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Title 22@ Social Security

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Division 5@ Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies

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Chapter 4@ Intermediate Care Facilities

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Article 6@ Violations and Civil Penalties

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Section 73717@ Penalties

73717 Penalties

(a)

The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the Department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not exceeding five thousand dollars (\$5,000) for each and every violation. In fixing the amount of the civil penalty to be imposed for a class "A" violation, the district administrator, or his designee, shall consider: (1) The gravity of the violation, which shall include: (A) The degree of substantial probability that death or serious physical harm to a patient will result, and if applicable, did result, from the violation. (B) The severity of serious physical harm most likely to result, and if applicable, that did result, from the violation. (C) The extent to which the provisions of the applicable statutes or regulations were violated. (2) The "Good Faith" exercised by the licensee. Indications of good faith include awareness of the applicable statutes and regulations, and reasonable diligence in complying with such requirements, prior accomplishments manifesting the licensee's desire to comply with such requirements, and any other mitigating factors in favor of the licensee. (3) Any previous violations committed by the licensee.

(1)

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probability that death or serious physical harm to a patient will result, and if applicable, did result, from the violation. (B) The severity of serious physical harm most likely to result, and if applicable, that did result, from the violation. (C) The extent to which the provisions of the applicable statutes or regulations were violated.

(A)

The degree of substantial probability that death or serious physical harm to a patient will result, and if applicable, did result, from the violation.

(B)

The severity of serious physical harm most likely to result, and if applicable, that did result, from the violation.

(C)

The extent to which the provisions of the applicable statutes or regulations were violated.

(2)

The "Good Faith" exercised by the licensee. Indications of good faith include awareness of the applicable statutes and regulations, and reasonable diligence in complying with such requirements, prior accomplishments manifesting the licensee's desire to comply with such requirements, and any other mitigating factors in favor of the licensee.

(3)

Any previous violations committed by the licensee.

(b)

A class "B" violation is subject to a civil penalty in an amount not less than fifty dollars (\$50) and not exceeding two hundred fifty dollars (\$250) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected. If a class "B" violation is corrected within the time specified, no civil penalty shall be imposed.

(c)

A class "C" violation is not subject to any monetary civil penalty. A notice of all such violations shall be issued and an appropriate plan of correction obtained at the time of completion of inspection.

(d)

Where a licensee has failed to correct a class "A" or a class "B" violation within the time specified in the citation, the Department shall assess the licensee a separate civil penalty in the amount of fifty dollars (\$50) for each day that the particular violation continues beyond the date specified for correction.

(e)

The civil penalties authorized shall be trebled for a second or subsequent violation of the same regulation occurring within any 12-month period if a citation was issued for the previous violation occurring within such period and a civil penalty was assessed.