

Are nursing home inspections necessary? And if so, how often should they occur?

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Elders are vulnerable to financial, physical, and emotional abuse as well as neglect in nursing homes. Upon admission, they become totally dependent on the provider and staff for all of their basic needs. Elders are entering the nursing home older and sicker than they have in previous decades and few have relatives who live close enough to visit. This makes regulatory protections and enforcement paramount to the health, safety, and well-being of Elders living in nursing homes.

Florida House Bill (HB) 731, which passed both houses of the legislature, is proposing to reduce the enforcement of basic regulatory protections in nursing homes. These regulatory protections—including rules regarding the physical environment, infection control, quality assurance, and residents' rights--have already been scaled back under the current, federal administration. HB 731 will further weaken regulation by reducing the frequency of state surveys and inspections from once every 15 months to "periodic."

The significance of what this bill is proposing is best understood in the context of the protections and enforcements afforded under the Federal Nursing Home Reform Act or the Omnibus Budget Reconciliation Act (OBRA) of 1987. Elders in pre-OBRA nursing homes "...receive very inadequate—sometimes shockingly deficient—care that is likely to hasten the deterioration of their physical, mental, and emotional health" and "...are likely to have their rights ignored or violated, and may even be subject to physical abuse" (IOM 1986, pg 5). OBRA established basic requirements and resident rights and enforcement mechanisms (including improving inspections and establishing financial penalties) that research has shown to have improved quality of care and quality of life. However, problems remain. For example, several Government Accountability Office reports have documented that while relatively uncommon, abuse deficiencies in nursing home have increased between 2013 and 2017, almost doubling during that time--from 430 cases to 875 cases. According to data published by ProPublica, Florida ranks 44th in the total number of total deficiencies and 42nd in the total number of serious deficiencies. Data published by the Centers for Medicare and Medicaid Services show that for the most recent cycle, Florida's 695 nursing homes have a total of 3,582 health deficiencies--with deficiencies relating to quality of life and care being the most common (followed by deficiencies related to residents' rights). The data also show a total of 2,313 fire and life safety deficiencies.

How often should nursing homes be inspected? The Institute of Medicine issued a report in 1986 that was later used to support OBRA. The report advised that, "Although some states have experimented with flexible survey cycles, there is still no valid information on the optimum periodicity of inspections for detecting violations before they become serious. Even excellent facilities may fall out of compliance very quickly after key staff, ownership, or resident mix changes. The consensus among consumer, regulator, and provider groups is that annual surveys of nursing homes are both reasonable and necessary." Given that Elders in nursing homes are facing increasing deregulation, the enforcement of what regulation remains is increasingly critical to avoid returning to a pre-OBRA era of over three decades ago.