§7702-B. Operating without a license; violations; penalties

1. License required. A person, firm, partnership, association, corporation or other entity may not without first obtaining a license:

A. Manage or operate a long-term care facility as defined in chapter 1666-B; [PL 2007, c. 324, §5 (NEW).]

B. Operate a child care facility as defined in section 8301-A, subsection 1-A, paragraph B; or [PL 2007, c. 324, §5 (NEW).]

C. Operate as a family child care provider as defined in section 8301-A, subsection 1-A, paragraph C. [PL 2007, c. 324, §5 (NEW).]

[PL 2021, c. 35, §6 (AMD).]

2. Civil penalties. A person, firm, partnership, association, corporation or other entity who violates subsection 1 commits a civil violation and is subject to a civil penalty of not less than $500 nor more than $10,000 per day. Each day of violation constitutes a separate offense.

[PL 2007, c. 324, §5 (NEW).]

3. Injunctive relief. Notwithstanding any other remedies provided by law, the Office of the Attorney General may seek an injunction to require compliance with the provisions of subsection 1.

[PL 2007, c. 324, §5 (NEW).]

4. Enforcement. The Office of the Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of subsection 1.

[PL 2007, c. 324, §5 (NEW).]

5. Jurisdiction. The District Court has jurisdiction pursuant to Title 4, section 152 for violations of subsection 1.

[PL 2007, c. 324, §5 (NEW).]

6. Burden of proof. The burden is on the department to prove, by a preponderance of the evidence, that the alleged violations of subsection 1 occurred.

[PL 2007, c. 324, §5 (NEW).]

7. Right of entry. To inspect the premises of a long-term care facility, child care facility or family child care provider that the department knows or believes is being operated without a license, the department may enter only with the permission of the owner or person in charge or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court, authorizing entry and inspection.

[PL 2021, c. 35, §7 (AMD).]

8. Administrative inspection warrant. The department and a duly designated officer or employee of the department have the right to enter upon and into the premises of an unlicensed long-term care facility, child care facility or family child care provider with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court at a reasonable time and, upon demand, have the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of compliance with subsection 1. Pursuant to the Maine Rules of Civil Procedure, Rule 80E the department's right of entry and inspection may extend to any premises and documents of a person, firm, partnership, association, corporation or other entity that the department has reason to believe is operating without a license.

[PL 2021, c. 35, §8 (AMD).]

9. Noninterference. An owner or person in charge of an unlicensed long-term care facility, child care facility or family child care provider may not interfere with or prohibit the interviewing by the department of residents or consumers of services.

[PL 2021, c. 35, §9 (AMD).]

10. Violation of injunction. A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under this section shall pay to the State a fine of not less than $500 nor more than $10,000 for each violation. Each day of violation constitutes a separate offense. In an action brought by the Office of the Attorney General against a person, firm, partnership, association, corporation or other entity for violating the terms of an injunction under this section, the District Court may make the necessary orders or judgments regarding violation of the terms of the injunction.

In an action under this section, when a permanent injunction has been issued, the District Court may order the person, firm, partnership, association, corporation or other entity against which the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person, firm, partnership, association, corporation or other entity by the Office of the Attorney General and the costs of suit, including attorney's fees.
[PL 2007, c. 324, §5 (NEW).]

11. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 324, §5 (NEW).]

SECTION HISTORY

PL 2007, c. 324, §5 (NEW). PL 2021, c. 35, §§5-9 (AMD).

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