

R380. Health, Administration.

R380-413. Administrative Penalties.

R380-413-1. Authority and Purpose.

Pursuant to Section 26-1-5 and Subsection 26-61a-702 (3), this rule establishes a fine schedule for administrative penalties for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.

R380-413-2. Definitions.

The definitions in Section 26-61a-102 and Subsection R380-400 (2) apply in this rule.

R380-413-3. Entities and Individuals Subject to Fine Schedule.

This rule governs the fine schedule for which an administrative penalty is authorized pursuant to Section 26-61a-702.

R380-413-4. Fine Schedule.

(1) Pursuant to Section 26-61a-702 the following fine schedule shall apply:

(a) for an initial violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380---400 et. seq., a fine of \$500-\$2,000 per violation; and

(b) for a subsequent violation of Title 26, Chapter 61a, Utah Medical Cannabis Act or R380---400 et. seq., a fine of up to \$5,000 per violation.

(2) For each violation, the Department shall determine the fine amount within the ranges specified in Subsection (1).

(3) The fine amount determined by the Department may be modified by the presiding officer following an adjudicative proceeding.

R380-413-5. Date of Payment.

When the Department imposes a fine, it shall establish a date on which the payment is due. Failure of an entity or individual to pay on or before that date may result in additional penalties taken by the Department against a license or registration until payment is made.

R380-413-6. Aggravating and Mitigating Circumstances.

(1) In determining the fine amount imposed, the Department may adjust fine amounts within the fine ranges based upon aggravating or mitigating circumstances.

(a) mitigating circumstances include:

(i) no earlier violation history;

(ii) good faith effort to prevent a violation; and

(iii) extraordinary cooperation in the violation investigation that shows the entity or individual accepts responsibility.

(b) aggravating circumstances include:

(i) earlier warnings about compliance problems;

(ii) earlier violation history;

(iii) multiple violations during an investigation;

(iv) efforts to hide a violation;

(v) intentional nature of the violation;

(vi) the violation involved a minor; and

(vii) whether the violation resulted in injury to a patient.

R380-413-7. Additional Penalties.

Nothing in this rule prevents the Department from suspending, revoking or refusing to renew a license or registration in addition to imposing a fine for violations of Title 26, Chapter 61a, Utah Medical Cannabis Act and applicable administrative rules.

R380-413-8. Cease and Desist Letter.

In addition to, or in lieu of imposing a fine, the Department may issue a cease and desist letter to the entity or individual ordering them to cease and desist from the act that constitutes the violation. Failure to comply with the cease and desist letter may constitute grounds for additional penalties.

KEY: administrative penalties, medical cannabis, marijuana

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Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-702(3)