**Section 390.272 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 or his or her designee will 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 or his or her designee will consider any *comments and documentation provided by the licensee within 10 days* after *receipt of the copy of the report* in accordance with Section 390.200(e). (Section 3-212(c) of the Act)

c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his or her designee will base his or her determination on the following factors:

1) *The severity of the finding*. The Director or his or her designee 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 Act or this Part.

2) *The danger posed to resident health and safety*. The Director or his or her designee 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*. The Director or his or her designee will consider *comments and documentation provided by the facility* evidencing that steps have been taken to correct reported 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 or his or her designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

d) If the Director or his or her designee determines that the report's findings constitute a violation or violations that do not directly threaten the health, safety, or welfare of a resident or residents, the *Department shall issue an administrative warning* as provided in Section 390.277. (Section 3-303.2(a) of the Act)

e) *Violations shall be determined under 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. 8192, effective May 6, 2022)