

§ 1393.5. Civil penalties for violation of license provisions

(a) A person who violates Section 1349, or any person who directly or indirectly participates in the direction of the management or policies of the person in violation of Section 1349, including, but not limited to, any officer, director, partner, or other person occupying a principal management or supervisory position, shall be liable for civil penalties as follows:

(1) A sum of not more than five thousand dollars (\$5,000).

(2) A sum not exceeding one thousand dollars (\$1,000) for each subscriber under an individual or group plan contract that was entered into or renewed while the person was in violation of Section 1349.

(b) The penalty specified in paragraph (2) of subdivision (a) shall be imposed only if one or more of the following occurs:

(1) The solicitation of the entry into or renewal of such contract, or of any subscription or enrollment thereunder, included the use by the plan or a representative of the plan of any advertising, evidence of coverage, or disclosure form which was untrue, misleading, or deceptive.

(2) The contract is not in compliance with this chapter, or the rules adopted pursuant to this chapter.

(3) The plan does not have a financially sound operation and adequate provision against the risk of insolvency.

(4) The plan has operated in violation of the provisions of subdivision (a), (b), (c), (d), or (e) of Section 1367.

(5) The plan has not complied with the provisions of Section 1379.

(c) The civil penalty may be assessed and recovered only in a civil action. The cause of action may be brought in the name of the people of the State of California by the Attorney General or the director, as determined by the director.

(d) Commencing January 1, 2028, and every five years thereafter, the penalty amounts specified in this section shall be adjusted based on the average rate of change in premium rates for the individual and small group markets, and weighted by enrollment, since the previous adjustment.

HISTORY:

Added Stats 1982 ch 99 § 1, effective March 6, 1982. Amended Stats 1985 ch 908 § 4; Stats

1999 ch 525 § 142 (AB 78), effective January 1, 2000, operative July 1, 2000; Stats 2022 ch 985 § 8 (SB 858), effective January 1, 2023.