

(E) (F) "ONGOING PATTERN" MEANS THE RECURRENCE OF DEFICIENCIES AFTER TWO CONSECUTIVE SITE VISITS AS A RESULT OF ANNUAL SURVEYS, FOLLOW-UP VISITS, UNSCHEDULED VISITS, OR COMPLAINT INVESTIGATIONS.

(F) (G) "POTENTIAL FOR HARM DEFICIENCY" MEANS A CONDITION EXISTING IN A NURSING HOME OR AN ACTION OR INACTION BY THE NURSING HOME STAFF THAT RESULTS IN MINIMAL DISCOMFORT TO A RESIDENT OR HAS THE POTENTIAL TO CAUSE ACTUAL HARM TO A RESIDENT.

[(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 and is likely to endanger the health, life, or safety of patients.]

(G) (H) "SERIOUS IMMEDIATE THREAT" MEANS A SITUATION IN WHICH IMMEDIATE CORRECTIVE ACTION IS NECESSARY BECAUSE A NURSING HOME'S NONCOMPLIANCE WITH ONE OR MORE STATE REGULATIONS HAS CAUSED OR IS LIKELY TO CAUSE SERIOUS INJURY, HARM, IMPAIRMENT, OR DEATH TO A RESIDENT RECEIVING CARE IN THE NURSING HOME.

(H) (I) "SUSTAINED COMPLIANCE" MEANS A PERIOD OF 30 DAYS FOLLOWING THE DATE OF NOTICE OF CORRECTIVE ACTION WITH NO DEFICIENCIES.

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] HOME.

(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] HOME caused by the deficiency or deficiencies;
- (4) The efforts made by, and the ability of, the nursing [facility] HOME to correct the deficiency or deficiencies; and
- (5) Such other factors as justice may require.

(c) Upon determination by the Department that an ongoing pattern of serious or life threatening deficiencies exists, the Department shall notify the nursing [facility] HOME that:

- (1) Unless corrective action taken pursuant to § 19-1403 is substantially completed, a civil money penalty will be imposed; or