**Section 350.272 Determination to Issue a Notice of Violation or Administrative Warning**

a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director shall review the findings contained in the report to determine *whether the report's findings constitute a violation or violations of which the facility must be given notice.* All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies. (Section 3-212(c) of the Act)

b) In making this determination, the Director shall consider any *comments and documentation provided by the facility* within 10 days after receipt of the report in accordance with Section 350.200(c). (Section 3-212(c) of the Act)

c) In determining whether the findings warrant the issuance of a notice of violation, the Director shall consider the following factors:

1) *The severity of the finding.* The Director will consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard.

2) *The danger posed to resident health and safety.* The Director will consider whether the finding could pose any direct harm to the residents.

3) *The diligence and efforts to correct deficiencies* and *correction of reported deficiencies* by the facility*.* Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to insure a reduction of deficiencies.

4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history.* The Director will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and whether the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

d) If the Director determines that the report's findings constitute a violation or violations that do not *constitute a Type "AA", Type "A", Type "B", or Type "C" violation, the* *Department shall issue an administrative warning* as provided in Section 350.277. (Section 3-303.2(a) of the Act)

e) *The Department shall determine the violation under* the Act and this Section *no later than 90 days after completion of each inspection, survey and evaluation.*  (Section 3-212(c) of the Act)

(Source: Amended at 46 Ill. Reg. 10519, effective June 2, 2022)