Human Rights Watch, a nonprofit, nongovernmental human rights organization, released a report earlier this year that claims some nursing homes are overprescribing antipsychotic drugs to manage the behavior of dementia patients even though antipsychotic drugs are not FDA approved as treatment for dementia.

The FDA mandates that a black box warning appear on antipsychotic medications, which cautions that they may lead to an increased risk of death for dementia patients. Additionally, research exists supporting the idea that antipsychotics can be harmful when used for behavioral reasons alone on dementia patients, including an increased risk of death, falls, and reduced cognitive functioning.

The federal government does have regulations aimed at preventing this. One such regulation appears in a 2016 revision to the Centers for Medicare & Medicaid Services’ (CMS) regulations for Medicare and Medicaid certified nursing facilities. The regulations state that “Residents who have not used psychotropic drugs are not given these drugs unless the medication is necessary to treat a specific condition as diagnosed and documented in the clinical record.”

According to federal regulations, patients and/or their guardians have a right to understand the purpose of their prescribed medical treatment prior to administering, which is vital to preventing the prescription of unnecessary antipsychotic drugs.

Multiple states have also passed laws that aim to strengthen patient rights. Illinois has a law dating back to 1994, which states that the facility must gain written consent that patients and families understand any benefits of the drug’s use and the potential side effects. In 2014, Massachusetts passed a similar law.

Despite these regulations, the report maintains that antipsychotic drugs are still used to treat behavioral concerns in dementia patients due to a lack of enforcement. A 2014 NPR report indicates the penalties that exist for unnecessary prescriptions are rarely used and of the infractions reported only 2 percent were severe enough to warrant a fine.

CMS launched a program in 2012 to combat the improper usage of antipsychotic drugs in nursing homes and by late 2016, CMS announced that it met its goal of reducing the national prevalence of antipsychotic use in long-stay nursing home residents by 30 percent.

In response to the HRW report, the American Health Care Association, an organization that represents thousands of nursing homes, issued a statement saying that “skilled nursing providers across the country have worked tirelessly to safely reduce the unnecessary use of antipsychotic medications over the last six years” and the HRW report “does little to highlight” the advancements made by aforementioned CMS program.