

MDS Alert

Abuse: Dazed and Docile

Human Rights Watch identifies drugs as a nursing facility mechanism of controlling residents with dementia.

Human Rights Watch released a 157-page report in early February detailing visits to nursing facilities in six states in the U.S. and finding evidence of major misuse of antipsychotic drugs.

The report is based on visits by Human Rights Watch researchers to more than 100 nursing facilities in six states and more than 300 interviews with people living in facilities, their families, staff, long-term care and disability experts, government officials, and advocates.

"In an average week, nursing facilities in the United States administer antipsychotic drugs to over 179,000 people who do not have diagnoses for which the drugs are approved," says a summary about the report.

"People with dementia are often sedated to make life easier for overworked nursing home staff, and the government does little to protect vulnerable residents from such abuse," said **Hannah Flamm**, NYU School of Law fellow at **Human Rights Watch** in New York, in a press release about the report. "All too often, staff justify using antipsychotic drugs on people with dementia because they interpret urgent expressions of pain or distress as disruptive behavior that needs to be suppressed."

Despite new regulations aimed at reducing chemical restraints and the use of antipsychotics on residents without appropriate diagnosis or consent - and the last-minute moratorium enacted by **David R. Wright**, director of survey and certification group at CMS - their use remains rampant, and enforcement lacking, beyond paper regulations, Human Rights Watch alleges.

"Using antipsychotic medications as a 'chemical restraint' - for the convenience of staff or to discipline residents - violates federal regulations and can amount to cruel, inhuman, or degrading treatment under international human rights law. Yet even when nursing homes are found to have broken these rules, they are rarely punished," the press release says.

Report Suggests Facilities Violating International Standards on Human Rights

The use of antipsychotic drugs to control people without their knowledge or against their will in nonemergency situations violates international human rights. The practicalities of obtaining consent from an older person with dementia can be fraught. However, in many of the cases Human Rights Watch documented, nursing facilities made no effort to obtain meaningful, informed consent from the individual or a health proxy before administering the medications in cases where it clearly would have been possible to do so," the report summariesays.

"The use of antipsychotic drugs without permission from the resident or their proxy is common, Human Rights Watch found. Federal regulations require nursing facilities to inform residents of treatment options and to give them the right to refuse treatment. Some state laws require informed consent for these medications. Yet staff at many facilities openly admitted they do not even try to follow these rules," the press release says.

Human Rights Watch Group Says CMS Failing Elderly

"CMS and its state counterparts should strengthen their enforcement of federal regulations regarding antipsychotic drugs. Residents and their families should be told they have the right to be informed of their treatment alternatives and their right to refuse. The government should ensure nursing homes employ enough staff to provide adequate care," according to Human Rights Watch's recommendations as quoted in the press release.

"The U.S. has domestic and international legal obligations to protect people who live in nursing facilities from the inappropriate use of antipsychotic drugs, among other violations of their rights," the report summary says. "These obligations are particularly important as people in nursing facilities are often at heightened risk of neglect and abuse. Many individuals in nursing facilities are physically frail, have cognitive disabilities, and are isolated from their communities. Often, they are unable or not permitted to leave the facility alone. Many depend entirely on the institution's good faith and have no realistic avenues to help or safety when that good faith is violated."

The report lists other concerns from the Human Rights Watch as well, including residents not being provided the free and informed consent they're due, especially as pertains to their involvement in their own care and care planning.

The report dings skilled nursing facilities for lacking adequate staffing - both in numbers and in competency. "While experts put minimum adequate nursing staffing time at 4.1 to 4.8 hours per resident per day, most facilities self-reported to the government providing less than that; almost one thousand facilities self-reported providing less than three hours of staff time per day," the summary of the report says.

Human Rights Watch is also plainspoken in its accusation that whatever discipline CMS threatens, it doesn't follow through with actual enforcement. "Almost all antipsychotic drug-related deficiency citations in recent years have been determined to be at the level of causing 'no actual harm,' curtailing the applicability and severity of financial sanctions," the report summary says.

"The U.S. government pays nursing homes tens of billions of dollars per year to provide safe and appropriate care to residents," Flamm said, as quoted in the press release. "Officials have a duty to ensure that these often vulnerable people are protected rather than abused."

Read the full 157-page Human Rights Watch report on nursing facilities intentionally misusing antipsychotics on residents here: https://www.hrw.org/sites/default/files/report_pdf/us_nursinghomes0218_web.pdf.