

Regulatory Compliance

Attorneys

Thomas J. Cleary
Christopher J. Leazott
Kiran Mistry-Patel
Bryan J. Texiera
Tyler K. Tyack

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Overview

A survey deficiency does not always mean what it appears to mean. Nursing homes and healthcare facilities that receive citations from the Massachusetts Department of Public Health (DPH) or the Centers for Medicare and Medicaid Services (CMS) often assume the findings are final and that their only option is immediate correction. That assumption can be costly. Deficiency classifications carry consequences ranging from plans of correction to civil monetary penalties, denial of payment for new admissions, and, in severe cases, termination from Medicare and Medicaid participation. The difference between a manageable citation and an operational crisis frequently depends on how the facility responds in the first 10 days after the survey report is issued. Cohen Cleary advises skilled nursing facilities (SNFs), assisted living residences, and healthcare providers on regulatory compliance strategy, survey deficiency response, and enforcement defense throughout New England.

DPH Survey Response and Enforcement Defense

When a healthcare facility receives a Statement of Deficiencies, the response strategy must account for both the immediate regulatory requirements and the downstream consequences of how each deficiency is categorized. CMS uses a scope-and-severity grid that classifies findings from Level A (isolated, no actual harm, potential for minimal harm) through Level L (widespread, immediate jeopardy). The classification determines not only the plan of correction requirements but also whether the facility faces civil monetary penalties, monitoring, or accelerated enforcement timelines.

We work with SNF administrators, compliance officers, and facility leadership to analyze each cited deficiency against the applicable federal requirements of participation and state regulations, identify factual and procedural weaknesses in the survey findings, and develop targeted responses. For deficiencies that are accurately cited, we help facilities craft plans of correction that satisfy regulatory requirements without creating unnecessary compliance burdens. For findings that reflect surveyor error, incomplete investigation, or misapplication of regulatory standards, we prepare informal dispute resolution (IDR) requests and, where warranted, formal administrative appeals.

Why Healthcare Facilities Work With Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our healthcare regulatory compliance work, this approach helps facilities navigate survey deficiencies, enforcement actions, and compliance obligations with clarity, efficiency, and confidence.

Building Compliance Programs That Withstand Scrutiny

Regulatory compliance is not a static achievement. CMS and state survey standards evolve constantly, and a nursing home that was fully compliant last year may have gaps today. We help facilities build compliance infrastructures designed for durability:

- Gap analysis against the current federal requirements of participation and state licensure standards
- Nursing home compliance program development calibrated to the facility's operational realities, not boilerplate templates
- Mock survey preparation that identifies vulnerabilities before state surveyors do
- Ongoing compliance monitoring aligned with CMS interpretive guidance updates and state regulatory changes
- Civil monetary penalty and enforcement exposure assessment following adverse survey findings

Serving Healthcare Facilities Across New England

Cohen Cleary represents nursing homes, SNFs, and healthcare facilities across New England in regulatory compliance matters, with particular depth in Massachusetts and Rhode Island, where the firm maintains offices in [Taunton](#) and [Plymouth](#). Healthcare regulation operates at both the state and federal levels, with each New England state administering its own survey and

certification programs under CMS oversight. Our attorneys bring familiarity with the procedural requirements and enforcement tendencies of each state's health department alongside the federal regulatory framework that governs Medicare and Medicaid participation. This dual-level fluency allows us to advise facilities on strategies that account for both their state's regulatory environment and the federal standards that drive survey outcomes.

Discuss Your Facility's Regulatory Compliance Needs

If your facility is facing a survey deficiency, enforcement action, or compliance concern, contact Cohen Cleary to discuss your options. Our healthcare regulatory attorneys work with nursing homes and healthcare providers across New England to protect operations, respond to citations, and build durable compliance programs.

Frequently Asked Questions About Healthcare Regulatory Compliance

What should a facility do immediately after receiving a survey deficiency?

The first step is a careful review of the Statement of Deficiencies to understand the scope, severity, and factual basis of each citation. Facilities typically have 10 calendar days to submit an acceptable plan of correction. Before drafting that plan, it is critical to assess whether each deficiency is accurately cited and appropriately classified. An attorney experienced in healthcare regulatory matters can help determine whether informal dispute resolution or a different response strategy is warranted before the plan of correction deadline.

Can a nursing home challenge a survey deficiency finding?

Yes. Facilities can request informal dispute resolution (IDR) to challenge the factual basis or regulatory classification of survey findings. If IDR does not resolve the dispute, formal administrative appeal options exist, particularly when the deficiency triggers enforcement actions such as civil monetary penalties or denial of payment for new admissions. Not every deficiency merits a challenge, but facilities should evaluate their options rather than assuming all findings must be accepted as issued.

What is the difference between state and federal healthcare facility surveys?

State surveys are conducted by the Department of Public Health (or equivalent agency) under an agreement with CMS. These surveys assess compliance with both federal requirements of participation for Medicare and Medicaid certification and state licensure standards. Federal surveys, conducted directly by CMS or its contractors, typically occur in the context of validation surveys or complaint investigations. The deficiency findings from either type of survey can result in enforcement actions, but the appeal pathways and response strategies differ depending on the regulatory authority involved.

How can a healthcare facility reduce the risk of survey deficiencies?

The facilities that perform best in surveys treat compliance as a continuous operational function rather than a periodic audit exercise. This means maintaining current policies aligned with evolving CMS interpretive guidance, conducting regular internal audits, training staff on documentation requirements and regulatory expectations, and addressing identified gaps

before surveyors arrive. We tell our clients that the most effective nursing home compliance programs are the ones that make survey preparation indistinguishable from daily operations.