

From: [Egel, Corey \(CDPH-OPA\)](#)

Sent: Wednesday, August 21, 2013 3:46 PM

To: [Elder Abuse Exposed.com](#)

Subject: Media Inquiry - Nursing Homes

Good afternoon,

Here is the response to your question about nursing homes. If you need further assistance, feel free to contact me.

I appreciate your patience.

QUESTION: On the basis of what authority could CDPH nursing home inspectors issue a deficiency statement for negligent failure to comply with a nursing home patient's care plan solely pursuant to California law (e.g. Title 22, Section 72311(a)(2)), instead of federal law (e.g., 42 CFR 483.20(k))? By issuing a deficiency statement solely pursuant to California law, nursing home inspectors can thereby (perhaps unintentionally) ensure that the care plan failure does not appear on CMS's Nursing Home Compare website.

CDPH Response: The California Department of Public Health's (CDPH) change from the state process to using the federal process in April 2012, was to ensure that federal enforcement actions were taken and reflected in a facility's CMS 5-Star rating along with state enforcement activity. The federal government uses an enforcement scheme (known as "scope and severity") where violations are rated on a scale of A-L ("A" being the lowest level and "L" being the highest). Since April 2012, CDPH now cites a skilled nursing facility for violations of federal regulations and assigns the appropriate scope and severity rating. This scope and severity deficiency will be reflected on the facility's record and also reflected on its 5-Star rating. If the violation also meets the state statutory definition of a state citation, the facility will receive an additional state sanction (see Health and Safety Code 1423 and 1424 for CDPH's authority and definition of citations).

Sincerely,

Corey Egel

Office of Public Affairs

[California Department of Public Health \(CDPH\)](#)

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