

542.14 Injunction against unlawful acts, civil penalties, and consent agreements.

1. If, as a result of an investigation under section 542.11 or otherwise, the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of section 542.13 or 542.20, the board may make application to the district court for an order enjoining such act or practice. Upon a showing by the board that such person or firm has engaged, or is about to engage, in any such act or practice, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

2. In addition to a criminal penalty provided for in section 542.15, the board may issue an order to require compliance with section 542.13 or 542.20 or to revoke a practice privilege under section 542.20, and may impose a civil penalty not to exceed one thousand dollars for each offense upon a person who is not a licensee under this chapter and who engages in conduct prohibited by section 542.13 or 542.20. Each day of a continued violation constitutes a separate offense. The board may impose a penalty up to ten thousand dollars per violation against a firm that violates section 542.13 or 542.20.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
- b. The circumstances leading to the violation.
- c. The severity of the violation and the risk of harm to the public.
- d. The economic benefits gained by the violator as a result of noncompliance.
- e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board, in connection with a proceeding under this section, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction.

9. The board, in its discretion and in lieu of prosecuting a first offense under this section, may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

2001 Acts, ch 55, §14, 38; 2008 Acts, ch 1106, §13, 15