



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 –Dec 2011 – Jan 2012: Volume 9, 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.”

Follow us on Twitter at <http://twitter.com/LTCconsumer>.

THE HOLIDAY SEASON IS HERE!!

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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[U.S. Senate Holds Hearing: Overprescribed: The Human and Taxpayers' Costs of Antipsychotics in Nursing Homes](#)

On November 30, 2011, the U.S. Senate Special Committee on Aging held a hearing to address the overuse of antipsychotic drugs in nursing homes. Every day, approximately one out of four nursing home residents is given powerful antipsychotic drugs, despite the FDA’s black box warning that they are dangerous and contraindicated for the elderly and people with dementia.

Department of Health inspections in several states, Office of Inspector General reports and personal stories given to citizens' advocates indicate these medications are being used to control perceived "problem behavior" of nursing home residents as opposed to being used carefully to address specific psychotic conditions.

LTCCC has been working with other organizations to address this issue in NY State and nationwide. We met with the head of the Centers for Medicare & Medicaid Services (CMS), Dr. Berwick, in September and asked him to take steps to address this burgeoning issue. Following that meeting Dr. Berwick (who recently stepped down) met with a number of industry representatives and asked them to come up with a plan to reduce unnecessary drugging.

This Senate hearing brought together witnesses from the nursing home provider industry, CMS, consumers, the Office of Inspector General and other experts to discuss the scope of the problem and potential solutions. Toby Edelman, a senior attorney for the Center for Medicare Advocacy, noted several reasons for this problem: insufficient numbers of appropriately trained staff; focus on the reduction of physical restraints; illegal, off-label marketing of antipsychotic drugs for use by nursing home residents and lack of independence of long term care consultant pharmacists.

[To watch a recording of the hearing or read statements of the witnesses, including Ms. Edelman's statement, click on title above or go to http://aging.senate.gov/hearing_detail.cfm?id=335005&. For a copy of LTCCC's statement submitted to the US Senate Aging Committee go to <http://www.nursinghome411.org/?articleid=10037>.]

[Suspicious Elder Deaths Rarely Investigated](#)

The news organization ProPublica conducted a year-long investigation of practices in the country's 2300 coroner and medical examiner offices and found that an array of systemic flaws results in a significant failure across the country to investigate suspicious deaths among the elderly. According to the report, these flaws include:

- When treating physicians report that a death is natural, coroners and medical examiners almost never investigate. But doctors often get it wrong. In one 2008 study, nearly half the doctors surveyed failed to identify the correct cause of death for an elderly patient with a brain injury caused by a fall.
- In most states, doctors can fill out a death certificate without ever seeing the body. That explains how a Pennsylvania physician said her 83-year-old patient had died of natural causes when, in fact, he'd been beaten to death by an aide. The doctor never saw the 16-inch bruise that covered the man's left side.
- Autopsies of seniors have become increasingly rare even as the population age 65 or older has grown. Between 1972 and 2007, a [government analysis](#) found,

the share of U.S. autopsies performed on seniors dropped from 37 percent to 17 percent.

[<http://www.propublica.org/article/gone-without-a-case-suspicious-elder-deaths-rarely-investigated>]

NYS Medicaid Redesign Team's Committee on Managed Long Term Care Releases Recommendations

The Medicaid Redesign Team, a committee created by the Governor, has been tasked to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the 2011-12 Fiscal Year. In Phase 1, the MRT developed a package of reform proposals that achieved the Governor's Medicaid budget target. In Phase 2, the MRT has been directed to create a coordinated plan to ensure that the program can function within a multi-year spending limit and improve program quality. Work groups focusing on specific issues were created to develop recommendations for the MRT. The Managed Long Term Care work group made a number of very important recommendations around care coordination, consumer choice, evaluation and quality measures that have been accepted by the MRT. We do however have a few other recommendations that we would like to see in place: (1) there must be mandated qualifications for the care manager or care team and guidelines for a ratio of care managers to clients; (2) adequate capacity and choice must be spelled out; (3) uniform criteria must be developed so the data submitted by the plans can be compared; and (4) DOH resources must be increased to make sure staff can monitor quality.

[LTCCC has a dedicated page on its websites describing these in detail. Go to:

<http://www.ltccc.org/MandatoryManagedCare.shtml>.]

COMMITTEE ON MANAGED LONG TERM CARE ALSO RELEASES GUIDELINES FOR CARE COORDINATION MODEL (CCM)

These guidelines define CCMs as entities that provides or contracts for all Medicaid long term care services. CCMs are another option available in addition to Managed Long Term Care Plans (MLTCPs) to enroll dual-eligible individuals 21 and older who require community-based long term care services for more than 120 days. The services covered will also include institutional care and will make personal assistance services available for eligible individuals in July of 2012. The development of CCMs reflects the direction of the state to provide care management to all populations. The transition to fully integrated Medicare and Medicaid will occur within three to five years. The guidelines go into detail on how a proposed CCM can apply and the mandated requirements it must follow. LTCCC will be analyzing these guidelines and will report on them in the next e-newsletter.

[http://www.health.ny.gov/health_care/medicaid/redesign/docs/2011-11-15_care_coord_model_guidelines.pdf]

[State Publishes Draft Enrollment Plan For Mandatory Managed Long Term Care/Care Coordination](#)

In April 2012, mandatory enrollment begins in New York City. Over the next eight months, personal care, consumer directed personal assistance, home health over 120 days, adult day health care, private duty nursing and long term home health care will be phased in. Nassau and Suffolk counties will begin in January 2013 and the other parts of the state will be phased in over the year and into 2014.

[http://www.health.ny.gov/health_care/medicaid/redesign/docs/2011-11_draft_enrollment_plan.pdf]

[Spotlight on Advocacy: Urge NY State to Implement Important Assisted Living Protections & Standards](#)

Unlike nursing homes, assisted living (including adult homes, enriched housing and assisted living residences) cannot be fined for any violation that is not considered to have endangered their residents (even if it harmed them) if they correct within 30 days or have made “a good faith effort” towards correction. This permits facilities to be out of compliance, correct and then be out of compliance again and again with impunity. This may account for the persistence of repeat violations. For instance, [LTCCC’s recent report on assisted living oversight in New York State](#) indicates that almost 25 percent of all medication violations are repeats.

Another serious problem is that state law only permits fines to be levied for each day (“per day”) a violation exists and has not been corrected. Inspectors have to wait to see if the violation continues before referring for a fine. We strongly believe that facilities should be sanctioned for each violation they incur, not just the ones that are continuing. Even a one-time violation can cause harm to residents. If facilities are not held accountable for these violations, there is little incentive for them to meet even the minimum standards.

Many adult homes, including some that have been failing their residents for years, are now applying to be Assisted Living Residences and even for Enhanced Certification (which enables a facility to provide significant care and monitoring for residents with higher level needs and vulnerability). LTCCC has partnered with MFY Legal Services, CIAD and StateWide Senior Action on a state-wide campaign to stop adult homes with a long history of abuse or neglect from expanding into the assisted living and enhance care markets.

You can help by speaking out on these issue now! [Click here](#) to urge NY DOH to deny assisted living certification for homes with a history of violations. [Click here](#) to send a message on the critical need for updates to state assisted living law. [Click here](#) to urge NY DOH to improve its assisted living rules re. important issues like medication assistance for residents and basic training standards for owners, workers and state inspectors. Click on title above to go to LTC’s Citizen Action Center and view all of these important action alerts. **A few moments of your time now can make a difference for current and future assisted living residents!**

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.
- [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](#) or PDF.
- 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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