

# Nursing & Assisted Living Facility Professional

NOW IN OUR 11TH YEAR!

“NEWS AND VIEWS YOU CAN REALLY USE”

MAY 2021  
ISSUE 5, VOLUME 11

SENT EACH MONTH TO YOU AS A MEMBER OF THE HEALTHCARE HEROES

## THE ADELMAN ADVANTAGE by Rebecca Adelman

# Civil Liability Protection - The Coronavirus Provider Protection Act



On May 7, 2021, Congressmen Lou Correa (D-CA) and Michael Burgess (R-TX) introduced H.R. 3021 - the **Coronavirus Provider Protection Act**. This bipartisan legislation protects healthcare workers on the frontlines of the COVID-19 pandemic. The Act offers liability protection for healthcare providers who act in good faith and abide by government guidelines while caring for

patients during the COVID-19 pandemic.

This bipartisan federal legislation would ensure the healthcare workforce serving on the frontlines of the pandemic are not punished with unwarranted lawsuits, while maintaining necessary patient protections.

Our long-term care professionals around the country have been caring for residents under extraordinary conditions, working diligently and at great risk to provide care during the pandemic. The Act recognizes their continued sacrifices by providing targeted civil

liability protection for healthcare professionals and facilities during the COVID-19 national public health emergency.

Adelman Law Firm commends Reps. Lou Correa and Michael Burgess, M.D., for introducing bipartisan legislation that ensures nursing home and other health care providers are afforded limited, common-sense protections from medical liability while treating patients during this public health emergency.

The Coronavirus Provider Protection Act maintains critical protections for patients harmed as a result of gross negligence or misconduct, while offering liability protection for providers. Examples of increased liability risk that providers are confronting because of COVID-19 include:



Suspensions of elective in-person visits and delays in treatment for patients with symptoms unrelated to COVID-19;

Workforce shortages that are forcing physicians to provide care outside of their general practice area;

Shortages of equipment – such as ventilators – that can result in providers having to ration care;

Delayed or inaccurate diagnosis due to inadequate testing supplies.

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As discussed in The Adelman Advantage for several months now, the COVID-19 pandemic has sparked myriad state legislation providing some form of liability immunity for healthcare providers from COVID-19 -related lawsuits. We will continue to track the legislation and provide updates.

## Care For Our Seniors Act

In March of this year, AHCA and LeadingAge presented to Congress the **Care For Our Seniors Act**, advocating for meaningful action to protect seniors and prepare for a growing elderly population that deserves a robust, quality long-term care system. The Act prioritizes four principles for nursing homes that can be applied to support better pandemic management, help prevent such devastation from happening again, and strengthen nursing home care. These policy proposals may be considered by Congress and other policymakers either as a complete, legislative package, or individual policy proposals may be incorporated into other relevant legislation, so long as the necessary resources for each proposal are tied together.

The Act has four main reform principles with policy proposals in each of the key areas:

- **Clinical:** Enhance the quality of care in nursing homes by developing clearer standards for infection preventionists, requiring that each nursing home have a registered nurse on-staff, 24 hours per day, and requiring a minimum 30-day supply of personal protective equipment in all nursing homes.
- **Workforce:** Strengthen and support our frontline caregivers by implementing a multi-phase tiered approach to attract, retain and develop more long-term care professionals leveraging federal, state and academic institutions.
- **Oversight:** Implement improvements establishing a more resident-driven system by developing an effective oversight system and processes that support better care and protect residents. This would include implementing a process to help turn around or close facilities that are chronic poor performers and adding customer satisfaction to the government's five-star rating system to help monitor the quality of a facility for family members and guide consumer choice.
- **Structural:** Modernize nursing homes by conducting a national study on how to shift to more private rooms, which promote resident privacy,

autonomy and dignity, as well as support infection control best practices.

The pandemic has forced a Call-to-Action in long-term care. Both the Coronavirus Provider Protection Act and the Care For Our Seniors Act are examples of ways that we can make a difference for our healthcare providers, protecting them from liability and improving the healthcare system by prioritizing long-term care for our seniors and others who are in need of skilled nursing.

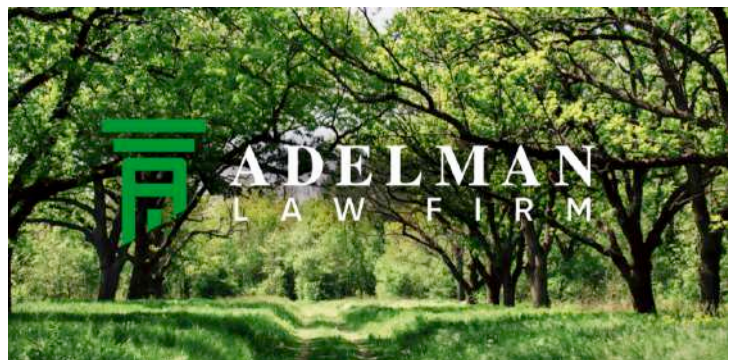
Stay tuned for updates and for Adelman Law Firm initiatives that align with quality long-term care systems.



Rebecca Adelman is an entrepreneur, influencer, thought leader and founder of Adelman Law Firm and Claims Management, a Women's Business Enterprise National Council (WBENC) certified Women Business Enterprise (WBE)

established in 2001. For nearly 30 years, Rebecca has concentrated her practice in insurance defense and business litigation. The firm's practice extends through the Tri-States of Arkansas, Mississippi and Tennessee. Rebecca's insurance defense practice includes representation of insurance companies and long-term care providers and their insurers, both regionally and nationally. She also provides consulting services and educational programming to healthcare professionals and business associates. She has active practices in the areas of general liability, professional liability, premises, and employment law. She is a listed mediator serving all areas of business and healthcare litigation.

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## Mourning: A Basic Human Need



When you think about basic human needs, things like food, air, sleep, and shelter likely come to mind. No doubt, we all need those things. However, there are dozens of needs that we share, no matter our culture, age, gender, upbringing, or any other distinction. A few examples of these include

trust, joy, to be heard, companionship, understanding, acceptance, respect, relaxation, and contribution. To mourn is also one of our basic human needs.

Let's give some context to mourning as a need and look more closely at grief, too. They're different but related. Grief is an internal experience and may include any number of feelings like sadness, anxiety, anger, longing, and relief. Grief is a personal experience. Mourning is an external experience shared with others in some type of action, symbol, ceremony, or ritual that activates social support.

As a practice, mourning is understandably associated with death. Throughout the world, there are many different mourning practices and traditions. Recently, I attended a memorial mass to honor a dear friend's husband. When my grandfather died many years ago, we didn't have a formal service but opted to spread his ashes from a beautiful mountain peak on the east edge of Tucson. That was part of how we mourned.

But there's a lesser appreciated aspect - mourning is necessary for so much more than death. So. Much. More. It's about anything in our life that we experience as painful, disappointing, or as a loss.

Consider an example outside of healthcare. You've had an argument with a friend, one in which you worry that your relationship will not survive. There is pain. Perhaps you feel torn, shocked, or alienated. This is where the practice of mourning comes in. You applied for a promotion and didn't get it. There it is again, the need to mourn. Your child graduated high school and is leaving for college. This is an interesting example because graduating and starting college are events to celebrate! Yet, there is loss, your heart is aching because your baby is grown up, moving out and starting life independently. Definitely time to mourn.

In the context of the pandemic, what are we mourning? Certainly, death but *also* illness, loss of friendships and connections (e.g., to a resident's family when their special person dies), loss of 'normalcy' or at least processes as we understood

them, loss of predictability, loss of agency, and maybe a loss of a sense of purpose such that we might even be questioning our decision to stay in healthcare.

Take a moment and consider the losses in your life. Remember to breathe.



Image from Pixabay

I'm going to shift topics for a moment and introduce the concept of acceptance. Mourning is directly connected to acceptance. You might be thinking that to accept something means to agree with it. It does not. One of the definitions of acceptance is "willingness to tolerate a difficult or unpleasant situation." It means accepting that life is different right now. Accepting that reality which includes sadness, pain, and loss, without resistance. It does not mean that you agree with what is



happening, certainly not that you like it, or that you can't or won't work to make it better. Acceptance is an acknowledgment, "This is happening right now. I sure don't like it and I can handle it."

Acceptance is important in order to be able to mourn. It is difficult to mourn that which we don't accept. Accepting what is allows us to mourn what isn't. It means accepting the current situation and making a conscious decision to focus our precious energy on collaborating, building partnerships, and problem-solving rather than resisting painful reality.

Which brings me to another important point - mourning may not a one-and-done event - it may occur on multiple occasions. There's no "formula" and the process is unique to each person and their experience. While some nursing homes and assisted living communities have mourning practices in place, e.g., a memorial service to honor residents who have died, many do not. In the context of the pandemic, remember that there is much to mourn that is not death. Consider some of the reasons why mourning might be difficult in a work setting. Do any of these resonate with your experience?

- In general, staff may not feel safe to express their grief, to mourn.
- Staff may feel pressured, overtly *or* implicitly, to 'deal with it' and get on with their duties.
- There may not be a formal structure in place to acknowledge or support staff in their grief response and/or to participate in a mourning practice.
- Constant detachment after a resident dies and quick shift to reattachment to a new resident. Pressure to "maintain census" so a new resident comes into the community (same room and bed as the resident who died) and staff has not grieved or mourned.
- Staff are not usually supported to attend a resident's funeral.

The examples above are a few ways the organizational culture discourages mourning. There are also individual interactions that discourage mourning. I recently read a wonderful article titled, "The Trouble with Mourning" by Sarah Peyton (link below) and she writes about the general discomfort

with grief and the ways that language is used to stop our own or others' mourning. Do any of these resonate with your experience, either on the giving or receiving end of a conversation?

- Changing the subject
- Trying to see the bright side, "The gift in this is..."
- Offering reframes, "Look at it this way..."
- Offering advice
- Dismissing, "Snap out of it"
- Minimizing, "It's not that bad"
- Reassuring, "You're going to be fine"
- Diagnosing, "You're depressed" or "You have PTSD"

Grieving and mourning are sensitive topics, ones that require compassion and time. And yet, we live and work in a society that, generally speaking, is uncomfortable with these topics and urges us to 'get over it' and to move on because there is so much to do, especially in a nursing home or assisted living community.

The ravages of the pandemic offer us opportunities to learn and to expand our wellbeing, individually and collectively. I am hopeful that this short article may seed curiosity and inspire you to explore these topics further, to consider how to support each other and all the staff in your organization with the permission, the time, and the space to grieve and to mourn.

Next month, I'll continue on this topic and explore some ideas to weave mourning practices into the organizational culture and to help support healing for everyone.

#### The Trouble with Mourning

<https://thefearlessheart.org/the-trouble-with-mourning/>

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# FUN FACTS ABOUT MAY

The traditional flower of May is known as Lily of the Valley.

May is believed to have named after the Greek goddess of fertility known as Maia. Ovid, the Roman poet, however, believed that May was named for the maiores (the elderly) and June for the iuniores (the youth).

Bob Dylan, John F Kennedy and Adele are some of the famous people that are born in the month of May.

Research conducted by the University of Columbia has shown that people who are born in May have a lower risk of acquiring respiratory, neurological, cardiovascular and reproductive diseases.

Emerald is the birthstone associated with May. This signifies youth and rebirth and is primarily mined in countries such as Brazil, Zambia, Colombia and Afghanistan.

No U.S. president has ever died in the month of May. In every other month of the year, at least one U.S. president has died.

May is pretty exclusive when it comes to days of the week. No other month in one single year starts or finishes on the same weekday as May. Basically, if the first of May is on a Friday, and the 31st of May is on a Sunday, no other months in the year will start or end on a Friday or a Sunday!

In the ancient Roman ten-month calendar, May was the third month in the year. Though it later became the fifth month of the year with the addition of January and February.

May is a month of spring in the Northern hemisphere and month of autumn in the Southern Hemisphere, whereas November is a month of spring in the Southern hemisphere and month of autumn in the Northern hemisphere. Therefore, May of the Northern hemisphere is the seasonal equivalent of November of the Southern hemisphere.

## CYBER ATTACK!

### How to Protect Your Residents' and Facility's Private Information in These Challenging Times

You hear and read about it with alarming frequency-sensitive, classified data has been stolen and with it peoples' lives are turned upside down! It's happened in government, in banking ... and in healthcare - here it could be resident identity theft, facility financial information stolen, or some other horror!

At this very moment, how safe is your nursing or assisted living facility's stored data? Is residents' personal medical information, social security numbers, financial information, and other critically important data at risk? Do you accept credit card payments for services - how secure are payers' stored credit card numbers in your system?

FYI: your facility will be sued if a resident's identity is stolen, or a family's credit card number falls prey to a hacker because your building's negligence. What about the facility's information on file (i.e. bank account numbers, other classified data); is it vulnerable to today's ultra-sophisticated and savvy hackers?



Extended Care Products, the leader in nursing and assisted living discovery education, presents a power-packed program for the times we live! You may have IT help; however how well versed are they

safeguarding classified data within your system? You may have firewalls, but is this enough?

**FOR MORE INFORMATION**

**CALL TOLL-FREE**

**1-800-807-4553**