

311.594 Probation or indefinite restriction or limitation-- Inquiry relating to violation -- Motion to revoke probation or indefinite restriction or limitation-- Hearing -- Order.

- (1) When a hearing panel imposes discipline in a final order pursuant to KRS 13B.120 and 311.591(7), the panel may fix the appropriate sanction for the violation, but withhold imposition of the sanction under an order of probation for a period of not more than five (5) years, or under an order of indefinite restriction or limitation, with the requirement that the physician fully comply with the terms and conditions specified by the panel as necessary for the protection of the public and rehabilitation of the physician's practice.
- (2) If the board receives information that a licensee has violated a term or condition of an order of probation, or an order of indefinite restriction or limitation, issued under subsection (1) of this section during the effective period of that order, the board shall investigate the allegations as necessary. The board shall have all of the powers outlined in KRS 311.591(2) and 311.605(2) to conduct its investigation.
- (3) Upon completion of its inquiry relating to a violation of probation, the hearing panel shall make a finding that:
 - (a) The investigation does not disclose a violation of the order of probation or the order of indefinite restriction or limitation;
 - (b) The investigation discloses a violation of a term or condition of the order of probation or the order of indefinite restriction or limitation but that revocation of probation or the order of indefinite restriction or limitation and imposition of the previously fixed sanction may not be necessary for protection of the public, and the panel may admonish or issue a letter of concern to the physician stating its findings and cautioning that another violation shall result in revocation of probation or the order of indefinite restriction or limitation and imposition of the previously fixed sanction; or
 - (c) The investigation discloses one (1) or more violations of the terms and conditions of the order of probation or the order of indefinite restriction or limitation, and the panel shall cause a motion to revoke probation or a motion to revoke the order of indefinite restriction or limitation, to be prepared and signed by the presiding officer. The motion shall identify the term or condition violated and include a general statement of the nature of the violation and shall set a date and time for a revocation hearing.
- (4) The hearing panel shall cause the motion to revoke probation or the motion to revoke the indefinite restriction or limitation, to be served on the physician by personal delivery or by certified mail to the last address on record with the board for the physician or the physician's representative.
- (5) The hearing on the motion to revoke probation or the motion to revoke the order of indefinite restriction or limitation shall be conducted in accordance with KRS Chapter 13B, but the single issue to be decided shall be whether the physician has violated a term or condition of the order of probation or the order of indefinite restriction or limitation. Any recommended order issued under KRS 13B.110 shall

be limited to recommended findings of fact and recommended conclusions of law.

- (6) Upon completion of the hearing on the motion to revoke probation or the motion to revoke the indefinite restriction or limitation, the hearing panel shall issue an order that:
- (a) Denies the motion upon a conclusion that the order of probation has not been violated;
 - (b) Finds a violation of the order of probation or the order of indefinite restriction or limitation but does not impose the previously fixed sanction and the panel may:
 - 1. Modify the terms and conditions of probation or the indefinite restriction or limitation to address issues presented during the hearing; or
 - 2. Admonish the physician or issue a letter of concern to the physician; or
 - (c) Imposes the previously fixed sanction.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 175, sec. 4, effective July 12, 2006. -- Created 2002 Ky. Acts ch. 130, sec. 14, effective July 15, 2002.