

AN ACT

ENTITLED, An Act to eliminate differential treatment between insurance licensees and to allow monetary penalties in lieu of licensure denial.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 58-4-28.1 be amended to read as follows:

58-4-28.1. In any case in which the director has the power to deny an application, revoke, refuse to renew, or suspend the license of any agent, broker, solicitor, or administrator or the certificate of authority of any insurance company or health maintenance organization, the director may permit an applicant or licensee to elect in writing to pay a specified money penalty within a specified time in lieu of a license suspension or other permitted action.

The money penalty may not exceed five thousand dollars for an agent or twenty-five thousand dollars for an insurance company, administrator, or health maintenance organization for each offense.

Section 2. That § 58-29D-33 be amended to read as follows:

58-29D-33. If the director finds that one or more grounds exist for the denial of an application, suspension, or revocation of a license issued under this chapter, the director may, in lieu of denial, suspension, or revocation, impose a money penalty pursuant to § 58-4-28.1.

Section 3. That § 58-41-81 be amended to read as follows:

58-41-81. The director may suspend or revoke any certificate of authority issued to a health maintenance organization under this chapter if the director finds that any of the following conditions exists:

- (1) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health maintenance contract, or in a manner contrary to that described in and reasonably inferred from any other information submitted under this chapter, unless amendments to such submissions have been filed with and approved by the director;

- (2) The health maintenance organization issues evidence of coverage or uses a schedule or charges for health care services which do not comply with the requirements of §§ 58-41-34 to 58-41-49, inclusive;
- (3) The health care plan does not provide or arrange for comprehensive health maintenance services;
- (4) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;
- (5) The health maintenance organization has failed to implement a mechanism affording the enrollees an opportunity to participate in matters of policy and operation under the provisions of §§ 58-41-23 and 58-41-24;
- (6) The health maintenance organization has failed to implement the complaint system in a manner designed to reasonably resolve valid complaints;
- (7) The health maintenance organization, or any person acting with its sanction, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
- (8) The continued operation of the health maintenance organization would be hazardous to its enrollees; or
- (9) The health maintenance organization has otherwise failed to substantially comply with this chapter, has violated a provision of chapter 58-33 or any other provision of law applicable to health maintenance organizations, or has submitted false information in any report required hereunder.

Section 4. That § 58-41-85 be amended to read as follows:

58-41-85. The director may, in lieu of suspension or revocation of a certificate of authority under § 58-41-81 or 58-41-82, levy a money penalty pursuant to § 58-4-28.1.

Section 5. That § 58-41-88 be amended to read as follows:

58-41-88. The provisions of chapter 1-26, including the right of judicial review, apply to proceedings under §§ 58-41-85 to 58-41-91, inclusive, to the extent those provisions are not in conflict with other provisions of such sections.

An Act to eliminate differential treatment between insurance licensees and to allow monetary penalties in lieu of licensure denial.

=====

I certify that the attached Act originated in the

SENATE as Bill No. 34

\_\_\_\_\_  
Secretary of the Senate

=====

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 34  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

=====

Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

=====

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

=====

STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Ass. Secretary of State