

# STATE OF NEW YORK

6071

2023-2024 Regular Sessions

## IN SENATE

March 28, 2023

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

23 (c) The penalty provided for in paragraph (a) of this subdivision may  
24 be increased to an amount not to exceed [~~ten~~] twenty thousand dollars if

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

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1 the violation directly results in serious physical harm to any patient  
2 or patients.

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

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

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

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

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