

## CHAPTER 170

## (HB 672)

AN ACT relating to boarding homes.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS 216B.300 TO 216B.320 IS CREATED TO READ AS FOLLOWS:

- (1) *When the cabinet has reasonable cause to believe that any person, association, business entity, or organization is operating a boarding home without a registration, the cabinet may:*
  - (a) *Issue and deliver a notice to cease and desist from the violations;*
  - (b) *Issue and deliver a notice to cease and desist to any person who aids and abets the operation of a boarding home that is not registered; and*
  - (c) *Impose a civil penalty of at least one thousand dollars (\$1,000) but not more than five thousand dollars (\$5,000) upon the person, association, business entity, or organization that operates a boarding home that is not registered by the cabinet.*
- (2) *Issuance of a notice under subsection (1) of this section shall not constitute agency action for which a hearing under KRS Chapter 13B may be sought.*
- (3) *For the purpose of enforcing a cease and desist order and penalties under subsection (1) of this section, the cabinet may file a proceeding in the name of the Commonwealth seeking issuance of an injunction and enforcement of penalties against any person who violates subsection (1) of this section.*
- (4) *In addition to the remedies under subsection (1) of this section, the cabinet may impose a civil penalty of at least one thousand dollars (\$1,000) but not more than five thousand dollars (\$5,000) upon the person, association, business, entity, or organization who aids and abets the operation of a boarding home that is not registered. If the cabinet is required to seek enforcement of the cease and desist order, it shall be entitled to collect attorney's fees, costs, and any expenses incurred by the cabinet or local government as a consequence of and incident to the relocation of boarders to appropriate housing.*

Section 2. KRS 216B.305 is amended to read as follows:

- (1) No person, *association, business entity, or organization* shall *advertise, solicit boarders, or* operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. *No person who has been convicted of a crime of abuse under KRS 508.100 to 508.120 or who has had a report of abuse substantiated by the cabinet shall be registered to operate a boarding home.* The secretary shall impose a fee, not to exceed one hundred dollars (\$100), for this registration.
- (2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:
  - (a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

- (b) Bedding, linens, and laundry services provided to residents;
  - (c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;
  - (d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;
  - (e) Maintenance of the building;
  - (f) Food handling, preparation, and storage, and kitchen sanitation;
  - (g) **Nutritional standards sufficient to meet the boarder's need**~~[Handling and storage of resident's prescription drugs];~~ ~~and~~
  - (h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home; **and**
  - (i) **Initial and periodic screening procedures to ensure that individuals meet the definition of "boarder" under KRS 216B.300(3).**
- (3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:
- (a) **Standards established in subsections (1) and (2) of this section;**
  - (b) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and
  - (c)~~(b)~~ All applicable local health, fire, building, and safety codes and zoning ordinances.
- (4) (a) **A boarding home shall not be registered to any person, association, business entity, or organization that has been previously penalized for operating a boarding home without a registration or that has had a previously denied or revoked registration to operate a boarding home, for a period of five (5) years following the date of imposition of the previous penalty or denial or revocation of registration**~~[Any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section, after being provided with written notice of noncompliance and a reasonable period of time for correction, shall not be registered].~~
- (b) A boarding home operator may appeal the cabinet's denial of **initial or annual** registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. **A hearing held for a summary suspension shall be expedited and shall be in accordance with administrative regulations promulgated by the cabinet.** If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.
- (5) **Any person, association, business entity, or organization that submits an application to register a boarding home that conceals a previously denied or revoked application or conceals a penalty received for operating a boarding home without a registration shall be liable for a civil penalty of at least one thousand dollars (\$1,000) but not more than five**

*thousand dollars (\$5,000). Any registration issued in reliance upon the application concealing information shall be immediately revoked.*

- (6) *Initial and annual registration may be denied and existing registration may be revoked for any of the following:*
- (a) *The boarding home fails to achieve or maintain substantial and continuing compliance with administrative regulations promulgated pursuant to subsection (2) of this section;*
  - (b) *The boarding home fails or refuses to correct violations within a reasonable time as specified by the cabinet; or*
  - (c) *The applicant for registration or the registrant has been convicted of a crime related to abuse, neglect, or exploitation of an adult or has had an incident of adult abuse, neglect, or exploitation as defined in KRS 209.020, substantiated by the cabinet.*
- (7) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.
- (8) *A boarding home shall not handle, store, dispense, or assist with the dispensing of a boarder's prescription or non-prescription medications.*
- (9) *Upon request of the boarder, the boarding home shall provide access to a lockable compartment for use by a resident who requests secure storage for prescription medication.*
- (10) *If a boarding home fails to meet a minimum standard established in subsection (2) or (3) of this section and is in such a condition that the cabinet determines that the boarding home's continued operation poses a significant risk to the health and safety of its residents, the cabinet may summarily suspend the registration of the boarding home by ordering that its operations cease until corrections are made or until a hearing is held on the appropriateness of the suspension.*
- (11)~~(6)~~ Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Health Services.

Section 3. KRS 216B.990 is amended to read as follows:

- (1) Any person who, in willful violation of this chapter, operates a health facility or abortion facility without first obtaining a license or continues to operate a health facility or abortion facility after a final decision suspending or revoking a license shall be fined not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000) for each violation.
- (2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars (\$500) for each violation.
- (3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

- (4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.
- (6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars (\$100) per day for failure to post required notices and one hundred dollars (\$100) per instance for willfully failing to provide an itemized statement within the required time frames.
- (7) ***In addition to the civil penalties established under subsections (1) and (4) of Section 1 of this Act, any person who advertises, solicits boarders, or operates a boarding home without first obtaining a registration as required by KRS 216B.305 and any person who aids or abets the operation of a boarding home that is not registered shall be imprisoned for no more than twelve (12) months***~~[Any boarding home which does not register as required by KRS 216B.305 shall be fined one hundred dollars (\$100) and ten dollars (\$10) per day thereafter until they have registered].~~
- (8) Any person or entity establishing, managing, or operating an abortion facility or conducting the business of an abortion facility which otherwise violates any provision of this chapter or any administrative regulation promulgated thereunder regarding abortion facilities shall be subject to revocation or suspension of the license of the abortion facility. In addition, any violation of any provision of this chapter regarding abortion facilities or any administrative regulation related thereto by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or by careless, negligent, or incautious disregard for the statute or administrative regulation, either by persons acting individually or in concert with others, shall constitute a violation and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each offense. Each day of continuing violation shall be considered a separate offense. The venue for prosecution of the violation shall be in any county of the state in which the violation, or any portion thereof, occurred.
- (9) Any hospital acting by or through its agents or employees that violates any provision of KRS 216B.150 shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

**Approved April 22, 2004**