

LONG TERM CARE (LTC) E- NEWSLETTER – Dec. 2014/Jan. 2015: Volume 12, Number 11

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Dementia Care & Antipsychotic Drugging News

[CANHR Releases Report Card on CMS Performance in Preventing Chemical Restraint of Nursing Home Residents](#)

To mark the third anniversary of the U.S. Senate hearing, “[Overprescribed: The Human and Taxpayers’ Cost of Antipsychotics in Nursing Homes](#),” the [California Advocates for Nursing Home Reform](#) (CANHR) issued a report card on the Centers for Medicare and Medicaid Services’ (CMS) performance to date in cracking down on illegal, inappropriate and dangerous antipsychotic drugging in U.S. nursing homes.

CMS, and the state agencies with which it contracts to oversee nursing home care, is responsible for ensuring that all residents in licensed nursing homes receive appropriate care. Included in this are specific requirements prohibiting unnecessary drugging and the use of chemical restraints. [For more information on this issues visit LTCCC’s website, www.nursinghome411.org.]

CANHR’s report card rates CMS’s performance on a variety of criteria, including the use of survey and certification, quality measures and state partnerships to improve dementia care and reduce inappropriate drugging. Overall, CANHR gave CMS a ‘D’ grade, finding that the federal agency “...has treated the issue as a mere training or education problem instead of the urgent crisis of outright elder abuse that it is. The bottom line is that CMS continues to tolerate widespread use of chemical restraints in our nursing homes and touts its campaign’s slow and insufficient progress.”

[<http://www.canhr.org/stop-drugging/archives/1691>]

[LEFT OUT: Results Of A Survey Of Nursing Home Resident Representatives On The National Campaign To Improve Dementia Care](#)

In December 2014, LTCCC conducted two assessments on the effectiveness, to date, of the national campaign to address the widespread, inappropriate and dangerous use of antipsychotic drugs on nursing home residents. In 2005, the FDA issued a “black-box” warning against the use of antipsychotics on elderly people with dementia. In 2011, the US Inspector General found widespread failure to comply with federal regulations designed to prevent overmedication and the U.S. Senate held hearings on the toll of inappropriate antipsychotic drugging (noted and linked above).

In early 2012, the Centers for Medicare and Medicaid Services (CMS) launched the federal campaign to reduce antipsychotic drugging. At that time, CMS promised swift, substantive change to protect nursing home residents and assure compliance with minimum standards. However, 3.5 years after the Inspector General’s report, approximately one in five nursing home residents (20%) are still being given powerful and dangerous antipsychotic drugs every day (as of December 2014).

In [LEFT OUT](#), LTCCC presents the results of a national survey of nursing home resident representatives, including residents, family council members, advocates and LTC Ombudsmen.

The survey was conducted to gain insights into the extent to which residents and their representatives and advocates have been included in the CMS campaign. Has outreach been meaningful and effective? Has the resident voice been included or sidelined? Our findings indicate that while these resident representatives are overwhelmingly interested in the campaign, most do not participate because CMS's outreach had been directed almost entirely to the provider industry.

[\[http://www.nursinghome411.org/?articleid=10087\]](http://www.nursinghome411.org/?articleid=10087)

[LEFT BEHIND: The Impact Of The Failure To Fulfill The Promise of The National Campaign To Improve Dementia Care](#)

In this report, LTCCC presents an assessment of progress to date in reducing inappropriate and dangerous antipsychotic drugging of nursing home residents. Our findings, based on federal data, indicate that over 265,000 nursing home residents were drugged in 2014 despite the national campaign to address inappropriate antipsychotic drugging begun by CMS in 2012. As a result of the failure of the national campaign to even achieve and sustain its initial, modest goal for reduction, our findings indicate that 80,000 additional residents are being drugged inappropriately in 2014.

[LEFT BEHIND](#) provides an overview of the problem and insights into the growing numbers of nursing home residents who have been “left behind” over the years since the CMS campaign began. Included are several personal stories to “put a face” in front of the growing numbers of residents who are chemically restrained as a result of the failure of both the CMS campaign and of CMS and the state agencies to adequately enforce longstanding minimum standards of care.

[\[http://www.nursinghome411.org/?articleid=10088\]](http://www.nursinghome411.org/?articleid=10088)

[CMS Updates Surveyor Guidance for Advance Directives, Dementia Care and Other Topics](#)

On December 2, *McKnight's Long-Term Care News* reported that CMS has issued a revision to guidelines and protocols for state nursing home surveyors (inspectors). This update relates to a number of different issues including: the use of restraints, admissions policies, medication errors, physicians' delegation of tasks to other resident caregivers and quality of care.

The quality of care requirements for nursing homes (specifically those addressed under [§483.25 of the Code of Federal Regulations](#)) have been a significant focus of the campaign to improve dementia care and reduce inappropriate antipsychotic drugging. This section states (in part) that “[e]ach resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.”

The update provides specific guidance for assessing whether the needs of residents with dementia are being met appropriately, including methods which surveyors should use to evaluate appropriate care. The update itself is over 200 pages; to facilitate the ability of residents and their representatives to access the section on quality of care we have extracted it into a separate Word document.

Both the full update and the section on quality of care are available on the antipsychotic and dementia care page of LTCCC's nursing home website, [\[http://www.nursinghome411.org/articles/?category=antipsychoticlaws\]](http://www.nursinghome411.org/articles/?category=antipsychoticlaws).

[New Mexico Sues Nursing Home Chain Alleging Insufficient Staff & Poor Resident Care](#)

On December 5, the Associated Press reported that New Mexico Attorney General Gary King “sued one of the nation's largest nursing home chains over inadequate resident care, alleging that thin staffing made it numerically impossible to provide good care.”

According to the AP article (which was picked up by ABC News and numerous other sources)

Since 2008, the company's facilities have collected \$229 million in fees - mostly from the state and federal government - for the more than 1 million days residents cumulatively stayed there. To get that money, the nursing homes had to promise to comply with federal and state regulations requiring adequate care.

Traditionally, nursing home allegations have identified lapses in care - such as avoidable deaths, hygiene issues or a pattern of resident injuries from falls - then used whistleblowers to help show that the nursing home's problems stem from inadequate staff.

New Mexico's case includes evidence such as confidential witnesses from the nursing homes' own staffs alleging that managers recognized that nursing assistants were too overwhelmed to change diapers or help residents shower in a timely fashion. Sometimes there weren't enough people working to help incapacitated residents eat and drink, the complaint says, leaving residents "deprived of food and water."

New Mexico's lawsuit relies on an industrial simulation of how long it takes to complete basic care tasks - for example, 3.5 minutes to reposition a resident in order to prevent bedsores.

By calculating the total minutes required to properly care for residents and comparing them to the actual number of hours worked, the state found deficiencies in the total hours worked by nursing assistants of as much as 50 percent. Those numbers are especially useful, New Mexico's complaint says, because the nursing homes regularly boosted the number of nursing assistants who work during state inspections.

The alleged lapses in care took a toll not just on residents but on their families. Cited as Confidential Witness #2, the daughter of one patient... said she repeatedly found her father unattended, dirty and complaining he was hungry. With the facility's staff saying they didn't have enough

time, the woman took over the daily bathing and feeding that the nursing home was being paid by the government to do.

The AP report noted that this “novel approach” has potential to be used by other attorneys general seeking to ensure that nursing homes in their states are providing the quality of care that they promise residents and families and are meeting the standards for which they are being paid to achieve.

[\[http://abcnews.go.com/Politics/wireStory/mexico-sues-nursing-home-chain-care-staff-27392780\]](http://abcnews.go.com/Politics/wireStory/mexico-sues-nursing-home-chain-care-staff-27392780)

Postoperative Delirium Addressed in New Guideline

Nonpharmacologic interventions, pain management and medication use are covered in new *Clinical Practice Guideline for Postoperative Delirium in Older Adults* released on November 21, 2014 by the American Geriatrics Society (AGS).

Delirium is among the most common postoperative complications experienced by older adults, but studies have shown that it “can be prevented in up to 40 percent of cases in some hospitalized older adult populations,” says Andrew G. Lee, MD, chair of the AGS Section for Surgical and Related Medical Specialists.

Guideline recommendations include:

- An interdisciplinary team should administer nonpharmacologic interventions to at-risk older adults to prevent delirium. These interventions may include mobility and walking; avoiding physical restraints; orienting older adults to their surroundings; sleep hygiene; and ensuring adequate oxygen, fluids and nutrition.
- Perform a medical evaluation to identify and manage underlying contributors to delirium.
- Optimize pain management (preferably with non-opioid medications) to prevent postoperative delirium.
- Avoid medications with high risk for precipitating delirium.
- Do not use benzodiazepines as first-line treatment of agitation associated with delirium.
- Avoid antipsychotics and benzodiazepines for treatment of hypoactive delirium.

The guideline and evidence tables are available at no charge at GeriatricsCareOnline.org and a best practices statement is available on the American College of Surgeons [website](http://www.facs.org). In addition, several companion public education materials are available on HealthinAging.org, including a [delirium tip sheet](#) for family caregivers, available in English and Spanish, and an [Ask the Expert Q&A](#).

[\[http://www.americangeriatrics.org/press/id:5269\]](http://www.americangeriatrics.org/press/id:5269)

We're on the Web!

www.ltccc.org: Our main website, with access to all of our issues, policy briefs and research.

www.assisted-living411.org: For information on assisted living, including consumer issues and policies.

www.nursinghome411.org: For information on developments in nursing home care, regulation and policy issues.

LTCCC Links of Interest

[View](#) the latest enforcement actions against nursing homes in New York State.

[Read](#) the latest edition of LTCCC's quarterly newsletter, *The Monitor*.

LTCCC's dedicated [webpage on antipsychotic drugs and dementia care](#).

LTCCC Reports & Resources

[Improving Nursing Home Care: Consumer Priorities for CMS](#) (Policy brief of the [Coalition for Quality Care](#), written by LTCCC's executive director, Richard Mollot)

[Antipsychotic Drug Use in NY State Nursing Homes: An Assessment of Progress in the National Campaign to Reduce Drugs and Improve Dementia Care](#)

[NY State Nursing Homes in Managed Long Term Care](#)

[The New York State Long Term Care Ombudsman Program: An Assessment of Current Performance, Issues & Obstacles](#)

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