

# STATE OF NEW YORK

5372

2023-2024 Regular Sessions

## IN ASSEMBLY

March 9, 2023

Introduced by M. of A. PAULIN, DARLING, WOERNER, DINOWITZ, BRONSON, GONZALEZ-ROJAS, STECK, ANDERSON, SIMON, JACOBSON, COOK, COLTON, FORREST, SANTABARBARA, WALKER, BURGOS, TAYLOR, CARROLL, CRUZ, EPSTEIN, LUNSFORD, CLARK, BICHOTTE HERMELYN, ZEBROWSKI, PEOPLES-STOKES, L. ROSENTHAL, REYES, FALL, KELLES -- read once and referred to the Committee on Health

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.

(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

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

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1 paragraph (a) of this subdivision and said violations were a serious  
2 threat to the health and safety of an individual or individuals.

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

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

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

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

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

28 § 3. This act shall take effect immediately; provided that the amend-  
29 ments to subdivision 1 of section 12 of the public health law made by  
30 section one of this act shall not affect the expiration of such subdivi-  
31 sion and shall be deemed to expire therewith.