

LTCCC MONITOR

Working to improve long term care through research, education & advocacy

www.ltccc.org • SUMMER 2013



LTCCC to Host Programs in NYC: Dementia Care Without Drugs

LTCCC is pleased to report that we have received a grant from The Fan Fox and Leslie R. Samuels Foundation, Inc. to conduct a program in New York City: *Dementia Care Without Drugs - Symposium for Caregivers, Family Members and Other Stakeholders*.

Alzheimer's Disease and other forms of dementia are a significant concern for the elderly and their loved



ones. Almost 60% of all residents in nursing homes have dementia. Of these, nearly 40% have

been given powerful and dangerous antipsychotic drugs, even though they had no diagnosis of a psychotic condition and despite the FDA's "black box warning" against giving antipsychotics to elderly people with dementia because they are particularly harmful to this vulnerable population. Too often, antipsychotics are used to sedate people with dementia, in place of providing comfort care or other interventions that address the person's discomfort, pain or fear. Not only can these drugs have an overpowering sedative effect, they also greatly increase the likelihood of a stroke, heart attack, Parkinsonism and other serious – and potentially fatal – conditions.

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Save the Date

**LTCCC to Hold 5th Annual Reception
October 16th, 6-8pm at Federal Hall**

Honoring Ann Wyatt, Residential Care Consultant,
Alzheimer's Association, NYC Chapter *and*
Jose Matta, Asst. Director, 1199SEIU Training and
Employment Funds & 1199SEIU GNY Education Fund

To make sure you receive an invitation please email
info@ltccc.org with LTCCC Event in the subject line.

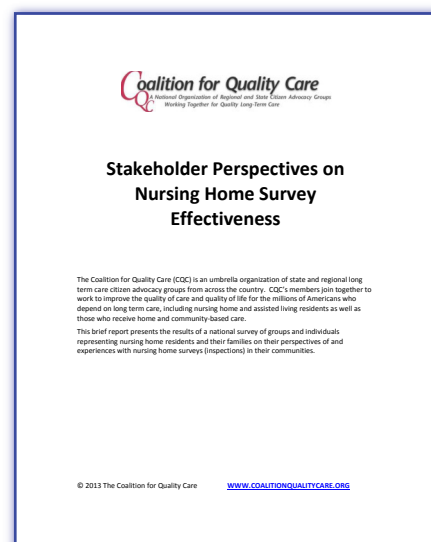
Significant Changes Possible For Nursing Home Surveys

The Center for Medicare and Medicaid Services (CMS), which is responsible for enforcing standards in all U.S. nursing homes that participate in Medicare and/or Medicaid, has launched an initiative to

improve the efficiency and effectiveness of nursing home surveys (inspections) conducted on an annual basis in nursing homes across the country.

This survey system is the basis for ensuring good quality care and quality of life for nursing home residents and, also, for ensuring that the public monies that pay for a majority of nursing home care are used efficiently and to good purpose. The U.S. has strong protections and standards for nursing home care that are founded on the 1987 Nursing Home Reform Law's requirement that every nursing home resident receive the care and services he or she needs to attain and maintain their highest practicable physical, emotional and social well-being.

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LTCCC to Host Programs in NYC *continued from page 1*

As readers of *The Monitor* know, LTCCC has been one of the leading consumer groups in the country on this issue. As the national campaign has moved to implementation in the states, we have been working to improve dementia care here (where approximately one in four nursing home residents are given powerful antipsychotics).

With this project, LTCCC hopes to bring together a wide range of stakeholders, including nursing home caregivers and other staff, family members of nursing home residents, Long Term Care Ombudsmen and advocates, to participate in a valuable and informative program that will help us to work together to improve dementia care in our nursing homes. The program will

be offered twice, on two different days, to accommodate people from across the city. It will be modeled after symposia conducted in several counties in California, by CANHR, that have been highly successful in making a difference in communities there.

Tena Alonzo, a nationally-renowned speaker on dementia care, and Tony Lewis, President and CEO of the Cobble Hill Health Center in Brooklyn, will join LTCCC's executive director Richard Mollot as program speakers.



If you are interested in attending one of the programs, which will be held in New York City in November, please email info@ltccc.org or call 212-385-0355.



Tena Alonzo is the Director of Research and Dementia Programs at Beatitudes nursing home in Phoenix, AZ. The care practices at Beatitudes were featured in a 2010 New York Times article, "Giving Alzheimer's Patients Their Way, Even Chocolate." Ms. Alonzo and her department have created an innovative training model that focuses on the comfort of the individual with dementia and empowers staff members to anticipate the needs of the resident. Training also focuses on the person-directed approach to care.

Tony Lewis was the Administrator at Cobble Hill Health Center for over 20 years when he was appointed to be President and CEO in May 2012. Mr. Lewis is a leading authority on caring for people with Alzheimer's Disease. He was originally hired by Cobble Hill to establish their Alzheimer's Special Care Unit. Today, it is regarded as a model of innovative Alzheimer's care.

Richard Mollot has been Executive Director of LTCCC since 2005. He is one of six consumer advocates from across the U.S. who met with CMS Administrator Berwick in 2011, urging him to address the widespread overuse of antipsychotic drugs in dementia care. This led to the national Partnership to Improve Dementia Care in Nursing Homes, which set national goals for the reduction of antipsychotic drug use in nursing homes, established trainings for caregivers and nursing home surveyors, revised regulatory guidelines and established Coalitions to Improve Dementia Care in every state. Mr. Mollot has been engaged in these developments and has presented on antipsychotic drug use consumer and advocacy issues to a range of audiences. □

LTCCC

LONG TERM CARE COMMUNITY COALITION

Working to improve long term care through research, education & advocacy

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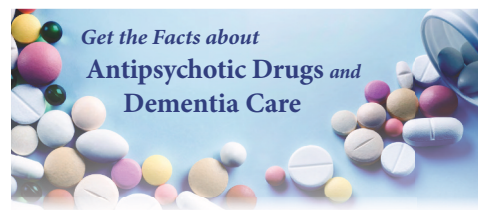
New Free Guide: Get the Facts about Antipsychotic Drugs and Dementia Care

Alzheimer's Disease and other forms of dementia are among the most significant issues facing the elderly and their loved ones. Because people with dementia often lose the ability to communicate over time, they are especially vulnerable and need special care.

To help improve care and the public's understanding of dementia care standards, LTCCC has developed a brochure designed especially for families and individuals affected by Alzheimer's Disease and other dementias.

This resource, developed with support from the federal Centers for Medicare and Medicaid Services (CMS), will help people understand important issues surrounding the use of antipsychotic medications in people with dementia, know what kinds of questions to ask and where to go for further help and information.

The brochure, *Get the Facts about Antipsychotic*



Medications can be an important part of the care provided to nursing home residents. However it is critical to monitor their use carefully. This fact sheet focuses on one type of medication: antipsychotics.

What are Antipsychotic Medications?

Antipsychotic medications are potent drugs that may have serious side effects. They are indicated to treat conditions and diagnoses such as schizophrenia. They are not generally used for the treatment of symptoms of dementia.

Why is this an important issue?

In the past, the use of antipsychotics to treat people with Alzheimer's Disease and other dementias was often considered an accepted practice. Now we know that antipsychotic medications that are prescribed inappropriately may be dangerous, especially for the elderly and people with dementia. These medications can have serious, life-threatening side effects such as stroke and falls. They may increase the risk of death for elderly residents. There is now a national campaign to stop their inappropriate use.

How Does this Relate to Dementia Care?

Some people with dementia may, at times, have behavioral symptoms such as: agitation, physical aggression or vocalizations or psychological symptoms ranging from depression and anxiety to hallucinations, delusions and psychosis. These symptoms may be the result of physical discomfort (such as hunger, a headache or an infection) or emotional upset (resulting from things like loud or confusing noises, being touched in a surprising or uncomfortable way or having a daily routine disrupted). Except when there is an immediate danger to the individual or another resident, the current standard of practice is to provide care that keeps residents comfortable and responds to their needs (and symptoms) without drugs whenever possible.

When May Antipsychotic Medications be Useful?

Antipsychotic medications and other "psychoactive" medications that may make people drowsy or quiet can be helpful in certain limited circumstances, such as when treating a diagnosed psychotic condition (like schizophrenia) or to temporarily alleviate a situation (such as when someone is dangerous to him or herself or others). When prescribed, it is important that the lowest dose possible is used and that care is taken to assess the individual and factors that may be causing the symptoms. Care should be taken to identify and try non-drug approaches to relieve symptoms and, to the greatest extent possible, to reduce and eliminate the use of drugs. Antipsychotic medications should not be used in the long term to mask symptoms by sedating the person. If medications are used to treat behavioral symptoms of dementia in place of good care, this may be a form of chemical restraint and is prohibited by Federal law.

Residents' Rights

- **Informed Decision-Making:** Residents have the right to be informed about the risks and benefits of any medication.
- **Right to Refuse:** Residents have the right to refuse a medication.
- **Freedom from Chemical Restraints:** It is against the law to give medications that do not benefit the resident, such as for convenience of staff.

Drugs and Dementia Care, is available for free at nursinghome411.org (on the Antipsychotic Drugs & Dementia Care page at <http://www.nursinghome411.org/?articleid=10042>). LTCCC continually updates this page with resources on dementia care without drugging.

Our report on all of the regulations relevant to antipsychotic drugging in nursing homes, *Federal Requirements Regarding Dementia Care & Antipsychotic Drugs*, is also available on this page. It was updated in March 2013 to reflect the latest changes to

CMS guidance and training.

With growing concern about people with dementia being treated with antipsychotic medications, we expect that the new guide will be a useful tool for families and others concerned about quality dementia care, particularly in nursing homes. Please feel free to distribute copies - printed or electronic - in your communities. □

New Guide on LTC in NY

Under a grant from The National Consumer Voice for Quality Long-Term Care, LTCCC has produced a guide to help seniors and disabled people navigate the long term care system and access the services they need.

Piecing Together Quality Long-Term Care: A Consumer's Guide to Choices and Advocacy in New York, provides information on a range of issues relevant to those thinking about (or who are already accessing) long term care and related services and supports. Topics covered include overviews of the different options for care – from nursing homes and other residential settings to home and community based care – to ways to pay for care and tips on self-advocacy.

The guide is free and can be downloaded from LTCCC's website at www.ltccc.org. Limited print copies are available; please email info@ltccc.org for more information. □



Importantly, “practicable” refers to the individual resident, and what he or she is capable of, not to the nursing home and what it may (or may not) wish to provide in the way of adequate staffing, appropriate services, etc.... Every nursing home that contracts with Medicare and/or Medicaid agrees to provide these services and is contractually obligated to do so. It is for these reasons that an effective enforcement system is critical.

The persistent failure of many nursing homes to meet these standards is an indication that there are, likewise, persistent challenges to effective quality assurance and oversight of nursing home care. Thus, LTCCC and other advocates applaud CMS for undertaking an initiative to improve survey effectiveness.

LTCCC’s executive director participated in a workgroup formed by The National Consumer Voice for Quality Long Term Care (<http://www.theconsumervoice.org/>) that carefully reviewed federal regulatory revisions and guidance for surveyors and developed a list of recommendations for CMS.

In addition, LTCCC developed and conducted a national survey of consumer representatives on behalf of the Coalition for Quality Care (CQC) to find out their experiences with, and perceptions of, the survey process in their nursing homes. The survey report is available on CQC’s website, <http://coalitionqualitycare.org/>. It provides numerous valuable insights into the experiences of families, Long Term Care Ombudsmen and consumer advocates with the survey system.

Selected recommendation to improve survey effectiveness:

- Surveyors should be well trained in the meaning and purpose of the laws and regulations: protecting residents and ensuring that each is provided good care and quality of life in the facility.
- Ensure adequate staffing in CMS regional offices to conduct appropriate oversight of state performance.
- Improve the makeup of survey teams by using permanently employed, multi-disciplinary surveyors who are familiar with current quality of life standards.
- Use quantitative data related to quality in order to assess survey performance and improve accountability of surveyors (and states) for identifying problems.
- Consumers should be able to appeal survey results.
- The outcome and reasoning of Informal Dispute Resolutions should be disclosed in a public report and Nursing Home Compare, the nursing home information website.
- The methodology and practice to address the falsification of medical records requires improvement.
- Surveyors must start taking concrete steps to ensure that the guidelines relating to resident dignity and quality of life are being followed so as to address the quality of care/quality of life differential.
- Provide independent verification of data by looking at payroll documents and comparing multiple sources of data such as electronic medical records, incidents and records of hospitalizations, prescription drug use, etc.
- Place an equal burden of proof on the facility to prove that a particular care or quality of life need is being provided in a proper manner other than the daily sign-off sheets, rather than placing the entire burden of proof that a particular care or quality of life need is not being provided on the resident and family.
- Review and refine Scope and Severity ratings to better develop a quality assurance process to identify, assess and address patterns of low scope and severity.
- Provide guidance as to how states should handle complaint referrals to other agencies and the timeliness of responding to complainants with results of investigations.
- Provide comprehensive up-to-date tracking systems for complaints.
- Develop and implement a systematic method for obtaining, compiling, and sharing information from state survey agencies about their implementation experiences. □



Quarterly Enforcement Actions Against Nursing Homes

Selected Enforcement Actions of NYS Attorney General

Medicaid Fraud Control Unit¹ Took Action Against 4 Nursing Home Personnel 12/16/12 - 3/15/13

Nursing Home	Location	Defendant	Narrative	Sentence
Daughters of Sarah Nursing Center	Albany	Owens, Rashawn, Certified Nurse Aide	While caring for a Daughters of Sarah Nursing Home resident, defendant pushed residents' legs apart while changing the brief, causing a fracture of the residents' right femur. Following surgery, the resident developed respiratory distress and died.	1/2/2013: Forty-days (time served) and five-years probation.
Dutch Manor Nursing and Rehab Centre	Schenectady	Montenaro, Jodi L., Business Office Manager	While manager for Dutch Manor Nursing and Rehabilitation Center, Montenaro stole property from the Patient Checking account and then also from a resident. The value of the stolen money exceeded one thousand dollars.	1/9/2013: Jail - three weekends; five-years probation and restitution of \$4,450.20.
Lakeside Beikirch Care Center	Brockport	Ford, John, Licensed Practical Nurse	Defendant failed to change the dressing on an 85 year old nursing home patient's PEG Tube (Percutaneous Endoscopic Gastrostomy) and then falsified the patient treatment administration record (TAR) by indicating that he did change the dressing for six consecutive dates in May 2012.	2/13/2013: Three-years probation and a fine of \$250.
Sunrise Nursing Home	Oswego	Scanlon-Howland, Johnna, Bookkeeper	The defendant made false withdrawal entries into the accounts of various residents and cashed checks on the Resident Trust Account.	2/8/2013: Five-years probation, restitution of \$45,000 and a fine of \$5,000.

¹The unit prosecutes cases of patient abuse in nursing homes.

Federal Civil Money Penalties¹ Against 5 Nursing Home: 12/1/12 – 2/28/13²

Name Of Home	Location	Survey Date	Amount
No due and payable letters, or notice or letter to a nursing home indicating a change in the amount of federal civil money penalty (CMP), were sent to any nursing home in NYS during this period.			

¹Civil Money Penalties (CMPs) – a federal sanction against nursing homes that fail to comply with quality care requirements.

²As reported by CMS. For more detailed information contact the FOIA Officer at CMS 212-616-2220. This list will be posted on LTCCC's website every three months.

In Appreciation

LTCCC would like to thank the leadership and members of the New York State Ombudsman Association (NYSOA) for its generous donation. We were very sorry to learn that the Association has disbanded. NYSOA has, for many years, had an important role in ensuring a strong and independent LTC Ombudsman presence throughout New York and its absence will be strongly felt. We appreciate being entrusted with NYSOA's legacy. □



Quarterly Enforcement Actions Against Nursing Homes

Selected Administrative Actions By The NYS Office of Medicaid Inspector General

Action Taken Against 7 Nursing Home Personnel 12/16/12 - 3/15/13¹

OMIG works to protect New York State citizens residing in long term care facilities by making sure that those responsible for their care do not engage in abusive and fraudulent activities. This is done through OMIG's ensuring that those who are enrolled as providers into the Medicaid program are properly vetted, investigating allegations of fraud and abuse within long term care facilities, and finally, excluding providers who have abused their positions as care givers. In addition to conducting their own investigations, the OMIG makes determinations to exclude based on other agency actions, including the State Education Department (SED), the Medicaid Fraud Control Unit (MFCU), and Human Health Services (HHS). A single provider can receive multiple exclusions, based on different indictments and convictions. This involved process works to protect residents of long term care facilities, because it ensures that even if one conviction is overturned, the abusive provider is still banned from receiving Medicaid funds based on other convictions.

Nursing Home	Defendant	Location	Narrative	OMIG Exclusions ² Based Upon
Avalon Gardens Nursing and Rehabilitation Center	Nikita Davis Joseph, CNA	Smithtown	Ms. Joseph roughly transported a 9 year old severely handicapped boy with cerebral palsy in a manner dangerous to his physical wellbeing. She inappropriately lifted the boy by his arms and tossed him onto a bed, causing his body to bounce on the bed. The patient abuse was caught on a video that another nurse, suspicious of the care the boy was receiving, placed in the room with the consent of the boy's parents.	MFCU Conviction: 09/17/2012
Crown Center for Nursing and Rehabilitation	Mary Nauseef, RN	Cortland	Ms. Nauseef failed to assess and accurately document the condition of a diabetic patient. She falsely documented that she had examined a wound on the foot, when in fact, she had used information taken from another nurse and had not directly examined the area herself.	MFCU Conviction 06/13/2012
Long Island Care Center	Mary Theresa McConnell, RN	Queens	On multiple occasions, Ms. McConnell stole Endocet, a narcotic consisting of oxycodone and Tylenol. These were taken from a nursing home resident with multiple ailments, including multiple pressure ulcers and a permanent tracheostomy.	MFCU Conviction 06/28/2012
Long Island Care Center	Jennifer Robinson, Director of Social Work	Queens	Ms. Robinson stole a significant amount of money from an 85 year old resident suffering from dementia and other medical ailments. The gentleman was admitted without any known relatives. Ms. Robinson had the gentleman first appoint her as a health proxy, and then as his attorney-in-fact. After he was admitted to a hospital, Ms. Robinson had the man transferred to a different nursing home. Ms. Robinson then proceeded to withdraw money from his bank account.	MFCU Indictment 02/01/2011 Conviction 06/14/2012 HHS Exclusion 05/20/2012 Indictment 09/20/2011
Mountain View Nursing and Rehabilitation Center	Tabitha Hearn, LPN	New Paltz	On various occasions, Ms. Hearn withdrew Percocet for six patients without administering the drug. On another occasion she signed the name of another nurse on a Controlled Substance Administration Record before withdrawing Percocet on behalf of a patient who never received it.	SED Consent Order 07/02/2012
Northwoods Rehabilitation and Extended Care Facility	Lisa Sousie, LPN	Troy	Ms. Sousie failed to render care, dispense medications and provide treatment to a resident dependent on staff for all of her personal needs. Ms. Sousie then falsely indicated in the facility's records that she had done so. This was discovered through MFCU's use of video surveillance.	HHS Exclusion 06/20/2012 MFCU Conviction 10/24/2011 MFCU Indictment 06/02/2010
Northwoods Rehabilitation and Extended Care Facility	Cynthia Cooper, CNA	Troy	Ms. Cooper failed to render care, dispense medications and provide treatment to a resident dependent on staff for all of her personal needs. Ms. Cooper then falsely indicated in the facility's records that she had done so. This was discovered through MFCU's use of video surveillance.	HHS Exclusion 07/19/2012 MFCU Conviction 09/19/2011 MFCU Indictment 06/02/2010

¹In addition to these actions, all of the providers which were reported as having actions taken against them by the Medicaid Fraud Control Unit in previous newsletters have been excluded by OMIG. Please see our newsletter archives at www.ltccc.org/newsletter for their names.

²Exclusion means that no payments will be made to or on behalf of any person for the medical care, services or supplies furnished by or under the supervision of the defendant during a period of exclusion or in violation of any condition of participation in the program. Additionally, any person who is excluded from the program cannot be involved in any activity relating to furnishing medical care, services or supplies to recipients of Medicaid for which claims are submitted to the program, or relating to claiming or receiving payment for medical care, services or supplies during the period. OMIG may take a variety of exclusion actions against a provider based upon: indictments; convictions; consent orders or HHS exclusion.



Quarterly Enforcement Actions Against Nursing Homes

Special Focus Facilities (SFF)

The federal Centers for Medicare and Medicaid Services (CMS) initiated the Special Focus Facility (SFF) program to address the widespread problem of nursing homes that have persistent, serious problems. Often these facilities exhibit “yo-yo” compliance: they correct problems found during a survey (inspection) but then are unable or unwilling to maintain standards and fall out of compliance again, repeatedly. From a consumer perspective, the SFF program can be a valuable tool to crack down on nursing homes that are persistently failing their residents and, by identifying and fixing (or removing) a state’s worst nursing homes on an on-going basis, eventually improve nursing home care overall.

Once a facility is selected for inclusion in the SFF program it receives special attention from the state, including a federally mandated requirement that the state conduct at least twice as many surveys as normal (approximately two per year). The goal is that within 18-24 months of being in the program a facility will either: (1) develop long term solutions to its persistent problems or (2) be terminated from participation in the Medicare and Medicaid programs. Termination usually means that a facility is sold to a new operator or closed. Due to resource limitations, only 136 nursing homes across the country are selected for participation in the SFF program at any given time. On average, states have about two SFFs; since New York is one of the largest states in the country it is supposed to have at least five.

Since CMS started to make the names of SFFs public, this program is an important tool that consumers can use to learn about facilities in their communities with persistent problems. The federal nursing home information website, Nursing Home Compare (www.medicare.gov/nhcompare) now includes information on whether or not a facility is an SFF. CMS updates a list of all SFFs in the country quarterly. See <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/downloads/sfflist.pdf>.

Following is the latest information on SFFs in New York State.

SPECIAL FOCUS FACILITIES IN NEW YORK STATE – As of March 5, 2013

The numbers in parenthesis indicate the number of months the home has been on the list and identified as an SFF.

Facilities Newly Identified as a SFF	Facilities That Have Shown Improvement ¹	Facilities That Have Not Improved ²	Facilities That Have Recently Graduated from the SFF Program ³	Facilities No Longer Participating in the Medicare & Medicaid Program ⁴
Mercy Living Center (2) Wingate at Beacon (2)	None	Blossom South Nursing And Rehabilitation Center (21) * Pleasant Valley (11) Rosewood Heights Health Center (11)* Van Duyn Home And Hospital (16)	Marcus Garvey Nursing Home (11)*	Countryside Care Center (22)

¹Nursing homes that have shown significant improvement, as indicated by the most recent survey. If the improvement continues for about 12 months (through two standard surveys), these nursing homes will graduate from the SFF list.

²Nursing homes that have failed to show significant improvement.

³These nursing homes have had sustained significant improvement for about 12 months (through two standard surveys). “Graduation” does not mean that there may not be problems in quality of care, but does generally indicate an upward trend in quality improvement compared to the nursing home’s prior history of care.

⁴These are nursing homes that were either terminated by CMS from participation in Medicare and Medicaid within the past few months or voluntarily chose to leave the program.

*On the list for the second time.

FYI

For many years, LTCCC published quarterly information on NY State enforcement actions against nursing homes that it found to be failing minimum safety and care standards in our newsletter and on our website. In 2012, the State began publishing these data itself on the Department of Health’s website at <http://www.health.ny.gov/facilities/nursing/> (see Federal Remedies and State Section 12 Fines under the General Information heading).

LTCCC continues to post this information, as well as the previous enforcement data, on our website at <http://www.ltccc.org/enforcements/archives.shtml>. Thus, a search on our website will yield current and historical information on a facility’s track record of citations. □

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New York State Assembly:

To write to your representative in the Assembly, address your letters to him or her at NYS Assembly, Albany, NY 12248. The general switchboard for the Assembly is 518-455-4000. In addition to your personal representative, it is important that the following leaders hear from you:

Assemblymember Sheldon
Silver, Speaker
speaker@assembly.state.ny.us

Assemblymember Richard N.
Gottfried, Chair
Committee on Health
gottfriedr@assembly.state.ny.us

Assemblymember Joan Millman
Chair, Committee on Aging
millmaj@assembly.state.ny.us

New York State Senate:

To write to your Senator, address your letters to him or her at NYS Senate, Albany, NY 12247. The general switchboard for the Senate is 518-455-2800. In addition to your personal senator, it is important that the following leaders hear from you:

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To obtain the names of your personal state government representatives, go to The Citizen Action Center on our website: www.ltccc.org.

FEDERAL OFFICIALS:

To contact your federal representatives visit our action alert center at www.ltccc.org or call the congressional switchboard 202-225-3121.



Action Alert Mailing List