

481—56.9(135C) Factors determining selection of class of violation. In determining which class of violation will be designated in the citation, where more than one class is specified in the notation following the rule, the director of the department of inspections and appeals shall consider evidence of the circumstances surrounding the violation, including, but not limited to, the following factors:

56.9(1) The frequency and length of time the violation occurred, i.e., whether the violation was an isolated or a widespread occurrence, practice, or condition;

56.9(2) The past history of the facility within 24 months of the violation as it relates to the nature of the violation;

56.9(3) The culpability of the facility as it relates to the reasons the violation occurred;

56.9(4) The extent of any harm to the residents or the effect on the health, safety, or security of the residents which resulted from the violation;

56.9(5) The relationship of the violation to any other types of violations which have occurred in the facility;

56.9(6) The actions of the facility after the occurrence of the violation, including when corrective measures, if any, were implemented and whether the facility notified the director as required;

56.9(7) The accuracy and extent of records kept by the facility which relate to the violation, and the availability of such records to the department;

56.9(8) The rights of residents to make informed decisions with their doctor(s) and family/legal representative(s); and

56.9(9) Whether the facility made a good-faith effort to address a high-risk resident's specific needs, and whether the evidence substantiates this effort.