STATE OF NEW YORK

232--C

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. GOTTFRIED, DARLING, WOERNER, GALEF, BARRON, DINOWITZ, BRONSON, GONZALEZ-ROJAS, CUSICK, STECK, ANDERSON, SIMON, JACOBSON, COOK, COLTON -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to increasing monetary penalties for public health law violations and providing support for the nursing home quality improvement demonstration program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 12 of the public health law, as amended by section 16 of part A of chapter 58 of the laws of 2008, is amended to read as follows:

1. (a) Except as provided in paragraphs (b) and (c) of this subdivision, any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for which a civil penalty is not otherwise expressly prescribed by law, shall be liable to the people of the state for a civil penalty of not to exceed [~~two~~] **three** thousand dollars for every such violation. **Where the violation is committed by an operator or any person or entity that contracts with an operator of a nursing home or general hospital under article twenty-eight of this chapter or a residential care program for adults authorized to operate by the department under article seven of the social services law, the penalty shall not exceed five thousand dollars for every such violation.**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) The penalty provided for in paragraph (a) of this subdivision may be increased to an amount not to exceed [~~five~~] ten thousand dollars for a subsequent violation if the person committed the same violation, with respect to the same or any other person or persons, within twelve months of the initial violation for which a penalty was assessed pursuant to paragraph (a) of this subdivision and said violations were a serious threat to the health and safety of an individual or individuals.

(c) The penalty provided for in paragraph (a) of this subdivision may be increased to an amount not to exceed [~~ten~~] twenty thousand dollars if the violation directly results in serious physical harm to any patient or patients.

(d) Effective on and after April first, two thousand eight the comptroller is hereby authorized and directed to deposit amounts, except as provided by paragraph (e) of this subdivision, collected in excess of two thousand dollars per violation to the patient safety center account to be used for purposes of the patient safety center created by title two of article twenty-nine-D of this chapter.

(e) Amounts collected from an operator of a nursing home licensed under article twenty-eight of this chapter in excess of ten thousand dollars per violation may be transferred as determined by the commissioner to the nursing home quality improvement demonstration program, to be used under subdivision six of section twenty-eight hundred eight-d of this chapter in support of projects or programs designed to improve specific areas of quality of care.

§ 2. Paragraph (f) of subdivision 1 of section 309 of the public health law, as amended by chapter 193 of the laws of 2011, is amended to read as follows:

(f) prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations, or any of the regulations of the state sanitary code, not exceeding [~~two~~] three thousand dollars for a single violation or failure, to be sued for and recovered by it in any court of competent jurisdiction; and

§ 3. This act shall take effect immediately; provided that the amendments to subdivision 1 of section 12 of the public health law made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.