

14-139. PROHIBITED ACTS OF OFFICERS, DIRECTORS, AND EMPLOYEES; CIVIL PENALTY.

(A) PROHIBITED ACTS OF OFFICERS, DIRECTORS, AND EMPLOYEES.

AN OFFICER, DIRECTOR, OR EMPLOYEE OF A CORPORATION OPERATING UNDER THIS SUBTITLE MAY NOT:

(1) WILLFULLY VIOLATE A PROVISION OF THIS ARTICLE OR A REGULATION ADOPTED UNDER THIS ARTICLE;

(2) WILLFULLY MISREPRESENT OR CONCEAL A MATERIAL FACT IN A STATEMENT, REPORT, RECORD, OR COMMUNICATION SUBMITTED TO THE COMMISSIONER;

(3) WILLFULLY MISREPRESENT A MATERIAL FACT TO THE BOARD OF DIRECTORS;

(4) MISAPPROPRIATE OR FAIL TO ACCOUNT PROPERLY FOR MONEY THAT BELONGS TO THE CORPORATION, AN INSURER, AGENT, BROKER, SUBSCRIBER, OR CERTIFICATE HOLDER;

(5) ENGAGE IN FRAUDULENT OR DISHONEST PRACTICES IN CONNECTION WITH THE PROVISION OR ADMINISTRATION OF A HEALTH SERVICE PLAN;

(6) WILLFULLY FAIL TO PRODUCE RECORDS OR ALLOW AN EXAMINATION UNDER § 14-125 OF THIS SUBTITLE; OR

(7) WILLFULLY FAIL TO COMPLY WITH A LAWFUL ORDER OF THE COMMISSIONER.

(B) CIVIL PENALTY — IN GENERAL.

(1) A PERSON THAT VIOLATES SUBSECTION (A) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

(2) INSTEAD OF OR IN ADDITION TO IMPOSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE VIOLATOR TO MAKE RESTITUTION TO ANY PERSON THAT HAS SUFFERED FINANCIAL INJURY AS A RESULT OF THE VIOLATION.

(C) SAME — REQUIRED CONSIDERATIONS.

IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE IMPOSED, THE COMMISSIONER SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND THE NONPROFIT HEALTH SERVICE INDUSTRY; AND