

Overview

Dentons' Long-Term Care practice is comprised of an integrated, inter-disciplinary national team that has the breadth and depth of experience to provide creative and efficient counsel to the Long-Term Care industry. SNFs (skilled nursing facilities), hospices, assisted living centers, home health providers and other long-term care concerns across the country rely on us to handle health care regulatory issues, employment issues, as well as related corporate and litigation matters. We also represent plans that focus on the Long-Term Care population.

You will be supported by a team experienced in providing employment counseling, regulatory and compliance advice, transactional representation, defense of single plaintiff and complex litigations including class and collective actions and representation in government investigations and administrative hearings. We assist in fraud and abuse compliance, Fair Housing and Americans with Disabilities Act (ADA) compliance, Medicare and Medicaid billing issues and risk management. Look to us to draft and provide assistance with developing and implementing admission agreements, resident handbooks and policies and procedures, as well as reviewing and negotiating contracts with ancillary service providers. We advise on conducting incident investigations, resolving disputes with residents and families and numerous other operational issues.

Key service areas

- ADA, ERISA, HIPAA and HITECH compliance counseling
- Executive retention, compensation and separation advice and negotiation
- False Claims Act and qui tam actions
- Financing for long-term care facilities
- Licensing revocation proceedings
- Litigation and dispute resolution, including class action defense in connection with wage and hour/overtime/meal break claims
- Medicaid reimbursement
- Mergers and acquisitions
- OSHA and wage and hour regulation
- National Labor Relations Board (NLRB) and related court proceedings
- Regulatory compliance counseling
- State and federal audits, including by the Office of Federal Contract Compliance Programs (OFCCP), Department of Health and Human Services Office of the Inspector General (HHS-OIG) and Medicaid Program Integrity Contractors
- Survey challenges
- Ownership applications and filings

Dentons' Long-Term Care lawyers have extensive experience representing long-term and post-acute care providers, including nursing homes, long-term acute care (LTAC) hospitals and institutional rehabilitation facilities (IRFs), such as:

- Counseling nursing homes, LTAC providers and IRFs with respect to Medicare, Medicaid and other federal and state health care programs. More specifically, Dentons furnishes legal advice to these organizations with respect to: provider certification; provider conditions of participation; Medicare enrollment, billing and reimbursement requirements; anti-kickback, physician self-referral and related fraud and abuse laws; and Medicare rules relating to excluded hospitals and excluded units.
- Handling the full range of legal and practical issues relating to state certificate (or determination) of need laws; we also have extensive experience handling tax-exempt and other financing matters for LTACs, IRFs and other similar providers, including secured and unsecured borrowing, pass-through financings, loan workouts and restructurings.
- Handling licensure, Joint Commission on Accreditation of Healthcare Organizations (The Joint Commission) compliance questions, Commission for Accreditation of Rehabilitation Facilities (CARF) compliance questions and similar matters.
- Handling sophisticated corporate transactions on behalf of long-term and post-acute care providers, including mergers, consolidations, asset acquisitions, stock purchase transactions, joint ventures with acute care hospitals and health care systems and general contracting matters.

Representative Experience

- **California skilled nursing facility:** Defending a California skilled nursing facility in wage and hour class action.
- **CCRCs financings:** Working on financings for CCRCs. We have worked on tax-exempt bond financings (including direct placements, variable rate bonds and fixed rate bonds), lines of credit, self-liquidity lines, letters of credit and other financial arrangements. We work with our senior living clients on structuring financings, negotiating flexibility in their covenants, disclosure issues and compliance with their bond documents. We are familiar with the regulatory requirements impacting CCRCs, tax-exemption requirements, private use rules and other applicable legal issues.
- **Health care company:** Representing a health care company that owns and operates inpatient rehabilitation facilities in partnership with general acute care hospitals. Dentons represented the founders of the company on regulatory issues, corporate structuring and venture financing matters. We represent the company in its arrangements with the general acute care hospitals and on all other matters.
- **Health care system:** Representing a health care system in connection with structuring and operation of a continuing care retirement community, including strategic assessment of financial and contractual considerations and compliance obligations. Representation included regulatory guidance and development of compliance safeguards, review of marketing and promotional materials, drafting and review of resident lease agreements and financial contracts and developing annual public disclosure filings.
- **Defending an Illinois skilled nursing facility in defense of False Claims Act Litigation.:** Defending an Illinois skilled nursing facility in defense of False Claims Act Litigation.
- **Investor-owned hospital company:** Counseling an investor-owned hospital company with a significant number of inpatient rehabilitation units, advising on the development and implementation of new federal regulations, educating and influencing Congress and Center for Medicare & Medicaid Services (CMS) on critical issues and advising extensively on a series of Medicare fiscal intermediary audits of the inpatient rehabilitation facilities.
- **Long-term care facilities:** Defending long-term care facilities against claims of sexual harassment, retaliation and wrongful termination.
- **Long-term care facility:** Advising on regulatory matters arising in mergers and acquisitions, including change of ownership filings.
- **LTAC hospital:** Representing a LTAC hospital on formation, financing, regulatory, IPO and general corporate issues.
- **Medicaid provider:** Advising regarding Medicaid provider taxes and upper payment limit programs.
- **National association of home health agencies:** Serving as counsel to a national association of home health

agencies and home medical equipment companies, advising on a broad range of regulatory, legislative and grass-roots initiatives.

- **National chain of rehabilitation hospitals:** Representing a national chain of rehabilitation hospitals in connection with alleged billing improprieties concerning the use of ancillary medical supplies. The firm conducted an internal investigation, assisted the client in determining the scope of the overpayment at issue, and negotiated a resolution of the matter with the Office of Inspector General (OIG).
- **National hospice chain:** Representing a national hospice chain in license revocation proceedings.
- **Regional home health agency company:** Representing a regional home health agency company on a compliance investigation and potential repayment involving a Medicaid waiver program.
- **Senior lifestyle options provider:** Serving as counsel to a senior lifestyle options provider that owns and operates continuing care retirement communities (CCRCs), hospices, personal care homes, assisted living facilities and skilled nursing facilities and advised them on health care regulatory issues and compliance safeguards in regard to state licensure laws and federal fraud and abuse laws, specifically in regards to CCRCs providing annual cash bonuses to clinical and non-clinical employees.

Your Key Contacts

United States



Charles A. Luband
Partner, New York
D +1 212 768 6942
charles.luband@dentons.com



Richard I. Scharlat
Partner, New York
D +1 212 768 6854
M +1 201 817 1735
richard.scharlat@dentons.com