# WEST VIRGINIA CODE: §33-11-6

**§33-11-6. Violations, cease and desist and penalty orders and modifications thereof.**

If, after notice and hearing, the Commissioner determines that any person has engaged in or is engaging in any method of competition, act or practice in violation of the provisions of this article or any rules or regulations promulgated by the Commissioner thereunder, the Commissioner shall issue an order directing the person to cease and desist from engaging in the method of competition, act or practice and, in addition thereto, the Commissioner may at his or her discretion order any one or more of the following:

(a) Require the payment to the State of West Virginia of a penalty in a sum not exceeding $1,000 for each and every act or violation, but not to exceed an aggregate penalty of $10,000, unless the person knew or reasonably should have known he or she was in violation of this article, in which case the penalty shall not exceed $5,000 for each and every act or violation, but not to exceed an aggregate penalty of $100,000 in any six-month period.

(b) In the event the act involves an intentional violation of subdivision (9), section four of this article, and even though it has not been established that the person engaged in a general business practice, require the payment to the State of West Virginia of a penalty in a sum not to exceed $10,000.

(c) Require the payment to the State of West Virginia of a penalty in a sum not exceeding $250,000 if the Commissioner finds that the insurer committed or performed unfair claims settlement practices with such frequency as to indicate a general business practice.

(d) Revoke or suspend the license of any person if he or she knew, or reasonably should have known, that he or she was in violation of this article.

(e)(1) Provide restitution from the Unfair Claims Settlement Practice Trust Fund to a claimant who has suffered damages as a result of a general business practice or from an egregious act by a person whether or not the act constituted a pattern corresponding to an unfair claim settlement practice committed with such frequency as to constitute a general business practice.

(2) Restitution provided herein may include: (A) Actual economic damages; and (B) noneconomic damages not to exceed $10,000. Restitution may not be given for attorney fees and punitive damages.

(f) It is expressly understood and intended that the provisions of paragraph (1), subdivision (e) of this section do not create a private cause of action against the person that has committed an unfair claims settlement practice. In the event that any provision of said paragraph is found to be unconstitutional or is deemed by any court of competent jurisdiction to create a private cause of action, then subdivision (e) shall be void.

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(g) Any person aggrieved by an order of the Commissioner under this article may seek judicial review of the order as provided in section fourteen, article two of this chapter.

(h) No order of the Commissioner pursuant to this article or order of any court to enforce it, or holding of a hearing, shall in any manner relieve or absolve any person affected by the order or hearing from any other liability, penalty or forfeiture under law.

(i) The provisions of section four-a of this article and subdivision (e) of this section do not apply to medical professional liability insurance claims pursuant to article seven-b, chapter fifty-five of this code and Workers Compensation insurance policies governed by article two-c, chapter twenty-three of this code.

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