

U.S. Department of Justice Announces Elder Justice Task Force

The U.S. Department of Justice has announced the launch of regional Elder Justice Task Forces in ten judicial districts, including the Northern District of California. The task force is intended to combine the resources of federal, state and local prosecutors and law enforcement agencies to investigate and prosecute nursing homes that provide substandard care to their residents.

The initiative will direct additional resources to enforcement activities and increase the risk of civil and criminal enforcement against elder-care providers. For example, the federal False Claims Act may be used to impose civil penalties when a provider bills for services that are either so defective as to be effectively worthless, or medically unreasonable and unnecessary. In announcing the Elder Justice Task Force initiative, the Department of Justice cited its 2015 False Claims Act settlement with Extendicare Health Services, in which the nursing home chain agreed to pay \$38 million to resolve claims arising from allegations of understaffed homes and poor quality care.

In addition, both entities and individuals may be targeted for criminal prosecution under federal and state fraud or elder abuse statutes, including felony prosecutions that can lead to significant prison terms for individual defendants. Under California Penal Code Section 368, elder abuse may be prosecuted as either a felony or a misdemeanor, depending on the facts of the case. Felony prosecutions may result in sentences of up to four years in state prison.

The American Health Care Association has criticized the Elder Justice Task Force initiative, characterizing it as "a smokescreen aimed at finding cost-cutting measures" that obscures progress in improving the quality of care. Regardless of the motive behind the initiative, providers of care to the elderly should be prepared for increased scrutiny, and should take steps to reduce the risk of liability—including criminal prosecution—for the provision of substandard care.

The Department of Justice press release announcing the initiative is available [here](#).



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