**Section 330.282 Conditions for Assessment of Penalties**

The Department will consider the assessment of a monetary penalty against a facility under the following conditions:

a) *A licensee who commits a Type "AA" violation as defined in Section 1-128.5* of the Act *is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine up to $25,000 per violation.* (Section 3-305(1) of the Act)

b) *A licensee who commits a Type "A" violation as defined in Section 1-129* of the Act *is automatically issued a conditional license for a period of 6 months to coincide with an acceptable plan of correction and assessed a fine of up to $12,500 per violation*. (Section 3-305(1.5) of the Act)

c) *A licensee who commits a Type "AA" or Type "A" violation as defined in Section 1-128.5 or 1-129* of the Act *which continues beyond the time specified in Section 3-303*(a) of the Act, *which is cited as a repeat violation, shall have its license revoked and shall be assessed a fine of 3 times the fine computed per resident per day under subsection* (a) or (b). (Section 3-305(3) of the Act)

d) *A licensee who commits a Type "B" violation as defined in Section 1-130* of the Act *shall be assessed a fine of up to $1,100 per violation*. (Section 3-305(2) of the Act)

e) *A licensee who fails to satisfactorily comply with an accepted plan of correction for a Type "B" violation or an administrative warning issued pursuant to Sections 3-401 through 3-413* of the Act or pursuant to this Part *shall be automatically issued a conditional license for a period of not less than 6 months. A second or subsequent acceptable plan of correction shall be filed. A fine shall be assessed in accordance with subsection* (d) *when cited for the repeat violation. This fine shall be computed for all days of the violation, including the duration of the first plan of correction compliance time.* (Section 3-305(4) of the Act)

f) *A licensee who commits 10 or more Type "C" violations, as defined in Section 1-132* of the Act, *in a single survey shall be assessed a fine of up to $250 per violation. A licensee who commits one or more Type "C" violations with a high risk designation shall be assessed a fine of up to $500 per violation.* (Section 3-305(2.5) of the Act)

g) *If an occurrence results in more than one type of violation as defined in* the *Act (that is, a Type "AA", Type "A", Type "B", or Type "C" violation), the Department* will *assess only one fine, which shall not exceed the maximum fine that may be assessed for the most serious type of violation charged. For purposes of the preceding sentence, a Type "AA" violation is the most serious type of violation that may be charged, followed by a Type "A", Type "B", or Type "C" violation, in that order.* (Section 3-305(7.5) of the Act)

h) *The minimum and maximum fines that may be assessed pursuant to Section* 3-305 of the Act and *this* Section *shall be twice those otherwise specified for any facility that willfully makes a misstatement of fact to the Department, or willfully fails to make a required notification to the Department, if that misstatement or failure delays the start of a surveyor or impedes a survey.*  (Section 3-305(8) of the Act)

i) *High risk designation. If the Department finds that a facility has violated a provision of* this Part *that has a high risk designation, or that a facility has violated the same provision of* this Part *3 or more times in the previous 12 months, the Department may assess a fine of up to 2 times the maximum fine otherwise allowed.* (Section 3-305(9) of the Act)

j) For the purposes of calculating certain penalties pursuant to this Section, violations of the following requirements shall have the status of "high risk designation".

1) Section 330.715(a)

2) Section 330.715(b)

3) Section 330.715(c)

4) Section 330.725(a)

5) Section 330.725(b)

6) Section 330.725(c)

7) Section 330.725(f)

8) Section 330.725(j)

9) Section 330.725(k)

10) Section 330.725(l)

11) Section 330.725(n)

12) Section 330.725(o)

13) Section 330.727(c)

14) Section 330.727(d)

15) Section 330.727(e)

16) Section 330.780

17) Section 330.785(b)

18) Section 330.790

19) Section 330.911

20) Section 330.4240(a)

21) Section 330.4240(d)

22) Section 330.4240(e)

k) *If a licensee has paid a civil monetary penalty imposed pursuant to the Medicare and Medicaid Certification Program for the equivalent federal violation giving rise to a fine under Section* 3-305 of the Act and this Section 330.282*,* or provides the Department with a copy of a letter to the Centers for Medicare and Medicaid Services (CMMS) of its binding intent to waive its rights to a federal hearing to contest a civil monetary penalty for the equivalent federal violation, *the Department shall offset the fine by the amount of the civil monetary penalty. The offset may not reduce the fine by more than 75% of the original fine, however.* (Section 3-305(10) of the Act) Themeaning of "equivalent federal violation" shall be determined by the Department. Upon request by the Department, the facility shall provide proof to the Department of the federal civil monetary penalty when the payment is due.

l) *When the Department finds that a provision of Article II has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred, or $100, which is greater. In the case of a violation involving any action other than theft of money belonging to a resident, reimbursement shall be ordered only if a provision of Article II has been violated with regard to that or any other resident of the facility within the 2 years immediately preceding the violation in question.* (Section 3-305(6) of the Act)

m) *For the purpose of computing a penalty under* subsections (c) through (f)*, the number of residents per day shall be based on the average number of residents in the facility during the 30 days preceding the discovery of the violation*. (Section 3-305(5) of the Act)

n) *For purposes of assessing fines under this* Section*, a repeat violation shall be a violation which has been cited during one inspection of the facility for which an accepted plan of correction was not complied with or a new citation of the same rule if the licensee is not substantially addressing the issue routinely throughout the facility*. (Section 3-305(7) of the Act)

(Source: Amended at 48 Ill. Reg. 7397, effective May 3, 2024)