

152C.4 Practicing as a massage therapist without a license — employment of person not licensed — civil penalty.

1. The board, or its authorized agents, may inspect any facility that advertises or offers the services of massage therapy. The board may, by order, impose a civil penalty upon a person who practices as a massage therapist without a license issued under this chapter or a person or business that employs an individual who is not licensed under this chapter. The penalty shall not exceed one thousand dollars for each offense. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars. In determining the amount of a civil penalty, the board may consider the following:

- a. Whether the amount imposed will be a substantial economic deterrent to the violation.
- b. The circumstances leading to or resulting in 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 welfare or best interest of the public.

2. Before issuing an order or citation under this section, the board shall provide written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted as provided in chapter 17A. The board may, in connection with a proceeding under this section, 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.

3. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to subsection 1, or within ten days following final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this section may be joined with an action for an injunction.

92 Acts, ch 1137, §4; 98 Acts, ch 1053, §34; 2000 Acts, ch 1185, §4