

SPONSOR: Sen. Mantzavinos & Sen. Townsend & Sen. Pettyjohn & Rep. K. Johnson & Rep. Michael Smith & Rep. Bush
Sens. Hansen, Hoffner, Poore, Sokola, Walsh, Wilson;
Reps. Hensley, Morrison, Parker Selby, D. Short

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 216
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO LONG TERM CARE FACILITIES AND SERVICES AND CIVIL PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1109, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1109**.** Civil penalties.

(a) (1) The Department may impose civil money penalties for the violation of provisions of this chapter or the regulations adopted pursuant to it.

(2) A licensee or other person is liable for a civil penalty of not less than ~~$1,000~~ $2,000 nor more than ~~$10,000~~ $20,000 per violation for violations which the Department determines pose a serious threat to the health and safety of a resident.

(b) In determining the amount of the penalty to be assessed under subsection (a) of this section, the Department must consider all of the following:

(1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation and the hazard or potential hazard created by the violation to the health or safety of a resident or residents.

(2) The history of violations committed by the person or the person's affiliate, employee, or controlling person.

(3) The efforts made by the facility to correct the violation.

(4) The culpability of the person who committed the violation.

(5) A misrepresentation made to the Department or to another person regarding any of the following:

a. The quality of services provided by the facility.

b. The compliance history of the facility.

c. The identity of an owner or controlling person of the facility.

(6) Any other matter that affects the health, safety, or welfare of a resident.

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(c) For all other violations that do not constitute a serious threat to the health and safety of a resident, but do violate this chapter or the regulations adopted pursuant to it, the maximum civil penalty is ~~$5,000~~ $10,000 per violation. Violations in this category include any of the following:

(1) Making a false statement that the person knows or should know is false, about 1 of the following:

a. A material fact on an application for issuance or renewal of a license or any document attached to an application.

b. A material fact with respect to a matter under investigation by the Department.

(2) Refusing to allow a representative of the Department to inspect without notice at any time either of the following:

a. Any portion of the premises of a facility.

b. Any documents, records, or files required to be maintained by a facility.

(3) Wilfully interfering with the work of a representative of the Department or with the enforcement of this chapter.

(4) Wilfully interfering with the preservation of evidence of a violation of this chapter or regulation pursuant to it.

(d) In determining the amount of the penalty to be assessed under subsection (c) of this section, the Department shall consider the factors in subsection (b) of this section.

(e) Each day of a continuing violation constitutes a separate violation. However, a penalty for a health and safety violation may not exceed $5,000 per day beyond the initial day. A penalty for a nonhealth and safety violation may not exceed $2,500 per day beyond the initial day.

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