

58-68-503 Penalties and administrative actions for unlawful and unprofessional conduct.

- (1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.
- (2)
 - (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:
 - (i) assessing administrative penalties; or
 - (ii) taking any other appropriate administrative action.
 - (b) A monetary administrative penalty imposed under this section shall be deposited in the Physician Education Fund described in Section 58-67a-1.
- (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the licensee may not be assessed an administrative fine under this chapter for the same conduct.
- (4)
 - (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:
 - (i) issue a citation to the individual;
 - (ii) attempt to negotiate a stipulated settlement; or
 - (iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.
 - (b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:
 - (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or
 - (ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).
 - (c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-1-401 may not be assessed through a citation.
 - (d) Each citation issued under this section shall:
 - (i) be in writing;
 - (ii) clearly describe or explain:
 - (A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;
 - (B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
 - (C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and
 - (iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.
 - (e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.
 - (f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

- (g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.
- (h) No citation may be issued under this section after six months from the day on which the last violation occurred.

Amended by Chapter 369, 2012 General Session