

**Section 22-21-33****Penalty for violation of article, etc.**

Any individual, association, corporation, partnership, limited liability company, or other business entity who operates or causes to be operated a hospital of any kind as defined in this article or any regulations promulgated hereunder, without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor upon conviction, except that the fine may be up to five thousand dollars (\$5,000) upon conviction of a second or any subsequent offense. The State Board of Health, upon determination that a facility or business is operating as a hospital, within the meaning of this article or any rules promulgated hereunder, and that the facility does not have a current and valid license granted by the State Board of Health, may apply to the circuit court of the county in which the unlicensed facility is located for declaratory and injunctive relief. The proceedings shall be expedited. The sole evidentiary questions before the court in a proceeding shall be whether the facility that is the subject of the action meets the definition of a hospital, within the meaning of this article and any rules promulgated hereunder, and whether the facility has been granted a current and valid license to operate by the State Board of Health. If the State Board of Health prevails on these questions, then the court shall, upon request of the State Board of Health, forthwith grant declaratory and injunctive relief requiring the operator or operators to close the facility and requiring the operator or operators to move all residents or patients to appropriate placements. Any individual failing to obey an injunction to close a hospital shall be guilty of a Class A misdemeanor, except that the fine may be up to five thousand dollars (\$5,000). Any individual, after having once been subject to such an injunction, who shall later operate or cause to be operated a hospital, as defined in this article or any regulations promulgated hereunder, without having been granted a license therefor by the State Board of Health shall be guilty of a Class A misdemeanor, except that the fine may be up to five thousand dollars (\$5,000). The State Board of Health may, upon the advice of the Attorney General, maintain an action in the name of the state for an injunction to restrain any state, county or local governmental unit, or any division, department, board or agency thereof, or any individual, association, corporation, partnership, limited liability company, or other business entity, from operating, conducting or managing a hospital in violation of any provisions of this article, or any regulation promulgated hereunder. No county or municipality shall grant a business license to a hospital, as defined in this article, unless the facility holds a current license to operate granted by the State Board of Health. In any action to collect a fee for services brought against a resident or patient by a hospital, as defined in this article or regulations promulgated hereunder, it shall be a defense to the action to demonstrate that the operator of the hospital did not have a current and valid license to operate pursuant to this article at the time the services in question were rendered.

*(Acts 1949, No. 530, p. 835, §12; Act 2001-1058, 4th Sp. Sess., p. 1044, §1.)*