

House Bill 264 (AS PASSED HOUSE AND SENATE)

By: Representatives Randall of the 127<sup>th</sup>, McClinton of the 68<sup>th</sup>, Jenkins of the 110<sup>th</sup> and Childers of the 13<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 31-2-6 of the Official Code of Georgia Annotated, relating to actions  
2 against applicants or licensees regulated under Chapters 7, 13, 22, and 23 of Title 31 and  
3 Chapter 5 of Title 49, so as to provide conditions under which certain monetary penalties  
4 may be imposed against nursing facilities, nursing homes, or intermediate care homes; to  
5 provide for the suspension of civil monetary penalties against such facilities under certain  
6 conditions; to provide that under certain conditions civil monetary penalties imposed shall  
7 relate back to the date on which such penalties were suspended; to provide that nothing  
8 contained in this Act shall be construed to require the state survey agency to act in violation  
9 of applicable federal law, regulations, and guidelines; to provide for related matters; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Code Section 31-2-6 of the Official Code of Georgia Annotated, relating to actions against  
14 applicants or licensees regulated under Chapters 7, 13, 22, and 23 of Title 31 and Chapter 5  
15 of Title 49, is amended by striking subsection (d) in its entirety and inserting in lieu thereof  
16 a new subsection (d) to read as follows:

17 "(d)(1) With respect to any facility classified as a nursing facility, nursing home, or  
18 intermediate care home, the department may not take an action to fine or restrict the  
19 license of any such facility based on the same act, occurrence, or omission for which:

20 ~~(1)~~(A) The facility has received an intermediate sanction under the provisions of 42  
21 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or

22 ~~(2)~~(B) Such facility has been served formal notice of intent to take such a sanction  
23 which the Department of Community Health based on administrative review or any  
24 other appropriate body based on administrative or judicial review determines not to  
25 impose; provided, however, that nothing in this subsection shall prohibit the department  
26 from utilizing the provisions authorized under subsection (f) of this Code section.

1 (2) When any civil monetary penalty is recommended and imposed against such facility,  
2 and the department does not resurvey the facility within 48 hours after the date by which  
3 all items on a plan of correction submitted by the facility are to be completed, the accrual  
4 of any resulting civil monetary penalties shall be suspended until the facility is  
5 resurveyed by the department.

6 (3) If the department resurveys such facility beyond 48 hours after the final date for  
7 completion of all items on the plan of correction submitted by the facility, and the facility  
8 is not in substantial compliance with the applicable standards, any civil monetary  
9 penalties imposed shall relate back to the date on which such penalties were suspended.

10 (4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing  
11 contained in said paragraphs (2) and (3) of this subsection shall be construed as requiring  
12 the state survey agency to act in violation of applicable federal law, regulations, and  
13 guidelines."

14 **SECTION 2.**

15 All laws and parts of laws in conflict with this Act are repealed.