



LONG TERM CARE COMMUNITY COALITION
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Working to improve long term care through research, education & advocacy

LONG TERM CARE (LTC) E- NEWSLETTER - February 2010: Volume 7, Number 10

Welcome to the [LTC E-NEWSLETTER](#), 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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[STUDY EXAMINES PRESCRIBING OF ANTIPSYCHOTIC MEDICATIONS FOR NURSING HOME RESIDENTS](#)

According to a study reported on in the January 11, 2010 issue of [Archives of Internal Medicine](#), *Unexplained Variation Across US Nursing Homes in Antipsychotic Prescribing Rates*, older adults newly admitted to nursing homes that have high rates of prescribing antipsychotic medications in the previous year are more likely to receive antipsychotic drugs irrespective of their individual needs. Researchers assessed a nationwide, cross-sectional population of 16,586 newly admitted nursing home residents in 2006. They computed facility-level antipsychotic rates based on the previous year's (2005) prescribing patterns. More than 29% of study residents received at least one antipsychotic medication in 2006. Of the antipsychotic medication users, 32% had no identified clinical indication for this therapy. Residents entering facilities with the highest facility-level antipsychotic prescription rates were 1.37 times more

likely to receive antipsychotics than those entering the lowest prescribing rate facilities, after adjusting for potential clinical indications. [<http://archinte.ama-assn.org/cgi/content/abstract/170/1/89>]

The inappropriate use of psychopharmaceuticals, especially antipsychotic medications, in nursing homes that this study highlights is an issue of growing concern across the country. While it is essential that nursing home residents have access to medications and any other therapies that they need to obtain and maintain their highest level of physical, emotional and social well-being, the use of these medications to chemically restrain or pacify residents when it is not therapeutic for the individual is illegal and unacceptable. A 2007 report in the *Wall Street Journal*, [Prescription Abuse Seen In U.S. Nursing Homes Powerful Antipsychotics Used to Subdue Elderly; Huge Medicaid Expense](#), noted that

Nearly 30% of the total nursing-home population is receiving antipsychotic drugs, according to the Centers for Medicare & Medicaid Services, known as CMS. In a practice known as "off label" use of prescription drugs, patients can get these powerful medicines whether they are psychotic or not. CMS says nearly 21% of nursing-home patients who don't have a psychosis diagnosis are on antipsychotic drugs.

[<http://online.wsj.com/article/SB119672919018312521.html>]

Last month, the U.S. filed suit against Johnson & Johnson "for paying kickbacks to nation's largest nursing home pharmacy." According to the government's [press release](#),

U.S. Attorney Carmen Ortiz said, "Kickbacks in the nursing home pharmacy context are particularly nefarious because they can result in excessive prescribing of strong drugs to patients who have little or no control over the medical care they are receiving. Nursing home doctors should be able to rely on the integrity of the recommendations they receive from pharmacists, and those recommendations should not be a product of money that a drug company is paying to the pharmacy."

[<http://j.mp/bUzAdf>]

On December 12, 2009, the New York Times published [a letter](#) to the editor from LTCCC discussing the problem of using off-label antipsychotics in nursing homes,

Rather than attempting alternatives to these drugs like treating the causes of the behavior or adding staff, many nursing homes automatically turn to medication. The use of off-label antipsychotics in our nursing homes is not for the benefit of the residents; it is for the convenience of the staff, and it must stop.

U.S. GOVT ACCOUNTABILITY OFFICE IDENTIFIES FACTORS UNDERLYING THE UNDERSTATEMENT OF SERIOUS PROBLEMS IN NURSING FACILITY SURVEYS; CONFIRMS THAT STATE OVERSIGHT AGENCY PRACTICES & PRESSURE FROM INDUSTRY AND LEGISLATURE LEAD TO UNDERSTATEMENT OF PROBLEMS IN SOME STATES

Nursing homes that participate in Medicaid and/or Medicare (virtually all homes in NY State and the vast majority nationwide) are required by law to meet state and national standards for resident care, safety, dignity and quality of life. Every state government has an agency that is responsible for conducting surveys (inspections) of facilities every 9-15 months to assure that these standards are met. These state agencies, in turn, are accountable to the federal Centers for Medicare and Medicaid Services (CMS), which contracts with these agencies to assure nursing home quality. The U.S. Government Accountability Office (GAO), LTCCC and others have conducted a number of studies over the years that have identified widespread problems in the accurate identification of nursing home problems. [See, for example, LTCCC's 2005 report, [Nursing Home Residents At Risk: Failure of the New York State Nursing Home Survey and Complaint Systems.](#)]

GAO's latest (November 2009) report on this topic, [Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment](#), identifies a number of underlying issues that are likely to be impeding the consistent and meaningful enforcement of minimum care standards in nursing homes. These data were collected through surveys of nursing home surveyors and state agency directors. The major issues they identified as leading to the inadequate identification and rating of deficiencies include workforce shortages in state oversight offices, surveyor inexperience and inadequate training of surveyors.

State agency directors reported that a survey was more likely to be subject to supervisory review when high-level deficiencies were cited. This corroborates a longstanding concern of LTCCC: that the system encourages low-level citations and discourages high-level citations (because citing at lower levels, in essence, makes the surveyor's job easier). To counter this, LTCCC has frequently recommended that instead of just giving extra scrutiny to high-level citations, at least some lower level citations should be scrutinized to counter the incentive to cite at a lower level and to encourage the accurate assessment of problems found in nursing homes.

The "[Highlights](#)" page of the report notes a number of other serious findings:

Surveyors and directors in a few states informed us that, in isolated cases, state agency practices or external pressure from stakeholders, such as the nursing home industry, may have led to understatement. Forty percent of surveyors in five states and four directors reported that their state had at least one practice not to cite certain deficiencies. Additionally, over 40 percent of surveyors in four states reported that their states' informal dispute resolution processes favored concerns of nursing home operators over resident welfare. Furthermore, directors from seven states reported that pressure from the industry or legislators may have compromised the nursing home survey process, and two directors reported that CMS's support is needed to deal with such pressure. If surveyors perceive that certain deficiencies may not be consistently upheld or enforced, they may choose not to cite them. [<http://www.gao.gov/new.items/d1070.pdf>]

GAO makes a number of [recommendations](#) in the report. They focus on ways in which CMS can address: concerns about weaknesses in survey methodology and CMS guidance for the state agencies, surveyor workforce shortages, insufficient surveyor training, and the problems related to external (industry) pressure and state practices that may be undermining survey accuracy.

[<http://www.gao.gov/new.items/d1070.pdf>]

[Spotlight on Advocacy: Tell LTCCC About Nursing Homes or Assisted Living in Your Community That You Are Concerned About!](#)

Too often, poor care and living conditions in residential care facilities – nursing homes and assisted living – are not addressed because people do not know where to turn to report problems. Sometimes, people are afraid that a resident will be harmed if a complaint is made by the resident or family, or a worker might not want to say anything out of fear of losing his or her job. To improve accountability in residential care, LTCCC has launched an on-line, anonymous survey for people to inform us about significant problems in the facilities in their communities. We will use this information to make our systemic advocacy more effective by letting state leaders know about problems in specific nursing homes.

PLEASE NOTE: While we will be bringing information to the relevant authorities for their investigation in our advocacy work, we are not equipped to respond to individual problems. If you believe that someone is in danger or at risk please contact the appropriate authorities in your community immediately as well as letting us know. As mentioned above, all information will be kept confidential – the survey does not ask for or collect information from individuals. To access the survey, click on the link above or go to <http://j.mp/5Oolqv>.

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*.

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If the above links do not work (or if you are reading a printout of this newsletter) you can find these documents on our homepage, www.ltccc.org.

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