



**LONG TERM CARE (LTC) E- NEWSLETTER – November 2013: Volume 11, Number 9**

The [LTC E-Newsletter](#) is a monthly electronic newsletter of the [Long Term Care Community Coalition](#). Note to Readers: To go directly to an article, click on its page number in the Table of Contents. Once you are at the article, click on any underlined text for a link to more information or to send a message in “Spotlight on Advocacy.”

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**[Federal Budget Deal Ends Shutdown, But Sequestration Cuts Remain, Drastically Reducing Effectiveness of LTC Oversight](#)**

While the recent government shutdown and federal debt crisis were unprecedented, the legacy of severe cutbacks continues. As the [Center for American Progress](#) reports,

[o]ver the past three years, several rounds of drastic, ill-timed, and ill-designed spending cuts have dragged down the recovery, costing us hundreds of billions of dollars in lost economic activity and millions of jobs.

Unfortunately, another round of spending cuts is already happening. The automatic across-the-board cuts known as sequestration are still in place for this fiscal year, despite the Congressional Budget Office's warning that keeping these cuts will cost us 800,000 jobs.

The significant budget cuts in the past few years, and the Draconian cuts still in effect from sequestration, have seriously undermined our ability to monitor nursing home care and enforce minimum safety, care and dignity standards. The Special Focus Facility Program has been cut back significantly. Important positions in the Centers for Medicare and Medicaid Services, the federal nursing home oversight agency, are empty and unfilled, both on the national and regional levels. The regional office in New York City, which oversees New York State, New Jersey, Puerto Rico and the Virgin Islands has been decimated. The result? From a consumer perspective, nursing homes are basically operating on the honor system.

[\[http://www.americanprogress.org/issues/budget/report/2013/10/17/77388/replacing-the-sequester/\]](http://www.americanprogress.org/issues/budget/report/2013/10/17/77388/replacing-the-sequester/)

### **Centers for Medicare & Medicaid Services (CMS) Issues Memo on CPR Requirements for Nursing Homes**

In the wake of news reports about a nurse in a retirement community who refused a 911 dispatcher's pleas to perform CPR on an elderly woman who had fallen unconscious and later died, CMS has issued a letter to all state agencies clarifying the requirements for performing CPR (cardiopulmonary resuscitation) in nursing homes.

The Memo's summary states:

- Initiation of CPR - Prior to the arrival of emergency medical services (EMS), nursing homes must provide basic life support, including initiation of CPR, to a resident who experiences cardiac arrest (cessation of respirations and/or pulse) in accordance with that resident's advance directives or in the absence of advance directives or a Do Not Resuscitate (DNR) order. CPR-certified staff must be available at all times.
- Facility CPR Policy –Some nursing homes have implemented facility-wide no CPR policies. Facilities must not establish and implement facility-wide no CPR policies.
- Surveyor Implications - Surveyors should ascertain that facility policies related to emergency response require staff to initiate CPR as appropriate and that records do not reflect instances where CPR was not initiated by staff even though the resident requested CPR or had not formulated advance directives.

[<http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions-Items/Survey-and-Cert-Letter-14-01.html?DLPage=1&DLSort=2&DLSortDir=descending>]

## **Investigative Journalists and Consumer Advocates Call for Assisted Living Reform**

The [Assisted Living Consumer Alliance](#) (ALCA), a national collaboration of groups and individuals working together to promote consumer safety, choice, and rights in assisted living, issued a statement on October 31 on the need for federal assisted living reform in light of an in-depth ProPublica/Frontline investigative report on serious assisted living problems, [Elderly, At Risk, and Haphazardly Protected](#), and a report by the California Advocates for Nursing Home Reform on problems in California's assisted living facilities, [Residential Care in California: Unsafe, Unregulated & Unaccountable](#).

ALCA membership is open to organizations and individuals interested in improving assisted living quality of care and quality of life. To learn more about membership or to join, download the membership application at <http://assistedlivingconsumers.org/members/>.

[<http://myemail.constantcontact.com/Investigative-Journalists-and-Consumer-Advocates-Call-for-Assisted-Living-Reform.html?soid=1102816858078&aid=b9MITewKwko#fblike>]

## **New York & Other States Reach \$1.6 Billion Settlement With Johnson & Johnson And Janssen Pharmaceuticals For Illegal Marketing Of Drugs – Largest Ever Legal Settlement for a Single Drug**

On November 4, NY State Attorney General Eric Schneiderman announced that New York and several other states have reached a settlement with Johnson & Johnson and Janssen Pharmaceuticals for the illegal marketing of antipsychotic drugs. While doctors may *prescribe* drugs for off-label use (i.e., uses for which a drug has not been FDA approved), it is illegal for drug manufacturers to *market* drugs for off-label use.

According to the Attorney General's press release,

The investigation resulted from four whistleblower lawsuits filed in the United States District Court for the Eastern District of Pennsylvania, under the federal False Claims Act and various state false claims acts, including the New York False Claims Act. The U.S. and the states contend that from January 1, 1999, through December 31, 2005, the companies marketed Risperdal for off-label uses, made false and misleading statement about the safety and efficacy of Risperdal, and paid illegal kickbacks to health care professionals and long-term care pharmacies to induce them to promote or prescribe Risperdal to patient populations, such as children, adolescents and the elderly, for which there was no FDA approval.

Johnson & Johnson and Janssen, pharmaceutical manufacturers based in New Jersey, agreed to pay the states and the federal government more than \$1.2 billion in civil damages and penalties to compensate Medicaid, Medicare, and various other government programs. Additionally, Janssen will plead guilty in federal court in Philadelphia, Pennsylvania, to violations of the U.S. Food, Drug, and Cosmetics Act and has agreed to pay \$400 million in criminal fines and forfeitures.

[\[http://ag.ny.gov/press-release/ag-schneiderman-announces-16-billion-settlement-johnson-johnson-and-janssen\]](http://ag.ny.gov/press-release/ag-schneiderman-announces-16-billion-settlement-johnson-johnson-and-janssen)

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### **[Spotlight on Advocacy: Sequester Advocacy Needed More Than Ever!](#)**

#### **Tell Congress: Don't Forget About Grandma! End Sequestration for Everyone**

Elderly and disabled people in nursing homes and the community are at serious risk. Budget cutbacks due to sequestration are forcing reductions in needed federal and state monitoring and cutbacks to essential public programs. *These cutbacks did not end when the government shutdown ended and are likely to continue for years unless Congress and the President act.*

Please [click here](#) to add your name to our petition to President Obama and Congress!

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### **We're on the Web!**

[www.ltccc.org](http://www.ltccc.org): Our main website, with access to all of our issues, policy briefs and research.

[www.assisted-living411.org](http://www.assisted-living411.org): For information on assisted living, including consumer issues and policies.

[www.nursinghome411.org](http://www.nursinghome411.org): For information on developments in nursing home care, regulation and policy issues.

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### **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](#).

NEW!: [Piecing Together Quality Long-Term Care: A Consumer's Guide to Choices and Advocacy in New York](#).

Long term care information booklet in [Chinese](#) and [English](#) for Chinese consumers: What You Need to Know about Long Term Care.

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