

216.560 Penalties for failure to correct violations within time specified -- Exemption from state penalty if federal penalty assessed -- Reduction of penalty by amount used to correct deficiency.

- (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 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.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 296, sec. 2, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 189, sec. 8, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 235, sec. 5, effective July 13, 1990; and ch. 249, sec. 4, effective July 13, 1990. -- Amended 1984 Ky. Acts ch. 111, sec. 108, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 157, sec. 11, effective July 15, 1982.

