

26-20-14 Investigations -- Civil investigative demands.

- (1) The attorney general may take investigative action under Subsection (2) if the attorney general has reason to believe that:
 - (a) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of this chapter;
 - (b) a person is committing, has committed, or is about to commit a violation of this chapter; or
 - (c) it is in the public interest to conduct an investigation to ascertain whether or not a person is committing, has committed, or is about to commit a violation of this chapter.
- (2) In taking investigative action, the attorney general may:
 - (a) require the person to file on a prescribed form a statement in writing, under oath or affirmation describing:
 - (i) the facts and circumstances concerning the alleged violation of this chapter; and
 - (ii) other information considered necessary by the attorney general;
 - (b) examine under oath a person in connection with the alleged violation of this chapter; and
 - (c) in accordance with Subsections (7) through (18), execute in writing, and serve on the person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material.
- (3) The attorney general may not release or disclose information that is obtained under Subsection (2)(a) or (b), or any documentary material or other record derived from the information obtained under Subsection (2)(a) or (b), except:
 - (a) by court order for good cause shown;
 - (b) with the consent of the person who provided the information;
 - (c) to an employee of the attorney general or the department;
 - (d) to an agency of this state, the United States, or another state;
 - (e) to a special assistant attorney general representing the state in a civil action;
 - (f) to a political subdivision of this state; or
 - (g) to a person authorized by the attorney general to receive the information.
- (4) The attorney general may use documentary material derived from information obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.
- (5)
 - (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to submit to an examination as required by Subsection (2)(b), the attorney general may file in district court a complaint for an order to compel the person to within a period stated by court order:
 - (i) file the statement required by Subsection (2)(a); or
 - (ii) submit to the examination required by Subsection (2)(b).
 - (b) Failure to comply with an order entered under Subsection (5)(a) is punishable as contempt.
- (6) A civil investigative demand shall:
 - (a) state the rule or statute under which the alleged violation of this chapter is being investigated;
 - (b) describe the:
 - (i) general subject matter of the investigation; and
 - (ii) class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;
 - (c) designate a date within which the documentary material is to be produced; and
 - (d) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.
- (7) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Utah Rules of Civil Procedure.

- (8) Service of a civil investigative demand may be made by:
 - (a) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;
 - (b) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or
 - (c) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served:
 - (i) at the person's principal place of business in this state; or
 - (ii) if the person has no place of business in this state, to the person's principal office or place of business.
- (9) Documentary material demanded in a civil investigative demand shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.
- (10) The attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained pursuant to a civil investigative demand except:
 - (a) by court order for good cause shown;
 - (b) with the consent of the person who produced the information;
 - (c) to an employee of the attorney general or the department;
 - (d) to an agency of this state, the United States, or another state;
 - (e) to a special assistant attorney general representing the state in a civil action;
 - (f) to a political subdivision of this state; or
 - (g) to a person authorized by the attorney general to receive the information.
- (11)
 - (a) With respect to documentary material obtained pursuant to a civil investigative demand, the attorney general shall prescribe reasonable terms and conditions allowing such documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person.
 - (b) The attorney general may use such documentary material or copies of it as the attorney general determines necessary in the enforcement of this chapter, including presentation before a court.
- (12) A person may file a complaint, stating good cause, to extend the return date for the demand or to modify or set aside the demand. A complaint under this Subsection (12) shall be filed in district court before the earlier of:
 - (a) the return date specified in the demand; or
 - (b) the 20th day after the date the demand is served.
- (13) Except as provided by court order, a person who has been served with a civil investigative demand shall comply with the terms of the demand.
- (14)
 - (a) A person who has committed a violation of this chapter in relation to the Medicaid program in this state or to any other medical benefit program administered by the state has submitted to the jurisdiction of this state.
 - (b) Personal service of a civil investigative demand under this section may be made on the person described in Subsection (14)(a) outside of this state.
- (15) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

- (16) The attorney general may file a complaint in district court for an order to enforce the civil investigative demand if:
 - (a) a person fails to comply with a civil investigative demand; or
 - (b) copying and reproduction of the documentary material demanded:
 - (i) cannot be satisfactorily accomplished; and
 - (ii) the person refuses to surrender the documentary material.
- (17) If a complaint is filed under Subsection (16), the court may determine the matter presented and may enter an order to enforce the civil investigative demand.
- (18) Failure to comply with a final order entered under Subsection (17) is punishable by contempt.

Amended by Chapter 297, 2011 General Session