THE LTC JOURNAL

Fall 2017 **The Long Term Care Community Coalition**

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In This Issue

Enforcement of Federal Protections Delayed in Response to Nursing Home Industry Pressure

On Friday, November 24, 2017 (in the middle of the Thanksgiving holiday weekend), the U.S. Centers for Medicare & Medicaid Services (CMS) released a memo stating that it was **not going to enforce a number of basic standards of care** for nursing home residents, including several protections important for elderly residents with dementia, for a full 18 months.

The contents of the memo mirror requests made to the Trump Administration, the Department of Health and Human Services and CMS in the past year by nursing home industry lobbyists at LeadingAge and the American Health Care Association. [See, for example, http://leadingage.org/sites/default/files/Senate%20ROP%20Letter.pdf.]

The CMS memo is available here: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-04.pdf. It describes the requirements for which CMS is delaying enforcement in order to "educate facilities."

According to the memo, the requirements for which CMS thinks nursing homes should be given additional time to be "educated," without penalty for harming residents, include:

1. Developing a baseline care plan when a new resident enters a facility (baseline care plans describe a resident's initial goals upon entering the facility, his or her physician orders, dietary orders and therapy orders);
2. Providing residents with necessary behavioral health services (includes providing an environment that is "conducive to mental and psychosocial well-being" and only using drugs "when non-pharmacological interventions are ineffective or when clinically indicated");
3. Limitations on the discretionary use of potentially dangerous psychotropic drugs by care staff; and
4. Antibiotic stewardship (this requirement includes the specification that facilities reduce the risk of adverse events, including the development of antibiotic-resistant organisms, from unnecessary or inappropriate antibiotic use in their facilities).

We question both the wisdom and appropriateness of CMS – which is responsible for ensuring that residents are safe – essentially giving the nursing home industry a "pass" for resident harm caused by the failure to meet these standards for the next year and a half.

From our perspective, these requirements are not only critical to resident well-being, they are also, essentially, integral components of what has been required of facilities since the Nursing Home Reform Law was implemented in 1991. We question both the wisdom and appropriateness of CMS – which is responsible for ensuring that residents are safe – essentially giving the nursing home industry a "pass" for resident harm caused by the failure to meet these standards for the next year and a half.

Federal law has long prohibited providers from using residents as the subjects of scientific experiments. Why is CMS now saying that it is okay to, essentially, use residents for on-the-job training in respect to standards which CMS itself has referred to as "integral"?

New Nursing Home Survey System Launches Nation-Wide

As of November 28, 2017, CMS is requiring that every state use a new protocol for surveying (inspecting) nursing homes. Up until that date, two different types of surveys have been used by state surveyors: the traditional survey and the Quality Indicator Survey (QIS). The QIS was introduced in 2005 as a demonstration with the goal of improving the survey system in respect to better identifying when a facility is out of compliance with minimum standards. Since 2005, more states have adopted it.

Numerous federal and other studies (including LTCCC studies) have found that, too often, surveyors under-identify the extent of serious care problems in nursing homes. [See, for example, the 2008 U.S. Government Accountability Office report, *Federal Monitoring Surveys Demonstrate Continued Understatement of Serious Care Problems and CMS Oversight Weaknesses*.] This was true under the traditional survey protocol as well as the QIS survey, which (as noted above) was developed to improve performance.

Goals of the new survey include:

- Same survey for entire country
- Combine strengths from Traditional & QIS
- Add new innovative approaches
- More effective and efficient
- More resident-centered
- Improve balance between structure and surveyor autonomy

Mandatory tasks for the survey team include review of the following aspects of life and care in the nursing home:

- Dining
- Infection Control
- Resident Council Meeting
- Kitchen
- Medication administration and storage
- Sufficient and competent nurse staffing

LTCCC supports the strong emphasis on resident observation and engagement…. However… the tools for inspecting nursing homes and ensuring good care are only meaningful if they are implemented.

LTCCC supports the strong emphasis on resident observation and engagement in the new survey protocol, including requirements for interviewing residents and meeting with the resident council. However, as with the earlier survey protocols, the tools for inspecting nursing homes and ensuring good care are only meaningful if they are implemented. Over the years, the provider industry has frequently complained that surveys are not consistent; for example, providers have complained that a deficiency may result in a fine in one state but not in another. However, this argument fails to acknowledge that these variations are often a result of varying levels of weakness, rather than cases of overzealous enforcement (i.e., that, as the above-mentioned studies have noted, there are widespread weaknesses in properly identifying substandard care and abuse). Unfortunately, from our perspective, CMS is overly credulous of this argument and has focused too much on making survey outcomes consistent rather than on ensuring that residents are protected and receive the quality of care that the Nursing Home Reform Law requires.

> *The nursing home industry is a $100 billion a year industry, employing tens of thousands of health professionals. It is incongruous to me to think that it needs the consultative assistance of a government surveyor to correct problems that every non-health professional in this room would instantly agree involved care that was simply and woefully lacking.*
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> ***Most of us know from raising children about the basics required to sustain a human being, basics that some nursing home residents do not receive.***
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> - Statement of William J. Scanlon, PhD, U.S. General Accounting Office, at U.S. Senate Hearing on Nursing Home Quality, July 17, 2003. [Emphasis added.]

LTCCC will be providing more information and public education on the new survey protocols in the coming months. For future updates, join us on Facebook (facebook.com/ltccc) & Twitter (twitter.com/LTCconsumer).

It's Here (Kind of): More Accurate Reporting of Nursing Home Staffing

The 2010 Affordable Care Act (aka Obamacare) requires that nursing homes report their staffing using a payroll-based, auditable system. This change, which LTCCC and other advocates advocated for, came about because it became widely recognized that the staffing information reported for nursing homes on Nursing Home Compare (NH Compare) and other sites often did not accurately reflect actual staffing levels. Staffing levels on NH Compare (and other websites) are self-reported by facilities for the period immediately prior to their annual survey and, historically, have not been audited by either the state or federal governments.

Under the new, payroll-based journal (PBJ) system, nursing homes are required to report their staffing and resident census on a quarterly basis for every day in the quarter. Starting in November, CMS began posting these data on its website, https://data.cms.gov/. However, these data are not yet published on a facility's listing on NH Compare. NH Compare continues to use self-reported and unaudited data. As of this writing, CMS states that it expects to

integrate the PBJ staffing data into a nursing home's public listings in 2018. [Editor's Note: We presume that state nursing home websites and other websites will follow suit.]

Nursing Home Staffing Rates Reported on WWW.NURSINGHOME411.ORG

To assist residents, families and the public in identifying the staffing levels for nursing homes in their states and communities, we have compiled the PBJ data on direct care staffing levels for the second quarter of 2017 in a user-friendly format on our website at http://nursinghome411.org/nursing-home-staffing-2017q2/. The website includes the following information for every nursing home (which has complied with the federal reporting requirement):

1. Name of Nursing Home
2. MDS Census (number of residents in the facility)
3. RN Hours
4. LPN Hours
5. CNA Hours
6. Total Direct Care Staff Time
7. Average Staffing Hours Per Resident Per Day
8. Average RN Hours Per Resident Per Day

The memorandum from CMS on PBJ nursing home staff reporting requirements is available at https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions-Items/Survey-and-Cert-Letter-17-45.html?DLPage=1&DLEntries=10&DLSort=2&DLSortDir=descending.

US Inspector General: NY Dept. of Health Did Not Always Verify Correction of Nursing Home Deficiencies

Summary

The Inspector General (IG) for the U.S. Department of Health and Human Services conducted a review examining the extent to which the New York State Department of Health (DOH) ensures that violations of minimum care standards that it has identified during a survey are corrected by nursing homes after the survey. The IG found that DOH did *not* verify correction of deficiencies for a substantial percentage of cases. According to the IG, "[a]s a result of the State agency's noncompliance, the health and safety of a significant number of nursing home residents may have been at risk."

Details

DOH, and all state survey agencies, are responsible for ensuring that residents receive good care and services, and are safe, 24-hours per day, every day of the year. In order to fulfill this mandate (for which states are paid by the federal government), state agencies must, at a

minimum, inspect nursing homes approximately once a year and respond, in a meaningful way, to complaints about resident care or services.

Unfortunately, while some nursing homes provide excellent care and services, too many do not. Too many facilities are persistently poor places to live and receive care, meaning that they have problems year after year. In fact, according to the federal database (Nursing Home Compare), the average nursing home is found to have seven (7) violations of health standards a year. Last year, Voices for Quality Care undertook an analysis of three years of federal data and found that a remarkable 42% of nursing homes had violations of the *same* health care standards three times (or more) in the last three years (what we call "chronic deficiencies").

It is LTCCC's view, based on our previous studies as well as federal studies, that the persistence of poor care, abuse and neglect are the result of inadequate enforcement. In short, for many nursing homes, state enforcement mechanisms are not strong enough to induce some nursing homes to provide good care. Thus, the results of this assessment of DOH's performance are particularly important to New York's nursing home residents, families and the general public.

In this audit, the IG reviewed a selection of deficiencies for 2014 to determine "whether the State agency had verified the nursing homes' correction of the sampled deficiencies." According to the IG,

> The State agency did not always verify nursing homes' correction of deficiencies… in accordance with Federal requirements. Of the 100 sampled deficiencies, the State agency verified the nursing homes' correction of 43 deficiencies but did not have documentation supporting that it had verified the nursing homes' correction of the remaining 57 deficiencies. Specifically, the State agency did not have evidence of correction for 51 deficiencies and did not document that it had verified the correction of 6 deficiencies during follow-up surveys. The State agency certified that the nursing homes that had these 57 deficiencies were in substantial compliance with Federal participation requirements; however, **the State agency's certifications did not comply with all Federal requirements related to appropriately verifying the nursing homes' correction of these deficiencies**. This occurred because the State agency did not ensure that surveyors followed CMS guidance when verifying and documenting the correction of nursing home deficiencies. **As a result of the State agency's noncompliance, the health and safety of a significant number of nursing home residents may have been at risk**.
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> [Emphases added.]

LTC News & Briefs

CMS Proposes to Reduce Penalties for Serious Nursing Home Resident Abuse & Neglect

On October 27, 2017, CMS issued a Survey and Certification Letter (S&C: 18-01-NH) in which it proposed to make significant changes to the federal guidance regarding the immediate imposition of remedies and the selection of remedies at facilities cited for certain serious deficiencies. Most notably, CMS is proposing to create what we consider to be a false distinction between different types of immediate jeopardy, to allow CMS Regional Offices (ROs) to lower per day Civil Money Penalties, to allow ROs to select remedies in a manner that seems to violate federal regulations, and to give ROs discretion in determining the applicability of the immediate imposition of remedies to past noncompliance. It is our view that CMS's proposed changes will have a devastating effect on CMS's own ability to meaningfully enforce the federal Requirements of Participation and will put nursing home residents at an even greater risk of harm.

LTCCC and the Center for Medicare Advocacy submitted joint comments to CMS expressing our serious concerns about this proposal. It is available here: http://www.medicareadvocacy.org/13025-2/.

Time: "An 87-Year-Old Nun Said She Was Raped in Her Nursing Home. Here's Why She Couldn't Sue"

Time magazine reported in November on Sister Irene Morissette, an elderly nun living in an Alabama assisted living facility, who informed a staffer that she had been raped in her bed. According to *Time*,

> Police and medical records paint a disturbing scene. Police investigators found two semen stains in Morissette's bed and blood on the "inside rear area" of her green-and-pink-flowered pajama bottoms, which had been shoved underneath the mattress. A sexual-assault examiner at a local hospital reported that Morissette had sustained multiple abrasions inside and outside her vaginal canal, wounds that could be consistent with rape. "The genital exam was very painful for the client," the examiner's report said.
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> Under normal circumstances, justice would be rendered for Morissette, and society, in a court trial. There would be a public hearing in which a judge or jury would weigh evidence, determine guilt or innocence and levy appropriate penalties through the due process of law. But Morissette's case, details of which have not previously been made public, never made it to court. After a criminal investigation by local police failed to produce enough evidence to identify a suspect in the alleged attack, Morissette's family tried to file a civil suit against…[her facility], alleging

> everything from negligence to outrageous conduct. They felt there was plenty of evidence to back up those charges. The semen on the nun's bedsheets was enough to suggest sexual contact, and Morissette, because of her dementia, could not legally consent to any sexual act. But none of it would see the light of day in a courtroom.

Why couldn't Sister Irene or her family go to court? As the *Time* article reports, "[b]uried in pages of terms and conditions was what is known as a pre-dispute binding arbitration agreement. By signing it, the elderly nun gave up her Seventh Amendment right to trial by jury and any right to bring a civil suit…" against the facility.

As the *Time* article notes, the numbers of residents who are prohibited from going to court for alleged abuse and neglect – even those involving rape or death – is likely to increase in the coming years.

> In June, the Trump Administration proposed a new rule that would allow nursing homes to require residents to sign arbitration agreements as a condition of admission to a facility: either sign it or find somewhere else to live. … **With arbitration, there is no courthouse, no judge and no jury. There are no requirements to follow state or federal rules on procedure, and effectively no appeals process**. Whatever the arbitrator decides is almost always final.
> [Emphasis added.]

We strongly recommend reading the *Time* article, which details the arbitration hearing, the arbiter's findings and the impact of the incident on Sister Irene. It can be read here: http://time.com/5027063/87-year-old-nun-said-she-was-raped-in-her-nursing-home/?iid=sr-link1.

Dispelling a Myth: Medicare Home Health Coverage is NOT a Short Term, Post-Acute Care Benefit

The following is reprinted, with permission, from the Center for Medicare Advocacy. To sign up for the Center's materials, go to http://www.medicareadvocacy.org/join/.

Few people know that Congress decided years ago to remove caps and prior institutional prerequisites for Medicare's home health benefit. As policies, practices and decision-makers increasingly insist that Medicare home health coverage is intended to be short-term and for people with recent hospital stays, it is important to know this is not true. Indeed, the Omnibus Reconciliation Act of 1980 (P.L. 96-499) expanded the Medicare home health benefit. This law eliminated the annual 100-visit cap and prior hospitalization requirement that existed at the time. The legislative history of the law demonstrates that Congress intended to "liberalize" the home health benefit. Congress expressly stated that unlimited visits would be available and that by eliminating the prior hospitalization requirement, more than 1.1 million beneficiaries would have access to home health care as an alternative to or postponement of hospitalization.

Medicare home health care is often mistakenly referred to as a short term, post-acute care benefit. Since eliminating the annual 100-visit cap and the prior hospitalization requirement in 1980, however, Congress has not acted to reintroduce such limitations. CMS, MedPAC and others should not use payment rules, quality measures, or other vehicles and pronouncements to undermine the express Congressional intent to allow people to remain at home with Medicare-covered home health care so long as they qualify.

Nursing Home Chain Pays Millions to Settle Allegations of Substandard Care & Worthless Services

On October 19, the US Department of Justice (DOJ) announced that the nursing home chain "Health Services Management, Inc. (HSM) has paid the United States $5 million to resolve claims that the company billed the Medicare and Medicaid programs for **worthless services** and for **services that were never provided**…." [Emphases added.]

The case was the result of a whistleblower at a Texas facility who "claimed that during her employment, she witnessed patient abuse and neglect, inadequate care, physical and verbal abuse and denial of basic services, such as providing patients with food and water."

While noting that "claims resolved by the settlement are allegations only with no determination of liability," the DOJ statement reported that the "investigation concluded that from Jan. 1, 2013, through Dec. 31, 2015, Huntsville Health Care Center billed for services that were not provided or which were so substandard and deficient that they were considered worthless and potentially harmful to specific Huntsville patients. The claims for payment to Medicare and Medicaid for those services were deemed to be fraudulent and submitted in violation of federal and state law."

Average American's Risk of Needing Nursing Home Care Higher Than Previously Estimated

A RAND Corporation study released on August 28, 2017, found that more than half of individuals age 57-61 will need nursing home care at some point in their lives. These findings are based on an analysis of 18 years of federal data.

According to the Rand Corporation's press release,

> A recent shift toward shorter stays may account for the higher estimate of nursing home use. The study found that nursing home stays of short duration (21 nights or fewer) rose from 28 percent in 1998 to nearly 34 percent in 2010.
>
> [One of the study's authors] said the increase may reflect efforts to control Medicare and Medicaid costs by more quickly discharging patients from hospitals to nursing homes, where rehabilitation costs are lower.
>
> The graying of the U.S. population and growing numbers of Americans needing expensive, long-term care for dementia could cause the rate of nursing home use to keep rising and increase

> pressure on Medicaid to cover the costs . . . Having children, the study notes, does not lessen the chances of needing a nursing home in old age, but can reduce the length of the stay and cut the associated costs by as much as 38 percent. Having daughters able to provide in-home care was correlated with even larger savings.

Home for the Holidays: Leaving the Nursing Home During a Medicare-Covered Stay

Following is from the **Center for Medicare Advocacy**. Click on the link above for more details.

> Nursing home residents often want to participate in [holiday] gatherings but may worry that they will lose Medicare coverage if they leave the facility to do so. Residents and their families and friends can put their minds at ease. According to Medicare law, nursing home residents may leave their facility for family events without losing their Medicare coverage. However, depending on the length of their absence, beneficiaries may be charged a "bed hold" fee by their skilled nursing facility (SNF).

Reports of Reduced Inappropriate Antipsychotic Drugging "May Be Exaggerated"

The inappropriate use of antipsychotic drugs on nursing home residents - and others – with dementia is a significant, national problem. Antipsychotics carry a FDA "black-box warning" against use on elderly people with dementia. In 2012, the US DHHS Inspector General said that "[g]overnment, taxpayers, nursing home residents, as well as their families and caregivers should be outraged" by the use of these "drugs with questionable benefits and potentially deadly side effects for vulnerable, elderly patients…."

In response, in 2013, CMS promised LTCCC and other advocates that it would crackdown on inappropriate and dangerous antipsychotic drugging through improved enforcement and a "National Partnership" to reduce drugging and improve dementia care. Since that time, there has been a moderate decrease in antipsychotic drugging nationwide. **Nevertheless, 20% of nursing home residents are still being administered these powerful drugs today.** This has not, unfortunately, stopped CMS, the state agencies and the industry from touting the "success" of its National Partnership.

We and other nursing home resident advocates have had significant concerns during the five years in which the federal government and nursing home industry have "partnered" to combat this problem. They include:

1. The slow pace of reduction in antipsychotic drugging;
2. The failure by the states and CMS to effectively penalize providers for inappropriate and dangerous drugging; and
3. The over-reliance on "risk-adjusted" drugging rates as a basis for viewing the extent to which the National Partnership has been successful.

This new study addresses the last concern. Specifically, **the study found a significant increase in diagnoses of schizophrenia, Huntington's Disease and Tourette's Syndrome for seniors in**

nursing homes after the federal campaign to reduce inappropriate drugging was launched. These are the three clinical diagnoses for which CMS risk-adjusts reported use of antipsychotic drugs.

It is important to note that less than 2% of the population will ever have one of these clinical conditions. Yet, as noted above, 20% of U.S. nursing home residents receive antipsychotic drugs. The difference is 18%. That is the equivalent of 193,511 nursing home residents today.

The results of this new study indicate that our concerns regarding the federal campaign appear to have been warranted. The study found that schizophrenia reporting for nursing home residents "nearly doubled" between 2011 and 2013. As noted above, schizophrenia is a condition which almost always manifests in early adulthood, not when one is a senior citizen. The study also found that "**apparent reductions in inappropriate long-stay antipsychotic use since the *National Partnership* may be exaggerated**."[Emphases added.]

What Does "Risk-Adjustment" Mean?

For those not familiar with the term "risk-adjustment," it essentially means, in this case, that the rates that the government uses in determining the prevalence of antipsychotic drugging exclude drugging of residents with a diagnosis of one of these conditions. This is a problem for, at least, two reasons:

1. It provides a potential incentive to diagnose a resident with such a condition **in order to give** him or her the drugs with impunity and
2. Just because someone has a diagnosis of one of those conditions does not mean that giving him or her a psychotic drug is beneficial.

Antipsychotic Drugging of Residents With Dementia: Assessment of Provider Decision-Making

Recognizing "the known risks and limited effectiveness" of the use of antipsychotic drugs on residents with dementia, a review of studies on decision-making and prescribing behaviors was conducted. The goal was to inform "intervention development and quality improvement in this field." The results of this review were published in the October 2017 issue of *JAMDA, the Journal of the American Medical Directors Association*.

According to the article abstract, "Five key concepts emerged as influencing decision-making: organizational capacity; individual professional capability; communication and collaboration; attitudes; regulations and guidelines. …Our synthesis indicates that when all stakeholders come together to communicate and collaborate as equal and empowered partners, this can result in a successful reduction in inappropriate antipsychotic prescribing."

CNN: "Little Red Pill Being Pushed on the Elderly"

Last month, CNN published a report on the inappropriate use of Nuedexta in nursing homes across the country. The FDA approved Nuedexta to treat individuals diagnosed with pseudobulbar affect (PBA), which causes involuntary laughing or crying. The condition affects less than one percent of the entire U.S. population; the report found that, in one nursing home alone, nearly a quarter of residents were given the drug.

Avanir Pharmaceuticals states in Nuedexta's prescribing materials that the drug was not "extensively studied in elderly patients." Despite potential danger to older patients, the drug's financial success has been driven by a focus on elderly patients with dementia. Now, caregivers are finding that the drug may be linked to resident harm. Caregivers have cited Nuedexta as a potential cause for 113 hospitalizations, 51 deaths, and 101 falls.

In 2015, Medicare spent $138 million on Nuedexta. In 2016, 14 million pills were sent to long-term care facilities in the U.S., accounting for nearly $300 million in sales. CNN obtained internal company emails which note that the government's "crackdown" on antipsychotic drugs provides a window of opportunity for Nuedexta. In fact, Avanir salespeople targeted nursing facilities with high antipsychotic drug rates.

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'No One Is Coming': Hospice Patients Abandoned At Death's Door

A Kaiser Health News investigation published in October has found that "the hospice care that people expect — and sign up for — sometimes disappears when they need it most. Families across the country, from Alaska to Appalachia, have called for help in times of crisis and been met with delays, no-shows and unanswered calls."

According to the report,

> A KHN analysis of 20,000 government inspection records reveals that missed visits and neglect are common for patients dying at home. Families or caregivers, shocked and angered by substandard care, have filed over 3,200 complaints with state officials in the past five years.
>
> Those complaints led government inspectors to uncover problems in 759 hospices, with more than half cited for missing visits or other services they had promised to provide at the end of life….
>
> The horrifying reports, which do not include victims' names, describe a 31-year-old California woman whose boyfriend tried for 10 hours to reach hospice as she gurgled and turned blue, and a panicked caregiver in New York calling repeatedly for middle-of-the-night assistance from confused hospice workers unaware of who was on duty. In Michigan, a dementia patient moaned and thrashed at home in a broken hospital bed, enduring long waits for pain relief in the last 11 days of life, and prompting the patient's caregiver to call nurses and ask, "What am I gonna do? No one is coming to help me. I was promised help at the end."
>
> **Only in rare cases were hospices punished for providing poor care, the investigation showed**. [Emphasis added.]

Holiday Season 2017: Please Support LTCCC's Mission

Once a year, during the holiday season, LTCCC conducts its annual appeal. The funds raised at this time enable us to be a strong voice for vulnerable people in nursing homes and assisted living facilities, and their families, in the year to come. While we are a small organization, we endeavor to have as big of an impact as possible in improving care, quality of life and dignity.

Your support, in any amount, would be helpful and appreciated. To make a tax-deductible donation, please visit our website, www.nursinghome411.org, and click on the purple "Make a Donation" button on the right-hand side of the page. It will take you to our secure, Network for Good donation page.

You can also support LTCCC at no cost during the holiday season (or any time of year) by shopping online via our secure iGive page. iGive provides access to over 1,800 sites, from JC Penney and Neiman-Marcus for shopping to Expedia and Orbitz for travel.

Recent LTCCC Events

Annual Cocktail Party and Reception

LTCCC's Ninth Annual Cocktail Party and Reception was held on Wednesday, September 27, 2017. Thank you to everyone who joined us for an enjoyable evening and to our sponsors who helped make it a successful event!

We are especially appreciative of our four excellent panelists: Valerie Bogart, Judy Farrell, Richard Gottfried and Mary Jane Koren. They provided an interesting discussion on the challenges facing New York and the nation in respect to long-term care quality, access and financing.

Thank you to everyone who supported our event this year:

Grand Hosts: 1199/SEIU; AARP; Aetna Better Health MLTCP; Ann Dillon-Stanton; The Rizzuto Law Firm; The New York State Nurses Association; Sherburn Electronics, Inc.; and the Westchester Center for Mindfulness & Well-Being.

Benefactors: The Law Firm of D.F. Truhowsky and Deitz Court Reporting.

Individual Sponsors: Concepts of Independence, Hodes & Landy, Martin Petroff and Associates and Robert Freedman and Frances Pantaleo.

In Kind: Blondie's Treehouse. Inc.

Symposium: Resident Rights & Resident Care in the New Federal Standards for Nursing Homes

With support from the New York State Health Foundation, LTCCC hosted this symposium for nursing home residents, families, ombudsmen and those who work with them. The symposium featured speakers discussing relevant aspects of the new federal standards for nursing home care and other topics related to accessing the care and services that every resident deserves.

Topics covered included:

- The legal requirements for resident care, quality of life & dignity.
- The new federal standards: How will they impact residents' lives?
- Medicare coverage & access to rehab. services.
- Access to day passes & other challenges residents face.

LTCCC's presentation on the new federal nursing home requirements is available in a PDF file as well as a recording on our YouTube page.

Free LTCCC Resources

Elder Justice "No Harm" Newsletter : November 2017

Reports indicate that state surveyors cite nursing home health deficiencies at a "no harm" scope and severity level 95% of the time. Unfortunately, this has a profound impact on a nursing home resident's quality of care and quality of life. CMS data provide clear evidence that residents are actually being harmed by too many such deficiencies, despite the misleading "no harm" label.

To raise public awareness of this problem, we are pleased to announce the launch, in November, of a new monthly newsletter to highlight the impact of so-called "no harm" health deficiencies on vulnerable nursing home residents. *Elder Justice: What "No Harm" Really Means for Residents*, is published jointly by the Center for Medicare Advocacy and the Long Term Care Community Coalition. The purpose of the newsletter is to provide residents, families, friends, and advocates information on what exactly a "no harm" deficiencies is, how prevalent "no harm" deficiencies are, and what "no harm" actually means to residents. We encourage all readers to use the information included in the monthly newsletters to shed light on this largely unknown concern and to advocate for residents.

Issue Alert: Antipsychotic Drugging

The inappropriate use of antipsychotic drugs on residents with dementia is a widespread and persistent problem. Approximately 20% of nursing home residents currently receive these

drugs, though only 2% will ever have a diagnosis for a clinical condition that the U.S. government recognizes when it "risk-adjusts" for use of these drugs.

Antipsychotics carry a "Black-Box Warning" from the FDA due to increased risk of heart attack, stroke and Parkinsonism for elderly with dementia. In November, LTCCC released (1) An Issue Alert on antipsychotic drugging; (2) An easy-to-use, searchable database with antipsychotic drugging rates for every nursing home in every state; and (3) Enforcement actions against nursing homes for inappropriate drugging (for the last three years).

Issue Alert: Pressure Ulcers

According to the U.S. Centers for Disease Control & Prevention (CDC), "[p]ressure ulcers are serious medical conditions and one of the important measures of the quality of clinical care in nursing homes." Nevertheless, pressure sores remain a significant, often horrifying, problem for too many of our nursing home residents. In October, LTCCC released (1) An Issue Alert on pressure ulcers; (2) An easy-to-use, searchable database with pressure ulcer rates for every nursing home in every state; and (3) Enforcement actions against nursing homes for inappropriate or substandard pressure ulcer care (for the last three years).

Learning Center: Free Resources on Resident Rights & Advocacy

The Learning Center on LTCCC's homepage, www.nursinghome411.org, has a variety of materials on nursing home care, resident rights and dementia care standards. All materials are free to use and share. We thank the Fan Fox & Leslie R. Samuels Foundation and The New York State Health Foundation for supporting development of these resources.

Webinars on Nursing Home Quality Standards

For the last year, LTCCC has been conducting free monthly webinars on the new federal nursing home requirements and related issues relevant to the care and safety of nursing home residents. These programs are sponsored by The New York State Health Foundation.

Upcoming webinars:

December 19, 2017: How to Access Information on Nursing Home Quality and Staffing on the Internet

January 16, 2018: The New Nursing Home Survey: What to Expect When Your Nursing Home is Inspected

All programs are held at 1pm Eastern. They can be attended in one of two ways:

1) To join the online meeting, about five minutes before the scheduled time of the meeting, go to the link below and follow the prompts to join the meeting. Online Meeting Link: https://join.freeconferencecall.com/richardmollot.

2) To participate by phone, at the scheduled time of the meeting call (712) 770-4010. When prompted, enter the Access Code, 878277, followed by the pound (#) key.

Following each program, program materials are posted on our website, www.nursinghome411.org, and the program recording is available on our YouTube page, https://www.youtube.com/channel/UCSfczzeXNn5DS8EtECRsklQ?view_as=subscriber.

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