

201 KAR 46:070. Violations and enforcement.

RELATES TO: KRS 311B.100, 311B.120, 311B.150, 311B.160, 311B.170, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.120, 311B.180, 311B.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.120 and 311B.190 require the board to promulgate administrative regulations to establish appropriate fees and penalties for violations. KRS 311B.180 requires the board to assess penalties against an individual or licensee who performs diagnostic or therapeutic procedures without a valid license. This administrative regulation establishes uniform enforcement procedures regarding the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator and penalties for violation of licensure requirements.

Section 1. Denial, Revocation, and Suspension of Licenses.

- (1) The board may deny, revoke, or suspend the license of a licensee in accordance with KRS 311B.160.
- (2) A licensee shall comply with an order of the board.
- (3) An order of the board in subsection (2) of this section shall include items such as discovery orders, requests for information, subpoenas, requests for attendance before the board, and responses to complaints.

Section 2. Hearings.

- (1) The board shall notify the licensee in accordance with KRS 311B.170(1) and (2).
- (2) A licensee to whom a notice or order is directed shall comply with KRS 311B.170(3) to avoid license revocation.
- (3) The board shall issue the licensee a notice of proposed action in accordance with 201 KAR 46:090.
- (4) A licensee may request a conference and appeal the board's action in accordance with KRS 311B.170(5) and 201 KAR 46:090.

Section 3. Penalties.

- (1)
 - (a) The board shall assess civil penalties in accordance with KRS 311B.180 and 311B.190 against an individual who performs diagnostic or therapeutic procedures without valid licensure.
 - (b) The board shall investigate an allegation that an individual performed a diagnostic or therapeutic procedure without valid licensure in accordance with 201 KAR 46:090.
 - (c) The board shall only assess a civil penalty after confirmation through one (1) of the means enumerated in KRS 311B.180(2).
- (2) An individual who performs a diagnostic or therapeutic procedure without valid licensure shall be assessed a civil penalty of fifty (50) dollars per day that the procedure occurs.
- (3) Civil penalties double the amount assessed against an individual shall be assessed against the employer of the individual without a valid license pursuant to KRS 311B.180.
- (4) Any person or employer assessed a civil penalty may request a hearing as specified in 201 KAR 46:090, Section 6.
- (5)
 - (a) An individual who performs diagnostic or therapeutic procedures without valid licensure shall be subject to a civil penalty of no more than \$1,500.

(b) An employer of an individual without a valid license shall be subject to a civil penalty of no more than \$3,000.

(6) For each day an individual performs a diagnostic or therapeutic procedure without valid licensure if the range is:

(a) One (1) to five (5) days, the individual shall receive a five (5) day suspension;

(b) Six (6) to twenty-nine (29) days, the individual shall receive a suspension for each day a procedure is performed; and

(c) Thirty (30) days or more, the individual receives a forty-five (45) day suspension.

(2 Ky.R. 299; Am. 3 Ky.R. 640; eff. 3-2-1977; 18 Ky.R. 1594; eff. 1-10-1992; 23 Ky.R. 1783; 2524; eff. 11-20-1996; 33 Ky.R. 1736; 34 Ky.R. 770; eff. 10-17-2007; Recodified from 902 KAR 105:070, 11-20-2013; 41 Ky.R. 2308; 42 Ky.R. 1497; eff. 11-18-2015; 42 Ky.R. 2933; 43 Ky.R. 200; eff. 8-17-2016; 4 Ky.R. 54; eff. 7-17-2017; 46 Ky.R. 3005; eff. 10-28-2020.)