Section 300.288 Reduction or Waiver of Penalties

a) Reductions for all types of violations subject to penalties.

1) The Director or his designee shall consider the factors contained in Section 300.286(a) in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 300.284 and in determining the amount of such reduction.

2) When the Director or his designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a level A violation to an amount less than $1000.

b) Reductions and waivers for level B violations.

1) Penalties resulting from level B violations may be reduced or waived only under one of the following conditions:
   A) The facility submits a report of correction within ten days after the notice of violation is received, and the report is subsequently verified by the Department.
   B) The facility submits a plan of correction within ten days after the notice of violation is received, the plan is approved by the Department, the facility submits a report of correction within 15 days after submission of the plan or correction, and the report is subsequently verified by the Department.
   C) The facility submits a plan of correction within ten days after the notice of violation is received, the plan provides for correction within not more than 30 days after submission of the plan of correction, and the plan is approved by the Department.
   D) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility, the facility submits a plan or correction involving substantial capital costs, the plan of correction provides completion of the corrective action within 90 days after submission of the plan, and the plan is approved by the Department. (Section 3-308 of the Act)

2) Under these conditions, the Director or his designee shall consider the factors outlined in Section 300.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

Section 300.320 Waivers

a) Upon application by a facility, the Director may grant or renew the waiver of the facility’s compliance with a rule or standard for a period not to exceed the duration of the current license or, in the case of an application for license renewal, the duration of the renewal period. (Section 3-303.1 of the Act)
b) The waiver may be conditioned upon the facility taking action prescribed by the Director as a measure equivalent to compliance. (Section 3-303.1 of the Act)

c) In determining whether to grant or renew a waiver, the Director shall consider:
1) the duration and basis for any current waiver with respect to the same rule or standard;
2) the continued validity of extending the waiver on the same basis;
3) the effect upon the health and safety of residents;
4) the quality of resident care (whether the waiver would reduce the overall quality of the resident care below that required by the Act or this Part);
5) the facility's history of compliance with the Act and this Part (the existence of a consistent pattern of violation of the Act or this Part); and
6) the facility's attempts to comply with the particular rule or standard in question. (Section 3-303.1 of the Act)

d) The Department shall renew waivers relating to physical plant standards issued pursuant to this Section at the time of the indicated reviews, unless it can show why such waivers should not be extended for the following reasons:
1) the condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or
2) the facility is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost. (Section 3-303.1 of the Act)

(Source: Amended at 13 Ill. Reg. 4684, effective March 24, 1989)

b) Resident Bedroom.

**Section 300.3060 Nursing Unit**

1) Single resident bedrooms shall contain at least 100 square feet of usable floor area. Multiple resident bedrooms shall contain at least 80 square feet per bed of usable floor area. Minimum usable floor area shall be exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, or clearly definable entryways. Those bedrooms for which facilities had waivers to this subsection (b)(1) on (and continuously since) December 24, 1987, and which have at least 90 square feet for single bedrooms and 70 square feet per bed for multi-bedrooms are exempt from this subsection (b)(1). Those bedrooms for which facilities had waivers to this subsection (b)(1) on (and continuously since) December 24, 1987, but which have less than 90 square feet for single bedrooms and 70 square feet per bed multi-bedrooms, continue to be subject to waiver procedures on an annual basis (See Section 300.320).

3) Soiled Utility Room

A) The soiled utility room shall be large enough to contain:
   i) a two compartment sink with drainboards;
   ii) ample storage cabinets; Illinois NH Administrative Code Page 190 of 301 Uploaded 5/22/2007
   iii) a clinical rim flush sink for: rinsing bed pans, urinals, and linen soiled by solid materials, and similar type procedures; and
   iv) equipment and facilities for sanitizing bed pans, emesis basins, urine bottles, and other utensils, which meet accepted methods and procedures for such sanitation.
B) Based upon approval of the program narrative, the Department will consider a waiver of this subsection for Intermediate Care Facilities.