

# LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

## MEMO IN SUPPORT: [A01033/S05441](#)

### Bill to Ensure Informed Consent for the Use of Psychotropic Medication in Nursing Homes and Adult Care Facilities

**TITLE OF BILL:** An act to amend the public health law, in relation to the use of psychotropic medications in nursing homes and adult care facilities.

**POSITION:** The Long Term Care Community Coalition (LTCCC) is a nonprofit, nonpartisan organization dedicated to improving care and dignity for residents in nursing homes and other residential care settings. LTCCC strongly supports this bill, in recognition of the urgent need to reduce the widespread use of powerful and dangerous antipsychotic drugs and other psychotropic medications in nursing homes and other residential care settings.

**STATEMENT OF THE PROBLEM:** The inappropriate and dangerous use of antipsychotics and other psychotropic drug is a widespread problem in nursing homes and adult care facilities. The U.S. Food & Drug Administration has issued its highest (“black box”) warning against using antipsychotics on elderly patients with dementia due to an increased risk of heart attack, stroke, Parkinsonism and, even, death. Nevertheless, antipsychotics and other psychotropic drugs are frequently used as a form of chemical restraint to sedate residents without them or their families receiving appropriate information or providing informed consent.

**The seriousness of the current problem surrounding inappropriate psychotropic drug use and the need for corrective action has long been recognized by all:**

- According to a 2018 [Human Rights Watch](#) report:  
*Every week, more than 179,000 people in nursing homes in the United States are given antipsychotic drugs even though they have not been diagnosed with any condition for which their use is approved. Often, facilities administer the drugs without making any effort to seek informed consent. Many nursing homes use these drugs not to treat a specific medical condition—such as psychosis or a neurological disorder—but because of their sedative effect. Antipsychotic drugs make nursing home residents easier to control by pacifying and sedating them.*
- In 2011, then-Inspector General of the U.S. Department of Health and Human Services, Daniel Levinson, [stated](#) that “[t]oo many [nursing homes] fail to comply with federal regulations designed to prevent overmedication, giving nursing home patients antipsychotic drugs in ways that violate federal standards for unnecessary drug use.” ***The Inspector General concluded: “Government, taxpayers, nursing home residents, as well as their families and caregivers should be outraged – and seek solutions.”***
- In March 2012, the federal government began a national campaign to address this problem. States were charged with an initial, “modest” goal of reducing their drugging by 15% by the end of that year. ***NY only achieved about half of the national goal.***

- ***Today, close to one in five nursing home residents in the state are still being given antipsychotic drugs.*** Less than two percent of the population will ever be diagnosed with a condition recognized by CMS in its risk-adjustment for potentially appropriate use.
- **Antipsychotics are not clinically indicated for treating dementia or its symptoms.** The standard of care, which has been federally required since 1991, is to provide residents with dementia care that employs non-pharmacological interventions.
- **Inappropriate antipsychotic drugging is a serious problem for assisted living residents and families.** A [2015 study](#) indicated that the majority of assisted living residents have dementia and an astounding 37% of them are administered antipsychotic drugs.

**WHY THIS BILL’S PROTECTIONS ARE NEEDED:** Too often, antipsychotic drugs and other psychotropic medications are given to residents without their – or their representative’s – consent. This bill simply ensures that residents are properly informed of the risks and benefits of these drugs.

Nursing home residents (or, for residents who lack capacity, their representatives) have long had the right under federal law to be fully informed in advance about care and treatment, participate in care planning, and accept or decline such treatment. **Unfortunately, in the absence of the protections in this bill, too many facilities in our state ignore these important federal safeguards.** Passage of this bill would help make these rights a reality for New Yorkers in nursing homes and adult care facilities. **The bill would reduce resident suffering and save families from heartache. It has the strong potential to save significant taxpayer funds** by reducing costs associated with unnecessary hospitalization and medical care resulting from preventable falls, heart attacks, and strokes (known side effects of antipsychotic drug use on the elderly).

**FOR FURTHER INFORMATION:**

Please visit LTCCC’s website, [www.nursinghome411.org](http://www.nursinghome411.org), for information and resources on antipsychotic drugging, the latest federal data on nursing home antipsychotic drugging rates, and our Dementia Care Advocacy Toolkit for consumers and caregivers.