Avoiding Drugs Used as Chemical Restraints

# Residents' Rights and Facility Responsibilities

Avoiding Drugs As Chemical Restraints

Changing the Culture of Care

A CONSUMER EDUCATION CAMPAIGN

The National Consumer Voice for Quality Long-Term Care & AARP Foundation

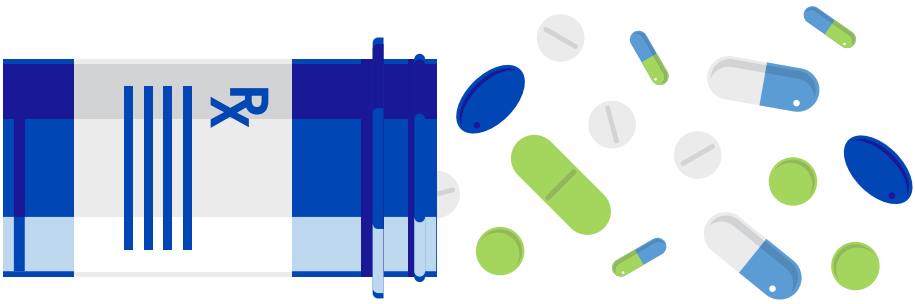

Developed by the National Consumer Voice for Quality Long-Term Care, www.theconsumervoice.org.

This resource is a product of the Avoiding Drugs as Chemical Restraints Consumer Education Campaign, a partnership of the National Consumer Voice for Quality Long-Term Care and AARP Foundation

# *Avoiding Drugs Used as Chemical Restraints – Residents' Rights and Facility Responsibilities*

## All nursing home residents have the right to quality, individualized, person-centered care that respects their needs, choices, preferences and routines.[1]

This includes when antipsychotic drugs are considered for use.[2] Too often, individuals living with dementia are prescribed off-label antipsychotic medications instead of being provided quality care to meet their needs. These drugs have been found to increase the risk of harm or death for elderly patients with dementia. These drugs are not a treatment for dementia. They *are* appropriate for patients with specific mental disorders, such as Schizophrenia or Tourette's Syndrome. Yet, they are also prescribed to residents without those clinical diagnoses, usually to sedate the individual or change behaviors. It is important that residents, their representatives, and their family members understand their right to say no to these drugs, and they understand all of their rights surrounding these potentially dangerous medications.



# Consent and Clear Communication

Residents[3] have the right to clear communication about their care and treatment plans.[4] This is very important in the context of antipsychotic medications. Residents should be told about the potential side effects and risks of any medications before they are prescribed them, as well as what other treatment options are available. Residents must also consent to any treatment, and they can revoke their consent at any time.[5]

**To ensure this, facilities must:**

- ◯ Schedule meetings and provide information at times that best suit the resident, such as when the resident expresses concerns or is most awake.[6]
- ◯ Offer information in understandable terms.[7]
- ◯ Inform the resident in advance of a treatment's risks, benefits, options, and alternatives.[8]
- ◯ Obtain informed, competent, and voluntary consent from the resident for all treatment.[9]
- ◯ Document when the resident declines care and what risks their refusal poses.[10]
- ◯ Attempt to educate a resident about the risks of declining treatment.[11]
- ◯ Provide alternative options, such as offering care at another time or implementing behavioral interventions, to address any risks or unmet needs.[12]

# Provide Care and Services to Meet Resident Needs

Each resident has the right to receive, and the facility must provide, care and services to attain or maintain their highest practicable physical, mental, and psychosocial well-being.[13] They also have the right to be free from abuse[14] and chemical restraints.[15] Care and services must be provided in a manner that is person-centered and supports the residents' goals and preferences.[16]

**To ensure resident needs are met, facilities must:**

- ◯ Provide enough qualified and competent staff to fully meet the resident's needs.[17]
- ◯ Train and supervise staff, particularly around caring for residents with dementia, and recognizing and preventing abuse. [18]
- ◯ Ensure that the care and treatment meet professional standards of practice and follow the resident's care plan and choices.[19]
- ◯ Include the resident in the development and implementation of their care plan.[20]

# Non-Pharmacological Interventions

Residents have the right to non-pharmacological interventions and behavioral health services.[21] This means that before antipsychotic medications are suggested, other methods should be attempted. When these drugs are offered, residents and their representatives should ask what non-pharmacological interventions have been tried to date, and what other options are available. These alternatives allow residents to maintain their highest level of physical, mental, and psychosocial well-being.[22] All prescribed medications must be necessary to treat documented medical symptoms.[23]

Residents, including those with dementia, have the right to holistic, well-rounded treatment that understands, prevents, and relieves any distress.[24] Residents with dementia must receive appropriate services and treatments to attain or maintain their highest level of well-being.[25] Staff must be trained to care for residents with dementia appropriately.[26] This means staff need to work with and make every effort to understand non-verbal residents.[27]

***An example of how a facility might provide individualized care to a dementia patient:*** *Every afternoon, a resident with dementia tries to leave a facility because she wants to meet her children's school bus, years after her children have grown up. If this occurs, staff shouldn't challenge or argue with the resident. Instead, a staff member can walk with the resident and start a conversation about what she's doing and ask her about her children. While talking to the resident, the staff member can direct the resident, either to an activity room and help her engage in an activity or back to her own room. Engaging the resident, reassuring her that her children are cared for, and redirecting her attention can often address the resident's needs and alleviate distress she may be feeling.*

**To fulfill the requirement of providing a nonpharmacological intervention, facilities must:**

- ◯ Identify and address triggers for the resident, including delirium, pain, and environmental factors (e.g., room is too cold or too loud).[28]
- ◯ Provide individualized interventions for residents with dementia to address the causes of their distress.[29]
- ◯ Offer residents with dementia an ongoing activities program, customized and based on their interests and hobbies to avoid boredom.[30]
- ◯ Conduct monthly prescription review and report any questionable or unnecessary drugs to the attending physician.[31]
- ◯ Know the effects of medications on residents.[32]

If a resident finds themselves with a new diagnosis of schizophrenia when they've never received this diagnosis before, it should raise a red flag. Schizophrenia is typically diagnosed in a person's twenties and rarely develops later in life. Yet, in September 2021, *The New York Times* reported there had been a 70% increase in Schizophrenia diagnoses for nursing home residents between 2012 and 2021,[33] and one in nine nursing home residents have received a diagnosis of Schizophrenia versus one in 150 of the general population.[34] Remember, a resident has the right to choose their own doctor,[35] and if there is a disagreement or question about a diagnosis, the resident always has the right to select a different doctor, or to get another opinion.[36]

# *If an Antipsychotic Drug Has Been Prescribed*

Residents have the right to be free from unnecessary drugs, meaning those used in excessive doses, for excessive duration, or if there are adverse consequences which indicate the dose should be reduced or discontinued.[37] If an antipsychotic drug has been prescribed, a facility must ensure:

1. **Least dosage**

   The least restrictive alternative must be used, both in terms of the type of medication prescribed and the amount of medication administered. Even if drug use follows standards of practice, it may be considered a chemical restraint if there is a less restrictive alternative or if symptoms have subsided.

2. **Least duration**

   Any prescribed drug should be limited for the least amount of time necessary to limit life-threatening side effects.

3. **Full documentation**

   There must be complete recordkeeping for all re-assessments and ongoing monitoring of a drug's effectiveness or adverse consequences, any changes in function, and plans for discontinuing or revising care.[38]

Medication may also be used on a pro re nata (PRN), or as-needed, basis. If an antipsychotic drug is used on a PRN basis, it can only be used for 14 days, at which point it cannot be renewed without a physician evaluating the resident for the appropriateness of the medication.[39]

Residents also have the right to gradual dose reduction (GDR) if they are on antipsychotics.[40] GDR is the tapering of a medication to determine if a lower dose—or none—is better for the resident.[41] The only exceptions to this right are when symptoms return or worsen after GDR or if a physician documents that an attempt would impair the resident's function or increase distressed behavior.[42]

**To reduce the use of antipsychotic drugs to the greatest extent possible, facilities must:**

- ◯ Implement systematic processes for care-planning, assessment, documentation, and ongoing evaluation.[43]
- ◯ Monitor the resident for adverse consequences, including increased confusion or oversedation.[44]
- ◯ Attempt GDR in at least two quarters (with at least one month in between attempts) during the first year.
- ◯ Attempt GDR at least once annually after the first year.

# *Transfer/Discharge*

**A resident cannot be discharged for refusing to take an antipsychotic medication.[45]**

For more information on transfer or discharge visit our website: theconsumervoice.org/issues/other-issues-and-resources/transfer-discharge.

# Residents' Rights Regarding Antipsychotic Drugs

Below find a chart of Residents' Rights and how the facility must fulfill them.

| RESIDENTS' RIGHTS | FACILITIES' RESPONSIBILITIES |
|---|---|
| **Right to person-centered care**, including:<br>• Receiving information<br>• Making their own decisions based on their needs, preferences, and routines<br>• Consenting to care<br>• Declining care<br>*§§ 483.10(a)(1)-(2), 483.10(c)(1)-(6), 483.10(g), 483.45(e)* | Must provide treatment information in advance, at times that best suit the resident, and in formats that the resident can understand. Information includes risks, benefits, options, and alternatives.<br>Must document when a resident declines care, identify the risks, and discuss alternatives with the resident.<br>*§§ 483.10(a)(1)-(2), 483.10(c)(1)-(5), 483.10(g), 483.40(b)(3), 483.45(c)* |

## RESIDENTS' RIGHTS

**Right to respect and dignity**, including

- Being free from abuse and chemical restraints
- Receiving non-pharmacological interventions to attain or maintain their highest practicable physical, mental, and psychosocial well-being

*§§ 483.10(e)(1), 483.12(a)(2), 483.40(a)(2)*

## FACILITIES' RESPONSIBILITIES

Must provide individualized interventions for those with dementia, directed toward understanding, preventing, and relieving their distress.

Must identify and address triggers, such as delirium, pain, adverse consequences of medication, and environmental factors.

Must implement an activities program for dementia patients that incorporates their interests and hobbies.

*§§ 483.12(a)(2), 483.21(b), 483.24(c), 483.30(a), 483.35(a), 483.40(b)(3), 483.95*

## RESIDENTS' RIGHTS

**Right to voice grievances and file complaints without fear of retaliation**

§§ 483.10(j); 483.12(c)(1),(4)

## FACILITIES' RESPONSIBILITIES

Must investigate grievances and report results within 5 working days.

*§ 483.12(c)(1),(4)*

## RESIDENTS' RIGHTS

**If a psychotropic drug has been prescribed or given, the resident has the right to:**

- Not be given the drug unless necessary to treat a specific condition that has been diagnosed and documented
- Efforts to discontinue the drugs through behavioral interventions and gradual dose reduction
- Limits on PRN usage to 14 days

*§§ 483.45(d(e), 483.12(a)(2)*

## FACILITIES' RESPONSIBILITIES

Must implement appropriate assessment processes, including care planning by interdisciplinary team (IDT) and documentation of ongoing symptoms.

Must conduct monthly prescription review for unnecessary drugs and know effects of medications on residents.

Must limit PRN duration and ensure correct dosage.

Must attempt GDR at least twice during first year; after first year, GDR must be attempted at least once annually.

*§§ 483.12(a)(2), 483.45(c)(1)-(5), 483.45(e)*

# Additional Resources

### Residents' Rights

ltcombudsman.org/issues/residents-rights

### Transfer/Discharge

theconsumervoice.org/issues/other-issues-and-resources/transfer-discharge

### Know Your Drugs and Your Rights: Questions to ask your care provider and a list of drugs often used as chemical restraints

theconsumervoice.org/uploads/files/general/ChemicalRestraintsCampaign_drugchart.pdf

### Additional Resources on Antipsychotic Drugs

theconsumervoice.org/stop-chemical-restraints/resources

### How to Contact Your Long-Term Care Ombudsman Program

If you need help advocating or asserting your rights, or have questions about your long-term care, contact your Long-Term Care Ombudsman Program at, theconsumervoice.org/get_help.

# Endnotes


1 § 483.10(c)

2 § 483.10(c)(1)-(6)

3 When referring to residents having and exercising their rights, it also incorporates the resident's representative, who may also exercise rights on the residents' behalf.

4 § 483.10(g)

5 § 483.10(c)

6 § 483.10(b)-(c)

7 § 483.10(g)(3)-(5)

8 § 483.10(c)(5)

9 § 483.10(b)-(f)

10 §§483.10(c)(5)-(6), 483.21(b)(2)

11 § 483.10(c)(5)

12 Id.

13 § 483.21(b)(i)

14 §483.12

15 §§ 483.10(e)(1), 483.12(a)(2)

16 § 483.10(c)(2)

17 § 483.35

18 §§ 483.12(a)(2), 483.12(b)

19 § 483.25

20 § 483.21(b)(4)

21 §§ 483.12(a)(2), 483.45(d)

22 § 483.40(a)(2)

23 § 483.45(e)(1)

24 § 483.40(b)(3)

25 Id.

26 § 483.95(c)(3)

27 § 483.10(g)(3)-(7)

28 § 483.40(a)(2)

29 § 483.40(b)(3)

30 § 483.24(c)

31 § 483.45(c)(1)-(4)

32 Id.

33 https://www.nytimes.com/2021/09/11/health/nursing-homes-schizophrenia-antipsychotics.html

34 https://www.nytimes.com/2021/09/11/health/nursing-homes-schizophrenia-antipsychotics.html

35 § 483.10(d) and § 483.10(f)(1)

36 § 483.10(d)(5)

37 § 483.45(d)

38 §§ 483.45(d), 483.12(a)(2)

39 § 483.45(e)

40 § 483.45(e)(2)

41 Id.

42 Id.

43 § 483.21(b)

44 § 483.45(c)

45 §§ 483.15(c)(1), 483.10(c)(6)