

§2139. Complaints

1. Complaint investigation. The department is authorized to investigate complaints against a temporary nurse agency to ensure compliance with this chapter.

[PL 2009, c. 621, §5 (NEW).]

2. Injunctive relief. Notwithstanding any other remedies provided by law, the Attorney General may seek an injunction to require compliance with the provisions of this chapter.

[PL 2009, c. 621, §5 (NEW).]

3. Enforcement. The Attorney General may file a complaint with the District Court seeking civil penalties or injunctive relief or both for violations of this chapter.

[PL 2009, c. 621, §5 (NEW).]

4. Jurisdiction. The District Court has jurisdiction pursuant to Title 4, section 152 for violations of this chapter.

[PL 2009, c. 621, §5 (NEW).]

5. Burden of proof. The burden is on the department to prove, by a preponderance of the evidence, that the alleged violation of this chapter occurred.

[PL 2009, c. 621, §5 (NEW).]

6. Right of entry. This subsection governs the department's right of entry with respect to temporary nurse agencies.

A. An application for registration of a temporary nurse agency constitutes permission for entry and inspection to verify compliance with applicable laws and rules. [PL 2009, c. 621, §5 (NEW).]

B. The department has the right to enter and inspect the premises of a temporary nurse agency registered by the department at a reasonable time and, upon demand, has the right to inspect and copy any books, accounts, papers, records and other documents in order to determine the state of compliance with applicable laws and rules. [PL 2009, c. 621, §5 (NEW).]

C. To inspect a temporary nurse agency that the department knows or believes is being operated without being registered, 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 2009, c. 621, §5 (NEW).]

[PL 2009, c. 621, §5 (NEW).]

7. 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 unregistered temporary nurse agency 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 this chapter. The 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 a temporary nurse agency without being registered.

[PL 2009, c. 621, §5 (NEW).]

8. Noninterference. An owner or operator of an unregistered temporary nurse agency may not interfere with, impede or obstruct an investigation by the department, including, but not limited to, interviewing persons receiving services or persons with knowledge of the agency.

[PL 2009, c. 621, §5 (NEW).]

9. Violation of injunction. A person, firm, partnership, association, corporation or other entity that violates the terms of an injunction issued under this chapter 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 any action brought by the Attorney General against a person, firm, partnership, association, corporation or other entity for violating the terms of an injunction under this chapter, the District Court may make the necessary orders or judgments regarding violation of the terms of the injunction.

In an action under this chapter, 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 Attorney General and the costs of suit, including attorney's fees.

[PL 2009, c. 621, §5 (NEW).]

10. Suspension or revocation of registration. A temporary nurse agency found to be in violation of this chapter may have its registration to operate as a temporary nurse agency suspended or revoked. The department may file a complaint with the District Court requesting suspension or revocation of a registration to operate a temporary nurse agency.

[PL 2009, c. 621, §5 (NEW).]

11. Rules. The department may 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 2009, c. 621, §5 (NEW).]

SECTION HISTORY

PL 2009, c. 621, §5 (NEW).

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