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Long Term Care Newsletter

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Settlement Reached in GINA-Related Suit *By Tammy Schroeder*

In a GINA-related settlement, a now defunct nursing home company has agreed to pay \$370,000 related to a lawsuit filed against it by the U.S. Equal Employment Opportunity Commission (EEOC). Among the charges levied against Founders Pavilion were that the company's job offers were contingent upon the prospective employee providing family medical history during post-offer medical exams that were

required for the individual's employment with the company. Founders Pavilion, Inc., had provided nursing and rehabilitation services in Corning, NY, but ceased operations while defending the EEOC's charges.

The EEOC General Counsel, David Lopez states that this is the first GINA-related settlement that involves charges of a "systemic" violation of the law. Asking for genetic information during the hiring process is ille-

gal under the Genetic Information Nondiscrimination Act of 2008.

The EEOC states that Founders will pay \$110,400 that will be distributed to 140 people of whom Founders asked for their family medical history. The rest of the settlement money will be given to people that were involved in other charges levied against Founders, including that the company fired employees for perceived disabilities and (continued pg. 2)

2014 Health Care Legislation Introduced *By Charles E. Wilbrand*

The Nebraska Legislature began its 2014 session on January 8 and over the first ten days of the session Senators introduced several pieces of legislation which could potentially impact nursing home facilities throughout Nebraska.

Senators Steve Lathrop and Les Seiler have pro-

posed amendments to the Nebraska Hospital-Medical Liability Act to increase the amount recoverable from a health care provider for any injury or death of patient. Sen. Lathrop introduced LB 862 and proposed to increase the limit to \$2.5 million. Sen. Seiler proposed LB 893 which

would increase the limit to \$2 million. Currently the amount someone could recover under the Hospital-Medical Liability Act is \$1.75 million which was set in 2004.

Senator Kathy Campbell introduced LB 887 which would adopt the Wellness in Nebraska (continued pg. 3)



We Help You
Deal With It



New CDC Website Provides Tools to Fight Infections By Tammy

Schroeder

The Centers for Disease Control and Prevention (CDC) has started a new website to help long term care providers gain access to information and resources to help in the prevention of infections in nursing home residents. The site provides information to clinical staff, infection control coordinators and residents.

The CDC estimates that there are 1 to 3 mil-

lion serious infections occurring each year in the long term care setting. The site will provide information on hand hygiene, antibiotic management and dialysis safety. Long term care providers will also have access to the CDC's infection tracking system and to resources that the CDC has developed in partnership with the Advancing Excellence in America's Nursing

Homes Campaign (AE). The two share a common goal in preventing *c. difficile* infections in nursing home residents.

The new website will promote AE's resources on infection control in hopes it will extend AE's campaign along with providing additional tools in the fight against infections.

The new website can be accessed here: <http://www.cdc.gov/longtermcare/>

GINA Settlement (cont'd from pg. 1)

that they fired or wouldn't hire women who were pregnant, violations of the Americans with Disabilities Act and Title VII of the Civil Rights Act.

Should Founders Pavilion, Inc. resume operations, it faces a variety of stipulations under the settlement and the current operator of the facility, is a non-party signatory to it. They are to include language about genetic information in their antidiscrimination policy and they are to provide training related to GINA in their employ-

ee training.

The EEOC warns that employers should take notice of this settlement as it sends the message that the EEOC is serious about GINA and will pursue cases in order to make sure that inquiries into a person's genetic information are not made.



Fun Fact:

We've all heard it; maybe even said it when referring to the month of March, "In like a lion, out like a lamb," but where did it come from?

March is one of those weather months where you can experience sunny, warm spring days but also experience some late season snow storms—thus, the weather sneaks up on you like a lion.

The saying dates back to the 17th century and was an observation by people of the weather patterns.

March is also the month that the constellation Leo, the lion, is seen on the horizon and then it transitions to Aries, the ram being seen on the horizon at the end of the month.

2014 Legislation (continued from pg. 1)

Act. The proposed legislation would expand health coverage to individuals who are newly eligible for medical assistance. It would allow those newly eligible individuals who do not have access to employer sponsored insurance but are at the federal poverty level and do not have an exceptional medical condition to enroll in a qualified health plan. The bill would also require that

any private managed care organizations that provide “WIN Medicaid” coverage to ensure the newly eligible individuals have access.

Senator Colby Coash introduced LB 920 which would adopt the Public Guardianship Act. This bill would create an Office of Public Guardian to provide individuals to incapacitated persons when no private guardian or conser-

vator is available. The public guardian will have the power to hire a deputy guardian and up to twelve associate public guardians. The proposed legislation puts a limit of an average of 40 individuals for each associate public guardian.

LB 1072, introduced by Sen. Lathrop, would set up a board to maintain a prescription monitoring program with regards to dispensing controlled substances and other drugs identified as a potential for abuse. The program will provide real time access to

prescription information generated by dispensers and prescribers regarding a controlled substance. The patient may not opt out of having the information shared through the program, but the information in the program is not subject to public disclosure unless requested by a subpoena.

These proposed legislative bills have not been adopted and will be discussed and analyzed throughout the 2014 session.

Medicaid Underfunding in 2013 By Mary T. Carey

2013 marked the widest gap ever recorded between long-term care costs and Medicaid payments, The American Health Care Association/National Center for Assisted Living reports. Providers incurred more than \$7.7 billion in allowable costs that were not reimbursed by Medicaid. The shortfall translates to an average of \$24.26 per Medicaid patient per day.

What may help? Matt Solo, director of the National Association of Medicaid

Directors says Medicaid managed care, Affordable Care Act payment models and home and community-based care will reduce costs. As these changes are implemented, the market will certainly be affected; exactly how much and in what ways, no one knows. Providers must “watch and see” what 2014 will bring.

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