WEST VIRGINIA CODE: §5-16-12

§5-16-12. Misrepresentation by employer, employee or provider; penalty.

(a) It shall be a violation of this article for any person to:

(1) Knowingly secure or attempt to secure benefits payable under this article to which they are not entitled;

(2) Knowingly secure or attempt to secure greater benefits than those to which the person is entitled;

(3) Willfully misrepresent the presence or extent of benefits to which the person is entitled under a collateral insurance source;

(4) Willfully misrepresent any material fact relating to any other information requested by the director;

(5) Willfully overcharge for services provided; or

(6) Willfully misrepresent a diagnosis or nature of the service provided.

Any person who has violated any of the foregoing provisions shall be civilly liable for the amount of benefits, overpayment or other sums improperly received in addition to any other relief available in a court of competent jurisdiction.

(b) If, after notice and an administrative proceeding, it is determined the person has violated the article, the person is liable for any overpayment received. The director shall withhold and set off any payment of any benefits or other payment due to that person until any overpayment is recovered.

(c) In addition to any civil liability for a violation pursuant to subsection (a) of this section, any person who knowingly secures or attempts to secure benefits payable under this article, or knowingly attempts to secure greater benefits than those to which the person is entitled, by willfully misrepresenting or aiding in the misrepresentation of any material fact relating to employment, diagnosis or services rendered is guilty of a felony, and upon conviction thereof, shall be fined not more than $1,000, imprisoned for not less than one nor more than five years, or both. Errors in coding for billing purposes shall not be considered a violation of this subsection absent other evidence of willful wrongdoing.

(d) Any person who violates any provision of this article which results in a loss to, or overpayment from, the plan, or to the State of West Virginia of less than $1,000, and for which no other penalty is specifically provided, is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of not less than $100 but not more than $500, or imprisonment for a period of not less than twenty-four hours but not more than fifteen days,

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or both. Any person who violates any provision of this article which results in a loss to, or overpayment from, the plan or the State of West Virginia of $1,000 or more, and for which no other penalty is specifically provided, is guilty of a felony and, upon conviction thereof, is subject to a fine of not less than $1,000 but not more than $5,000, or imprisonment for a period of not less than one nor more than five years, or both.

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