



Client Alert

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Recent Developments on Nursing Home Disclosure Requirements: Nursing Home Transparency and Improvement Act is Reintroduced for 2009

The *Nursing Home Transparency and Improvement Act* (the "Act") has returned – Senators Charles Grassley (R-Iowa) and Herb Kohl (D-Wisconsin) have re-introduced the Act, which, in part, proposes to enhance the transparency of nursing facility ownership and increase government oversight into the quality and operations of nursing facilities. The Act had previously been introduced by both Senators in February 2008, but failed to get past the Senate Committee on Finance before the last Congressional session. As a result, it was subsequently cleared from the books, but was reintroduced last month for a second try.

Coinciding with the reintroduction of the Act was the release of a GAO report, entitled "Medicare and Medicaid Participating Facilities: CMS Needs to Reexamine Its Approach for Oversight of Health Care Facilities." The GAO report suggests needed improvement in federal funding of the survey and certification system relative to the scope of its oversight responsibilities, and the 2009 Act is presented as being able to assist in strengthening this system.

There appear to be numerous similarities and only a few differences between the 2008 and 2009 versions of the legislation. Like its predecessor, the 2009 Act proposes several reforms that supporters claim will facilitate government enforcement of nursing home standards, increase consumer awareness, and incentivize nursing homes to make improvements in the quality of care independently. For instance, the 2009 Act maintains the ability to identify further all individuals and entities that have a significant ownership interest or play an important role in the facility's management, financing and/or operations. However, a noticeable omission from the 2009 version is language that would increase the civil monetary penalties levied on nursing homes for various types of deficiencies. This is not to say that such a proposition is off the table as it may be picked up through other legislative efforts.

It is unclear whether the 2009 version of the Act will ultimately pass, but it is apparent that this transparency issue remains a topic at the federal level.

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