**Section 340.1210 Determination of a Violation**

a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director shall review the findings contained in the report to *determine whether the report's findings constitute a violation or violations of which the facility must be given* *notice*. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered in determining findings or deficiencies. (Section 3-212(c) of the Act)

b) In making this determination, the Director shall consider any comments and documentation provided by the facility within ten days of the facility's receipt of the report.

c) In determining whether the findings warrant the issuance of a notice of violation, the Director shall base his determination on the following factors:

1) *The severity of the finding*. The Director or his designee will consider whether the finding constitutes merely a technical, non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard. (Section 3-212 (c) of the Act)

2) *The danger posed to resident health and safety*. The Director or his designee will consider whether the finding could pose any direct harm to the residents. (Section 3-212(c) of the Act)

3) *The diligence and efforts to correct deficiencies* and *correction of reported deficiencies by the facility*. Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to ensure a reduction of deficiencies. (Section 3-212(c) of the Act)

4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history*. The Director or his designee will consider whether the same finding or similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)