

(6) The department may assess civil fines on a hospital according to RCW 70.41.430.

(a) The department may assess a civil fine of up to ten thousand dollars per violation, not to exceed a total fine of one million dollars, on a hospital when:

(i) The hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or

(ii) The hospital has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule; or

(iii) The hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(b) The department will assess a civil fine in accordance with Table 1 of this section:

**Table 1**

	Fine Amounts in Relation to the Severity of the Violation		
	Impact of Potential or Actual Harm		
Scope	Low	Moderate	High
Limited	up to \$1,000	\$1,000-4,000	\$2,000-10,000
Pattern	up to \$2,000	\$2,000-5,500	\$3,500-10,000
Widespread	Up to \$3,000	\$3,000-7,000	\$6,500-10,000

(c) The "Severity of the violation of noncompliance" will be considered when determining fines. Levels of severity are categorized as low, moderate, or high, and defined as:

(i) **"Low"** means harm could happen but would be rare. The violation undermines safety or quality or contributes to an unsafe environment but very unlikely to directly contribute to harm;

(ii) **"Moderate"** means harm could happen occasionally. The violation could cause harm directly, but more likely to cause harm as a continuing factor in the presence of special circumstances or additional failures. If the deficient practice continues, it would be possible that harm could occur but only in certain situations or patients;

(iii) **"High"** means harm could happen at any time or did happen. The violation could directly lead to harm without the need for other significant circumstances or failures. If the deficient practice continues, it would be likely that harm could happen at any time to any patient.

(d) Factors the department will consider when determining the severity of the noncompliance may include, but are not limited to:

- (i) Whether harm to the patient has occurred, or could occur, including but not limited to a violation of patient's rights;
- (ii) The impact of the actual or potential harm on the patient;
- (iii) The degree to which the hospital failed to meet the patient's highest practicable physical, mental, and psychosocial well-being; and
- (iv) Whether a fine at a lower severity has been levied and the condition or deficiency related to the violation has not been adequately resolved.

(e) The scope of the violation is the frequency, incidence or extent of the occurrence of the violation(s). The levels of scope are defined as follows:

- (i) "**Limited**" means a unique occurrence of the deficient practice that is not representative of routine or regular practice and has the potential to impact only one or a very limited number of patients, visitors, or staff. It is an outlier. The scope of the violation is limited when one or a very limited number of patients are affected or one or a very limited number of staff are involved, or the deficiency occurs in a very limited number of locations.
- (ii) "**Pattern**" means multiple occurrences of the deficient practice, or a single occurrence that has the potential to impact more than a limited number of patients, visitors, staff. It is a process variation. The scope of the violation becomes a pattern when more than a very limited number of patients are affected, or more than a very limited number of staff are involved, or the situation has occurred in several locations, or the same patient(s) have been affected by repeated occurrences of the same deficient practice.
- (iii) "**Widespread**" means the deficient practice is pervasive in the facility or represents a systemic failure or has the potential to impact most or all patients, visitors, staff. It is a process failure. Widespread scope refers to the entire organization, not just a subset of patients or one unit.

**Option 1:**

(f) In addition to the scope and severity of the repeat violation(s) the department will assess specific fine amounts based on the number of licensed beds and the operation size of the hospital. The licensed hospital beds will be categorized as:

- (i) Up to 25 beds;
- (ii) 26 to 99 beds;
- (iii) 100 to 299 beds; and
- (iv) 300 beds or greater.

Commented [TJ(1)]: Straight from RCW.

**Option 2:**

(f) In addition to the scope and severity of the repeat violation(s) the department will consider the number of licensed beds and the operation size of the hospital when assessing specific fine amounts. When a fine amount is identified based on the scope and severity table in (6)(b), the department will reduce the fine amount as follows based on the number of licensed beds:

- (i) Up to 25 beds- reduce fine amount by thirty-five percent or assess the minimum fine amount within the specified scope and severity range, whichever is greater;
- (ii) 26 to 99 beds- reduce fine amount by twenty-five percent or assess the minimum fine amount within the specified scope and severity range, whichever is greater;
- (iii) 100 to 299 beds- reduce fine amount by fifteen percent or assess the minimum fine amount within the specified scope and severity range, whichever is greater; and
- (iv) 300 beds or greater- no reduction in fine amount.

**Option 3:** Insert your ideas here!

(g) A hospital may appeal the department's action of assessing civil fines under RCW 43.70.095.

**Commented [TJ(2):** Includes a methodology

**Commented [TJ(3):** Very open to other ideas on how to include consideration of hospital size in the fine amounts.