

§ 1391. Cease and desist orders

(a)(1) The director may issue an order directing a plan, solicitor firm, or any representative thereof, a solicitor, or any other person to cease and desist from engaging in any act or practice in violation of the provisions of this chapter, any rule adopted pursuant to this chapter, or any order issued by the director pursuant to this chapter.

(2) If the plan, solicitor firm, or any representative thereof, or solicitor, or any other person fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the director and shall not be subject to review by any court or agency, notwithstanding subdivision (b) of Section 1397.

(b) If a timely request for a hearing is made by a licensed plan, the request shall automatically stay the effect of the order only to the extent that the order requires the cessation of operation of the plan or prohibits acceptance of new members by the plan or both. However, no automatic stay shall be issued if any examination or inspection of the plan performed by the director discloses, or reports or documents submitted to the director by the plan on their face show, that the plan is in violation of any fiscal requirement of this chapter or in violation of any requirement of Section 1384 or 1385. In the event of an automatic stay, only that portion of the order requiring cessation of operation or prohibiting enrollment shall be stayed and all other portions of the order shall remain effective. If a hearing is held, and a finding is made that the health or safety of the members and potential members of the plan might be adversely affected by its continued operation, the stay shall be terminated.

This finding shall be made, if at all, not later than 30 days after the date of the hearing.

(c) If a timely request for a hearing is made by an unlicensed plan, the director may stay the effect of the order to the extent that the order requires the cessation of operation of the plan or prohibits acceptance of new members by the plan, for that period and subject to those conditions that the director may require, upon a determination by the director that the action would be in the public interest.

HISTORY:

Added Stats 1975 ch 941 § 2, operative July 1, 1976. Amended Stats 1977 ch 330 § 4; Stats 1979 ch 109 § 1, effective June 12, 1979; Stats

1983 ch 611 § 5; Stats 1984 ch 619 § 3; Stats 1998 ch 836 § 3 (SB 955); Stats 1999 ch 525 § 138 (AB 78), effective January 1, 2000, operative July 1, 2000.