasing, Survey Finds

Nationally, workers are paying more for employer-based health plan benefits and receiving less coverage, according to a study released by the Kaiser Family Foundation and the Health Research and Education Trust (HRET).

Between spring 2001 and spring 2002, workers incurred a 12.7 percent increase in monthly premiums for employer-based health insurance. The increase drove the average annual premiums shared by employers and employees to \$3,060 for single coverage and \$7,954 for family coverage. This was the highest annual increase since 1990, when premiums increased 14 percent, according to the report.

The Kaiser Family Foundation and the HRET surveyed 3,262 randomly selected public and private firms ranging in size from three employees to more than 300,000.

Since the recent economic slump has eased competition among companies for workers, most employers will likely pass on the increases to their employees. In good economic times when labor markets were tighter, employers absorbed much of the premium increases.

Individual employees now pay an average of \$454 per year on health insurance premiums, a \$95 increase from the previous year. Employees needing family coverage are paying an average premium of \$2,084 per year, a \$283 increase from the previous year.

"One of the most alarming findings is the continued growth of underlying health care expenses, which indicates that we can expect double-digit inflation for the foreseeable future," said Jon Gabel, vice president for health system studies at the HRET.

"Three more years of this type of inflation could bring
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Judge Says Marriott Can Transfer Management Contracts

A Massachusetts judge denied a motion that would have prohibited Marriott International from transferring the management contracts belonging to Five Star Quality Care and Senior Housing Properties Trust, Newton, Mass. to a prospective buyer.

The decision is the latest chapter in the legal wranglings between Marriott, which is currently in negotiations to sell off its Senior Living Services unit, and two of its operators—Five Star Quality Care and Senior Housing Properties trust. Senior Housing owns 31 of Marriott's senior living centers, which are leased by Five Star Quality Care and

managed by Marriott. Five Star and Senior Housing, a real estate investment firm, filed suit in late November seeking termination of its management contracts based on allegations that Marriott withheld excessive amounts of working capital, improperly allocated insurance liability and office costs to the managed properties, and unfairly profited from purchases made for the communities but then diverted the purchases to other Marriott affiliates.

Marriott is negotiating the sale of its senior living unit with several companies, including McLean, Va., based-Sunrise Assisted Living.

Marriott responded by filing a countersuit against Five Star and Senior Housing in a Montgomery County, Md. Court seeking the right to continue managing the 31 properties. A hearing is scheduled for early January 2003.

In December, Marriott Senior Living Services made a \$1.9 million payment to Five Star Quality Care. Marriott's attorneys denied that the payment constitutes an admission of impropriety, or that Five Star is due more back payments as alleged.

Five Star and Seniors Housing will pursue its lawsuit against Marriott, according to published reports.

Worker's Health Insurance Premiums Increasing

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family coverage to nearly \$11,000."

Seventeen percent of the covered workers are in firms that offer lower levels of health benefits when compared with last year. Nine percent of the large firms (200 or more workers) eliminated retiree benefits for new hires or existing employees in the last two years, according to the report.

Another cost-containment measure is the implementation of tiered drug plans. A three-tiered drug plan uses different copayments for generic drugs, brand-name drugs with no substitutes, and brand-name drugs with generic substitutes.

In 2002, 57 percent of the insured workers had a three-tiered prescription drug plan—an increase of 36 percent compared with 2001.

An additional 28 percent of insured workers were under a two-tiered plan in 2002 (one payment for generics and

another for brand-name drugs), resulting in 85 percent of workers with drug coverage that differentiates between brand and generic drugs in cost-sharing requirements.

While nearly all large companies of 200 or more workers offered health benefits, firms with fewer than 200

workers continue to struggle with increasing health care costs.

Only 61 percent of small firms (3-199 workers) offered health benefits in 2002, compared with 67 percent in 2000, an early indicator of possible erosion in the number of small firms offering coverage.

Assisted Living Workgroup Update

The Assisted Living Workgroup (ALW) finalized recommendations at its December meeting that creates the National Center for Assisted Living Excellence. The center will be responsible for recommending performance measures, providing technical assistance to states, and forwarding reports to state and federal lawmakers.

In prior meetings, the ALW also significantly revised its definition of assisted living. The new draft definition and the finalized recommendations are on the ALW's redesigned Web site at www.alworkgroup.org. The recommendations are sorted by their stage in the approval process, with yellow being the first stage and red being the final stage.

Once the recommendations' approval process is complete in February, ALW members will write the final report, which is due to the U.S. Senate Special Committee on Aging in April.

Tort Reform On National Agenda

Although a town hall meeting held by Health and Human Services Secretary Tommy Thompson in Jacksonville, Fla., centered on the impact medical malpractice has on Florida's medical community, the impact of excessively high insurance premiums for liability insurance in the Sunshine State was also part of the message as well.

The American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL) pointed to the Dec. 17, 2002, town hall meeting as an indication that the Bush Administration is intent on reforming the nation's tort laws.

"The HHS Secretary's appearance in Jacksonville is an important signal that major legal reforms will be a top priority in Washington and will have the effect of bolstering the state reform efforts now successfully underway in state capitols from coast to coast," says Charles H. Roadman II, M.D., president and chief executive officer of AHCA and NCAL.

Nationwide, assisted living facilities, like skilled nursing centers, have been absorbing higher insurance rates for liability policies.

"Liability insurance rates are escalating at unprecedented rates for assisted living," says NCAL Vice President David Kylo, noting that some companies are seeing 200 to 300 percent increases. "We are pleased to see the administration addressing the liability issue."

Recently, Mississippi became the latest state to pass tort reform measures that protect long term care facilities. Mississippi's law caps jury awards for noneconomic damages against health care providers at \$500,000. Under this legislation, the cap will increase to

\$750,000 in 2011, and to \$1 million in 2017.

Nevada and Pennsylvania already have passed similar measures, and Ohio now has a law that specifically protects long term care providers.

Florida, like Mississippi, is another state known for its proliferation of plaintiff lawsuits and high jury awards. According to an AON Risk Consultant study, Florida leads the nation in the frequency and costs of lawsuits against long term care facilities. Florida recently passed laws designed to stem the flood of lawsuits, although reports indicate the new laws have done little to abate the stream of new lawsuits being filed. According to Roadman, thousands of

lawsuits are still pending in the state.

Prior to the recent elections, in which Republicans regained control of the U.S. Senate, the Democrat-controlled Senate leadership had been unwilling to consider addressing federal tort reform legislation. With the new Republican majority and apparent support from the White House, tort reform may have more traction in Congress and nationwide, says Roadman.

"We plan on continuing to make the case in Florida, in Washington, and all across the nation that it's wrong for tax dollars designated for improved patient and resident care to be targeted as a growing source of income for the increasingly aggressive trial lawyer community," said Roadman.

State Legislative Priorities For 2003 Sessions

State capitals across the nation will be ringing in the 2003 legislative sessions with discussions of less-expensive long term care settings as states continue their efforts to rectify budget shortfalls by containing Medicaid costs, according to the National Conference of State Legislatures (NCSL).

The Washington, D.C.-based organization's Health Policy Tracking Service unit released results of its annual survey of legislators, governors, and executive agencies to identify the top health care policies for the upcoming legislative sessions. State health priorities:

- Forty-four states will consider policies to control Medicaid costs, including freezing or reducing eligibility and reimbursement rates;
- Thirty-eight states will consider measures to control prescription drug costs, including preferred drug lists, prior authorization, and bulk purchasing;
- Thirty-one states will address the medical malpractice insurance crisis and related issues involving medical errors;
- Twenty-eight states will consider long term care issues such as alternatives to skilled nursing; and
- Twenty-seven states will consider policies to improve access to health insurance such as enacting statutes for high-risk pool, purchasing alliances, and the rollback of mandated benefits.

To get a copy of the report, contact NCSL Health Policy Tracking Service's Laura Miller at (202) 624-8675 or laura.miller@ncsl.org.

Hypertension Best Treated By Cheaper Diuretics

A multiyear national study comparing newer and more costly hypertension medicines with older, more traditional diuretics revealed that diuretics worked better at treating high blood pressure and preventing some forms of heart disease, according to the National Institutes of Health (NIH).

About 24 million Americans with high blood pressure treat the condition with drugs, at an estimated cost of \$15.5 billion annually. That spending would have been about \$3.1 billion less, according to the study, if more physicians had continued to prescribe diuretics. But pharmaceutical companies have employed effective marketing programs to persuade consumers and their physicians to switch to newly developed prescription drugs, which were also more expensive. The new study allows doctors to compare the new drugs with the traditional diuretics.

"These more costly medications were often promoted as having advantages over the older drugs [diuretics], which contributed to the rapid escalation of their use," said Claude Lenfant, M.D., director of NIH's National Heart, Lung, and Blood Institute (NHLBI). "Now at last we can make those needed comparisons and know which blood pressure drug to choose to begin therapy." NHLBI coordinated the diuretic trial, which began in 1994 and involved 42,418 participants aged 55 and older at 623 clinics and centers in the United States, Canada, Puerto Rico, and the U.S. Virgin Islands.

The study's findings were published in the *Journal of the American Medical Association*. Since 1982, according to the article, diuretic use constituted 56 percent of all prescribed antihypertension medications. By 1992, diuretics made up just 27 percent of high blood pressure medications.

High blood pressure affects about 50 million Americans, one in four adults, and its prevalence increases with age; more than half of those over the age of 60 have hypertension.

For more information the report is available on line at: www.nhlbi.nih.gov/guidelines/hypertension/jncintro.htm.

CDC Issues New Guidelines For Hand Hygiene

The U.S. Centers for Disease Control and Prevention (CDC) issued new hand-hygiene guidelines that recommend health care facility workers add alcohol-based cleaners to their hand-cleaning regimen.

The new guidelines and scientific data published in the Oct. 25, 2002, "Morbidity and Mortality Weekly Report," update the 1985 CDC guidelines for hand hygiene.

The report provides a review of research published on hand washing and hand antisepsis since the 1985 guideline. In addition it outlines specific recommendations on how to promote hand hygiene and reduce transmission of pathogenic microorganisms to residents, patients, and personnel in health care settings.

The recommendations are based on studies that show the efficiency of alcohol-based hand rubs and the low incidence of dermatitis associated with their use. CDC cites a French study that has confirmed that hand disinfection with alcohol or an alcohol-based solution is essential for infection control. The study found that hand hygiene on nursing care units requires rapid treatment to kill contaminants. A comparison between hands rubbed with three to five milliliters of alcohol or with 4 percent aqueous chlorhexidine showed the alcohol hand rub significantly reduced the bacteria.

The guidelines also offer recommendations on the use of surgical hand antisepsis, hand lotions or creams, and the wearing of artificial fingernails.

The guideline is available on the CDC Web site: www.cdc.gov/mmwr/pdf/rr/rr5116/pdf.

AARP Publishes Resource On Affordable AL

A new AARP report points out that the cost of assisted living remains out of reach for the vast majority of low-income Americans. The report, "How States Have Created Affordable Assisted Living: What Advocates and Policymakers Need To Know," summarizes how six states—Alaska, Massachusetts, New Jersey, Oregon, Vermont, and Washington—have successfully assembled the various policy pieces and produced new assisted living developments. The report notes that, due to the variations in state policy, the programs necessary to create affordable assisted living will vary from state to state. The challenge to policymakers, concludes the report, is to revamp some of the policies and processes so assisted living can be an option for more low-income Americans. To obtain a copy of the report, call the AARP Department of State Affairs at (202) 434-3956.

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these facilities to disclose the special-care services provided to people with dementia. Gradually, more states are using Medicaid waivers to cover assisted living services. By October 2002, a total of 41 states and the District of Columbia had received Centers for Medicare & Medicaid Services' (CMS) approval to use Medicaid for about 102,000 assisted living residents. Since 2000, Medicaid assisted living coverage has been implemented in Indiana, New Hampshire, South Carolina, and Wyoming.

Medicaid waivers also are being used increasingly to care for people with dementia. Alabama has requested such a waiver from CMS, and California is preparing a similar request. Arkansas has issued a new licensing category for assisted living facilities caring for people with dementia.

The full report describes state regula-

tory policy and Medicaid reimbursement in all 50 states and the District of Columbia. The information was collected between March and September 2002.

The paper can be viewed on the NASHP Web site: www.nashp.org. To

order a print copy of the 440-page report, visit the NASHP Web site or call (207) 874-6524. The report costs \$75. For additional information, contact Robert Mollica, the report's author, at the above number or rmollica@nashp.org.

Emeritus Gains From Refinancing

Seattle-based Emeritus Assisted Living is refinancing a \$74.9 million existing mortgage for 11 assisted living communities and will show a gain of \$5.9 million in the fourth quarter, according to a *Dow Jones Newswires* report.

A company spokesman reported that Emeritus likely will show a fourth-quarter profit. In last year's fourth quarter, the company lost \$0.14 per share on revenue of \$35.7 million.

Emeritus reported that GE Healthcare Financial Services helped the deal along by putting up a four-year, \$58 million first mortgage. The refinancing included seven communities representing \$39.3 million of mortgage debt, maturing in May 2002; three communities that were previously refinanced in March 2002 for \$30.2 million, maturing in March 2004; and a single community repurchased in August 2002 with existing debt of \$8.3 million.

The new refinancing package retires the debt with Deutsche Bank and extends the maturity date by four years, according to the report.

**Resident Assistant
P/U April 2002**

The Pennsylvania Health Care Association (PHCA) and the Center for Assisted Living Management (CALM) has given its distinguished service award to **Sean McFarland**, administrator at the Michaux Manor Living Center, Fayetteville, Pa.

McFarland has been active with PHCA since September 1993, serving on the personal care home steering committee. For the past two years, McFarland has served as regional vice president on the CALM board of directors

The National Investment Center for the Seniors Housing and Care Industries (NIC) has announced its officers and new board of directors members.

Thilo Best, president and chief executive officer of Horizon Bay Seniors Communities is NIC's chairman of the board. **Sarah Sumner Duggan**, senior vice president of GMAC Commercial Mortgage Corp., is vice chair. **Kathryn**

Sweeney, principal of AEW Capital Management is secretary, and the new treasurer is **Raymond Braun**, president and chief financial officer of Health Care REIT.

Five new members were elected to the board, including: **Phillip Anderson**, chief operating officer of CNL Retirement Properties; **Deborah Laycock**, managing director, senior housing of Guaranty Bank; **Kevin McMeen**, senior vice president of GE Capital Healthcare Financial Services; **Jim Pieczynski**, director of long term care CapitalSource Finance; and **Randy Richardson**, president of Classic Residence by Hyatt.

Lois Fegan Farrell, a resident of Country Meadows of Hershey, Penn., was recognized as a hero by Health Heroes, a joint project of Capital Blue Cross, Susan P. Byrnes Health Education Center, and WITF, all of Pennsylvania.

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