

HB3035



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3035

by Rep. Michael D. Unes

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-305

from Ch. 111 1/2, par. 4153-305

Amends the Nursing Home Care Act. Provides that if a licensee has a civil monetary penalty imposed (rather than having paid a civil monetary penalty that has been imposed) pursuant to the Medicare and Medicaid Certification Program for the equivalent federal violation giving rise to a fine under specified provisions of the Act, the Department of Public Health shall offset the fine by the amount of the civil monetary penalty.

LRB101 08053 CPF 53115 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing
5 Section 3-305 as follows:

6 (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

7 Sec. 3-305. The license of a facility which is in violation
8 of this Act or any rule adopted thereunder may be subject to
9 the penalties or fines levied by the Department as specified in
10 this Section.

11 (1) A licensee who commits a Type "AA" violation as defined
12 in Section 1-128.5 is automatically issued a conditional
13 license for a period of 6 months to coincide with an acceptable
14 plan of correction and assessed a fine up to \$25,000 per
15 violation.

16 (1.5) A licensee who commits a Type "A" violation as
17 defined in Section 1-129 is automatically issued a conditional
18 license for a period of 6 months to coincide with an acceptable
19 plan of correction and assessed a fine of up to \$12,500 per
20 violation.

21 (2) A licensee who commits a Type "B" violation as defined
22 in Section 1-130 shall be assessed a fine of up to \$1,100 per
23 violation.

1 (2.5) A licensee who commits 10 or more Type "C"
2 violations, as defined in Section 1-132, in a single survey
3 shall be assessed a fine of up to \$250 per violation. A
4 licensee who commits one or more Type "C" violations with a
5 high risk designation, as defined by rule, shall be assessed a
6 fine of up to \$500 per violation.

7 (3) A licensee who commits a Type "AA" or Type "A"
8 violation as defined in Section 1-128.5 or 1-129 which
9 continues beyond the time specified in paragraph (a) of Section
10 3-303 which is cited as a repeat violation shall have its
11 license revoked and shall be assessed a fine of 3 times the
12 fine computed per resident per day under subsection (1).

13 (4) A licensee who fails to satisfactorily comply with an
14 accepted plan of correction for a Type "B" violation or an
15 administrative warning issued pursuant to Sections 3-401
16 through 3-413 or the rules promulgated thereunder shall be
17 automatically issued a conditional license for a period of not
18 less than 6 months. A second or subsequent acceptable plan of
19 correction shall be filed. A fine shall be assessed in
20 accordance with subsection (2) when cited for the repeat
21 violation. This fine shall be computed for all days of the
22 violation, including the duration of the first plan of
23 correction compliance time.

24 (5) For the purpose of computing a penalty under
25 subsections (2) through (4), the number of residents per day
26 shall be based on the average number of residents in the

1 facility during the 30 days preceding the discovery of the
2 violation.

3 (6) When the Department finds that a provision of Article
4 II has been violated with regard to a particular resident, the
5 Department shall issue an order requiring the facility to
6 reimburse the resident for injuries incurred, or \$100,
7 whichever is greater. In the case of a violation involving any
8 action other than theft of money belonging to a resident,
9 reimbursement shall be ordered only if a provision of Article
10 II has been violated with regard to that or any other resident
11 of the facility within the 2 years immediately preceding the
12 violation in question.

13 (7) For purposes of assessing fines under this Section, a
14 repeat violation shall be a violation which has been cited
15 during one inspection of the facility for which an accepted
16 plan of correction was not complied with or a new citation of
17 the same rule if the licensee is not substantially addressing
18 the issue routinely throughout the facility.

19 (7.5) If an occurrence results in more than one type of
20 violation as defined in this Act (that is, a Type "AA", Type
21 "A", Type "B", or Type "C" violation), the Department shall
22 assess only one fine, which shall not exceed the maximum fine
23 that may be assessed for the most serious type of violation
24 charged. For purposes of the preceding sentence, a Type "AA"
25 violation is the most serious type of violation that may be
26 charged, followed by a Type "A", Type "B", or Type "C"

1 violation, in that order.

2 (8) The minimum and maximum fines that may be assessed
3 pursuant to this Section shall be twice those otherwise
4 specified for any facility that willfully makes a misstatement
5 of fact to the Department, or willfully fails to make a
6 required notification to the Department, if that misstatement
7 or failure delays the start of a surveyor or impedes a survey.

8 (9) High risk designation. If the Department finds that a
9 facility has violated a provision of the Illinois
10 Administrative Code that has a high risk designation, or that a
11 facility has violated the same provision of the Illinois
12 Administrative Code 3 or more times in the previous 12 months,
13 the Department may assess a fine of up to 2 times the maximum
14 fine otherwise allowed.

15 (10) If a licensee has ~~paid~~ a civil monetary penalty
16 imposed pursuant to the Medicare and Medicaid Certification
17 Program for the equivalent federal violation giving rise to a
18 fine under this Section, the Department shall offset the fine
19 by the amount of the civil monetary penalty. The offset may not
20 reduce the fine by more than 75% of the original fine, however.

21 (Source: P.A. 98-104, eff. 7-22-13.)