

Sc. 242.067. REPORT RECOMMENDING ADMINISTRATIVE PENALTY.

(a) The department may issue a preliminary report stating the facts on which it concludes that a violation of this chapter or a rule, standard, or order adopted or license issued under this chapter has occurred if it has:

(1) examined the possible violation and facts surrounding the possible violation; and

(2) concluded that a violation has occurred.

(b) The report may recommend a penalty under Section 242.069 and the amount of the penalty.

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The notice must include:

(1) a brief summary of the charges;

(2) a statement of the amount of penalty recommended;

(3) a statement of whether the violation is subject to correction under Section 242.0665 and, if the violation is subject to correction under that section, a statement of:

(A) the date on which the institution must file with the department a plan of correction to be approved by the department; and

(B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and

(4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(d) Not later than the 20th day after the date on which the notice under Subsection (c) is sent, the person charged may:

(1) give to the department written consent to the department's report, including the recommended penalty;

(2) make a written request for a hearing; or

(3) if the violation is subject to correction under Section 242.0665, submit a plan of correction to the department for approval.

(e) If the violation is subject to correction under Section 242.0665, and the person reports to the department that the violation has been corrected, the department shall inspect the correction or take any other step necessary to confirm that the violation has been corrected and shall notify the person that:

(1) the correction is satisfactory and that a penalty is not assessed; or

(2) the correction is not satisfactory and that a penalty is recommended.

(f) Not later than the 20th day after the date on which a notice under Subsection (e)(2) is sent, the person charged may:

(1) give to the department written consent to the department's

report, including the recommended penalty; or

(2) make a written request for a hearing.

(g) If the person charged with the violation consents to the administrative penalty recommended by the department, does not timely respond to a notice sent under Subsection (c) or (e), or fails to correct the violation to the department 's satisfaction, the department shall assess the recommended administrative penalty.

(h) If the department assesses the recommended penalty, the department shall give written notice to the person charged of the decision and the person shall pay the penalty.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.087, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1159, Sec. 1.18, eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0618, eff. April 2, 2015.