

§8003-C. Unlicensed practice

1. Complaints of unlicensed practice. A board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Professional and Occupational Regulation identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.

[PL 2009, c. 465, §3 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

2. Investigation of unlicensed practice. Complaints or allegations of unlicensed practice may be investigated by the Office of Professional and Occupational Regulation, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

[PL 1999, c. 687, Pt. C, §12 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and [PL 2009, c. 465, §4 (AMD).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [PL 2009, c. 465, §4 (AMD).]

[PL 2009, c. 465, §4 (AMD).]

4. Unlicensed practice; civil penalties. Any person who practices or represents to the public that the person is authorized to practice a profession or trade or engage in an activity that requires a license without first obtaining a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$1,000 but not more than \$5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

[PL 2011, c. 286, Pt. B, §3 (AMD).]

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

[PL 2007, c. 402, Pt. C, §5 (AMD).]

6. Unlicensed practice; private cause of action; repeal.

[PL 2005, c. 378, §1 (NEW); PL 2005, c. 378, §29 (AFF); MRSA T. 10 §8003-C, sub-§6 (RP).]

SECTION HISTORY

PL 1999, c. 687, §C12 (NEW). PL 2003, c. 452, §E10 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 378, §1 (AMD). PL 2005, c. 378, §29 (AFF). PL 2007, c. 402, Pt. C, §5 (AMD). PL 2009, c. 44, §1 (AMD). PL 2009, c. 465, §§3-5 (AMD). PL 2011, c. 286, Pt. B, §3 (AMD). PL 2011, c. 286, Pt. B, §5 (REV).

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