WEST VIRGINIA CODE: §16b-13-9

§16B-13-9. Violations; penalties; injunction.

(a) Any person, partnership, association, or corporation which establishes, conducts, manages, or operates a medication-assisted treatment program without first obtaining a license or registration as herein provided, or who violates any provisions of this article or any rule lawfully promulgated pursuant to this article, shall be assessed a civil penalty by the director, in consultation with the Inspector General, in accordance with this subsection. Each day of continuing violation after conviction shall be considered a separate violation:

(1) If a medication-assisted treatment program or any owner or medical director is found to be in violation of any provision of this article, unless otherwise noted herein, the director, in consultation with the Inspector General, may limit, suspend or revoke the program's license or registration;

(2) If the program's medical director knowingly and intentionally misrepresents actions taken to correct a violation, the director, in consultation with the Inspector General, may impose a civil money penalty not to exceed $10,000 and, in the case of any owner-operator medication-assisted treatment program, limit or revoke a medication-assisted treatment program's license or registration;

(3) If any owner or medical director of a medication-assisted treatment program concurrently operates an unlicensed or unregistered medication-assisted treatment program, the director, in consultation with the Inspector General, may impose a civil money penalty upon the owner or medical director, or both, not to exceed $5,000 per day;

(4) If the owner of a medication-assisted treatment program that requires a license or registration under this article fails to apply for a new license or registration for the program upon a change of ownership and operates the program under new ownership, the director, in consultation with the Inspector General, may impose a civil money penalty upon the owner, not to exceed $5,000; or

(5) If a physician operates, owns or manages an unlicensed or unregistered medication-assisted treatment program that is required to be licensed or registered pursuant to this article; knowingly prescribes or dispenses or causes to be prescribed or dispensed, a medication-assisted treatment medication through misrepresentation or fraud; procures, or attempts to procure, a license or registration for a medication-assisted treatment program for any other person by making or causing to be made any false representation, the director, in consultation with the Inspector General, may assess a civil money penalty of not more than $20,000. The penalty may be in addition to or in lieu of any other action that may be taken by the director, in consultation with the Inspector General, or any other board, court or entity.

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(b) Notwithstanding the existence or pursuit of any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the state for an injunction against any person, partnership, association or corporation to restrain or prevent the establishment, conduct, management or operation of any medication-assisted treatment program or violation of any provision of this article or any rule lawfully promulgated thereunder without first obtaining a license or registration in the manner herein provided.

(c) In determining whether a penalty is to be imposed and in fixing the amount of the penalty, the director, in consultation with the Inspector General, shall consider the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient has resulted, or could have resulted, from the medication-assisted treatment program's actions or the actions of the medical director or any practicing physician, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated;

(2) What actions, if any, the owner or medical director took to correct the violations;

(3) Whether there were any previous violations at the medication-assisted treatment program; and

(4) The financial benefits that the medication-assisted treatment program derived from committing or continuing to commit the violation.

(d) Upon finding that a physician has violated the provisions of this article or rules adopted pursuant to this article, the director shall provide notice of the violation to the applicable licensing board.

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