

CHAPTER 296**(SB 203)**

AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

- (1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each and every violation. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***
- (2) Type "B" violation means a violation by a long-term care facility of the regulations, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety, or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

Section 2. KRS 216.560 is amended to read as follows:

- (1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars (\$500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***

- (2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars (\$200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. ***A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.***
- (3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation for which it has received a citation ~~and penalty~~ during the previous twelve (12) months.
- (4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.
- (5) KRS 216B.990(3) shall not apply to the offenses defined herein.
- (6) ***A personal care home that is assessed a civil monetary penalty for a Type A or Type B citation shall have the amount of the penalty reduced by the dollar amount that the facility can verify was used to correct the deficiency, if:***
 - (a) ***The condition resulting in the deficiency citation existed for less than thirty (30) days prior to the date of the citation; or***
 - (b) ***The facility has not intentionally delayed correcting the deficiency to secure a reduction in a penalty that might subsequently be assessed.***
- (7) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

A long-term care facility as defined in KRS 216.535, except for a personal care home, that advertises to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders or maintains an identifiable unit for the treatment of persons with a medical diagnosis of Alzheimer's disease or other related disorders shall provide training to all staff members in the care and handling of Alzheimer's disease or other related disorders as follows:

- (1) ***At least eight (8) hours of orientation related to Alzheimer's disease or other related disorders to include the following:***
 - (a) ***Facility policies;***
 - (b) ***Etiology and treatment;***
 - (c) ***Disease stages;***
 - (d) ***Behavior management; and***
 - (e) ***Residents' rights; and***

- (2) *Annual continuing education of at least five (5) hours related to Alzheimer's disease or other related disorders.*

Approved April 9, 2002