

§ 1389.8. Duty with regard to assisting applicant for a health care service plan; Attestation; Civil penalty

(a) Notwithstanding any other provision of law, an agent, broker, solicitor, solicitor firm, or representative who assists an applicant in submitting an application to a health care service plan has the duty to assist the applicant in providing answers to health questions accurately and completely.

(b) An agent, broker, solicitor, solicitor firm, or representative who assists an applicant in submitting an application to a health care service plan shall attest on the written application to both of the following:

(1) That to the best of their knowledge, the information on the application is complete and accurate.

(2) That they explained to the applicant, in easy-to-understand language, the risk to the applicant of providing inaccurate information and that the applicant understood the explanation.

(c) If, in an attestation required by subdivision (b), a declarant willfully states as true any material fact the declarant knows to be false, that person shall, in addition to any applicable penalties or remedies available under current law, be subject to a civil penalty of up to twenty thousand dollars (\$20,000). Any public prosecutor may bring a civil action to impose that civil penalty. These penalties shall be paid to the Managed Care Fund.

(d) A health care service plan application shall include a statement advising declarants of the civil penalty authorized under this section.

(e) Commencing January 1, 2028, and every five years thereafter, the penalty amount 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 2008 ch 604 § 2 (AB 2569), effective January 1, 2009. Amended Stats 2022 ch 985 § 6 (SB 858), effective January 1, 2023.

ARTICLE 8

Other Enforcement Procedures

Section

1390. Violation of chapter; Penalties.

1391. Cease and desist orders.

1391.5. Immediate order to discontinue unsafe practice.

1392. Injunctions and other equitable relief.

1392.5. Receiver, monitor, conservator, or other fiduciary or officer.

1393. Vesting of title to assets; Taking possession of business.

1393.5. Civil penalties for violation of license provisions.

1393.6. Administrative penalties for violation of provisions relating to small employer group

Section

access to contracts for health care services and preexisting condition provisions and late enrollees.

1394. Penalties not exclusive.

1394.1. Complaint for involuntary dissolution of plan.

1394.2. Priority of claims.

1394.3. Applicable law in involuntary dissolution actions.

HISTORY: Added Stats 1975 ch 941 § 2, operative July 1, 1976.