

(B) "DEFICIENCY" SHALL MEAN ANY FAILURE OF A NURSING FACILITY TO MEET THE REQUIREMENTS OF THIS SUBTITLE OR ANY RULE OR REGULATION THAT THE SECRETARY ADOPTS UNDER THIS SUBTITLE, AND, IN THE CASE OF A NURSING FACILITY THAT PARTICIPATES IN THE MARYLAND MEDICAID PROGRAM UNDER TITLE 15 OF THIS ARTICLE AS A NURSING FACILITY, ANY FAILURE TO MEET THE REQUIREMENTS OF § 1919(B), (C), OR (D) OF THE FEDERAL SOCIAL SECURITY ACT (42 U.S.C. § 1396R(B), (C), OR (D)), THAT IS SERIOUS OR LIFE THREATENING.

(C) "LIFE THREATENING" SHALL MEAN A CONDITION EXISTING IN A NURSING FACILITY THAT PRESENTS AN IMMINENT DANGER OF HEALTH OR SERIOUS MENTAL OR PHYSICAL HARM TO THE RESIDENTS OF THE NURSING FACILITY AND MUST BE REMEDIED IMMEDIATELY TO INSURE THEIR HEALTH, SAFETY, AND WELFARE.

(D) "NURSING FACILITY" MEANS⁴ A FACILITY (OTHER THAN A FACILITY OFFERING DOMICILIARY OR PERSONAL CARE AS DEFINED IN SUBTITLE 3 OF THIS TITLE) WHICH OFFERS NONACUTE INPATIENT CARE TO PATIENTS SUFFERING FROM A DISEASE, CONDITION, DISABILITY OF ADVANCED AGE, OR TERMINAL DISEASE REQUIRING MAXIMAL NURSING CARE WITHOUT CONTINUOUS HOSPITAL SERVICES AND WHO REQUIRE MEDICAL SERVICES AND NURSING SERVICES RENDERED BY OR UNDER THE SUPERVISION OF A LICENSED NURSE TOGETHER WITH CONVALESCENT SERVICES, RESTORATIVE SERVICES, OR REHABILITATIVE SERVICES.

(E) "SERIOUS" MEANS A CONDITION EXISTING IN A NURSING FACILITY THAT DOES NOT CONSTITUTE A LIFE THREATENING, HEALTH, OR FIRE SAFETY DEFICIENCY, BUT WHICH IS A VIOLATION OF DEPARTMENTAL REGULATIONS WHICH AND IS LIKELY TO ENDANGER THE HEALTH, LIFE, OR SAFETY OF PATIENTS.

19-1402.

(A) A CIVIL MONEY PENALTY MAY BE IMPOSED WHEN THERE IS CLEAR AND CONVINCING EVIDENCE OF AN ONGOING PATTERN OF SERIOUS OR LIFE THREATENING DEFICIENCIES IN A NURSING FACILITY.

(B) IN DETERMINING WHETHER A CIVIL MONEY PENALTY IS TO BE IMPOSED, THE SECRETARY SHALL CONSIDER, PURSUANT TO GUIDELINES SET FORTH IN REGULATIONS PROMULGATED BY THE SECRETARY, THE FOLLOWING FACTORS:

(1) THE NUMBER, NATURE, AND SERIOUSNESS OF THE DEFICIENCIES;

(2) THE EXTENT TO WHICH THE DEFICIENCY OR DEFICIENCIES ARE PART OF AN ONGOING PATTERN DURING THE PRECEDING 24 MONTHS;

(3) THE DEGREE OF RISK TO THE HEALTH, LIFE, OR SAFETY OF THE RESIDENTS OF THE NURSING FACILITY CAUSED BY THE DEFICIENCY OR DEFICIENCIES;