**Section 380.750 License Sanctions and Revocation**

a) *The Department may revoke a license for any failure to substantially comply with* the *Act and* this Part*, including, but not limited to, the following* behavior by a licensee:

1) *Fails to correct deficiencies identified as a result of an on-site survey by the Department and fails to submit a plan of correction within 30 days after receipt of the notice of violation*;

2) *Submits false information on Department forms, required certifications* or *plans of correction during an on-site inspection*;

3) *Refuses to permit or participate in a scheduled or unscheduled survey;*

4) *Willfully violates any rights of individuals being served* (Section 4-109(a) of the Act); or

5) Fails to comply with Section 4-107 of the Act and with Section 380.200(a)(2) of this Part.

b) *The Department may refuse to license or relicense a facility if the owner or authorized representative or licensee has been convicted of a felony related to the provision of healthcare or mental health services, as shown by a certified copy of*  the order of *the court of conviction.* (Section 4-109(b) of the Act)

c) *Facilities, as a result of an on-site survey, shall be recognized according to levels of compliance with standards as set forth in* the *Act* and this Part*. Facilities with findings from Level 1 to Level 3 will be considered to be in good standing with the Department. Findings from Level 3 to Level 5 will result in a notice of violations, a plan of correction and sanctions* as defined in subsecton (f)*. Findings resulting in Level 6 will result in a notice of violations and sanction* as defined in subsection (f)*. The levels of compliance are*:

1) *Level* 1 is *full compliance with* the *Act and* this Part. Full compliance means meeting the requirements except for variances from the strict and literal performance that results in unimportant omissions or defects, given the particular circumstances involved.

2) *Level 2* is *acceptable compliance with* the *Act and* this Part. *No written plan of correction will be required from the licensee*. Acceptable means enough in either quantity or quality, and within the professional standards applicable to the subject under review, to meet the needs of the consumers of a facility under the particular set of circumstances in existence at the time of review.

3) *Level 3* is *partial compliance with* the *Act and* this Part*. An administrative warning is issued* by the Department*. The licensee shall submit a written plan of correction* pursuant to subsection (a)(1). Partial compliance is a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that less than minimal physical or mental harm to a consumer will result.

4) *Level 4* is *minimal compliance with* the *Act and* this Part. *The licensee shall submit a written plan of correction* pursuant to subsection (a)(1), *and the Department will issue a probationary license. A re-survey shall occur within 90 days* after the Department receives the written plan of correction from the facility. Minimal compliance is a condition or occurrence relating to the operation and maintenance of a facility that is more likely than not to cause more than minimal physical or mental harm to a consumer.

5) *Level 5* is *unsatisfactory compliance with* the *Act and* this Part*. The facility shall submit a written plan of correction* pursuant to subsection (a)(1), *and the Department will issue a restricted license. A re-survey shall occur within 60 days* after the Department receives the written plan of correction from the facility. Unsatisfactory compliance is a condition or occurrence relating to the operation and maintenance of a facility that creates a substantial probability that the risk of death or serious mental or physical harm to a consumer will result, or has resulted in, actual physical or mental harm to a consumer.

6) *Level 6* is *revocation of the license to provide services. Revocation may occur as a result of a licensee's consistent and repeated failure to take necessary corrective actions to rectify documented violations, or the failure to protect consumers from situations that produce an imminent risk*, creating a condition relating to the operation and maintenance of a facility that proximately caused a consumer's death. (Section 4-109(c) of the Act) Revocation also may occur for failure to comply with *all consent decrees that apply to facilities federally designated as institutions for the mentally diseased* and that *continue to apply to facilities licensed under* the *Act*, or to otherwise obstruct a consumer from transferring from a facility to a community-based setting. (Section 1-101.5(b) of the Act)

d) In determining the level of a violation, the Director or his or her designee will consider the following criteria:

1) The degree of danger to the consumer, consumers or community that is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:

A) Whether the consumer or consumers of the facility are able to recognize conditions or occurrences that may be harmful and are able to take measures for self-preservation and self-protection. The extent of nursing care required by the consumers, as indicated by review of consumer needs, will be considered in relation to this determination.

B) Whether the consumer or consumers have access to the area of the facility in which the condition or occurrence exists and the extent of access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting consumer access to hazardous areas will be considered.

C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.

D) Whether the consumer or consumers of the facility were notified of the condition or occurrence and the promptness of the notice. Failure of the facility to notify consumers of potentially harmful conditions or occurrences will be considered. The adequacy of the method of the notification and the extent to which the notification reduced the potential danger to the consumers will also be considered.

2) The directness and imminence of the danger to the consumer, consumers, or the community by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress or pain to a consumer or consumers resulted from the condition or occurrence and the extent of the harm.

B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the consumer or consumers has resulted from similar conditions or occurrences, and the frequency of this danger.

C) Whether professional opinions and findings indicate that direct and imminent danger to the consumer or consumers will result from the condition or occurrence.

D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental or emotional state of the consumer or consumers who are subject to the danger would facilitate or hinder harm actually resulting from the condition or occurrence.

e) *Prior to initiating formal action to sanction a license, the Department shall allow the licensee an opportunity to take corrective action to eliminate or ameliorate a violation of* the *Act* or this Part *except in cases in which the Department determines that emergency action is necessary to protect the public or individual interest, safety or welfare*. (Section 4-109(d) of the Act)

f) *Subsequent to an on-site survey, the Department shall issue a written notice to the licensee. The Department shall specify the particular Sections of* the *Act or* this Part*, if any, with which the facility is not compliant. The Department's notice shall require any corrective actions be taken within a specified time period as required by* the *Act and* subsections (a)(1) and (c)(4) and (5) of this Section, as applicable.(Section 4-109(e) of the Act)

g) *Sanctions shall be imposed according to the following definitions*:

1) *Administrative notice – A written notice issued by the Department that specifies violations* of the Act and this Part *requiring a written plan of correction with time frames for corrections to be made and a notice that any additional violation of* the *Act and* this Part *may result in a higher level sanction. (Level 3)*

2) *Probation – Compliance with* the *Act and* this Part *is minimally acceptable and necessitates immediate corrective action. Individuals' life safety or quality of care* is *not in jeopardy. The probationary period is limited to 90 days* after the Department receives the written plan of correction from the facility*. During the probationary period, the facility must make corrective changes sufficient to bring the facility back into good standing with the Department. Failure to make corrective changes within that given time frame may result in a determination* by the Department *to initiate a higher-level sanction*. *The admission of new individuals shall be prohibited during the probationary period. (Level 4)*

3) *Restricted license – A licensee is sanctioned for unsatisfactory compliance. The admission of new individuals shall be prohibited during the restricted licensure period. Corrective action sufficient to bring the licensee back into good standing with the Department must be taken within 60 days* after the Department receives a written plan of correction from the facility*. During the restricted licensure period a monitor will be assigned to oversee the progress of the facility in taking corrective action. If corrective actions are not taken, the facility will be subject to a higher-level sanction. (Level 5)*

4) *Revocation – Revocation of the license is withdrawal by formal actions of the licensee. The revocation shall be in effect until the provider submits a re-application and the licensee can demonstrate its ability to operate in good standing with the Department. The Department has the right not to reinstate a license. If revocation occurs as a result of imminent risk, all individuals will be immediately relocated and all funding will be transferred. (Level 6)*

5) *Financial penalty* (fines) *– A financial penalty may be imposed upon finding of violation in any one or combination of the provisions of* the *Act* and this Part*. In determining an appropriate financial penalty, the Department may consider the deterrent effect of the penalty on the organization and on other providers, the nature of the violation, the degree to which the violation resulted in a benefit to the organization and/or harm to the public and any other relevant factors to be examined in mitigation or aggravation of the organization's conduct. The financial penalty may be imposed in conjunction with other sanctions or separately. Higher-level sanctions may be imposed in situations where there are repeat violations*. (Section 4-109(f) of the Act) Fines for single violations and multiple violations shall be consistent with Section 3-305 of the Nursing Home Care Act.

h) The Department may revoke a facility's certification for an individual level of service without interrupting the operation of other certified levels of service offered by the facility.