

THE LTC JOURNAL

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The Long Term Care Community Coalition

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GOVERNMENT STANDARDS & QUALITY ASSURANCE

HOUSE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS HOLDS HEARING ON NURSING HOME ABUSE, NEGLIGENCE, AND SUBSTANDARD CARE

On September 6, 2018, the House Energy and Commerce Committee's Subcommittee on Oversight and Investigations held a hearing to examine ongoing reports of nursing home abuse, neglect, and substandard care throughout the country.

The Subcommittee's [memorandum](#) providing background on the hearing noted that "the purpose of the hearing is to explore the roles of the Centers for Medicare and Medicaid Services (CMS) and the Office of the Inspector General at the U.S. Department of Health and Human Services (HHS OIG) relating to the management and safety of nursing home facilities."

Witnesses Kate Goodrich ([CMS](#)), Ruth Ann Dorrill ([Office of the Inspector General](#)), and John Dicken ([Government Accountability Office](#)) provided testimony to the Subcommittee. Dr. Goodrich discussed the nursing home enforcement system, recent regulatory changes, and CMS's "Patients over Paperwork" initiative that has led to many regulatory rollbacks of resident rights and protections. Ms. Dorrill gave testimony on the Office of the Inspector General's work raising concerns about the harm residents experience in nursing homes and the under-enforcement of the standards of care. Lastly, Mr. Dicken highlighted the GAO's 2015 report on trends in nursing home quality and discussed the changes CMS made as a result of the report's findings.

The hearing used The Rehabilitation Center at Hollywood Hills, the Florida nursing home where [14 residents](#) died after Hurricane Irma cut power to the facility's air conditioner, as a focus point for discussions on nursing home standards, enforcement, and ownership. Subcommittee Members were divided about the best steps for improving resident quality of care and quality of life, with some Members advocating for "burden" reduction and others for stronger regulations.

- To watch a recording of the hearing or to access documents that have been entered into the record, please see <https://energycommerce.house.gov/hearings/examining-federal-efforts-to-ensure-quality-of-care-and-resident-safety-in-nursing-homes/>.

U.S. DEPARTMENT OF LABOR PROPOSES A ROLLBACK OF CHILD LABOR AND RESIDENT PROTECTIONS TO ALLOW SIXTEEN AND SEVENTEEN YEAR OLDS TO OPERATE PATIENT LIFTS

Pursuant to provisions of the Fair Labor Standards Act (FLSA), 16 and 17 year olds cannot independently operate power-driven patient lifts. The Department of Labor's [Hazardous Occupations Order \(HO\) 7](#) specifically bans minors from operating or assisting in the operation of power-driven hoisting apparatuses. However, in 2011, the Department issued a non-enforcement policy that allowed trained minors to assist trained adult caregivers in operating

"The Committee on Energy and Commerce (the Committee) began conducting oversight of nursing homes after numerous media reports described instances of abuse, neglect, and substandard care occurring at SNFs and NFs across the country"

-House Energy and Commerce Committee, Subcommittee on Oversight and Investigations.

resident lifts under certain conditions. On September 27, 2018, the Department issued a notice of proposed rule making (NPRM) to exempt power-driven patient lifts from HO 7 and allow trained 16 and 17 year olds to operate lifts without supervision.

The proposed rule reasons that allowing minors to independently operate resident lifts would create “more employment, apprenticeships, and training opportunities in health care.” Nevertheless, in a 2011 report, the [National Institute for Occupational Safety and Health](#) (NIOSH) warned that “[r]esearch demonstrates that 16- and 17-year old youths lack the ability to recognize the risk associated with performing hazardous tasks, such as handling and transferring patients.” NIOSH concluded that “many 16- and 17-year-old employees cannot safely operate power-driven hoists to lift and transfer patients *by themselves . . .*”

LTCCC is deeply concerned by the potential impact of this proposed rule on long-term care residents. Residents across the country are all too often left exposed to potential harm when lifts fail. Likewise, as NIOSH’s analysis indicated, teenage workers do not have the strength to operate lifts and thus are also exposed to potential harm. LTCCC, joined by the Center for Medicare Advocacy, submitted comments opposing the proposed rule change.

- To read our comments opposing the proposed rule, please see: <https://nursinghome411.org/wp-content/uploads/2018/11/LTCCC-CMA-Statement-Proposed-Labor-Rule-November2018.pdf>.

[LTCCC AND OTHER ADVOCACY ORGANIZATIONS WRITE MEMEBERS OF THE HOUSE OF REPRESENTATIVES TO SHOW OPPOSITION TO THE RUSH ACT](#)

The Reducing Unnecessary Senior Hospitalizations (RUSH) Act of 2018 ([H.R. 6502](#)) was introduced in the House on July 25, 2018. The bill would allow certain medical groups to provide services in nursing homes, under Medicare, for the purpose of reducing rehospitalizations. [Reports](#) show that one in five nursing home residents are readmitted to a hospital within 30 days of entering a nursing home. According to the Centers for Medicare & Medicaid Services (CMS), [45 percent](#) of such hospital admissions could have been avoided.

Proponents of the RUSH Act argue that allowing Medicare to enter into value-based arrangements with outside medical groups to provide telehealth and on-site first responder services to residents would reduce unnecessary hospitalizations. While the goal of reducing rehospitalization is an important one, LTCCC and other advocacy organizations have written a letter opposing the bill. The RUSH Act has several substantive flaws but, fundamentally, it is a poor attempt at addressing the persistent inadequate staffing of all too many nursing homes across the country.

“The RUSH Act has too many unanswered questions. A simpler solution to the RUSH Act is to enforce the staffing requirements already required by federal and state laws. A better solution would be to improve upon the staffing requirements by implementing minimum staff-to-resident ratios and/or requiring a registered nurse to be on duty 24-hours a day, seven days a week.”

We believe that a better way to reduce unnecessary hospitalization is to enforce existing federal law and to strengthen it. The federal Nursing Home Reform Law requires each nursing home to have a registered nurse (RN) on duty for eight hours a day, seven days a week. Facilities are also required to have 24-hour licensed nursing services that are sufficient in meeting the needs of residents. However, many reports indicate that nursing homes all too often fail to meet these requirements. As CMS has acknowledged, greater RN hours are linked to better outcomes in 30-day readmissions, emergency room transfers, and successful discharge to the community.

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- To read our letter opposing the RUSH Act, please see <https://nursinghome411.org/wp-content/uploads/2018/11/Consumer-Statement-RUSH-Act-1.pdf>.

LTC NEWS & BRIEFS

LTCCC PUBLISHES REPORT ON PROMISING POLICIES AND PRACTICES FOR IMPROVING RESIDENT HEALTH, QUALITY OF LIFE, AND SAFETY IN ASSISTED LIVING

Below is an excerpt of LTCCC's [media alert](#) regarding our new report on key best practices and policies for assisted living.

Assisted living is a popular alternative to nursing homes for seniors who need or want residential care but want to avoid the institutional setting that the typical nursing home provides. However, in the absence of federal safety standards, assisted living facility (ALF) residents are only protected to the extent that individual states have developed regulatory requirements to ensure the safety and dignity of their residents. Unfortunately, according to a 2018 GAO report, *Medicaid Assisted Living Services: Improved Federal Oversight of Beneficiary Health and Welfare is Needed*, **all too often states fail to protect ALF residents or even keep track of when they are harmed.** The GAO found that there were an astonishing 23,000 reported cases of “critical incidents,” including abuse, neglect, exploitation, and death, in ALFs across just 22 states in 2014. While this number is significant, there is little doubt that the extent to which critical incidents occur is, actually, far greater, since only 22 of the 48 states surveyed by the GAO tracked and reported critical incidents. Moreover, the review only included Medicaid assisted living, which covers a small minority of ALF residents (most Americans pay privately for assisted living services).

“In the absence of strong and clearly defined quality of care and quality of life standards, residents will continue to be susceptible to inappropriate care and potentially unsafe conditions when they move to an ALF.”

“The GAO’s report provides clear evidence of the urgent need to address the health and safety of assisted living residents,” said Richard Mollot, LTCCC’s Executive Director. “In the absence of

strong and clearly defined quality of care and quality of life standards, residents will continue to be susceptible to inappropriate care and potentially unsafe conditions when they move to an ALF.”

LTCCC’s new report, [Assisted Living: Promising Policies and Practices](#), provides information and insights into best practices and policies for assisted living. The report focuses on areas of public interest and concern which we have identified as particularly important to ensuring resident safety and the ability of residents to realize assisted living’s “promise” of a resident-centered and directed, home-like environment. They include: (1) staff training requirements, (2) dementia care, (3) whether a registered nurse is employed, and (4) state oversight and quality assurance.

In addition, LTCCC has compiled an [Assisted Living State Requirements Chart](#) showing, for every state in the country, the state’s status in regard to key policies and requirements.

[STUDY FINDS LINK BETWEEN HIGHER REGISTERED NURSE HOURS AND LOWER ANTIPSYCHOTIC DRUG USE](#)

The federal Nursing Home Reform Law requires every nursing facility to have a registered nurse on duty eight hours a day, seven days a week. Despite the existence of this minimal floor for registered nurse hours, some nursing homes still fail to meet this requirement. Data from the newly implemented payroll-based journal (PBJ) system shows that, for at least one day in the last quarter of 2017, 25 percent of facilities [“reported no registered nurses at work.”](#) As many reports have indicated, quality of care and quality of life among nursing home residents suffer when inadequate staffing exists. A recently published report in the *Journal of Psychiatric and Mental Health Nursing* (JPMHN) now lends further evidence that registered nurse hours and antipsychotic drug use are linked.

According to [“An observational study of antipsychotic medication use among long-stay nursing home residents without qualifying diagnoses,”](#) increasing registered nurse hours could reduce antipsychotic drug use among residents. The study found that just “[o]ne additional registered nurse hour per resident day could reduce the odds of antipsychotic use by 52% and 56% for residents with and without a dementia diagnosis respectively.” Looking at nursing homes in the state of Missouri, the study found that meeting the national average in registered nurse hours (.8) would reduce the odds of inappropriate antipsychotic drug use among residents with and without dementia by 22 percent and 25 percent, respectively.

“One additional registered nurse hour per resident day could reduce the odds of antipsychotic use by 52% and 56% for residents with and without a dementia diagnosis respectively.”

The authors of the study concluded by stating that nursing homes “must work to reduce APM [antipsychotic medication] use, primarily for residents’ health, but also for certification and survey outcomes.” The authors also encourage the use of evidence-based nonpharmacological interventions to reduce the use of antipsychotic drugs and comply with federal regulations.

- For more information about the registered nurse hours of any given nursing home, please see LTCCC’s nursing home staffing data for the first quarter of 2018, available at <https://nursinghome411.org/nursing-home-staffing-2018-q1/>.
- To learn about resident rights in relation to antipsychotics, please see LTCCC’s Issue Alert on antipsychotic drugs, available at <https://nursinghome411.org/issue-alert-antipsychotic-drugs/>.
- To learn about the federal nursing home staffing requirements, please see LTCCC’s Issue Alert on staffing, available at <https://nursinghome411.org/ltccc-issue-alert-nursing-home-staffing-requirements/>.

LTCCC’S ANALYSIS OF THE LATEST FEDERAL DATA REVEALS AN INCREASE IN ANTIPSYCHOTIC DRUG USE AMONG NURSING HOME RESIDENTS

The inappropriate use of antipsychotic drugs has been a persistent and widespread problem in nursing homes throughout the country. Less than two percent of the population will ever have a diagnosis for a clinical condition identified by the Centers for Medicare & Medicaid Services (CMS) when it risk-adjusts for potentially appropriate uses of these drugs. However, nursing homes all too often use antipsychotic drugs as a chemical restraint in order to sedate residents exhibiting the so-called behavioral and psychological symptoms of dementia, rather than addressing the underlying causes of those behaviors through nonpharmacological approaches.

Antipsychotic drugs place residents at a greater risk of harm. In addition to impacting their social and emotional well-being, residents have an increased risk of experiencing a stroke, heart attack, diabetes, Parkinsonism, and falls. In fact, the Food and Drug Administration (FDA) issued a “black box” warning against the use of antipsychotic drugs on elderly patients, noting that the use of these drugs is associated with a greater risk of death in elderly people with dementia.

In response to such inappropriate use and [reports](#) by the HHS Office of the Inspector General, CMS launched the National Partnership to Improve Dementia Care in Nursing Homes in 2012. The initial goal of the Partnership was to reduce inappropriate use by 15 percent before the end of the 2012 calendar year. The Partnership failed to meet that goal for an additional 12 months. CMS subsequently announced another goal of a five percent reduction in both 2015 and 2016. CMS declared the Partnership a success in 2017, providing that a 30 percent reduction in inappropriate antipsychotic drug use had been realized.

Recent studies looking at the inappropriate use of antipsychotic drugs have concluded that a portion of the Partnership’s reduction in inappropriate use may be attributed to an increased use of [mood stabilizers](#) (typically used to treat bipolar disorder) and increase in residents being diagnosed for clinical conditions that CMS [excludes](#) when reporting antipsychotic drugging

“[D]ata indicate that approximately 20% of residents - over 250,000 vulnerable residents - are being administered powerful antipsychotic drugs in our nursing homes today.”

[-LTCCC Media Advisory: Latest Federal Data Reveal Widespread Antipsychotic Drugging of Vulnerable Nursing Home residents](#)

rates. As a result, the Partnership’s claim of a 30 percent reduction may be misrepresenting the actual reduction in inappropriate use.

LTCCC publishes federal drugging rates for every US nursing home. LTCCC’s latest analysis of the antipsychotic drugging rates for the second quarter of 2018 indicates that nursing homes may once again be increasing inappropriate use. The data indicate that approximately 20 percent of residents—over 250,000—vulnerable nursing home residents are being administered antipsychotic drugs.

- To read LTCCC’s media advisory on the latest federal data, please see: <https://nursinghome411.org/ltccc-news-alert-november-2018-latest-data-on-nursing-home-antipsychotic-drugging/>.
- To see the latest drugging rates for every U.S. nursing home, please visit <https://nursinghome411.org/us-nursing-home-antipsychotic-drugging-rates-2018q2/>.
- For more information about antipsychotic drugs in nursing homes, please see our Issue Alert: <http://nursinghome411.org/issue-alert-antipsychotic-drugs/>.
- To access LTCCC’s Dementia Care Advocacy Toolkit, please see: <http://nursinghome411.org/learning-center/dementia-care-advocacy-toolkit/>.

STUDY FINDS ANTIPSYCHOTIC DRUGS DO NOT DECREASE DAYS WITH DELIRIUM

“Haloperidol and Ziprasidone for Treatment of Delirium in Critical Illness,” a study published in *The New England Journal of Medicine* on October 22, 2018, found that the use of two antipsychotic drugs to treat delirium did not result in fewer days with delirium. As the study noted, delirium is a common symptom of acute brain dysfunction, which affects “50 to 75% of patients who receive mechanical ventilation in an intensive care unit (ICU).” Individuals with delirium are subject to higher mortality rates, extended periods of mechanical ventilation, longer hospital stays, increased costs, and higher risks of cognitive impairment.

Using a randomized, double-blind, and placebo-controlled trial, researchers found that “there was no evidence that either haloperidol or ziprasidone led to a shorter duration of delirium and coma.” The researchers also noted that, for patients receiving mechanical ventilation in the ICU, the “results showed no significant differences in days alive without delirium or coma.” As the study identified, “[f]or more than 40 years, or more than 40 years, intravenous antipsychotic medications have been used to treat delirium in hospitalized patients.” The study now indicates that such use of antipsychotic drugs may be inappropriate.

“The use of haloperidol or ziprasidone, as compared with placebo, in patients with acute respiratory failure or shock and hypoactive or hyperactive delirium in the ICU did not significantly alter the duration of delirium.”

-Timothy Girard et al.,
Haloperidol and Ziprasidone for Treatment of Delirium in Critical Illness.

ADENOVIRUS OUTBREAK AT A PEDIATRIC NURSING HOME IN NEW JERSEY RESULTS IN THE DEATH OF MULTIPLE CHILDREN

CNN [reports](#) that ten children have died after an adenovirus outbreak at a New Jersey nursing home for pediatric residents. Additionally, seventeen others have become sick in connection

with the outbreak at the Wanaque Center for Nursing and Rehabilitation. According to [The New York Times](#), the nursing home has been barred from accepting new residents until the outbreak has been contained.

The virus can be found on unclean surfaces and medical instruments. The New Jersey Department of Health has noted that it is investigating the nursing home and *The Times* reports that inspectors had found “minor handwashing deficiencies.” The nursing home has a four out of five-star rating on Medicare’s Nursing Home Compare website, despite having only two stars for health inspections. Previous health inspections have shown deficiencies in handwashing protocols and infection control.

“There was a failure somewhere . . . So when did it happen, why did it happen, and what are they doing about it?”

-Joseph Vitale, New Jersey State Senator.

- For more information about the nursing home infection prevention and control program requirements, please see LTCCC’s Issue Alert: <https://nursinghome411.org/ltccc-issue-alert-infection-control-prevention/>.

PROVIDER MAGAZINE CITES STAFFING AND TRAINING AS KEY FACTORS FOR ADDRESSING RESIDENT CARE NEEDS WITHOUT THE USE OF ANTIPSYCHOTIC DRUGS

In [“Strategies to Manage Behavior Without Antipsychotics,”](#) Richard Juman challenges the notion that the best way to deal with unwanted resident behavior is to use antipsychotic drugs. Dr. Juman states that the widespread use of such powerful medications is profound in terms of their overall impact on a resident’s quality of life, noting that a resident’s “chances of success should never be undermined by the use of antipsychotics unless those medications are absolutely necessary.”

The article provides readers with best practices for avoiding unnecessary and inappropriate antipsychotic drug use through the utilization of non-pharmacological interventions. These interventions include creating the right environment by allowing residents to have self-determination in their schedules and preferences, maintaining stable staffing to help foster resident-staff relationships, training staff to be competent in providing care to residents with dementia or mental health issues, and addressing the root causes of behavioral health issues.

“Perhaps the most pernicious and widespread misconception in post-acute care is that antipsychotics are the best answer to the problem of challenging resident behaviors”

-Richard Juman, [“Strategies to Manage Behavior Without Antipsychotics.”](#)

- To access LTCCC’s fact sheet on the non-pharmacological approaches to dementia care, please visit: <https://nursinghome411.org/fact-sheet-non-pharmacological-approaches-to-dementia-care/>.

STUDY SHEDS LIGHT ON RESIDENT-TO-RESIDENT INCIDENTS, HIGHLIGHTING AVENUES FOR REDUCING HARM

A new study of resident-to-resident incidents among those suffering from dementia in long-term care facilities offers insight into the prevention of potential fatalities. [*"The circumstances surrounding the death of 105 elders as a result of resident-to-resident incidents in dementia in long-term care homes,"*](#) by Eilon Caspi, examines media accounts and death review records from the United States and Canada, and finds the following information:

- 44 percent of all fatalities occurred because of physical contact (push-falls);
- While men and women both died as a result of these incidents, 75 percent of the exhibitors were men;
- 59 percent of incidents occurred in bedrooms and 43 percent involved roommates;
- 44 percent of incidents occurred at night, with 38 percent of all incidents occurring on weekends; and
- 62 percent of the incidents were reported to not have been witnessed by staff.

According to the author, the gaps and vulnerabilities identified by the study demonstrate avenues for reducing resident-to-resident incidents. For instance, nursing homes could increase staffing levels during specific time periods (e.g., nights and weekends). Nursing homes could also develop better policies to address admission and roommate assignments. The author adds that residents too often engage in aggressive episodes because needs are not met in a timely manner.

- For more information about the study, see Eilon Caspi's article, "Buried (Not) Forever," on ChangingAging:
<https://changingaging.org/dementia/buried-not-forever/>.

JOINT NY STATE AND FEDERAL INVESTIGATION INTO FALSE MEDICAID BILLING RESULTS IN A \$1.65 MILLION SETTLEMENT

New York's Medicaid program will be receiving \$1.65 million in restitution and penalties stemming from a joint state and federal settlement with Centers Plan for Healthy Living LLC. Centers Plan was alleged to have submitted fraudulent bills to the state's Medicaid program in violation of state and federal False Claims Acts.

An investigation conducted by the New York Attorney General's Office and the U.S. Attorney's Office discovered that, between April 2013 and December 2015, Centers Plan members did not receive certain community-based long term care services.

Additionally, "[f]or a number of members, there was no record that Centers Plan provided them with any services whatsoever for most of their enrollment period." The investigation uncovered that Centers Plan still continued to receive Medicaid payments of \$2,500 to \$4,300 a month per member every month.

New York Attorney General Barbara D. Underwood stated that "[s]ubmitting phony bills undermines the integrity of our Medicaid system and cheats New Yorkers." The Attorney General added that the "settlement serves a reminder that we will hold accountable those who seek to game the system for their own financial benefit."

"Today's settlement serves as a reminder that we will hold accountable those who seek to game the system for their own financial benefit."

- New York Attorney General
Barbara D. Underwood

FLORIDA'S STATE DATA SHOW TOO MANY NURSING HOMES WERE NOT PREPARED FOR THE 2018 HURRICANE SEASON

Last year, Hurricane Irma swept through Florida and cut electricity across the state. Sadly, fourteen nursing home residents at The Rehabilitation Center at Hollywood Hills died due to the subsequent lack of air conditioning in the facility. Following these deaths, Florida began requiring nursing homes and assisted living facilities to have back-up power in place for emergencies; the generators were to keep facilities at 81 degrees indoors and maintain power for 96 hours.

Many facilities are still not prepared to properly meet the requirements of the new Florida rule. During Hurricane Michael, Florida Governor Rick Scott declared a state of emergency in 35 counties. According to the *Pacific Standard's* analysis of state data, 12 out of those 35 counties had facilities that did not comply with Florida's emergency preparedness rule. Moreover, "those 'compliance' numbers don't specify facilities that haven't yet put in a permanent generator, but instead have requested or received extensions to the state's . . . deadline."

In addition to Florida's state requirement, every nursing home across the country has to meet emergency preparedness requirements that have been established by the Centers for Medicare & Medicaid Services (CMS). Although recent natural disasters have illustrated the need for both federal and state rules, CMS has issued a [notice of proposed rulemaking](#) (NPRM) announcing a rollback of some of the federal requirements, such as reducing the frequency of review from annually to every other year.

- LTCCC and the Center for Medicare Advocacy will be issuing joint comments on the proposed rule. To read our comments when they submitted, please visit <https://nursinghome411.org/lccc-comments/>.

BUFFALO NURSING HOME'S FAILURE CAUSES RESIDENT TO LOSE HER EYE, RAISING QUESTIONS ABOUT OUT-OF-TOWN NURSING HOME OPERATORS

Sally Keller lost her left eye due to an infection when her nursing home, Ellicott Center for Rehabilitation and Nursing, failed to treat the eye after surgery. Ms. Keller told *The Buffalo News* that staff were putting eye drops in the wrong eye, to which staff responded that they only had a prescription for the right eye. During surgery to remove the eye, doctors saw that "the infection was so bad that bacteria had eaten a hole into the back wall of the eyeball." The New York State Department of Health determined that the nursing home had significant medication errors and cited the facility for failing to properly administer eye medications. The facility was fined just \$21,053 last year for the deficiencies.

"[T]he infection was so bad that bacteria had eaten a hole into the back wall of the eyeball."

In ["Buffalo nursing home's medical errors cost woman an eye,"](#) reporter Lou Michel connects the nursing home's violations with a trend in poor quality at local nursing homes owned by out-of-town operators. The article points to federal data showing that "most of the area nursing homes sold to out-of-town owners in the past 11 years

are understaffed compared to nursing homes across the state” As the article notes, Ellicott Center, which is operated by the New York City-based Waterfront Operations Associates LLC, had nine actual harm immediate jeopardy deficiencies in the last three years. According to health department records, that is “the third-highest number among about 620 nursing homes in the state”

- To read more articles in this series about out-of-town nursing home operators, please see <https://buffalonews.com/topic/nursing-homes/>.

CENTER FOR MEDICARE ADVOCACY PUBLISHES NEW *JIMMO* TOOLKIT TO HELP RESIDENTS APPEAL UNFAIR DENIALS OF COVERAGE BASED ON AN ERRONEOUS “IMPROVEMENT STANDARD”

Medicare beneficiaries must not be denied skilled care solely based on their potential for improvement. The settlement agreement in *Jimmo v. Sebelius*, makes clear that Medicare coverage of skilled services must not be determined based “on the presence or absence of a beneficiary’s potential for improvement, but rather on the beneficiary’s need for skilled care. Skilled care may be necessary to improve a patient’s condition, to maintain a patient’s current condition, or to prevent or slow further deterioration of the patient’s condition.”

Unfortunately, Medicare beneficiaries are continuing to be denied coverage of these skilled services based an erroneous “Improvement Standard.” To assist beneficiaries appeal unfair denials in skilled nursing facilities, the Center for Medicare Advocacy has published a new toolkit with self-help materials on the required coverage criteria, expedited appeals in traditional Medicare, and fast-track appeals in Medicare Advantage.

- To access the Center for Medicare Advocacy’s Medicare Skilled Nursing Facility Coverage and Appeals In Light of *Jimmo v. Sebelius* Toolkit, please visit: <http://www.medicareadvocacy.org/wp-content/uploads/2018/10/Jimmo-SNF-Checklist-Toolkit-00321779xC6348.pdf>.

HOLIDAY SEASON 2018: PLEASE SUPPORT LTCCC’S MISSION

Your generous donations enable us to be a strong voice for vulnerable people in nursing homes and assisted living, and their families. 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 by shopping online via our secure [iGive](#) page. iGive provides access to over 1,800 sites, from JC Penney to Neiman-Marcus for shopping to Expedia and Orbitz for travel. LTCCC is also an Amazon affiliate. Simply go to smile.amazon.com and choose Long Term Care Community Coalition to support LTCCC when you make a purchase on Amazon.

RECENT LTCCC EVENT

ANNUAL COCKTAIL PARTY AND RECEPTION

LTCCC'S Tenth Annual Cocktail Party and Reception was held on October 10, 2018. Thank you to everyone who joined us for an enjoyable evening and to our generous sponsors who helped make the 10th Annual Reception a successful event!

We are especially appreciative of our three excellent guest panelists: the Honorable Richard N. Gottfried, Chair, NYS Assembly Committee on Health; Annette Horvath, administrator, Bronxwood Assisted Living; Barbara Murray, assisted living resident.

Thank you to everyone who supported our event this year:

- [The Rizzuto Law Firm](#)
- [Aetna Better Health NY](#)
- [Sherburn Electronics Inc.](#)
- [AARP](#)
- [The Law Firm of D.F. Truhowsky](#)
- [NYSNA](#)
- Ann Dillon-Stanton
- [Ambrosio & Bellotti, CPAs, P.C.](#)
- [Blondie's Treehouse, Inc.](#)



FREE LTCCC RESOURCES

ELDER JUSTICE "NO HARM" NEWSLETTER

Federal data indicate that state surveyors cite nursing home health deficiencies as having caused "no harm" to residents more than 95% of the time. Unfortunately, this has a profound impact on a nursing home resident's quality of care and quality of life. Resident experiences cited in a given facility's Statement of Deficiencies (SoDs) indicate that residents are actually being harmed by these deficiencies, despite the misleading "no harm" label.

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 our readers information on what a "no harm" deficiency is and how it impacts residents across the country every day. Our organizations hope this information will educate residents, families, friends, and advocates on the state of nursing home enforcement and to encourage them to remain vigilant in advocating for a resident's rights under federal law.

- For a full list of the “no harm” deficiencies featured in our newsletters, please see our [Searchable Issue Guide: Elder Justice “No Harm” Deficiencies](#).

LTCCC ISSUE ALERTS

LTCCC publishes frequent [issue alerts](#) on the rights of nursing home residents. These issue alerts focus on specific standards of care that nursing homes must follow as a requirement of participating in Medicare and Medicaid. The goal of this project is to provide residents, families, and advocates with information on why a standard of care is important to residents, what the nursing home requirements for that standard are, how prevalent deficiencies in meeting that standard are, what resident harm looks like when nursing homes fail to meet that minimum standard of care, and where readers can go for additional information.

- To date, LTCCC has published issue alerts on the following standards and requirements:
 - [Pressure ulcers](#)
 - [Antipsychotic drugs](#)
 - [Staffing](#)
 - [Infection control](#)
 - [Transfer and discharge](#)
 - [Bed rails](#)
 - [Baseline care plans](#)
 - [Resident and family councils](#)

LTCCC JOINT STATEMENTS

The Long Term Care Community Coalition, in partnership with the [Center for Medicare Advocacy](#), has published several joint statements on issues of concern for nursing home residents, families, and ombudsmen. These statements provide readers with a brief examination of timely topics that directly impact resident quality of care and quality of life in nursing homes across the country. As of Fall 2018, LTCCC and the Center have published joint statements on [medical loss ratios](#), [civil money penalties](#), [staffing](#), and [World Elder Abuse Awareness Day](#).

LTCCC’S QUARTERLY NURSING HOME STAFFING DATA

LTCCC has published the latest, [user-friendly data](#) on the staff assigned to provide resident care and, for the first time, select non-nursing staff, including those providing important activities and social work services. This information can help the public, news media, and policymakers identify and assess the extent to which nursing homes in their communities are providing sufficient staffing to meet basic clinical and quality of life needs. The data are for the first quarter of 2018, the most recent period reported by the federal Centers for Medicare & Medicaid Services (CMS).

Visitors to our website, www.nursinghome411.org, can download easy-to-use charts for every state that include (for each facility in the state in compliance with the reporting requirement):

- The facility’s resident census (population);

- Its direct care RN, LPN, and CNA staffing levels;
- The amount of care staff hours per resident per day for both all care staff and for RNs specifically;
- Select non-nursing staff hours per day, including administrators, social workers, and activities staff.

To facilitate ease of use, the individual state files are easily sortable. For example, a state file can be sorted to identify which facilities have the highest reported levels of RN care and which have the lowest.

A few facts about the reported data:

- US nursing homes provide an average of 3.4 total care staff hours per resident per day. A 2001 landmark federal study indicated that at least 4.1 hours is needed to meet a typical resident's needs.
- US nursing homes provide an average of .5 RN care staff hours per resident per day. The 2001 federal study indicated that 10 – 50% more is needed to meet a typical resident's clinical needs.
- US nursing homes provide an average of .2 hours activities staff time and .1 hours of social work staff time per resident per day. LTCCC believes that lower activities staff time may contribute to social isolation and impact a resident's psychosocial well-being

LTCCC FAMILY & OMBUDSMAN RESOURCE CENTER

[LTCCC's Family & Ombudsman Resource Center](#) offers visitors resources and tools designed for resident-focused advocacy. The Resource Center displays the most recent and most relevant materials, including webinars, from LTCCC that families and ombudsmen can utilize when advocating for the rights and protections of a resident. Recent additions to the Resource Center include fact sheets on [immediate access to nursing home residents](#) and [the foundations of resident rights](#).

LTCCC ACTION CENTER

[LTCCC's Action Center](#) provides residents, families, and advocates with letters that can be sent directly to their Congressional and State representatives. These letters focus on issues that are essential to residents' quality of care and quality of life in nursing homes across the country and in New York State. Individuals using LTCCC's Action Center can revise our letters or send them as written.

LTCCC WEBINARS

LTCCC conducts monthly free webinars on a variety of timely nursing home topics, ranging from the survey process to resident rights. Recordings of past webinars are available on [LTCCC's YouTube](#) page. For information on future webinars, please visit our homepage www.nursinghome411.org.

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.

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