

(E) "ONGOING PATTERN" MEANS THE ~~RECURRENCE OF DEFICIENCIES AFTER OCCURRENCE OF ANY POTENTIAL FOR MORE THAN MINIMAL HARM OR GREATER DEFICIENCY ON TWO CONSECUTIVE ON-SITE VISITS AS A RESULT OF ANNUAL SURVEYS, FOLLOW-UP VISITS, ANY UNSCHEDULED VISITS, OR COMPLAINT INVESTIGATIONS.~~

(F) "POTENTIAL FOR MORE THAN MINIMAL 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) "SERIOUS AND 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 TO, OR DEATH OF A RESIDENT RECEIVING CARE IN THE NURSING HOME.

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

19-1402.

(A) IF A DEFICIENCY EXISTS, THE SECRETARY MAY IMPOSE SANCTIONS THAT INCLUDE:

- (1) A DIRECTED PLAN OF CORRECTION WITH CORRECTIVE MEASURES NECESSARY TO PROTECT RESIDENTS;
- (2) IMPOSING ADEQUATE STAFFING LEVELS IN A NURSING HOME;
- (3) APPOINTING A STATE MONITOR SUBJECT TO § 19-1405 OF THIS SUBTITLE; AND
- (4) IMPOSING A CIVIL MONEY PENALTY.

[(a)](B) 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.] A DEFICIENCY EXISTS OR AN ONGOING PATTERN OF DEFICIENCIES EXISTS IN A NURSING HOME.

[(b)](C) 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;