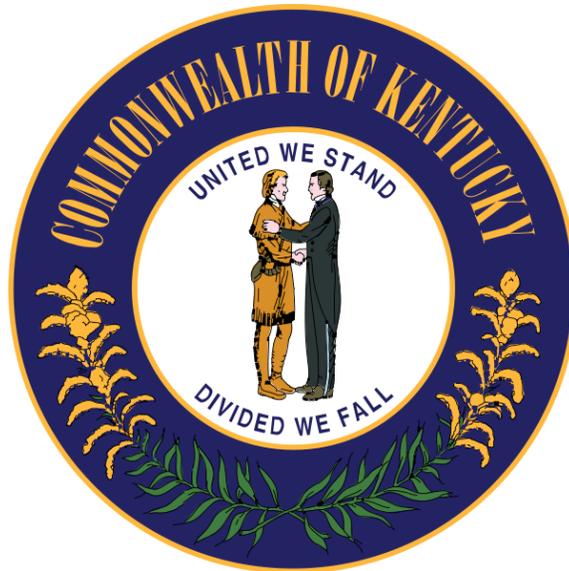


**LAWS AND REGULATIONS RELATING TO  
LICENSURE AS A PROFESSIONAL ART THERAPIST**



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## **DISCLAIMER**

The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

For the official copies of the statutes and regulations pertaining to this profession, please visit <http://lrc.ky.gov>.

# TABLE OF CONTENTS

## KENTUCKY REVISED STATUTES

KRS 309.130	Definitions for KRS 309.130 to 309.1399.....	1
KRS 309.1305	Application of statutes – Construction of chapter – Misuse of title or status prohibited.....	2
KRS 309.131	Kentucky Board of Licensure for Professional Art Therapists.....	3
KRS 309.1315	Duties of board.....	4
KRS 309.133	Requirements for licensure – Licensure without examination – Reciprocity.....	5
KRS 309.1335	Renewal of license – Continuing Education experience requirements – Suspension – Reinstatement – Retirement notification.....	6
KRS 309.134	Licensure of professional art therapy associate—Education—Supervision—Terms of licensure— Advancement	7-8
KRS 309.135	Fees.....	8
KRS 309.137	Disciplinary action.....	9-10
KRS 309.1375	Administrative hearings concerning disciplinary actions.....	10
KRS 309.138	Licensed professional art therapy practice board fund.....	10
KRS 309.1399	Penalty	11

## KENTUCKY ADMINISTRATIVE REGULATIONS

201 KAR 34:010	Licensure of professional art therapists.....	12-13
201 KAR 34:015	Examination.....	13
201 KAR 34:020	Fees.....	14
201 KAR 34:025	Application; approved programs	15-16
201 KAR 34:030	Continuing education requirements.....	17-22
201 KAR 34:040	Code of ethics.....	22-25
201 KAR 34:050	Complaint procedure.....	25-27

# KENTUCKY REVISED STATUTES

## 309.130 Definitions for KRS 309.130 to 309.1399.

As used in KRS 309.130 to 309.1399, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Licensure for Professional Art Therapists;
- (2) "Licensed professional art therapist" means a person who has completed a masters or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution, has completed all of the requirements set out in this chapter, and has been issued a license by the board for the independent practice of art therapy;
- (3) "Licensed professional art therapist associate" means a person who has:
  - (a) Completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution; and
  - (b) Been issued a license by the board to practice art therapy under an approved clinical supervisor authorized by the board;
- (4) "License holder" means a licensed professional art therapist or a licensed professional art therapist associate licensed under the provisions of KRS 309.130 to 309.1399;
- (5) "The practice of professional art therapy" means the integrated use of psychotherapeutic principles, visual art media, and the creative process in the assessment, treatment, and remediation of psychosocial, emotional, cognitive, physical, and developmental disorders in children, adolescents, adults, families, and groups. Nothing in this subsection shall be construed to authorize any licensed professional art therapist to administer or interpret psychological tests in accordance with KRS Chapter 319; and
- (6) "Accredited institution" means a university or college accredited by a nationally-recognized accrediting agency of institutions of higher education, or an institution or clinical program approved by the American Art Therapy Association, Inc.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 80, sec. 1, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 48, sec. 1, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 1, effective July 15, 1994.

**Legislative Research Commission Note** (6/25/2009). 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

**309.1305 Application of statutes -- Construction of chapter -- Misuse of title or status prohibited.**

- (1) No person shall use the title licensed professional art therapist or licensed professional art therapist associate or use "LPAT" or "LPATA" or a title or letters that are substantially the same, or hold himself or herself out as having this status unless he or she is licensed by the board.
- (2) No person shall engage in the practice of art therapy unless he or she is licensed under KRS 309.130 to 309.1399.
- (3) KRS 309.130 to 309.1399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, physical therapists, occupational therapists, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 309.130 to 309.1399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.
- (4) Nothing in KRS 309.130 to 309.1399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.
- (5) Nothing in KRS 309.130 to 309.1399 shall be construed to apply to the activities and services of a student intern or trainee in art therapy who is pursuing a program of studies in art therapy at an accredited institution of higher learning if the activities are performed under the supervision of a licensed art therapist and constitute a part of the supervised program of study and if the person is designated as an art therapist intern or student in training.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 80, sec. 2, effective June 25, 2013. -- Amended 2009 Ky. Acts ch.48, sec.2, effective June 25, 2009. -- Created 1994 Ky. Acts ch.337, sec.9, effective July 15, 1994.

**Legislative Research Commission Note (6/25/2009).** 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

### **309.131 Kentucky Board of Licensure for Professional Art Therapists.**

- (1) There is hereby created the Kentucky Board of Licensure for Professional Art Therapists that shall be attached to the Office of Occupations and Professions in the Public Protection Cabinet for administrative purposes. The board shall consist of five (5) members who are United States citizens and have been Kentucky residents for at least five (5) years prior to their appointment. The board membership shall be determined as follows:
  - (a) Four (4) members shall be professional art therapists who are licensed pursuant to KRS 309.133, and shall have engaged in art therapy practice for at least five (5) years. These members shall not hold any elected or appointed office in any professional organization of art therapy or closely related field during their tenure on the board; and
  - (b) One (1) member shall represent the public. The public member shall not have been licensed or have practiced as a professional art therapist, nor have any significant financial interest, either direct or indirect, in the profession of art therapy.
- (2) All members of the board shall be appointed by the Governor for staggered terms of four (4) years.
- (3) The four (4) professional members shall be appointed from a list of eight (8) names submitted by the board of directors of the Kentucky Art Therapy Association, Inc., and the one (1) public member shall be a citizen at large. Each member shall hold office until a successor is appointed. Vacancies shall be filled in the same manner as original appointments. No board member shall serve more than two (2) consecutive terms.
- (4) Each board candidate shall be licensed as an art therapist prior to nomination and shall be actively engaged in the practicing or teaching of art therapy, except for the one (1) public member.
- (5) Members of the board shall receive no compensation, perquisite, or allowance.
- (6) The board shall elect annually from its membership a chairman, secretary, and other officers as necessary to carry out its duties.
- (7) The board shall meet at least two (2) times each year. Additional meetings may be called by the chairman, upon the written request of at least two (2) members of the board. A simple majority of the board members shall constitute a quorum of the board.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1666, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 48, sec. 3, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 2, effective July 15, 1994.

**Legislative Research Commission Note** (6/25/2009). 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

### **309.1315 Duties of board.**

The board shall:

- (1) Promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (2) Select the examinations for licensure and administer the examinations at least annually;
- (3) Establish the application deadline for and score required to pass the examinations;
- (4) Process applications and conduct and review the required examinations;
- (5) Issue licenses to applicants who meet the requirements of KRS 309.133 to 309.137;
- (6) Deny, suspend, or revoke a license to practice art therapy;
- (7) Censure, reprimand, or place a license holder or applicant on probation for a period not to exceed one (1) year;
- (8) Maintain a current register of license holders as a matter of public record;
- (9) Establish criteria for continuing education;
- (10) Establish procedures for receiving, investigating, and resolving complaints against license holders;
- (11) Conduct administrative hearings in accordance with KRS Chapter 13B for disciplinary actions taken under authority of subsections (6) and (7) of this section;
- (12) Approve the level of supervision and experience required for persons seeking licensure;
- (13) Assess fees for the issuance and renewal of licenses to cover administrative and operating expenses of the board, and authorize all disbursements necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (14) Implement an impaired professional art therapist treatment program;
- (15) Establish a code of ethics for license holders;
- (16) Establish requirements for supervision and qualifications of supervisors; and
- (17) Establish conditions for inactive status and return to active status for license holders.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 80, sec. 3, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 48, sec. 4, effective June 25, 2009. -- Amended 1996 Ky. Acts ch. 318, sec. 249, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 337, sec. 3, effective July 15, 1994.

**Legislative Research Commission Note** (6/25/2009). 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

**309.133 Requirements for licensure -- Licensure without examination -- Reciprocity.**

- (1) The board shall issue a license as a licensed professional art therapist to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant is at least twenty-one (21) years of age, demonstrates professional competency by satisfactorily passing the required examination, is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., is a board certified art therapist as defined by the Art Therapy Credentials Board, Inc., and has:
  - (a) Received a master's degree or doctoral degree in art therapy that includes six hundred (600) hours of supervised internship experience from an accredited institution and has completed an additional one thousand (1,000) client contact hours of postgraduate experience under appropriate supervision; or
  - (b) Received a master's degree or doctoral degree in a related field, has a minimum of twenty-one (21) semester hours of sequential course work in the history, theory, and practice of art therapy, has completed seven hundred (700) hours of supervised internship experience from an accredited institution, and has completed an additional two thousand (2,000) client contact hours of postgraduate experience under appropriate supervision.
- (2) The board may approve on a case-by-case basis applicants who have a master's degree or a doctoral degree from nonaccredited institutions.
- (3) If an applicant has met all of the requirements for licensure except satisfactorily passing the required examination, the applicant shall be scheduled to take the next examination following the approval of the application.
- (4) The board may issue a license to an applicant without examination if the person possesses a valid regulatory document issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia, or any foreign nation that in the judgment of the board has requirements substantially equivalent to or exceeding the requirements in this section.
- (5) The board may set criteria for continuing education and supervisory experience.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 48, sec. 5, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 4, effective July 15, 1994.

**Legislative Research Commission Note (6/25/2009).** 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

**309.1335 Renewal of license -- Continuing education experience requirement -- Suspension -- Reinstatement -- Retirement notification.**

- (1) Each license holder shall renew the license to practice art therapy biennially by:
  - (a) Submitting a renewal application on a form provided by the board;
  - (b) Paying a license renewal fee; and
  - (c) Producing evidence of completion of relevant professional continuing education experience satisfactory to the board and not to exceed forty (40) hours per renewal cycle.
- (2) A ninety (90) day grace period shall be allowed for each license holder after the licensure period, during which time the license may be renewed upon payment of the renewal fee, the late fee, and compliance with all renewal requirements.
- (3) Any license granted by the board shall be automatically suspended if the holder fails to apply for the license renewal pursuant to this section within a period of three (3) months after the renewal deadline; however, any suspended license may be restored by the board upon payment of a reinstatement fee not to exceed one hundred dollars (\$100) in addition to any unpaid renewal or late fees. Failure to renew a license within three (3) months from the date of suspension as provided in this section shall cause the license to be automatically revoked. Reinstatement of a revoked license shall require the license holder to reapply and meet all current standards for licensure.
- (4) A person licensed under the provisions of KRS 309.133 who intends to retire as a licensed professional art therapist, or as a licensed professional art therapist associate, shall notify the board in writing before the expiration of his or her current license. If, within a period of five (5) years from the year of retirement, the license holder wishes to resume practice as a licensed professional art therapist, or as a licensed professional art therapist associate, he or she shall notify the board in writing, and upon giving proof of completing the required continuing education and the payment of an amount equivalent to elapsed renewal fees, and for the licensed professional art therapist associate, obtaining a board-approved supervisor of record, the license shall be restored in full effect.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 80, sec. 5, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 48, sec. 6, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 5, effective July 15, 1994.

**Legislative Research Commission Note (6/25/2009).** 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

**309.134 Licensure of professional art therapy associate -- Education -- Supervision -- Terms of licensure -- Advancement.**

- (1) The board may issue a license as a professional art therapist associate for a period of up to five (5) years to an applicant who has:
  - (a) Completed the educational requirements for registration with the Art Therapy Credentials Board, Inc.;
  - (b) Obtained a board-approved supervisor of record; and
  - (c) Paid the required fees.
- (2) A licensed professional art therapist associate shall maintain on-going supervision as approved by the board until he or she:
  - (a) Is registered by the Art Therapy Credentials Board, Inc.; and
  - (b) Has passed an examination approved by the board.
- (3) At the end of the five (5) year period approved under subsection (1) of this section, a licensed professional art therapist associate who has not completed the requirements for licensure as a professional art therapist shall submit to the board an application for an extension of licensure as a professional art therapy associate. The application shall include:
  - (a) A plan for completing the requirements to obtain licensure as a professional art therapist;
  - (b) Documentation of compliance with the continuing education requirements;
  - (c) Reports of compliance with supervisory requirements;
  - (d) Letters of recommendation from two (2) supervisors of record; and
  - (e) Payment of an extension fee not to exceed one hundred dollars (\$100).
- (4) Upon review of the application and accompanying documentation, the board may approve an extension of the license as a professional art therapist for a period of time not to exceed two (2) years.
- (5) If, at the end of the period of extension referenced in subsection (4) of this section, the applicant has not completed all requirements for licensure as a professional art therapist, the board shall rescind the license as a professional art therapist associate and the individual may no longer practice art therapy, or refer to himself or herself by any title which would indicate that he or she is credentialed by the board.
- (6) A licensed professional art therapist associate may apply for the credential of licensed professional art therapist upon:
  - (a) Registration with the Art Therapy Credentials Board, Inc.; and
  - (b) Passage of an examination approved by the board.
- (7) An individual who is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., but who has not passed the required examination, shall:
  - (a) Maintain the professional art therapist associate license in order to practice under board-approved supervision; and
  - (b) Be scheduled to take the next examination following the approval of the professional art therapist license application.

- (8) A professional art therapist associate shall not supervise licensed professional art therapists, licensed professional art therapist associates, or applicants for these licenses.

**Effective:** June 25, 2013

**History:** Created 2013 Ky. Acts ch. 80, sec. 4, effective June 25, 2013.

### **309.135 Fees.**

The board shall set the amount of the fees required to be paid by the applicants for licensure and the license holders including, but not limited to, the following:

- (1) For an application for initial licensure as a licensed professional art therapist, the fee shall be nonrefundable and shall not exceed two hundred dollars (\$200);
- (2) For an application for initial licensure as a licensed professional art therapist associate, the fee shall be nonrefundable and shall not exceed one hundred dollars (\$100);
- (3) To take an examination, the fee shall not exceed one hundred dollars (\$100), or, if a national examination is used, the amount of the fee shall not exceed the cost of the examination by more than twenty-five percent (25%);
- (4) The renewal fee for a licensed professional art therapist shall not exceed two hundred dollars (\$200);
- (5) The renewal fee for a licensed professional art therapist associate shall not exceed one hundred dollars (\$100);
- (6) For a duplicate or replacement license, the fee shall not exceed twenty-five dollars (\$25);
- (7) For failure to renew a license for a licensed professional art therapist within the allotted grace period pursuant to KRS 309.1335(3), the fee shall not exceed one hundred dollars (\$100);
- (8) For failure to renew a license for a licensed professional art therapist associate within the allotted grace period pursuant to KRS 309.1335, the fee shall not exceed fifty dollars (\$50); and
- (9) Other reasonable fees for administrative services.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 80, sec. 6, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 48, sec. 7, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 6, effective July 15, 1994.

**Legislative Research Commission Note** (6/25/2009). 2009 Ky. Acts ch. 48, sec. 12, provides: "Any person who is certified as a professional art therapist on the effective date of this Act [6/25/2009] shall automatically be licensed on the effective date of this Act [6/25/2009] and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act [KRS 309.1335] and has not been the subject of disciplinary action under Sections 8 [KRS 309.137] and 10 [KRS 309.1375] of this Act."

### **309.137 Disciplinary action.**

- (1) The board may refuse to issue a license or may deny any application, or suspend, or revoke, impose probationary conditions upon, issue a written reprimand or admonishment, or perform any combination thereof regarding any license held or applied for under the provisions of KRS 309.133 if the person:
  - (a) Is found guilty of fraud, deceit, or misrepresentation in procuring or renewing or attempting to procure or renew a license to practice art therapy;
  - (b) Committed any unfair, false, misleading, or deceptive act or practice;
  - (c) Has been negligent in the practice of art therapy;
  - (d) Is adjudicated mentally incompetent;
  - (e) Is found guilty of a felony or misdemeanor involving sexual misconduct or a crime where dishonesty is a necessary element. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
  - (f) Is found guilty of unprofessional or unethical conduct in this or any other jurisdiction;
  - (g) Has been using any controlled substance or alcoholic beverage to an extent or in a manner dangerous to the person, any other person, or the public, or to an extent that the use impairs the ability to perform as a licensed professional art therapist;
  - (h) Has violated any provision of KRS 309.130 to 309.1399 or administrative regulations promulgated thereunder;
  - (i) Failed to comply with an order issued by the board or an assurance of voluntary compliance; or
  - (j) Willfully or negligently divulges a professional confidence.
- (2) A certified copy of the record of conviction shall be conclusive evidence of the conviction.
- (3) Disciplinary proceedings may be initiated upon the receipt by the board of a sworn complaint by any person, including members of the board.
- (4) Two (2) years from the date of revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the licensee if the board finds that the individual has complied with any terms prescribed by the board and is able to competently engage in the practice of art therapy.
- (5) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for a hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for a hearing under KRS Chapter 13B.

- (6) The surrender of a license shall not deprive the board of its jurisdiction to proceed with disciplinary actions authorized under KRS 309.130 to 309.1399.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 48, sec. 8, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 7, effective July 15, 1994.

### **309.1375 Administrative hearings concerning disciplinary actions.**

- (1) Before denying, revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand, or doing any combination of those regarding any licensee or applicant under KRS 309.130 to 309.1399, the board shall set the matter for hearing as provided by KRS Chapter 13B.
- (2) After revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand, or doing any combination of those regarding a licensee or applicant, the board shall set the matter for a hearing upon the written request of the applicant or licensee within thirty (30) days of the applicant's or licensee's receipt of the letter advising him or her of the denial, refusal, admonishment, revocation, suspension, or other disciplinary action taken.
- (3) Any party aggrieved by a final order of the board may appeal to the Circuit Court of the county where the alleged violation occurred as provided by KRS Chapter 13B.

**Effective:** June 25, 2009

**History:** Created 2009 Ky. Acts ch. 48, sec. 10, effective June 25, 2009.

### **309.138 Licensed professional art therapy practice board fund.**

There is hereby created in the State Treasury the licensed professional art therapy practice board fund. All funds received by the board under the provisions of KRS 309.133 to 309.137 shall be deposited with the State Treasurer for credit to the licensed professional art therapy board fund. The State Treasurer shall invest the fund as all other state funds are invested and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not revert to the general fund. The money in the licensed professional art therapy board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of KRS 309.130 to 309.1399.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 48, sec. 9, effective June 25, 2009. -- Created 1994 Ky. Acts ch. 337, sec. 8, effective July 15, 1994.

**309.1399 Penalty.**

Any person who violates or aids in the violation of the provisions of KRS 309.130 to 309.1399 shall upon conviction be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 48, sec. 11, effective June 25, 2009. --  
Created 1994 Ky. Acts ch. 337, sec. 10, effective July 15, 1994.

# KENTUCKY ADMINISTRATIVE REGULATIONS

## **201 KAR 34:010. Licensure of professional art therapists.**

RELATES TO: KRS 309.1315(5), 309.133

STATUTORY AUTHORITY: KRS 309.1315(1), (11), (12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the board to promulgate administrative regulations to implement the provisions of KRS 309.130 to 309.1399. This administrative regulation establishes the requirements for licensure of professional art therapists.

### **Section 1.**

(1) Proof of certification or registration with the Art Therapy Credentials Board, Inc. shall be accepted as evidence that the applicant has met the educational and experiential requirements for licensure as set forth in KRS 309.133(1).

(2) Supervision shall be considered appropriate if:

(a) For group supervision it:

1. Is provided by an approved supervisor to an individual or a group not exceeding six (6) individuals;
2. Enhances the professional development of a supervisee in the provision of professional art therapy services; and
3. Is equally distributed throughout the period of supervision; and

(b) For individual supervision, it consists of case consultation between the supervisor and the supervisee that is restricted to the supervisee's cases.

(3) An approved supervisor shall be licensed as a professional art therapist in the Commonwealth of Kentucky with a minimum of four (4) years of experience in the practice of art therapy.

(4) To identify a license holder as a licensed professional art therapist, a licensed professional art therapist may use "LPAT".

(5) To qualify, an internship experience shall have been an internship in the field of art therapy.

(6) To qualify, a trainee's postgraduate experience shall have been the practice of art therapy after completion of and receipt of the qualifying degree pursuant to KRS 309.133.

(7) (a) The practice of art therapy shall include the rendering to individuals, families, or groups, services that use art media and verbalization as a means of expression and communication to promote perceptive, intuitive, affective and expressive experiences that:

1. Alleviate distress, reduce physical, emotional, behavioral, and social impairment; and
2. Lead to growth or reintegration of one's personality.

(b) Art therapy services shall include:

1. Assessment and evaluation;

2. Development of treatment plans, goals and objectives;
  3. Case management services; and
  4. Therapeutic verbal and visual treatment.
- (8) "Twenty-one (21) semester hours of sequential course work in the history, theory, and practice of art therapy" shall include completion of the following:
- (a) A minimum of twenty-one (21) semester hours, thirty-one (31) quarter hours, or 315 clock hours in art therapy courses from an accredited institution as defined in KRS 309.130(5);
  - (b) The required core curriculum shall include the following components:
    1. History of art therapy;
    2. Theory of art therapy;
    3. Techniques of practice in art therapy;
    4. The application of art therapy with people in different treatment settings;
    5. Psychopathology;
    6. Assessment of patients and diagnostic categories;
    7. Ethical and legal issues of art therapy practice;
    8. Standards of good practice in art therapy; and
    9. Matters of cultural diversity bearing on the practice of art therapy. (22 Ky.R. 1913; Am. 23 Ky.R. 125; eff. 7-5-1996; 36 Ky.R. 638; 1017; eff. 12-4-2009.)

**201 KAR 34:015. Examination.**

RELATES TO: KRS 309.1315(1)-(4), 309.133(1)

STATUTORY AUTHORITY: KRS 309.1315(1)-(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315 requires the board to promulgate an administrative regulation establishing the examination requirements for an applicant for licensure. KRS 309.133 requires an applicant to successfully complete the required examination prior to licensure. This administrative regulation prescribes the procedures to be followed in making application to the board for licensure.

**Section 1. General Requirements.**

- (1) An applicant for examination shall:
  - (a) Submit a complete LPAT 09(2009) application; and
  - (b) Pay the applicable fees established in 201 KAR 34:020.
- (2) Once the application has been approved by the board, the applicant shall be scheduled to take the examination at the next regularly-scheduled date.

**Section 2. Examination for Licensure.** An applicant for licensure shall take the Art Therapy Credentials Board Certification Examination and obtain a passing score.

**Section 3. Incorporation by Reference.**

- (1) "LPAT 09", 2009, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

## **201 KAR 34:020. Fees.**

RELATES TO: KRS 309.133, 309.134, 309.1335, 309.138

STATUTORY AUTHORITY: KRS 309.1315(1), (4), (13), 309.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1), (4), and (13), and 309.135 require the board to promulgate an administrative regulation establishing fees for licensure, examination, renewal, and reinstatement of the license. This administrative regulation establishes those fees.

### **Section 1. Application Fee.**

(1) (a) The application fee for board review of the Application for Licensed Professional Art Therapist required by 201 KAR 34:025, Section 1(1), shall be \$100.

(b) The application fee for board review of the Application for Licensed Professional Art Therapist Associate required by 201 KAR 34:025, Section 1(2), shall be fifty (50) dollars.

(2) The application fee shall be nonrefundable.

**Section 2. Examination Fee.** The applicant shall pay the national examination fee established by the National Art Therapy Credentials Board.

### **Section 3. Initial Licensure Fee.**

(1)(a) The initial licensure fee shall be \$100 for licensure as a licensed professional art therapist.

(b) The initial licensure fee shall be fifty (50) dollars for licensure as a licensed professional art therapist associate.

(2) If the applicant successfully completes all requirements for licensure, this fee shall cover licensure for the initial two (2) year period.

### **Section 4. Renewal Fee.**

(1) The renewal fee for licensed professional art therapist licensure shall be \$200 for a two (2) year period.

(2) The renewal fee for licensed professional art therapist associate licensure shall be \$100 for a two (2) year period.

**Section 5. Late Fee.** The late fee for a licensee who applies for renewal within ninety (90) days of his or her original renewal deadline shall be fifty (50) dollars, which shall be paid in addition to the renewal fee set out in Section 4 of this administrative regulation.

### **Section 6. Reinstatement Fee.**

(1) The reinstatement fee for a licensee who applies for reinstatement more than ninety (90) days but prior to 180 days after the original renewal deadline shall be:

(a)1. \$100 for a licensed professional art therapist; or

2. Fifty (50) dollars for a licensed professional art therapist associate; and

(b) Paid in addition to the renewal fee set out in Section 4 of this administrative regulation.

(2)(a) A licensed professional art therapist who applies for reinstatement shall submit the LPAT Reinstatement Form.

(b) A licensed professional art therapist associate who applies for reinstatement shall submit the LPATA Reinstatement Form.

## **Section 7. Incorporation by Reference.**

(1) The following material is incorporated by reference:

- (a) "LPAT Reinstatement Form", 2010; and
- (b) "LPATA Reinstatement Form", 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. (28 Ky.R. 1011; eff. 12-19-2001; Am. 36 Ky.R. 641; 1081; eff. 12-4-2009; 37 Ky.R. 443; 11-5-2010; 40 Ky.R. 1427; 2284; eff. 5-2-2014.)

## **201 KAR 34:025. Application; approved programs.**

RELATES TO: KRS 303.130, 309.133, 309.134

STATUTORY AUTHORITY: KRS 309.1315(1), (4), 309.133, 309.134

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the Kentucky Board of Licensure for Professional Art Therapists to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399. KRS 309.1315(4) requires the board to process applications for licensure. KRS 309.133 and 309.134 authorize the board to review and approve, or reject the qualifications of all applicants for licensure. This administrative regulation establishes the procedure for submitting an application for licensure.

**Section 1. Application.** (1) A person seeking licensure as a licensed professional art therapist shall submit an Application for Licensed Professional Art Therapist to obtain a license to engage in the practice of professional art therapy after the requirements established in KRS 309.133 are met.

(2) A person seeking licensure as a licensed professional art therapist associate shall submit an Application for Licensed Professional Art Therapist Associate to obtain a license to engage in the practice of professional art therapy after the requirements established in KRS 309.134(1) are met.

(3) The application required pursuant to subsection (1) and (2) of this section shall be accompanied by the appropriate nonrefundable application fee established in 201 KAR 34:020.

(4) The application shall be signed by the applicant.

(5)(a) The application for a licensed professional art therapist license shall include a copy of the applicant's current registration and certification card issued by the Art Therapy Credentials Board, Inc.

(b) Proof of certification or registration shall constitute evidence that the licensed professional art therapist applicant has met the educational and experiential requirements for licensure established in KRS 309.133(1).

(6)(a) The licensed professional art therapist or licensed professional art therapist associate applicant shall ensure that a certified, official transcript from the college or university registrar's office is transmitted to the board upon application to substantiate that the applicant has been awarded or conferred a master's or doctoral degree in art therapy from a program accredited by the American Art Therapy Association (AATA).

(b) If the licensed professional art therapist or licensed professional art therapist associate applicant does not possess a degree from an AATA accredited program, the applicant's degree shall meet the requirements of Section 2 of this administrative regulation.

**Section 2. Degree from a non-accredited program.**

(1) A master's or doctoral degree from a college or university approved by the board pursuant to KRS 309.133(2) or 309.134 shall be a degree program that is listed as accredited by the American Art Therapy Association.

(2) If an applicant's master's or doctoral degree is not listed as accredited by the American Art Therapy Association, then the applicant shall demonstrate that the degree consisted of at least sixty (60) semester hours as evidenced by a certified copy of an academic transcript of coursework at the graduate level.

(3)(a) The coursework for the degree shall include twenty-four (24) semester hours of sequential course work in art therapy courses from an accredited institution as defined in KRS 309.130(6).

(b) The coursework in art therapy shall include the following components:

1. History of art therapy;
2. Theory of art therapy;
3. Techniques of practice in art therapy;
4. The application of art therapy with people in different treatment settings;
5. Psychopathology in the practice of art therapy;
6. Assessment of patients and diagnostic categories;
7. Ethical and legal issues of art therapy practice;
8. Standards of good practice in art therapy; and
9. Matters of cultural diversity bearing on the practice of art therapy.

(c) In addition to the coursework in art therapy, the degree shall include twenty-four (24) semester hours covering the following related content areas:

1. Psychopathology;
2. Human growth and development;
3. Counseling and psychological theories;
4. Cultural and social diversity;
5. Assessment;
6. Research;
7. Studio art; and
8. Career and lifestyle development.

(4) The degree shall include the supervised internship experience required by KRS 309.133(1)(a) or (b).

**Section 3. Incorporation by Reference.** (1) The following material is incorporated by reference:

(a) "Application for Licensed Professional Art Therapist", March 2014; and

(b) "Application for Licensed Professional Art Therapist Associate", March 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (40 Ky.R. 1515; Am. 2285; eff. 5-2-2014.)

**201 KAR 34:030. Continuing education requirements.**

RELATES TO: KRS 309.133, 309.1335(1)(c), 309.134, 309.137

STATUTORY AUTHORITY: KRS 309.1315(1), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) and (9) require the board to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399 and to establish the criteria for continuing education. KRS 309.1335(1)(c) authorizes the board to promulgate an administrative regulation requiring licensed professional art therapists and licensed professional art therapist associates to complete continuing education requirements as a condition of renewal of their license. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

**Section 1. Definitions.**

(1) "Academic course" means a course offered by an accredited postsecondary institution that is an:

- (a) Art therapy course, designated by an art therapy course title or content, beyond the undergraduate level; or
- (b) Academic course, relevant to professional art therapy, beyond the undergraduate level.

(2) "Approved" means recognized by the Kentucky Board of Licensure for Professional Art Therapists.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

- (a) Planned and evaluated to meet behavioral objectives; and
- (b) Presented in one (1) session or series.

(5) "Provider" means an individual or an organization that provides or sponsors continuing education programs and is approved by the board.

(6) "Relevant" means having content applicable to the practice of professional art therapy as evaluated by the board.

(7) "Successful completion" means that the license holder has:

- (a) Satisfactorily met the specific requirements of the program; and
- (b) Earned the continuing education hours.

**Section 2. Accrual of Continuing Education Hours; Computation of Accrual.**

(1) A minimum of forty (40) continuing education hours shall be accrued by a licensed professional art therapist during the two (2) year licensure period for renewal.

(2) A minimum of eighteen (18) continuing education hours shall be accrued by a licensed professional art therapy associate during the two (2) year licensure period for renewal.

(3) All hours shall be in or related to the field of professional art therapy.

(4) A licensee shall obtain three (3) hours of continuing education on ethics included within the hours required by subsection (1) and (2) of this section during the two (2) year licensure period for renewal.

(5) Continuing education activities shall be in the following content areas in order to be considered relevant:

- (a) Psychological and psychotherapeutic theories and practice;
- (b) Art therapy assessment;
- (c) Art therapy theory and practice;
- (d) Client populations;
- (e) Art theory and media; and
- (f) Professionalism and ethics.

**Section 3. Methods of Acquiring Continuing Education Hours.** Continuing education hours applicable to the renewal of the certificate shall be directly related to the professional growth and development of a professional art therapy practitioner. Hours may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. A program provided or approved by any of the following providers shall be relevant to the practice of professional art therapy and shall be approved without further review by the board:

- (a) The American Art Therapy Association, Inc. or any of its state affiliates;
- (b) The Art Therapy Credentials Board, Inc.;
- (c) The American Association of Marriage and Family Therapy and its state affiliates;
- (d) The National Association of Social Workers and its state affiliates;
- (e) The American Psychological Association and its state affiliates;
- (f) The American Counseling Association and its state affiliates;
- (g) The National Board of Certified Counselors and its state affiliates;
- (h) The Association for Addiction Professionals (NAADAC) and its state affiliates;
- (i) The Department for Behavioral Health, Developmental and Intellectual Disabilities;
- (j) The Employee Assistance Professionals Association; and
- (k) Academic courses as established in Section 1(1) of this administrative regulation. A general education course, elective, or course designated to meet degree requirements shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed by the board and evaluated whether it is relevant:

- (a) A program, including a home study course, webinar, and in-service training provided by another organization, educational institution, or service provider approved by the board;
- (b) A program or academic course presented by the license holder. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction. Credit shall not be issued for repeated instruction of the same course;
- (c) A publication in a professionally recognized or juried publication. Continuing education hours shall be granted for a relevant publication as follows:

1. Five (5) continuing education hours for each published abstract or book review;
  2. Ten (10) continuing education hours for each published article;
  3. Twenty (20) continuing education hours for each book chapter or monograph; and
  4. Forty (40) continuing education hours for each published book; and
- (d) An exhibition in a juried art show. An exhibitor at a juried art show shall earn ten (10) continuing education hours for an exhibition and is limited to one (1) exhibition per renewal cycle.

#### **Section 4. Procedures for Preapproval of Continuing Education Programs.**

(1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 5 of this administrative regulation.

(2) A continuing education program shall be qualified for approval if the board finds the activity being presented:

- (a) Is an organized program of learning;
- (b) Lists goals and objectives;
- (c) Pertains to subject matters which integrally relate to the practice of art therapy;
- (d) Contributes to the professional competency of the licensee; and
- (e) Is conducted by individuals who have educational training or experience acceptable to the board.

(3)(a) The board may approve a specific continuing education program that is not listed in Section 3(1) of this administrative regulation if the provider of the program:

1. Files a written request for approval;
2. Pays an annual processing fee of seventy-five (75) dollars; and
3. Provides the information on a continuing education program that it proposes to provide that meets the requirements established in this administrative regulation.

(b) The approval of a program pursuant to paragraph (a) of this subsection shall permit the provider to offer the program for a period of one (1) calendar year.

(4)(a) A license holder may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past license period, the license holder has:

1. Requested the review by applying for individual review; and
2. Paid a fee of twenty (20) dollars.

(b) The review shall be based on the standards established by this administrative regulation.

(c) Approval by the board of a non-approved continuing education activity shall:

1. Qualify as if it has been obtained from an approved provider; and
2. Be limited to the particular offering upon which the request for individual review is based.

**Section 5. Procedures for Approval of Continuing Education Programs.**

- (1) A course that has not been preapproved may be used for continuing education if approval is secured from the board.
- (2) The following shall be submitted for board review of a program:
  - (a) A published course or seminar description;
  - (b) The name and qualifications of the instructor including resume or vitae;
  - (c) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
  - (d) Number of continuing education hours requested;
  - (e) Official certificate of completion or college transcript from the provider or college;
  - (f) Letter requesting continuing education credits approval;
  - (g) The applicable fee identified in Section 4 of this administrative regulation; and
  - (h) Program evaluation.

**Section 6. Responsibilities and Reporting Requirements of License Holders.**

- (1) During the license renewal period, the board shall require up to fifteen (15) percent of all license holders to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.
- (2) A license holder shall:
  - (a) Be responsible for obtaining required continuing education hours;
  - (b) Identify his or her continuing education needs and seek activities that meet those needs;
  - (c) Seek ways to integrate new knowledge, skills, and activities;
  - (d) Select board approved activities by which to earn continuing education hours;
  - (e) Submit to the board, if applicable, a request for approval for continuing education activities not otherwise approved by the board;
  - (f) Document attendance, participation in, and successful completion of continuing education activity for a period of two (2) years from the date of the renewal; and
  - (g) Maintain records of continuing education hours;
- (3) The following items may be used to document continuing education activity:
  - (a) Transcript;
  - (b) Certificate;
  - (c) Affidavit signed by the instructor;
  - (d) Receipt for the fee paid to the provider; or
  - (e) Written summary of experiences that are not formally or officially documented otherwise.
- (4) A license holder shall comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 309.137(1) and shall result in disciplinary action pursuant to that statutory provision.

**Section 7. Carry-over of Continuing Education Hours, Prohibited.** Continuing education hours earned in excess of those required under Section 2 of this administrative regulation shall not be carried over into the immediately following license renewal period.

**Section 8. Board to Approve Continuing Education Hours; Appeal of Denial.**

(1) If an application for approval of continuing education hours is denied, in whole or in part, the person holding a license shall have the right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date the notification of the decision denying approval of continuing education hours is mailed; and

(c) Conducted in accordance with KRS Chapter 13B.

**Section 9. Waiver or Extensions of Continuing Education.**

(1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability of the license holder;

(b) Illness of the license holder or an immediate family member; or

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the person holding the license; and

(b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

**Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure.**

(1) A person requesting reinstatement or reactivation of professional art therapist licensure shall submit evidence of forty (40) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) If the board reinstates a professional art therapist license, the person shall obtain forty (40) hours of continuing education within six (6) months of the date on which licensure is reinstated.

(3) A person requesting reinstatement or reactivation of professional art therapist associate licensure shall submit evidence of eighteen (18) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(4) If the board reinstates a professional art therapist associate license, the person shall obtain eighteen (18) hours of continuing education within six (6) months of the date on which licensure is reinstated.

(5) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section. (25 Ky.R. 476; Am. 824; eff. 10-12-1998; 36 Ky.R. 642; 1018; eff. 12-4-2009; 40 Ky.R. 1428; 2286; eff. 5-2-2014.)

## **201 KAR 34:040. Code of ethics.**

RELATES TO: KRS 309.1315(15)

STATUTORY AUTHORITY: KRS 309.1315(1), (15)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the board to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399. KRS 309.1315(15) requires the board to establish a code of ethics for licensed professional art therapists and licensed professional art therapist associates. This administrative regulation establishes the required code of ethics.

### **Section 1. Responsibility to Patients.**

(1) A licensed professional art therapist and a licensed professional art therapist associate shall:

- (a) Advance and protect the welfare of the patient;
- (b) Respect the rights of a person seeking assistance;
- (c) Make reasonable efforts to ensure that services are used appropriately; and
- (d) Display a copy of his or her license in the principle place of business.

(2) A licensed professional art therapist and a licensed professional art therapist associate shall not:

- (a) Discriminate against or refuse professional service to anyone on the basis of:
  1. Race;
  2. Gender;
  3. Religion; or
  4. National origin;
- (b) Exploit the trust and dependency of a patient;
- (c) Engage in a dual relationship with a patient, including a social, business, or personal relationship that may:
  1. Impair professional judgment;
  2. Incur a risk of exploitation of the patient; or
  3. Otherwise violate a provision of this administrative regulation.

If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a therapist shall take professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur.

Some examples of these professional precautions include peer supervision and documentation.

- (d) Engage in a sexual relationship with a current patient or with a former patient for two (2) years following the termination of therapy;
- (e) Use the professional relationship with a patient to further personal interests;
- (f) Continue therapeutic relationships unless it is reasonably clear that the patient is benefiting from the relationship;
- (g) Fail to assist a person in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help;
- (h) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;
- (i) Videotape, record, or permit third-party observation of therapy sessions without having first obtained written informed consent from the patient;
- (j) Engage in sexual or other harassment or exploitation of a patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or
- (k) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

## **Section 2. Confidentiality.**

- (1) A licensed professional art therapist and a licensed professional art therapist associate shall respect and guard the confidences of each individual patient.
- (2) A licensed professional art therapist and a licensed professional art therapist associate shall not disclose a patient confidence except:
  - (a) As mandated, or permitted by law;
  - (b) To prevent a clear and immediate danger to a person;
  - (c) During the course of a civil, criminal, or disciplinary action arising from the therapy at which the licensed professional art therapist or licensed professional art therapist associate is a defendant; or
  - (d) In accordance with the terms of a written informed consent agreement.
- (3) A licensed professional art therapist and a licensed professional art therapist associate may use patient or clinical materials in teaching, writing, and public presentations if:
  - (a) Written informed consent has been obtained in accordance with subsection (2)(d) of this section; or
  - (b) The licensee has acted to protect patient identity and confidentiality.
- (4) A licensed professional art therapist and a licensed professional art therapist associate shall store or dispose of patient records so as to maintain confidentiality.

**Section 3. Public Use and Reproduction of Patient Art Expression and Therapy Sessions.** (1) A licensed professional art therapist and a licensed professional art therapist associate shall obtain written informed consent from the patient or a legal guardian, if applicable, before:

- (a) Photographing or videotaping a patient's art expression;
- (b) Making an audio recording of an art therapy session;
- (c) Permitting third-party observation of an art therapy session; or
- (d) Duplication of an art therapy session in any matter.

(2) A licensed professional art therapist and a licensed professional art therapist associate shall not use clinical materials in teaching, writing, and public presentations unless written informed consent has been previously obtained from the patient or, if applicable, a legal guardian. The licensee shall take steps necessary to protect patient identity and disguise any part of the art expression or video tape that reveals patient identity.

(3) A licensed professional art therapist and a licensed professional art therapist associate shall obtain written, informed consent from a patient or legal guardian, if applicable, before displaying the patient's art in a:

- (a) Gallery;
- (b) Mental health facility;
- (c) School; or
- (d) Another public place.

(4) A licensed professional art therapist and a licensed professional art therapist associate shall display a patient's art expression in an appropriate and dignified manner.

**Section 4. Professional Competence and Integrity.** A licensed professional art therapist and a licensed professional art therapist associate shall maintain standards of professional competence and integrity and shall be subject to disciplinary action for:

- (1) Misrepresentation or concealment of a material fact in obtaining or seeking reinstatement of a license;
- (2) Refusing to comply with an order issued by the board; or
- (3) Failing to cooperate with the board by not:
  - (a) Furnishing in writing a complete explanation to a complaint filed with the board;
  - (b) Appearing before the board when requested and at the place designated; or
  - (c) Properly responding to a subpoena issued by the board.

**Section 5. Responsibility to a Student, Intern, or Supervisee.** A licensed professional art therapist and a licensed professional art therapist associate shall:

- (1) Be aware of his or her influential position with respect to a student, intern, or supervisee;
- (2) Avoid exploiting the trust and dependency of a student or supervisee;
- (3) Try to avoid a social, business, personal, or other dual relationship that may:
  - (a) Impair professional judgment; and
  - (b) Increase the risk of exploitation;
- (4) Take precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;
- (5) Not provide therapy to:
  - (a) A student;
  - (b) An intern;
  - (c) An employee; or
  - (d) A supervisee;
- (6) Not engage in sexual intimacy or contact with:
  - (a) A student;
  - (b) An intern; or
  - (c) A supervisee;

- (7) Not permit a student, intern, or supervisee to perform or represent himself or herself as competent to perform a professional service beyond his or her level of:
- (a) Training;
  - (b) Experience; or
  - (c) Competence;
- (8) Not disclose the confidence of a student, intern, or supervisee unless:
- (a) Permitted or mandated by law;
  - (b) It is necessary to prevent a clear and immediate danger to a person;
  - (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the licensed professional art therapist or licensed professional art therapist associate is a defendant;
  - (d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or
  - (e) In accordance with the terms of a written informed consent agreement. (25 Ky.R. 476; Am. 826; eff. 10-12-1998; 36 Ky.R. 645; 1020; eff. 12-4-2009; 40 Ky.R. 1431; 2288; eff. 5-2-2014.)

## **201 KAR 34:050. Complaint procedure.**

RELATES TO: KRS 309.137

STATUTORY AUTHORITY: KRS 309.1315(1), (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315 authorizes the board to promulgate administrative regulations establishing a procedure by which the board will institute actions against a licensee for violation of the KRS 309.137, and the administrative regulations promulgated thereto or for professional misconduct. This administrative regulation sets forth the procedure and process by which those complaints shall be reviewed by the board.

### **Section 1. Definitions.**

- (1) "Act" means KRS 309.130 through 309.138.
- (2) "Chair" means the chair or vice-chair of the board.
- (3) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of the KRS 309.130 through 309.138 or the administrative regulations promulgated thereunder.
- (4) "Complaint" means any written allegation of misconduct by an individual licensed by the board or other person which might constitute a violation of KRS 309.130 through 309.138 or the administrative regulations promulgated thereunder.
- (5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against an individual licensed by the board or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.
- (6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint.

### **Section 2. Receipt of Complaints.**

(1) A complaint:

(a) May be submitted to the board by an:

1. Individual;
2. Organization; or
3. Entity.

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

### **Section 3. Initial Review.**

(1) After the receipt of a complaint and the expiration of the period for the individual's response, the board shall consider the individual's response, complainant's reply to the response, and any other relevant material available and determine whether a formal investigation of the complaint is warranted.

(2) If the board determines that a formal investigation is not warranted and that the complaint is without merit, it shall:

- (a) Dismiss the complaint; and
- (b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

- (a) Authorize an investigation into the matter; and
- (b) Order a report to be made to the board at the earliest opportunity.

### **Section 4. Result of Formal Investigation.**

(1) Upon completion of the formal investigation, the investigator and the board attorney shall present a synopsis of the facts compiled in the investigation of the complaint to the board and a recommendation regarding the disposition of the complaint.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

- (a) Dismiss the complaint; and
- (b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that probable cause exists that a violation of the Act or the administrative regulations promulgated thereunder has occurred, the board shall:

- (a) Authorize the board attorney to prepare a formal complaint which states clearly the charge or charges to be considered at the hearing on the matter to be held pursuant to the requirements of KRS Chapter 13B; and
  - (b) Review the formal complaint which, if approved, shall be signed by the chairman and served upon the individual as required by KRS Chapter 13B.
- (4) If the board determines that a person may be in violation of KRS 309.1305(2), it shall:
- (a) Order the individual to cease and desist from further violations of KRS 309.1305(2); or
  - (b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 309.1305(2) with a request that appropriate action be taken under KRS 309.1339.

**Section 5. Settlement by Informal Proceedings.**

- (1) The board through counsel and board member designated by the board may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.
- (2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.
- (3) The board may employ mediation as a method of resolving the matter informally. (28 Ky.R. 1012; Am. 1361; eff. 12-19-2001; 36 Ky.R. 646; eff. 12-4-2009.)