



**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 –June 2011: Volume 9, Number 5**

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.”

Please support LTCCC’s work to protect the frail elderly and disabled who rely on long term care. Click here to donate \$5 (or whatever you care to give).

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**[LTCCC Releases Report on Assisted Living in New York State](#)**

LTCCC has just released a major report, funded by the Robert Sterling Clark Foundation, on the state of assisted living care and oversight in New York State. The report found that many adult homes, enriched housing and assisted living residences are violating the state's care rules and are either harming their residents or putting them at risk for harm and that few facilities causing harm or risk of harm had an enforcement action taken against them unless they actually endangered their residents.

The study uncovered numerous reasons for these findings and presents recommendations for changes, including:

- The state does not require residences to train their care staff with a mandated training curriculum; better training of direct care staff must be encouraged, particularly for individuals dealing with medication by mandating a specific curriculum.
- Administrators are not required to be licensed; the state must require licensure; running an adult home or assisted living residence, especially an impacted home or one that has special/enhanced needs certification, requires specific training and competencies and oversight.
- Facilities are now only required to give 3.75 hours of personal care per week to each resident. This is not enough time to care for many residents, especially those on multiple medications; the state must require facilities to provide residents with additional hours of care per week.
- Many facilities violating the rules and regulations cannot be fined because state law does not permit the Department to sanction them if they correct within 30 days (except for an endangerment violation); social services law must be amended to permit such sanctions.
- State law permits only per day fines and only up to \$1000 a day fines for violations; per violation must be permitted in addition to per day fines and the amounts must be increased.
- There are too few attorneys to prepare enforcement cases; the NYS Legislature and the Governor must allocate sufficient funds to ensure adequate inspection and enforcement in the Department's budget.

See [SPOTLIGHT ON ADVOCACY](#) below to take action on these recommendations.

[<http://assisted-living411.org/NEWREPORTCAREANDOVERSIGHTINASSISTEDLIVING.htm>]

## **[Inspector General Issues Report on Medicare Payments for Atypical Antipsychotic Drugs & Elderly Nursing Home Residents](#)**

The report indicates a wide use of antipsychotics for both off-label use (a use not approved by the Food and Drug Administration which are for the psychiatric treatment of schizophrenia and/or bipolar disorder) and for nursing home residents diagnosed with conditions specified in the black box warning. In April 2005, the FDA issued a public health advisory for atypical antipsychotic drugs and required manufacturers of these drugs to include a boxed warning regarding the increased risk of mortality when these drugs are used for the treatment of behavioral disorders in elderly patients with dementia. The report indicates that the costs associated with this use are astonishing. Specifically, the study found that 14 percent of elderly nursing home residents had at least one Medicare claim for an atypical antipsychotic drug and that 83 percent of the atypical antipsychotic drug claims were for off-label use (used for conditions other than schizophrenia and bipolar disorder); and 88 percent were for residents diagnosed with conditions in the black box warning. The most common conditions were dementia and Alzheimer's. In addition, the report found that 51 percent of Medicare atypical antipsychotic drug claims were "erroneous," which means that the drugs were either not used

for medically accepted indications or not documented as having been administered to elderly nursing home residents. Twenty-two percent of these drugs “were not administered according to CMS standards for drug therapy in nursing homes,” i.e., they were “unnecessary drugs,” because they were either an excessive dose, used for an excessive time, used without adequate monitoring, used without adequate indication for its use or used in the presence of adverse consequences.

## **[GAO Issues Report on Nursing Home Complaint Investigations: Recommends Changes to CMS's Oversight of State Agency Performance](#)**

Because concerns had been raised about the timeliness and adequacy of complaint investigations and the US Centers for Medicare and Medicaid (CMS’s) oversight, the US General Accounting Office (GAO) evaluated state agencies’ performance for two of CMS’s performance standards for complaint investigations: timeliness of investigations and prioritization of complaints. CMS had found that 28 state survey agencies failed the timeliness of investigations standard for either immediate jeopardy or actual harm-high complaints, the prioritization of complaints standard, or both. The GAO recommended that the CMS Administrator take several steps to strengthen oversight of complaint investigations, such as improving the reliability of its complaints database and clarifying guidance for its state performance standards to assure more consistent interpretation.

[RELATED NOTE: LTCCC released the results of a study in May of last year that examined how well the state and federal inspection agencies are working to jointly enforce minimum safety, health and quality of life standards in U.S. nursing homes. The report, "[Government Monitoring & Oversight of Nursing Home Care: The Relationship Between Federal and State Agencies](#)," (clicking on link will [download pdf](#)) presents recommendations on a number of steps CMS should take to ensure effective state oversight.]

[<http://www.gao.gov/new.items/d11280.pdf>]

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## **[Spotlight on Advocacy: Urge Implementation of LTCCC's Recommendations on Assisted Living in NY State](#)**

Please [send emails](#) to the Governor, members of the NYS Legislature and staff of the Department of Health, urging them to make implement the recommendations of the [assisted living report](#) discussed above. Take action on both alerts: one for the Governor and Department of Health officials ([“IMPROVE ASSISTED LIVING : HELP ASSISTED LIVING RESIDENTS”](#)) and one for legislators ([“PROTECT ASSISTED](#)

Watch LTCCC’s executive director, Richard Mollot, discuss nursing homes, assisted living & Alzheimer’s care on [Getting Your Money’s Worth](#).

[LIVING RESIDENTS: AMEND 460-d OF THE SOCIAL SERVICES LAW](#)”).

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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.](#)
- [Long term care information booklet in Chinese and English for Chinese consumers: What You Need to Know about Long Term Care.](#)
- [Tools for Stakeholders & National Report on Increasing Transparency and Consumer Involvement in States' Uses of Nursing Home Civil Money Penalties to Improve Care and Quality of Life.](#)
- [LTCCC study: Government Monitoring & Oversight of Nursing Home Care in Word 2007 or PDF.](#)

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