

**Federal Nursing Home Reform Act  
from the  
Omnibus Budget Reconciliation Act of 1987  
or simply  
OBRA '87 SUMMARY**

Developed by Hollis Turnham, Esquire

In 1987, President Ronald Reagan signed into law the first major revision of the federal standards for nursing home care since the 1965 creation of both Medicare and Medicaid 42 U.S.C.1396r, 42 U.S.C. 1395i-3, 42 CFR 483. The landmark legislation changed forever society's legal expectations of nursing homes and their care. Long term care facilities wanting Medicare or Medicaid funding are to provide services so that each resident can "attain and maintain her highest practicable physical, mental, and psycho-social well-being."

Medicaid Provision: 42 U.S.C. 1396r(b)(4)  
<http://www4.law.cornell.edu/uscode/42/1396r.html>

Medicare Provision: 42 U.S.C. 1395i-3(b)(4)  
<http://www4.law.cornell.edu/uscode/42/1395i-3.html>

Federal Regulations: 42 CFR 483.25 <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html> - page 1 (Use the search engine at the bottom of the page to retrieve a specific title part and section.)

### **WHAT IS OBRA '87?**

The Federal Nursing Home Reform Act or OBRA '87 creates a set of national minimum set of standards of care and rights for people living in certified nursing facilities. This landmark federal legislation comes by its common name "OBRA" through the legislative process. Congress, then and now, usually completes a huge measure of its budgetary and substantive work in one large bill. The bill accomplishing that function in 1987 was entitled the Omnibus Budget Reconciliation Act of 1987 or "OBRA '87." The separate Federal Nursing Home Reform Act along with many other separate bills was "rolled into" one bill to insure final passage of all the elements.

These minimum federal health and care requirements for nursing homes are to be delivered through variety of established protocols within nursing homes and regulatory agencies. And as minimum standards, Long-Term Care Ombudsmen should view OBRA as a baseline that should be built upon to reach not only resident "well-being" but also happiness and fulfillment.

OBRA also recognized the unique and important role performed by the LTCOP for nursing home residents. The federal Medicaid and Medicare legislation included those

distinct advocacy roles and subsequent regulations and other guidance has given LTCOPs additional tools to serve resident interests.

The changes OBRA brought to nursing home care are enormous. Some of the most important resident provisions include:

- Emphasis on a resident's quality of life as well as the quality of care;
- New expectations that each resident's ability to walk, bathe, and perform other activities of daily living will be maintained or improved absent medical reasons;
- A resident assessment process leading to development of an individualized care plan 75 hours of training and testing of paraprofessional staff;
- Rights to remain in the nursing home absent non-payment, dangerous resident behaviors, or significant changes in a resident's medical condition;
- New opportunities for potential and current residents with mental retardation or mental illnesses for services inside and outside a nursing home;
- A right to safely maintain or bank personal funds with the nursing home; Rights to return to the nursing home after a hospital stay or an overnight visit with family and friends The right to choose a personal physician and to access medical records;
- The right to organize and participate in a resident or family council;
- The right to be free of unnecessary and inappropriate physical and chemical restraints;
- Uniform certification standards for Medicare and Medicaid homes;
- Prohibitions on turning to family members to pay for Medicare and Medicaid services; and
- New remedies to be applied to certified nursing homes that fail to meet minimum federal standards.

OBRA set in motion forces that changed the way state inspectors approached all their visits to nursing homes. Inspectors no longer spend their time exclusively with staff or with facility records. Conversations with residents and families are a prime time survey event. Observing dining and medications administration are a focal point of every annual inspection.

Under OBRA, Long Term Care Ombudsman Programs have defined roles to fulfill and tools to use in the annual inspection process to nurture the conversations between residents/families and inspectors and life in the nursing home.

## **HOW DID OBRA '87 COME ABOUT?**

The federal Nursing Home Reform Act became law with growing public concern with the poor quality of care in too many nursing homes and the concerted advocacy of advocates, consumers, provider associations, and health care professionals. Congress asked the Institute of Medicine (IoM) to study how to better regulate the quality of care in the nation's Medicaid and Medicare certified nursing homes.

In its 1986 report Improving the Quality of Care in Nursing Homes, the expert panel recommended:

- A stronger federal role in improving quality;
- Revisions in performance standards, the inspection process, and the remedies to improve nursing home services;
- Better training of nursing home staff;
- Improved assessment of resident needs; and
- A dynamic and evolutionary regulatory process.

Information can be found at: <http://www.nao.edu/books/0309026461>

In order to assure implementation of the IoM recommendations from the “blue ribbon panel,” the National Citizens' Coalition for Nursing Home Reform organized the “Campaign for Quality Care” to support the federal reforms. National organizations representing consumers, nursing homes, and health care professionals worked together, and continue to work, to create consensus positions on major nursing home issues. Their consensus positions on the IoM report laid the foundation for the federal law.

OBRA has changed the care and lives of nursing home residents across America. There have been significant improvements in the comprehensiveness of care planning. Anti-psychotic drug use declined by 28-36% and physical restraint use was reduced by approximately 40%.

Several states have taken all or parts of OBRA '87 and made them state law for their licensed nursing homes or other kinds of long term care facilities. For example, the state of Washington has extended the rights that nursing home residents have to residents of all Washington long term care facilities. [RCW 70.129.005](#). And, Michigan has incorporated many of the OBRA prohibitions on Medicaid discrimination into state law. [MCLA 333.21765a](#).

Online Research: *The links to federal laws and regulations in this document have been made to the most reliable sources known to the Ombudsman Resource Center. Links to the Medicaid and Medicare laws are made to the Legal Information Institute maintained by [Cornell University](#). The federal code of regulations is accessed here through the [United States Government Printing Office](#).* If these resources do not meet your needs or you find better resources for federal legal research, please contact Center staff at [ombudcenter@nccnhr.org](mailto:ombudcenter@nccnhr.org)