

# PUBLICATION

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## OSHA Puts Nursing Homes, Residential Care Centers Under the Microscope

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On April 5th, the Labor Department's Occupational Safety and Health Administration (OSHA) launched a three-year special emphasis program focused on nursing homes and residential care facilities. This program will investigate ergonomic concerns, exposure to blood borne pathogens, workplace violence prevention, tuberculosis containment, and workplace slips and falls, according to the agency's program directive. An inspection's scope can be expanded if other hazards, such as exposure to multi-drug resistant organisms and dangerous chemicals, are found.

The national emphasis program covers establishments in three North American Industry Classification System categories:

- nursing care facilities (623110);
- residential mental retardation facilities (623210); and
- continuing care retirement communities (623311).

Health care workers tend to experience a higher-than-average injury and illness rate, which OSHA cited as a factor in undertaking this initiative. The Agency instituted a similar inspection program in 2003 for approximately one year. That effort was panned, criticized by labor and safety activists as superficial, and relatively ineffective at limiting the rate of workplace injuries.

To be on the list of establishments that may be inspected under this program, a facility/community must have experienced an above-average number of injuries and illnesses during 2010. The threshold is a "days away, restrictions and transfers" (DART) rate of at least 10, meaning that in one year, at least 10 workers at the establishment missed one or more days of work because of on-the-job injuries or illnesses. Businesses such as retirement communities that do not provide medical care are not included in the program. OSHA's national office will prepare a list of at least 700 establishments with DART rates high enough to warrant inspections, the directive advised.

Each OSHA area office is expected to conduct at least three inspections annually through April 2015. States with their own workplace safety programs are required to participate in the program and must tell federal OSHA within 60 days how they will comply. The directive noted that federal OSHA officers will not inspect facilities operated by state or local governments because those public sector agencies are not under federal OSHA's jurisdiction. However, state agencies can inspect such establishments.

During inspections, compliance officers may videotape patients being moved, examine whether a facility has sufficient devices to assist with lifting and moving patients, and audit policies and procedures designed to reduce workplace ergonomic hazards. Inspectors will also evaluate employers' written exposure control plan for blood borne pathogens, assess the use of protective equipment and review injury logs.

To learn more about OSHA's new directive or schedule a review of your policies, please reach out to any of our nearly 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.

