

LONG TERM CARE (LTC) E- NEWSLETTER – March 2015: Volume 13, Number 2

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[US CMS Makes Substantial Changes to Nursing Home Rating System](#)

In February 2015, the Centers for Medicare and Medicaid Services (CMS) announced major changes to Nursing Home Compare, the website with quality, staffing and other information on all licensed nursing homes in the United States. LTCCC and other advocates have long called for changes to improve the quality of information available to the public faced with making decisions about nursing home care.

Following is the joint statement in response to these changes released by LTCCC with California Advocates for Nursing Home Reform, Center for Medicare Advocacy, National Association of State Long-Term Care Ombudsman Programs and the National Consumer Voice for Quality Long-Term Care.

Consumer Groups: Government Changes to Nursing Home Ratings Were Necessary, Overdue

Background:

On February 20, the federal Centers for Medicare & Medicaid Services announced the recalibration of quality ratings and other improvements to the Nursing Home Five Star Quality Ratings on Nursing Home Compare. As a result:

- The high concentration of facilities with 4 and 5-star ratings was reduced to more accurately reflect the range in quality among nursing homes in each state.
- Antipsychotic drug rates were added to ratings for clinical measures of quality.
- Special surveys to validate quality data will be implemented.
- By the end of 2016, the government will report staffing levels based on payroll records and other verifiable sources.

As a result of recalibration of existing data, the overall ratings of about one-third of nursing homes were reduced, and about two-thirds of nursing homes saw declines in their clinical Quality Measure rating based on self-reported data.

As advocates for nursing home residents, we strongly support the changes that have been implemented and additional reforms that are being undertaken to improve the accuracy and reliability of Nursing Home Compare and the Five Star Quality Ratings.

Statement:

Why the Changes to the Nursing Home 5-Star Ratings Were Necessary

Nursing homes are crying foul over the government's recalibration of quality ratings and denouncing as unfair changes that reduced the overall star ratings for one-third of the industry. As consumer advocates who have spent decades monitoring nursing home care, we strongly support the Centers for Medicare & Medicaid Services' improvements to the Nursing Home Five Star Quality Rating System and its plans to continue to improve the system with verified data and expanded quality information.

Studies published over the past year have validated consumers' concerns that quality of care remains a critical problem in nursing homes. Evidence showed, however, that the Five Star Ratings inflated the quality of many facilities, including some that were designated by their states as among the worst in the country. We believe that CMS's reforms are necessary because:

- Inflated ratings are unfair to residents if four or five stars for self-reported quality and staffing data increase the overall rating and divert public attention from one or two stars for health inspections that find serious risk and harm to residents.
- Inflated ratings are unfair to families trying to find a safe place for loved ones to receive nursing care and quality of life when the government has not confirmed the accuracy of the data facilities submit.

- Inflated ratings are unfair to those dedicated nursing home operators and hard-working staff who have been striving to improve quality in their facilities, including eliminating the use of dangerous antipsychotic drugs, if they get the same ratings as neighboring facilities that do not.

CMS's recalculation of the ratings and plans to continue improvements in the Nursing Home Five Star Quality Rating System are not unfair - they are overdue. The improvements are the first steps to improve accuracy and increase fairness to residents, families, the public, and good nursing home providers. Much-needed efforts are under way to collect nurse staffing data from verifiable sources, including payroll records; check the accuracy of self-reported quality information; and add at least two new quality measures that are based on medical records, rather than relying on self-reporting.

The nursing home industry maintains that the ratings do not help residents and families get information they can trust when star ratings don't match the quality of care being delivered. We agree. The changes in the five star ratings will improve accuracy and reliability and increase trust. The industry also maintains that the changes in facilities' ratings do not reflect changes in quality. We could not agree more. The new ratings simply show, more accurately than before, the quality that exists.

The following citations are to recent studies that illustrate why improvements to the Nursing Home Five Star Quality Ratings were needed.

CMS Analysis Showed Five-Star Ratings Escalating Dramatically

From 2009 to 2013, nursing homes with Overall five-star ratings doubled to 24.1 percent without a clear explanation for the change. The recent recalibration cut the proportion to 21.87 percent. Nursing homes with 5 stars for Quality Measures tripled to 34.8 percent between 2009 and 2013; recalibration has reduced the proportion to 27.83 percent. - Abt Associates, Nursing Home Compare Five-Star Quality Rating System: Year Five Report [Public Version] Final Report, June 16, 2014.

<http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/NHC-Year-Five-Report.pdf>

Nursing Home Residents Were Critically at Risk While High Ratings Accelerated

In February 2014, the HHS Office of Inspector General found that one-third of Medicare beneficiaries were harmed during short rehab stays in skilled nursing facilities after hospitalization. For 22 percent, the harm was so severe the OIG called it an "adverse event." Physician reviewers concluded 59 percent of the harm was preventable and could be attributed to substandard treatment, inadequate resident monitoring, and failure or delay of necessary care. - Department of Health and Human Services Office of Inspector General, Adverse Events in Skilled Nursing Facilities: National Incidence among Medicare Beneficiaries, February 2014 - <http://oig.hhs.gov/oei/reports/oei-06-11-00370.pdf>

Touted Reductions in Antipsychotic Drug Use Don't Tell the Whole Story

Antipsychotic drug use has declined in nursing homes committed to improving care, but almost three years after the nursing home industry launched a national campaign to improve dementia care, more than a quarter of a million residents still receive antipsychotic drugs that compromise the health, safety, and quality of life of elderly persons with dementia. - [Long Term Care Community Coalition, Left Behind: The Impact Of The Failure To Fulfill The Promise of The National Campaign To Improve Dementia Care](#). December 2014.

There Are Significant Inaccuracies in Nursing Homes' Self-Reported Data

The New York Times reported some nursing homes were "gaming" their data reports. Even most facilities on CMS's watch list had 4 or 5-star ratings for nurse staffing levels and quality. - Katie Thomas, Medicare Star Ratings Allow Nursing Homes to Game the System, The New York Times, August 24, 2014. http://www.nytimes.com/2014/08/25/business/medicare-star-ratings-allow-nursing-homes-to-game-the-system.html?_r=0

The Center for Public Integrity found that 80 percent of nursing homes reported higher staffing levels on reports used for five star ratings than they did on their cost reports filed with Medicare. - Jeff Kelly Lowenstein, Analysis Shows Widespread Discrepancies in Staffing Levels Reported by Nursing Homes, Center for Public Integrity, November 12, 2014. <http://www.publicintegrity.org/2014/11/12/16246/analysis-shows-widespread-discrepancies-staffing-levels-reported-nursing-homes>

A CMS pilot of specialized surveys to verify resident assessment data found differences of 15 to 25 percent in four of seven clinical conditions between self-reported data and residents' medical records and other information obtained by surveyors. - Abt Associates, Memorandum: MDS 3.0 Focused Survey Pilot Results, January 22, 2015. S&C: <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-15-25.pdf>

New Federal Study Calls for Reducing Antipsychotic Drug Use Outside of Nursing Homes

The US Government Accountability Office (GAO) released a report on March 2, 2015 on the use of antipsychotic drugs on older adults outside of nursing homes. While the problem of antipsychotic drugging (chemical restraint) of nursing home residents with dementia has been widely recognized as a pervasive problem in recent years, little attention has been paid to inappropriate antipsychotic drugging in other settings.

Following are some of the highlights of the GAO report published on their website:

Antipsychotic drugs are frequently prescribed to older adults with dementia. GAO's analysis found that about one-third of older adults with dementia who spent more than 100 days in a nursing home in 2012 were prescribed an antipsychotic, according to data from Medicare's prescription drug program, also known as Medicare Part D. Among Medicare Part D enrollees with dementia living outside of

a nursing home that same year, about 14 percent were prescribed an antipsychotic.

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Dementia affects millions of older adults, causing behavioral symptoms such as mood changes, loss of communication, and agitation. Concerns have been raised about the use of antipsychotic drugs to address the behavioral symptoms of the disease, primarily due to the FDA's boxed warning that these drugs may cause an increased risk of death when used by older adults with dementia and the drugs are not approved for this use.

GAO was asked to examine psychotropic drug prescribing for older adult nursing home residents. In this report, GAO examined (1) to what extent antipsychotic drugs are prescribed for older adults with dementia living inside and outside nursing homes, (2) what is known from selected experts and published research about factors contributing to the such prescribing, and (3) to what extent HHS has taken action to reduce the use of antipsychotic drugs by older adults with dementia. GAO analyzed multiple data sources including 2012 Medicare Part D drug event claims and nursing home assessment data; reviewed research and relevant federal guidance and regulations; and interviewed experts and HHS officials.

What GAO Recommends

GAO recommends that HHS expand its outreach and educational efforts aimed at reducing antipsychotic drug use among older adults with dementia to include those residing outside of nursing homes....

[\[http://www.gao.gov/products/GAO-15-211\]](http://www.gao.gov/products/GAO-15-211)

[Testimony and Video from NYS Assembly Hearing on Use of Antipsychotic Meds](#)

Last month we reported that New York Assembly member [Richard N. Gottfried](#), Chair of the Committee on Health, would be holding a hearing on the inappropriate use of antipsychotic medications on nursing home residents. That hearing was held on February 18, 2015 in New York City. In addition to [testimony](#) (pdf) from LTCCC's executive director, Richard Molloy, the following people provided testimony on this serious and pervasive issue: Dan Cohen, Executive Director, Music and Memory ([testimony](#) (pdf)); Michelle Synakowski, Policy Analyst/Assistant Director of ProCare, LeadingAge New York ([testimony](#) (pdf)); Shanequa Mack, New York City Long Term Care Ombudsman Program; Donna Price, daughter of Marcus Garvey nursing home resident; Gilbert Sabater, Nursing home family council member ([letter submitted for the record](#) (pdf)); Jed A. Levine, Executive Vice President, Director of Program Services Alzheimer's Association, NYC Chapter ([testimony](#) (pdf)); Barbara Baer, Member, Elder Care Committee, Metro Justice Rochester ([testimony](#) (pdf)); Jeanette Sandor, Legal Nurse Consultant

Medical/Legal Nurse Consulting Services of Westchester ([testimony](#) (pdf)); Deborah Truhowsky, Law Firm of D.F. Truhowsky ([testimony](#) (pdf)); Christina Martinez, Associate, Mangan Ginsberg LLP's ([testimony](#) (pdf)). [Editor's Note: We have provided links to testimony of those individuals who have provided it to us.]

[\[http://www.nursinghome411.org/?articleid=10092\]](http://www.nursinghome411.org/?articleid=10092)

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

[**Left Behind: The Impact Of The Failure To Fulfill The Promise of The National Campaign To Improve Dementia Care**](#)

[**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**](#)

[**Piecing Together Quality Long-Term Care: A Consumer's Guide to Choices & Advocacy in NY**](#)

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