

156.16 Unlicensed practice — injunctions, civil penalties, consent agreements.

1. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation constitutes a separate offense.

2. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this section. To aid in such an investigation or in connection with any other proceeding under this section, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3.

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 or establishment 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 may request the attorney general to bring an action to enforce the subpoena.

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

7. If a person or establishment 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 pursuant to section 147.83.

9. The board, in its discretion and in lieu of issuing or enforcing an order or imposing a civil penalty for an initial violation under this section, may enter into a consent agreement with a violator, or with a person who aided or abetted a violator, which acknowledges the violation and the violator's agreement to refrain from any further violation.

2004 Acts, ch 1168, §11