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AMENDED IN SENATE JUNE 18, 1998
AMENDED IN ASSEMBLY MAY 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1133

**Introduced by Assembly Member Gallegos
(Coauthor: Assembly Member Keeley)**

February 28, 1997

An act to amend Sections 1423, 1424, 1428, and 1428.1 of, and to add Section 1417.3 to, the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1133, as amended, Gallegos. Long-term health care facilities.

(1) Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, establishes an inspection and citations system for the imposition of civil sanctions against long-term health care facilities that are in violation of laws and regulations relating to patient care.

This bill would require the State Department of Health Services to promote quality in long-term health care facility services through certain services.

(2) Existing law requires the State Director of Health Services, if upon inspection or investigation the director determines a facility is in violation of the law, to issue a notice to correct the violation and of intent to issue a citation to the

licensee, except with respect to violations determined to have only a minimal relationship to safety or health.

This bill would delete that exception. The bill would require the department to hold an exit conference with the licensee before completing the investigation and making the determination whether to issue a citation.

(3) Existing law sets forth procedures under which the State Director of Health Services is authorized to waive the penalty for a class “B” violation if the violation is corrected within the time specified in the citation.

This bill would eliminate this authority of the director to waive the penalty for a class “B” violation.

(4) Existing law provides for civil penalties in an amount not to exceed \$10,000 for a willful material falsification, as defined, or willful material omission, as defined, in the health record of a patient of a long-term health care facility. Existing law provides that in no case shall the civil penalty be trebled.

This bill would delete the latter restriction.

(5) Existing law requires a licensee, if the licensee intends to appeal a citation that has been upheld in a citation review conference, to appeal the decision through an administrative law judge. Existing law authorizes a licensee to elect to submit the matter to binding arbitration if the licensee is dissatisfied with the decision of the administrative law judge.

This bill would also authorize the licensee to elect to submit the matter to binding arbitration before submitting the matter to an administrative law judge and would set forth additional requirements relating to the binding arbitration.

(6) Existing law provides that where the department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, certain persons may attend the citation review conference, including a personal attorney, if the long-term health care facility has an attorney present.

This bill would delete the requirement that the long-term health care facility have an attorney present for a personal attorney to attend the citation review conference.

(7) Existing law requires the department to notify the complainant, affected resident, or their designated



representatives of the citation review conference and their right to participate.

This bill would require the department to notify the complainant, affected resident, and their designated representatives of this right.

(8) Existing law authorizes a licensee, in lieu of contesting a citation, to transmit to the department the minimum amount assessed for each violation within 15 business days after the issuance of the citation. Existing law provides that if the licensee requests a citation review conference that results in the citation being sustained for the same class of violation for which the citation was issued but the penalty assessed is reduced to at least 30% less than the amount originally assessed, the licensee is authorized to pay the minimum amount specified by law, or 50% of the amount determined by the citation review conference, whichever is greater, for each violation within 15 business days after notice of the citation review conference determination.

This bill would revise these provisions to authorize the licensee, in lieu of contesting a citation, to transmit to the department the minimum amount specified by law, or 65% of the amount specified in the citation, whichever is greater, for each violation within 15 business days after the issuance of the citation. The bill would delete the provision that permits the licensee, if the penalty has been reduced by at least 30%, to pay the minimum amount specified by law, or 50% of the amount determined by the citation review conference, whichever is greater.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1417.3 is added to the Health and
- 2 Safety Code, to read:
- 3 1417.3. The department shall promote quality in
- 4 long-term health care facility services through specific
- 5 activities that include, but are not limited to, all of the
- 6 following:



1 (a) Research and evaluation of innovative facility
2 resident care models.

3 (b) Provision of statewide training on effective facility
4 practices.

5 (c) Response to facility requests for technical
6 assistance regarding licensing and certification
7 requirements, compliance with federal and state
8 standards, and related operational issues.

9 SEC. 2. Section 1423 of the Health and Safety Code is
10 amended to read:

11 1423. (a) If upon inspection or investigation the
12 director determines that any nursing facility is in
13 violation of any state or federal law or regulation relating
14 to the operation or maintenance of the facility, or
15 determines that any other long-term health care facility
16 is in violation of any statutory provision or regulation
17 relating to the operation or maintenance of the facility,
18 the director shall promptly, but not later than 24 hours,
19 excluding Saturday, Sunday, and holidays, after the
20 director determines or has reasonable cause to determine
21 that an alleged violation has occurred, issue a notice to
22 correct the violation and of intent to issue a citation to the
23 licensee. Before completing the investigation and making
24 the determination whether to issue a citation, the
25 department shall hold an exit conference with the
26 licensee to identify the potential for issuing a citation for
27 any violation, discuss investigative findings, and allow the
28 licensee to provide the department with additional
29 information related to the violation. The department
30 shall consider this additional information, in conjunction
31 with information from the inspection or investigation, in
32 determining whether to issue a citation, or whether other
33 action would be appropriate. If the department
34 determines that the violation warrants the issuing of a
35 citation and an exit conference has been completed it
36 shall either:

37 (1) Recommend the imposition of a federal
38 enforcement remedy or remedies on a nursing facility in
39 accordance with federal law; or



1 (2) Issue a citation pursuant to state licensing laws, and
2 if the facility is a nursing facility, may recommend the
3 imposition of a federal enforcement remedy other than
4 a federal civil monetary penalty for a federal violation.

5 No violation may result in the issuance of both a citation
6 pursuant to state laws and the recommendation that a
7 federal civil monetary penalty be imposed. If a state
8 citation is issued it shall be served upon the licensee
9 within three days after completion of the investigation,
10 excluding Saturday, Sunday, and holidays, unless the
11 licensee agrees in writing to an extension of time. Service
12 shall be effected either personally or by registered or
13 certified mail. A copy of the citation shall also be sent to
14 each complainant. Each citation shall be in writing and
15 shall describe with particularity the nature of the
16 violation, including a reference to the statutory provision,
17 standard, rule or regulation alleged to have been violated,
18 the particular place or area of the facility in which it
19 occurred, as well as the amount of any proposed
20 assessment of a civil penalty. The name of any patient
21 jeopardized by the alleged violation shall not be specified
22 in the citation in order to protect the privacy of the
23 patient. However, at the time the licensee is served with
24 the citation, the licensee shall also be served with a
25 written list of each of the names of the patients alleged to
26 have been jeopardized by the violation, that shall not be
27 subject to disclosure as a public record. The citation shall
28 fix the earliest feasible time for the elimination of the
29 condition constituting the alleged violation, when
30 appropriate.

31 (b) Where no harm to patients, residents, or guests has
32 occurred, a single incident, event, or occurrence shall
33 result in no more than one citation for each statute or
34 regulation violated.

35 (c) No citation shall be issued for a violation that has
36 been reported by the licensee to the state department, or
37 its designee, as an “unusual occurrence,” if all of the
38 following conditions are met:

39 (1) The violation has not caused harm to any patient,
40 resident, or guest, or significantly contributed thereto.



1 (2) The licensee has promptly taken reasonable
2 measures to correct the violation and to prevent a
3 recurrence.

4 (3) The unusual occurrence report was the first source
5 of information reported to the state department, or its
6 designee, regarding the violation.

7 SEC. 3. Section 1424 of the Health and Safety Code is
8 amended to read:

9 1424. Citations issued pursuant to this chapter shall be
10 classified according to the nature of the violation and shall
11 indicate the classification on the face thereof.

12 (a) In determining the amount of the civil penalty, all
13 relevant facts shall be considered, including, but not
14 limited to, the following:

15 (1) The probability and severity of the risk that the
16 violation presents to the patient's or resident's mental and
17 physical condition.

18 (2) The patient's or resident's medical condition.

19 (3) The patient's or resident's mental condition and
20 his or her history of mental disability or disorder.

21 (4) The good faith efforts exercised by the facility to
22 prevent the violation from occurring.

23 (5) The licensee's history of compliance with
24 regulations.

25 (b) Relevant facts considered by the department in
26 determining the amount of the civil penalty shall be
27 documented by the department on *an attachment to the*
28 *citation and available in the public record.* This
29 requirement shall not preclude the department or a
30 facility from introducing facts not listed on the citation to
31 support or challenge the amount of the civil penalty in
32 any proceeding set forth in Section 1428.

33 (c) Class "AA" violations are violations that meet the
34 criteria for a class "A" violation and that the state
35 department determines to have been a direct proximate
36 cause of death of a patient or resident of a long-term
37 health care facility. A class "AA" citation is subject to a
38 civil penalty in the amount of not less than five thousand
39 dollars (\$5,000) and not exceeding twenty-five thousand
40 dollars (\$25,000) for each citation. In any action to



1 enforce a citation issued under this subdivision, the state
2 department shall prove all of the following:

3 (1) The violation was a direct proximate cause of death
4 of a patient or resident.

5 (2) The death resulted from an occurrence of a nature
6 that the regulation was designed to prevent.

7 (3) The patient or resident suffering the death was
8 among the class of persons for whose protection the
9 regulation was adopted.

10 If the state department meets this burden of proof, the
11 licensee shall have the burden of proving that the licensee
12 did what might reasonably be expected of a long-term
13 health care facility licensee, acting under similar
14 circumstances, to comply with the regulation. If the
15 licensee sustains this burden, then the citation shall be
16 dismissed.

17 For each class “AA” citation within a 12-month period
18 that has become final, the state department shall consider
19 the suspension or revocation of the facility’s license in
20 accordance with Section 1294. For a third or subsequent
21 class “AA” citation in a facility within that 12-month
22 period that has been sustained following a citation review
23 conference, the state department shall commence action
24 to suspend or revoke the facility’s license in accordance
25 with Section 1294.

26 (d) Class “A” violations are violations which the state
27 department determines present either (1) imminent
28 danger that death or serious harm to the patients or
29 residents of the long-term health care facility would
30 result therefrom, or (2) substantial probability that death
31 or serious physical harm to patients or residents of the
32 long-term health care facility would result therefrom. A
33 physical condition or one or more practices, means,
34 methods, or operations in use in a long-term health care
35 facility may constitute a class “A” violation. The condition
36 or practice constituting a class “A” violation shall be
37 abated or eliminated immediately, unless a fixed period
38 of time, as determined by the state department, is
39 required for correction. A class “A” citation is subject to
40 a civil penalty in an amount not less than one thousand



1 dollars (\$1,000) and not exceeding ten thousand dollars
2 (\$10,000) for each and every citation.

3 If the state department establishes that a violation
4 occurred, the licensee shall have the burden of proving
5 that the licensee did what might reasonably be expected
6 of a long-term health care facility licensee, acting under
7 similar circumstances, to comply with the regulation. If
8 the licensee sustains this burden, then the citation shall be
9 dismissed.

10 (e) Class “B” violations are violations that the state
11 department determines have a direct or immediate
12 relationship to the health, safety, or security of long-term
13 health care facility patients or residents, other than class
14 “AA” or “A” violations. Unless otherwise determined by
15 the state department to be a class “A” violation pursuant
16 to this chapter and rules and regulations adopted
17 pursuant thereto, any violation of a patient’s rights as set
18 forth in Sections 72527 and 73523 of Title 22 of the
19 California Administrative Code, that is determined by
20 the state department to cause or under circumstances
21 likely to cause significant humiliation, indignity, anxiety,
22 or other emotional trauma to a patient is a class “B”
23 violation. A class “B” citation is subject to a civil penalty
24 in an amount not less than one hundred dollars (\$100) and
25 not exceeding one thousand dollars (\$1,000) for each and
26 every citation. A class “B” citation shall specify the time
27 within which the violation is required to be corrected. If
28 the state department establishes that a violation
29 occurred, the licensee shall have the burden of proving
30 that the licensee did what might reasonably be expected
31 of a long-term health care facility licensee, acting under
32 similar circumstances, to comply with the regulation. If
33 the licensee sustains this burden, then the citation shall be
34 dismissed.

35 In the event of any citation under this paragraph, if the
36 state department establishes that a violation occurred,
37 the licensee shall have the burden of proving that the
38 licensee did what might reasonably be expected of a
39 long-term health care facility licensee, acting under
40 similar circumstances, to comply with the regulation. If



1 the licensee sustains this burden, then the citation shall be
2 dismissed.

3 (f) (1) Any willful material falsification or willful
4 material omission in the health record of a patient of a
5 long-term health care facility is a violation.

6 (2) “Willful material falsification,” as used in this
7 section, means any entry in the patient health care record
8 pertaining to the administration of medication, or
9 treatments ordered for the patient, or pertaining to
10 services for the prevention or treatment of decubitus
11 ulcers or contractures, or pertaining to tests and
12 measurements of vital signs, or notations of input and
13 output of fluids, that was made with the knowledge that
14 the records falsely reflect the condition of the resident or
15 the care or services provided.

16 (3) “Willful material omission,” as used in this section,
17 means the willful failure to record any untoward event
18 that has affected the health, safety, or security of the
19 specific patient, and that was omitted with the knowledge
20 that the records falsely reflect the condition of the
21 resident or the care or services provided.

22 (g) A violation of subdivision (e) may result in a civil
23 penalty not to exceed ten thousand dollars (\$10,000), as
24 specified in paragraphs (1) to (3), inclusive.

25 (1) The willful material falsification or willful material
26 omission is subject to a civil penalty of not less than two
27 thousand five hundred dollars (\$2,500) or more than ten
28 thousand dollars (\$10,000) in instances where the health
29 care record is relied upon by a health care professional to
30 the detriment of a patient by affecting the administration
31 of medications or treatments, the issuance of orders, or
32 the development of plans of care. In all other cases,
33 violations of this subdivision are subject to a civil penalty
34 not exceeding two thousand five hundred dollars
35 (\$2,500).

36 (2) Where the penalty assessed is one thousand dollars
37 (\$1,000) or less, the violation shall be issued and enforced,
38 except as provided in this subdivision, in the same
39 manner as a class “B” violation, and shall include the right
40 of appeal as specified in Section 1428. Where the assessed



1 penalty is in excess of one thousand dollars (\$1,000), the
2 violation shall be issued and enforced, except as provided
3 in this subdivision, in the same manner as a class “A”
4 violation, and shall include the right of appeal as specified
5 in Section 1428.

6 Nothing in this section shall be construed as a change
7 in previous law enacted by Chapter 11 of the Statutes of
8 1985 relative to this paragraph, but merely as a
9 clarification of existing law.

10 (3) Nothing in this subdivision shall preclude the state
11 department from issuing a class “A” or class “B” citation
12 for any violation that meets the requirements for that
13 citation, regardless of whether the violation also
14 constitutes a violation of this subdivision. However, no
15 single act, omission, or occurrence may be cited both as
16 a class “A” or class “B” violation and as a violation of this
17 subdivision.

18 (h) The director shall prescribe procedures for the
19 issuance of a notice of violation with respect to violations
20 having only a minimal relationship to patient safety or
21 health.

22 (i) Nothing in this section is intended to change
23 existing statutory or regulatory requirements governing
24 the ability of a licensee to contest a citation pursuant to
25 Section 1428.

26 (j) The department shall ensure that district office
27 activities performed under Sections 1419 to 1424,
28 inclusive, are consistent with the requirements of these
29 sections and all applicable laws and regulations. To ensure
30 the integrity of these activities, the department shall
31 establish a statewide process for the collection of
32 post-survey evaluations from affected facilities.

33 SEC. 4. Section 1428 of the Health and Safety Code is
34 amended to read:

35 1428. (a) If the licensee desires to contest a citation
36 or the proposed assessment of a civil penalty therefor, the
37 licensee shall use the processes described in subdivisions
38 (b) and (c) for classes “AA,” “A,” or “B” citations. As a
39 result of a citation review conference, a citation or the
40 proposed assessment of a civil penalty may be affirmed,



1 modified, or dismissed by the director or the director's
2 designee. If the director's designee affirms, modifies, or
3 dismisses the citation or proposed assessment of a civil
4 penalty, he or she shall state with particularity in writing
5 his or her reasons for that action, and shall immediately
6 transmit a copy thereof to each party to the original
7 complaint. If the licensee desires to contest a decision
8 made after the citation review conference, the licensee
9 shall inform the director in writing within 15 business
10 days after he or she receives the decision by the director's
11 designee.

12 (b) If a licensee notifies the director that he or she
13 intends to contest a class "AA" or a class "A" citation, the
14 licensee may first, within 15 business days after service of
15 the citation, notify the director in writing of his or her
16 request for a citation review conference. The licensee
17 shall inform the director in writing, within 15 business
18 days of the service of the citation or the receipt of the
19 decision of the director's designee after the citation
20 review conference, of the licensee's intent to adjudicate
21 the validity of the citation in the municipal or superior
22 court in the county in which the long-term health care
23 facility is located. In order to perfect a judicial appeal of
24 a contested citation, a licensee shall file a civil action in
25 the municipal or superior court in the county in which the
26 long-term health care facility is located. The action shall
27 be filed no later than 90 calendar days after a licensee
28 notifies the director that he or she intends to contest the
29 citation, or no later than 90 days after the receipt of the
30 decision by the director's designee after the citation
31 review conference, and served not later than 90 days after
32 filing. Notwithstanding any other provision of law, a
33 licensee prosecuting a judicial appeal shall file and serve
34 an at-issue memorandum pursuant to Rule 209 of the
35 California Rules of Court within six months after the state
36 department files its answer in the appeal.
37 Notwithstanding subdivision (d), the court shall dismiss
38 the appeal upon motion of the state department if the
39 at-issue memorandum is not filed by the facility within
40 the period specified.



1 (c) If a licensee desires to contest a class “B” citation,
2 the licensee may request, within 15 business days after
3 service of the citation, a citation review conference, by
4 writing the director or the director’s designee of the
5 licensee’s intent to appeal the citation through the
6 citation review conference. If the licensee wishes to
7 appeal the citation which has been upheld in a citation
8 review conference, the licensee shall, within 15 working
9 days from the date the citation review conference
10 decision was rendered, notify the director or the
11 director’s designee that he or she wishes to appeal the
12 decision through the procedures set forth in Section
13 100171 or elects to submit the matter to binding
14 arbitration in accordance with subdivision (d). The
15 administrative law judge may affirm, modify, or dismiss
16 the citation or the proposed assessment of a civil penalty.
17 The licensee may choose to have his or her appeal heard
18 by the administrative law judge or submit the matter to
19 binding arbitration without having first appealed the
20 decision to a citation review conference by notifying the
21 director in writing within 15 business days of the service
22 of the citation.

23 (d) If a licensee is dissatisfied with the decision of the
24 administrative law judge, the licensee may, in lieu of
25 seeking judicial review of the decision as provided in
26 Section 1094.5 of the Code of Civil Procedure, elect to
27 submit the matter to binding arbitration by filing, within
28 60 days of its receipt of the decision, a request for
29 arbitration with the American Arbitration Association.
30 The parties shall agree upon an arbitrator designated
31 from the American Arbitration Association in accordance
32 with the association’s established rules and procedures.
33 The arbitration hearing shall be set within 45 days of the
34 election to arbitrate, but in no event less than 28 days
35 from the date of selection of an arbitrator. The arbitration
36 hearing may be continued up to 15 additional days if
37 necessary at the arbitrator’s discretion. Except as
38 otherwise specifically provided in this subdivision, the
39 arbitration hearing shall be conducted in accordance
40 with the American Arbitration Association’s established



1 rules and procedures. The arbitrator shall determine
2 whether the licensee violated the regulation or
3 regulations cited by the department, and whether the
4 citation meets the criteria established in Sections 1423
5 and 1424. If the arbitrator determines that the licensee
6 has violated the regulation or regulations cited by the
7 department, and that the class of the citation should be
8 upheld, the proposed assessment of a civil penalty shall be
9 affirmed, subject to the limitations established in Section
10 1424. The licensee and the department shall each bear its
11 respective portion of the cost of arbitration. A resident, or
12 his or her designated representative, or both, entitled to
13 participate in the citation review conference pursuant to
14 subdivision (f), may make an oral or written statement
15 regarding the citation, at any arbitration hearing to which
16 the matter has been submitted after the citation review
17 conference.

18 (e) If an appeal is prosecuted under this section,
19 including an appeal taken in accordance with Section
20 100171, the state department shall have the burden of
21 establishing by a preponderance of the evidence that (1)
22 the alleged violation did occur, (2) the alleged violation
23 met the criteria for the class of citation alleged, and (3)
24 the assessed penalty was appropriate. The state
25 department shall also have the burden of establishing by
26 a preponderance of the evidence that the assessment of
27 a civil penalty should be upheld. If a licensee fails to notify
28 the director in writing that he or she intends to contest
29 the citation, or the proposed assessment of a civil penalty
30 therefor, or the decision made by the director's designee,
31 after a citation review conference, within the time
32 specified in this section, the decision by the director's
33 designee after a citation review conference shall be
34 deemed a final order of the state department and shall not
35 be subject to further administrative review, except that
36 the licensee may seek judicial relief from the time limits
37 specified in this section. If a licensee appeals a contested
38 citation or the assessment of a civil penalty, no civil
39 penalty shall be due and payable unless and until the
40 appeal is terminated in favor of the state department.



1 (f) The director or the director's designee shall
2 establish an independent unit of trained citation review
3 conference hearing officers within the state department
4 to conduct citation review conferences. Citation review
5 conference hearing officers shall be directly responsible
6 to the deputy director for licensing and certification, and
7 shall not be concurrently employed as supervisors,
8 district administrators, or regional administrators with
9 the licensing and certification division. Specific training
10 shall be provided to members of this unit on conducting
11 an informal conference, with emphasis on the regulatory
12 and legal aspects of long-term health care.

13 Where the state department issues a citation as a result
14 of a complaint or regular inspection visit, and a resident
15 or residents are specifically identified in a citation by
16 name as being specifically affected by the violation, then
17 the following persons may attend the citation review
18 conference:

19 (1) The complainant and his or her designated
20 representative.

21 (2) A personal health care provider, designated by the
22 resident.

23 (3) A personal attorney.

24 (4) Any person representing the Office of the State
25 Long-Term Care Ombudsman, as defined in subdivision
26 (c) of Section 9701 of the Welfare and Institutions Code.

27 Where the state department determines that residents
28 in the facility were threatened by the cited violation but
29 does not name specific residents, any person representing
30 the Office of the State Long-Term Care Ombudsman, as
31 defined in subdivision (c) of Section 9701 of the Welfare
32 and Institutions Code, and a representative of the
33 residents or family council at the facility may participate
34 to represent all residents. In this case, these
35 representatives shall be the sole participants for the
36 residents in the conference. The residents or family
37 council shall designate which representative will
38 participate.

39 The complainant, affected resident, and their
40 designated representatives shall be notified by the state



1 department of the conference and their right to
2 participate. The director's designee shall notify the
3 complainant or his or her designated representative and
4 the affected resident or his or her designated
5 representative, of his or her determination based on the
6 citation review conference.

7 (g) In assessing the civil penalty for a violation, all
8 relevant facts shall be considered, including, but not
9 limited to, all of the following:

10 (1) The probability and severity of the risk which the
11 violation presents to the patient's or resident's mental and
12 physical condition.

13 (2) The patient's or resident's medical condition.

14 (3) The patient's or resident's mental condition and
15 his or her history of mental disability.

16 (4) The good faith efforts exercised by the facility to
17 prevent the violation from occurring.

18 (5) The licensee's history of compliance with
19 regulations.

20 (h) Except as otherwise provided in this subdivision,
21 an assessment of civil penalties for a class "A" or class "B"
22 violation shall be trebled and collected for a second and
23 subsequent violation for which a citation of the same class
24 was issued within any 12-month period. Trebling shall
25 occur only if the first citation issued within the 12-month
26 period was issued in the same class, a civil penalty was
27 assessed, and a plan of correction was submitted for the
28 previous same-class violation occurring within the period,
29 without regard to whether the action to enforce the
30 previous citation has become final. However, the
31 increment to the civil penalty required by this
32 subdivision shall not be due and payable unless and until
33 the previous action has terminated in favor of the state
34 department.

35 If the class "B" citation is issued for a patient's rights
36 violation, as defined in subdivision (c) of Section 1424, it
37 shall not be trebled unless the state department
38 determines the violation has a direct or immediate
39 relationship to the health, safety, security, or welfare of
40 long-term health care facility residents.



1 (i) The director shall prescribe procedures for the
2 issuance of a notice of violation with respect to violations
3 having only a minimal relationship to safety or health.

4 (j) Actions brought under this chapter shall be set for
5 trial at the earliest possible date and shall take
6 precedence on the court calendar over all other cases
7 except matters to which equal or superior precedence is
8 specifically granted by law. Times for responsive pleading
9 and for hearing the proceeding shall be set by the judge
10 of the court with the object of securing a decision as to
11 subject matters at the earliest possible time.

12 (k) If the citation is dismissed, the state department
13 shall take action immediately to ensure that the public
14 records reflect in a prominent manner that the citation
15 was dismissed.

16 (l) Penalties paid on violations under this chapter shall
17 be applied against the state department's accounts to
18 offset any costs incurred by the state pursuant to this
19 chapter. Any costs or penalties assessed pursuant to this
20 chapter shall be paid within 30 days of the date the
21 decision becomes final. If a facility does not comply with
22 this requirement, the state department shall withhold
23 any payment under the Medi-Cal program until the debt
24 is satisfied. No payment shall be withheld if the state
25 department determines that it would cause undue
26 hardship to the facility or to patients or residents of the
27 facility.

28 (m) The amendments made to subdivisions (a) and
29 (c) of this section by Chapter 84 of the Statutes of 1988,
30 to extend the number of days allowed for the provision of
31 notification to the director, do not affect the right, that is
32 also contained in those amendments, to request judicial
33 relief from these time limits.

34 SEC. 5. Section 1428.1 of the Health and Safety Code
35 is amended to read:

36 1428.1. A licensee may, in lieu of contesting a citation
37 pursuant to Section 1428, transmit to the state
38 department the minimum amount specified by law, or 65
39 percent of the amount specified in the citation,



- 1 whichever is greater, for each violation within 15 business
- 2 days after the issuance of the citation.

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