



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2529

Introduced 2/18/2005, by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-303.2
210 ILCS 45/3-305

from Ch. 111 1/2, par. 4153-303.2
from Ch. 111 1/2, par. 4153-305

Amends the Nursing Home Care Act. Provides that if a nursing home does not correct a situation, condition, or practice that has resulted in an administrative warning, the nursing home is subject to a fine of not less than \$1,000 and not more than \$10,000. For a "Type A" violation, increases the fine from \$5 to \$50 per resident in the facility plus \$2 (instead of \$0.20) per day, and increases the alternative maximum fine from not less than \$5,000 to not less than \$20,000 (or from not less than \$10,000 to not less than \$50,000 when death, serious mental or physical harm, permanent disability, or disfigurement results). For a "Type B" violation, increases the fine from \$3 to \$30 per resident in the facility plus \$2 (instead of \$0.20) per day, and increases the alternative maximum fine from not less than \$500 to not less than \$5,000. Requires a nursing home to reimburse a particular resident for injuries incurred or \$1,000 (instead of \$100), whichever is greater. Removes a provision concerning reimbursement in the case of a violation involving any action other than theft of money. Effective January 1, 2006.

LRB094 09856 DRJ 40112 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 3-303.2 and 3-305 as follows:

6 (210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)

7 Sec. 3-303.2. (a) If the Department finds a situation,
8 condition or practice which violates this Act or any rule
9 promulgated thereunder which does not directly threaten the
10 health, safety or welfare of a resident, the Department shall
11 issue an administrative warning. Any administrative warning
12 shall be served upon the facility in the same manner as the
13 notice of violation under Section 3-301. The facility shall be
14 responsible for correcting the situation, condition or
15 practice; however, no written plan of correction need be
16 submitted for an administrative warning, except for violations
17 of Sections 3-401 through 3-413 or the rules promulgated
18 thereunder. A written plan of correction is required to be
19 filed for an administrative warning issued for violations of
20 Sections 3-401 through 3-413 or the rules promulgated
21 thereunder.

22 (b) If, however, the situation, condition or practice which
23 resulted in the issuance of an administrative warning, with the
24 exception of administrative warnings issued pursuant to
25 Sections 3-401 through 3-413 or the rules promulgated
26 thereunder, is not corrected by the next on-site inspection by
27 the Department which occurs no earlier than 90 days from the
28 issuance of the administrative warning, a written plan of
29 correction must be submitted in the same manner as provided in
30 subsection (b) of Section 3-303. In addition, the facility
31 shall be subject to a fine of not less than \$1,000 and not more
32 than \$10,000.

1 (Source: P.A. 87-549.)

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

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

7 (1) Unless a greater penalty or fine is allowed under
8 subsection (3), a licensee who commits a Type "A" violation as
9 defined in Section 1-129 is automatically issued a conditional
10 license for a period of 6 months to coincide with an acceptable
11 plan of correction and assessed a fine computed at a rate of
12 \$50 ~~\$5.00~~ per resident in the facility plus \$2 ~~20-cents~~ per
13 resident for each day of the violation, commencing on the date
14 a notice of the violation is served under Section 3-301 and
15 ending on the date the violation is corrected, or a fine of not
16 less than \$20,000 ~~\$5,000~~, or when death, serious mental or
17 physical harm, permanent disability, or disfigurement results,
18 a fine of not less than \$50,000 ~~\$10,000~~, whichever is greater.

19 (2) A licensee who commits a Type "B" violation or who is
20 issued an administrative warning for a violation of Sections
21 3-401 through 3-413 or the rules promulgated thereunder is
22 subject to a penalty computed at a rate of \$30 ~~\$3~~ per resident
23 in the facility, plus \$1.50 ~~15-cents~~ per resident for each day
24 of the violation, commencing on the date a notice of the
25 violation is served under Section 3-301 and ending on the date
26 the violation is corrected, or a fine not less than \$5,000
27 ~~\$500~~, whichever is greater. Such fine shall be assessed on the
28 date of notice of the violation and shall be suspended for
29 violations that continue after such date upon completion of a
30 plan of correction in accordance with Section 3-308 in relation
31 to the assessment of fines and correction. Failure to correct
32 such violation within the time period approved under a plan of
33 correction shall result in a fine and conditional license as
34 provided under subsection (5).

35 (3) A licensee who commits a Type "A" violation as defined

1 in Section 1-129 which continues beyond the time specified in
2 paragraph (a) of Section 3-303 which is cited as a repeat
3 violation shall have its license revoked and shall be assessed
4 a fine of 3 times the fine computed per resident per day under
5 subsection (1).

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

17 (5) For the purpose of computing a penalty under
18 subsections (2) through (4), the number of residents per day
19 shall be based on the average number of residents in the
20 facility during the 30 days preceding the discovery of the
21 violation.

22 (6) When the Department finds that a provision of Article
23 II has been violated with regard to a particular resident, the
24 Department shall issue an order requiring the facility to
25 reimburse the resident for injuries incurred, or \$1,000 ~~\$100~~,
26 whichever is greater. ~~In the case of a violation involving any~~
27 ~~action other than theft of money belonging to a resident,~~
28 ~~reimbursement shall be ordered only if a provision of Article~~
29 ~~II has been violated with regard to that or any other resident~~
30 ~~of the facility within the 2 years immediately preceding the~~
31 ~~violation in question.~~

32 (7) For purposes of assessing fines under this Section, a
33 repeat violation shall be a violation which has been cited
34 during one inspection of the facility for which an accepted
35 plan of correction was not complied with. A repeat violation
36 shall not be a new citation of the same rule, unless the

1 licensee is not substantially addressing the issue routinely
2 throughout the facility.

3 (Source: P.A. 86-407; 87-549; 87-1056.)

4 Section 99. Effective date. This Act takes effect January
5 1, 2006.