



Ohio Revised Code

Section 3961.08 Noncompliance with chapter - sanctions - enforcement.

Effective: October 24, 2024

Legislation: Senate Bill 175

(A) No person shall fail to comply with sections 3961.01 to 3961.09 of the Revised Code. If the superintendent of insurance determines that any person has violated sections 3961.01 to 3961.07 of the Revised Code, the superintendent may take one or more of the following actions:

- (1) Assess a civil penalty in an amount not to exceed twenty-five thousand dollars per violation if the person knew or should have known of the violation;
- (2) Assess administrative costs to cover the expenses incurred in the administrative action, including, but not limited to, expenses incurred in the investigation and hearing process. Costs collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.
- (3) Order corrective actions in lieu of or in addition to the other penalties described in this section, including, but not limited to, suspending civil penalties if a discount medical plan organization complies with the terms of the corrective action order;
- (4) Order restitution to members.

(B)(1) Before imposing a penalty under division (A) of this section, the superintendent shall give a discount medical plan organization notice and opportunity for hearing as described in Chapter 119. of the Revised Code.

(2) Notices regarding the scheduling of hearings and all other notices for which Chapter 119. of the Revised Code does not require a particular type of service shall be sent by ordinary mail to the party and the party's attorney.

(3) A subpoena or subpoena duces tecum from the superintendent or the superintendent's designee or attorney to a witness for appearance at a hearing, for the production of documents or other evidence,



or for taking testimony for use at a hearing shall be served by certified mail, return receipt requested. The subpoenas described in this division shall be enforced in the manner described in section 119.09 of the Revised Code. Nothing in this division shall be construed to limit the superintendent's other statutory powers to issue subpoenas.

(C)(1) If a violation of sections 3961.01 to 3961.07 of the Revised Code has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue a cease-and-desist order requiring a person to cease and desist from engaging in a violation.

(2) The superintendent shall, immediately after issuing an order pursuant to division (C)(1) of this section, serve notice of the order by certified mail, return receipt requested, or by any other manner described in division (B) of this section to the person subject to the order and all other persons involved in the violation. The notice shall specify the particular act, omission, practice, or transaction that is the subject of the order and set a date, not more than fifteen days after the date the order was issued, for a hearing on the continuation or revocation of the order. The person subject to the order shall comply with the order immediately upon receiving the order. After an order is issued pursuant to division (C)(1) of this section, the superintendent may publicize and notify all interested parties that a cease-and-desist order was issued.

(3) Upon application by the person subject to the order and for good cause, the superintendent may continue the hearing date described in division (C)(2) of this section. Chapter 119. of the Revised Code applies to the hearing on the order to the extent that the chapter does not conflict with the procedures described in this section. The superintendent shall, within fifteen days after objections are submitted concerning the hearing officer's report and recommendations, issue a final order either confirming or revoking the cease-and-desist order described in division (C)(1) of this section. The final order may be appealed as described in section 119.12 of the Revised Code.

(4) The remedy described in division (C) of this section is cumulative and concurrent with other remedies available under this section.

(D) If the superintendent has reasonable cause to believe that an order issued pursuant to this section has been violated in whole or in part, the superintendent may request the attorney general to commence any appropriate action against the violator. In an action described in this division, a court



may impose any of the following penalties:

(1) A civil penalty of not more than twenty-five thousand dollars per violation;

(2) Injunctive relief;

(3) Restitution;

(4) Any other appropriate relief.

(E) The superintendent shall deposit any penalties assessed under division (A)(1) or (D) of this section into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.