

87761 Penalties

(a)

A penalty of \$50 per day, per cited violation, shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.

(b)

Notwithstanding Section 87761(a) above, an immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1569.17(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 87355(e) prior to working, residing or volunteering in the facility. (1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days. (2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49. (3) Progressive civil penalties specified in Sections 87761(d) and (e) shall not apply.

(1)

Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.

(2)

The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1569.49.

(3)

Progressive civil penalties specified in Sections 87761(d) and (e) shall not apply.

(c)

Notwithstanding Section 87761(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following: (1) Sickness, injury or death of a client has occurred as a result of the deficiency.

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(d)

When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty assessment of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.

(e)

When a facility that was cited for a deficiency subject to the immediate penalty assessment specified in Section 87761(d) above violates the same regulation subsection within a 12-month period of the last violation the facility shall be cited and an immediate penalty of \$1,000 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$100 per day, per cited violation, until the deficiency is corrected. (1) For purposes of Sections 87761(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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(f)

If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated. (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.

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(g)

If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made. (1) If the deficiency has not been corrected, civil penalties shall continue to accrue. (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

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(2)

If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

(h)

If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

(i)

If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j)

Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(k)

The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.