**Section 401.170 Civil Penalties**

a) The Agency shall assess civil penalties, in accordance with subsections (c) and (d), against any person who performs, and against the operator of the radiation installation where a person performs, medical radiation procedures without valid accreditation, unless the person performing the medical radiation procedures is specifically exempt from the accreditation requirements as specified in Section 401.30.

b) Prior to assessing civil penalties, the Agency shall confirm the violation of the accreditation requirements by:

1) Observation of the violation;

2) Obtaining records, documents or other physical evidence;

3) Obtaining statements from either the employer or the employee that confirm the existence of the violation; or

4) Obtaining statements from third parties, e.g., patients or co-workers, that corroborate the allegation that a violation has occurred.

c) Civil penalties shall be assessed against persons who perform medical radiation procedures without valid accreditation as follows:

1) First violation by an individual who is fully qualified for accreditation but has failed to apply for initial, or renewal of, accreditation at the time the violation is discovered:

|  |  |  |
| --- | --- | --- |
| A) | In violation 30 days or less | $100 |
|  |  |  |
| B) | In violation 31 through 90 days | $150 |
|  |  |  |
| C) | In violation greater than 90 days | $250 |

2) First violation by a person who is not qualified for accreditation at the time the violation is discovered is $500.

3) Second and subsequent violations by an individual, whether qualified or not, shall be assessed civil penalties using the factors set out in 32 Ill. Adm. Code 310.81(c). The Agency may assess a civil penalty not to exceed $10,000 per violation for each day the violation continues.

4) Any violation involving presentation of falsified accreditation certificates or any other documents used to meet accreditation qualifications may be assessed civil penalties using the factors set out in 32 Ill. Adm. Code 310.81(c). The Agency may assess a civil penalty not to exceed $10,000 per violation for each day the violation continues.

d) Civil penalties shall be assessed against the operators of a radiation installation where an individual performs medical radiation procedures without valid accreditation as follows:

1) First violation by an operator shall be double the fine assessed against the individual performing radiography without accreditation.

2) Second and subsequent violations by an operator shall be assessed a civil penalty using the factors set out in 32 Ill. Adm. Code 310.81(c). The Agency may assess a civil penalty not to exceed $10,000 per violation for each day the violation continues.

e) The Agency may commence administrative proceedings for the assessment and collection of civil penalties by sending a Notice of Violation. The Notice shall give the individual/operator of a radiation installation an opportunity to pay the penalty without further action from the Agency.

f) Failure of an individual/operator of a radiation installation to abate an accreditation violation or to pay the civil penalty as directed shall cause the Agency to issue a Preliminary Order and Notice of Opportunity for Hearing as provided in 32 Ill. Adm. Code 200.60.

(Source: Amended at 44 Ill. Reg. 2488, effective January 22, 2020)