

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0327

SENATE BILL NO. 34

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

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

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

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

5 58-4-28.1. In any case in which the director has the power to deny an application, revoke,
6 refuse to renew, or suspend the license of any agent, broker ~~or~~, solicitor, or administrator or the
7 certificate of authority of any insurance company or health maintenance organization, the
8 director may permit a an applicant or licensee to elect in writing to pay a specified money penalty
9 within a specified time in lieu of a license suspension or other permitted action.

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

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

14 58-29D-33. If the director finds that one or more grounds exist for the denial of an
15 application, suspension, or revocation of a license issued under this chapter, the director may,
16 in lieu of denial, suspension, or revocation, impose a ~~fine of not more than five thousand dollars~~

1 ~~per violation upon the administrator~~ money penalty pursuant to § 58-4-28.1.

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

3 58-41-81. The director may suspend or revoke any certificate of authority issued to a health
4 maintenance organization under this chapter if ~~he~~ the director finds that any of the following
5 conditions exists:

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

11 (2) The health maintenance organization issues evidence of coverage or uses a schedule
12 or charges for health care services which do not comply with the requirements of
13 §§ 58-41-34 to 58-41-49, inclusive;

14 (3) The health care plan does not provide or arrange for comprehensive health
15 maintenance services;

16 (4) The health maintenance organization is no longer financially responsible and may
17 reasonably be expected to be unable to meet its obligations to enrollees or prospective
18 enrollees;

19 (5) The health maintenance organization has failed to implement a mechanism affording
20 the enrollees an opportunity to participate in matters of policy and operation under
21 the provisions of §§ 58-41-23 and 58-41-24;

22 (6) The health maintenance organization has failed to implement the complaint system in
23 a manner designed to reasonably resolve valid complaints;

24 (7) The health maintenance organization, or any person acting with its sanction, has
25 advertised or merchandised its services in an untrue, misrepresentative, misleading,

1 deceptive, or unfair manner;

2 (8) The continued operation of the health maintenance organization would be hazardous
3 to its enrollees; or

4 (9) The health maintenance organization has otherwise failed to substantially comply with
5 this chapter, has violated a provision of chapter 58-33 or any other provision of law
6 applicable to health maintenance organizations, or has submitted false information in
7 any report required hereunder.

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

9 58-41-85. The director may, in lieu of suspension or revocation of a certificate of authority
10 under § 58-41-81 or 58-41-82, levy ~~an administrative penalty in an amount not less than one~~
11 ~~hundred dollars nor more than ten thousand dollars. Reasonable notice in writing to the health~~
12 ~~maintenance organization shall be given of the intent to levy the penalty and the reasons therefor,~~
13 ~~and the health maintenance organization shall have a reasonable time within which to remedy the~~
14 ~~defect in its operations which gave rise to the penalty citation, or have an administrative hearing~~
15 ~~and review of the director's determination. Such administrative hearing shall be subject to judicial~~
16 ~~review pursuant to chapter 1-26~~ a money penalty pursuant to § 58-4-28.1.

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

18 58-41-88. The provisions of chapter 1-26, including the right of judicial review, ~~shall~~ apply
19 to proceedings under §§ ~~58-41-87~~ 58-41-85 to 58-41-91, inclusive, to the extent ~~they~~ those
20 provisions are not in conflict with other provisions of such sections.