

18. ENFORCEMENT

18.1 Notice of Violation

(a) If, as a result of an inspection or investigation, the licensing agency determines that a condition in a facility violates a rule or statutory provision, it shall prepare a written notice of violation, which shall state the following:

- (1) A description of each condition that constitutes a violation;
- (2) Each rule or statutory provision alleged to have been violated;
- (3) The date by which the violation must be corrected;
- (4) Sanctions the licensing agency may impose for failure to correct the violation or failure to provide proof of correction by the date specified;
- (5) The right to appeal the notice of violation as provided in 33 V.S.A. §7118; and
- (6) The right to apply for a variance as provided in 33 V.S.A. §7106.

(b) The licensing agency may take immediate enforcement action when necessary to eliminate a condition that can reasonably be expected to cause death or serious physical harm to residents or staff before it can be eliminated through the provisions of 33 V.S.A. §7111. If the licensing agency takes immediate enforcement action, it shall explain its actions and the reasons therefore in the notice of the violation.

18.2 Corrective Action

(a) The licensing agency shall enforce these provisions to protect residents of facilities.

(b) The licensing agency may require a facility to take corrective action to eliminate a violation of a rule or state statute within a specified period of time. If the licensing agency does require corrective action:

- (1) the licensing agency may, within the limits of resources available to it, provide technical assistance to the facility to enable it to comply with the statutory and regulatory requirements;
- (2) the facility shall provide the licensing agency with proof of correction of the violation within the time specified; and
- (3) if the facility has not corrected the violation by the time specified, the licensing agency may take such further action as it deems appropriate, in accordance with 33 V.S.A. §7111.

18.3 Civil Penalties

Failure to operate a nursing facility in accordance with these rules may subject a facility to the penalties set out in 33 V.S.A. §§7111 and 7304, including but not limited to suspension of admissions, receivership, modification, suspension, non-renewal or revocation of license, and civil money penalties.

18.4 Criminal Penalty

A person who knowingly violates the licensure or confidentiality requirements of these rules shall be subject to criminal penalties pursuant to 33 V.S.A. §7116.