

Overview of 45 CFR Part 2

A last-minute Bush Administration change to the Code of Federal Regulations is gaining attention because of the impact it has on nursing home abuse and neglect cases. The regulation designates state nursing home surveyors as federal employees, thereby preventing them from participating in private lawsuits and providing testimony in nursing home cases.

What this means for nursing home cases

- State employees cannot testify in court
- Plaintiffs' attorneys cannot take depositions from state inspectors
- Attorneys lose access state inspectors' reports that hold valuable information, including employee interviews and the names of witnesses
- In order to testify, the employee must receive approval from the head of the U.S. Department of Health and Human Services

What this means for victims of nursing home abuse and neglect

In nursing home cases, state inspectors' reports often play a key role in providing evidence about the wrongdoing of nursing home employees and corporations. Without access to investigator testimony or reports, it will be much more difficult to reveal where the care systems broke down.

This regulation hurts nursing home residents because it puts the interests of nursing home corporations ahead of the rights of the residents. As a result, it will be more difficult to uncover evidence of nursing home misconduct.

Additional Resources:

To read the Rule on the Federal Register:

www.thefederalregister.com/d.p/2008-09-15-E8-21113

The Washington Post's coverage:

www.washingtonpost.com/wp-dyn/content/article/2009/02/23/AR2009022302752.html