

MARCH 12, 2020



Nursing homes face greater scrutiny from Department of Justice

By Peter Millock, Tina Sciocchetti, Philip Rosenberg, and Caitlin Donovan

On March 3, 2020, the Department of Justice (DOJ) announced a National Nursing Home Initiative (the Initiative) to investigate and target skilled nursing facilities that care for the country's vulnerable seniors. DOJ stated that its purpose for launching the Initiative is to end elder abuse, including the substandard care of nursing home residents. Nursing home practices that may lead to criminal and civil penalties include:

- Failing to provide adequate nursing staff to care for residents
- Failing to adhere to basic protocols of hygiene and infection control
- Failing to provide residents with enough food thereby making them emaciated and weak
- Withholding pain medication
- Using physical or chemical restraints to restrain or otherwise sedate residents

As part of its enhanced enforcement effort, DOJ states that it will also review the physical condition of the nursing home facilities.

DOJ claims the Initiative is intended to swiftly and effectively penalize bad nursing home operators, and will be implemented in conjunction with U.S. Attorneys' offices, state and local prosecutors, and law enforcement.

While DOJ has previously assessed civil penalties against nursing home operators under the False Claims Act, the Initiative threatens enhanced civil and criminal penalties for elder abuse but does not specify the criminal or civil crimes to be charged.

DOJ's press release points out that this new Initiative is already well underway, with approximately thirty individual nursing facilities in nine states being actively investigated.

In light of this Initiative, nursing care facilities should undertake a thorough review of their facilities and care practices, and have a plan to respond to inquiries from regulators and prosecutors on these issues.

Counsel is available to assist in the event a facility faces scrutiny under the Initiative.

[Click here for a full copy of DOJ's press release.](#)

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

- Peter Millock at pmillock@nixonpeabody.com or 518-427-2651
- Tina Sciocchetti at tsciocchetti@nixonpeabody.com or 518-427-2677
- Philip Rosenberg at prosenberg@nixonpeabody.com or 518-427-2709
- Caitlin Donovan at cdonovan@nixonpeabody.com or 518-427-2737