

Quality Care in Nursing Homes



Quality nursing home care that the public can trust is a fundamental mission of LeadingAge. Our members have pioneered innovations in care and services that have made a major difference in the lives of nursing home residents and their families. LeadingAge and its members have developed and pursued numerous initiatives that continue to move the field forward in quality of care and quality of life for residents.

Nursing homes are regulated by a federal/state survey and enforcement process established under the Omnibus Budget Reconciliation Act of 1987 (OBRA). Thirty years of experience with this system have shown that some of the law's provisions and some of the ways in which it currently is being carried out have unintended consequences that are counterproductive to our common goal of ensuring the highest quality nursing home care. We propose the following changes to the present system:

Congress must pass legislation to end the mandatory certified nursing assistant training lock-out.

According to OBRA, nursing homes assessed civil monetary penalties above \$5,000 on their annual survey automatically lose their authority to train certified nursing assistants (CNA) who provide the extensive direct care to residents. The mandatory lock-out is a byproduct of the fines a nursing home pays and it lasts for two years. The lock-out is imposed even if the care deficiencies cited on the survey are unrelated to the nursing home's CNA training program.

The loss of CNA training authority runs directly counter to a nursing home's ability to provide the highest quality of care. Correcting problems affecting quality often requires increased staffing and/or increased staff training and education. Preventing a nursing home from training staff is a major barrier to improving the quality of care. It also exacerbates the steep workforce challenges the long-term services and supports field faces.

The following amendments to OBRA must be made:

- Replace the present mandatory two-year disapproval of a nursing home's nurse aide training program with discretionary authority for regulators to disapprove a training program.
- The discretionary authority would be triggered by a civil monetary penalty exceeding \$5,000 which is related to the quality of care given the nursing home's residents.
- Quality of care would be defined as direct, hands-on care. It would include services given by health care professionals or direct care staff.
- The lock-out would end once the nursing home corrected the deficient practice.

Establish standards for training surveyors. Although OBRA established federal standards for nursing home care and federal procedures for survey and enforcement, there are no national standards for training the personnel who carry out the surveys.

Independent watchdog agencies including the Government Accountability Office and the Department of Health and Human Services' Office of the Inspector General have noted the inconsistency of quality standard enforcement across the country. Part of the explanation is the varying resources states make available to the agencies that have the first responsibility for determining nursing homes' compliance with these standards.

Congress should direct CMS to develop federal standards for surveyor training.



Require joint training for surveyors and providers.

Given the complexity of the survey and certification system, it is not uncommon for surveyors and providers to have differing interpretations of nursing home quality requirements, related expectations, and repercussions of deficiency citations, which can compromise the survey process.

Congress should direct CMS to require each state to establish a process for joint training and education of surveyors and providers at least annually and also as changes to regulations, guidelines, and policy governing nursing home operations are implemented.

Alternative survey system demonstrations. OBRA was enacted a generation ago, based on research conducted in the 1970's. The nursing home field has changed dramatically over the last several decades. Yet further innovation is stifled by the necessity of complying with a highly prescriptive regulatory system based on an outmoded profile of the nation's nursing homes.

Many states are anxious to explore alternatives to OBRA to oversee nursing homes and promote high-quality care. While OBRA might allow for state experimentation with alternative oversight systems, most states cannot afford to pursue these innovations while also carrying out the oversight system mandated by OBRA.

Congress should direct the Centers for Medicare and Medicaid Innovation to conduct demonstration programs for states to test alternative nursing home oversight processes. The demonstrations should be structured in ways that demonstrate improved quality of care, quality of life, and safety of residents.

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