**16 DEPARTMENT OF PUBLIC SAFETY**

**163 BUREAU OF EMERGENCY MEDICAL SERVICES (MAINE EMS)**

**CHAPTER 12: Procedures for Licensing Actions and Board Actions**

1. **Disciplinary Actions**
	1. Investigation of Complaints

The Board, its subcommittee or staff shall investigate complaints in accordance with 32 M.R.S. §90-A (1).

* 1. Notice of Complaints and Response
1. Notice

The Board or staff shall notify an individual or organization of the content of a complaint filed against the individual or organization not later than 60 days after receipt of the initial pertinent information, in accordance with 32 M.R.S. §90-A (2). Notice shall be in writing. Service of the notice is complete upon mailing to the party, the party’s attorney, or upon in-hand delivery to the party or the party’s office in accordance with 5 M.R.S. §8051 (2).

1. Response

If the licensee wishes to contest the complaint or dispute the information that forms the basis of the complaint, the licensee must respond to the Board in writing. For this response to be considered timely, it must be received by Maine EMS within thirty (30) days of receipt of the Board’s notice in accordance with 32 M.R.S. §90-A (2). Service of the licensee’s response is complete when the Board or the Board’s staff receives the response by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1).

1. Additional Information

The Board, its subcommittee or staff may request additional information from the licensee. If the licensee’s response to the complaint satisfies the Board, its subcommittee or staff that no further action is warranted on the complaint, the complaint may be dismissed. Notice of the dismissal must be sent to any complainants.

1. Further Communications with Complainant

The Board, its subcommittee or staff may provide the complainant with a copy of the licensee’s response or portions thereof, as the members or staff determines to be necessary to facilitate the investigation. The Board, subcommittee or staff may request additional information from the complainant in support of the original complaint or in response to the licensee’s response. The complainant must provide this additional information to the Board, subcommittee, or staff within thirty (30) days of being requested to do so or indicate why the information cannot be obtained within that time.

1. Resolution of Complaints Without Discipline

Upon the written information provided by the complainant, licensee and any others in support of the complaint and responses, the Board, its subcommittee or staff may take any of the following actions, which do not constitute discipline.

1. Issue a letter of guidance or concern pursuant to 32 M.R.S. §88(4);
2. Dismiss the complaint and refer it to the Regional Medical Director for resolution to the extent that the complaint alleges conduct that relates solely to clinical practice issues. A complaint may be referred both to the Regional Medical Director for review of clinical practice issues and for further disciplinary procedures in accordance with these Rules, if the complaint alleges both clinical practice issues and issues appropriate for discipline by the Board; or
3. Dismiss the complaint upon a finding that the complaint is factually unfounded or alleges conduct that is not a violation of EMS Rules or statutes.
	1. Informal Conferences
4. If, in the opinion of the Board, its subcommittee or staff, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the licensee may be requested to participate in an informal conference in accordance with 32 M.R.S. §90-A. The licensee shall be provided with at least seven days written notice of the conference and of the issues to be discussed, unless the licensee waives such right to notice or extraordinary circumstances warrant a shorter period of notice.
5. If, after the informal conference, the Board, subcommittee or staff determines that resolution without discipline is appropriate, the matter may be resolved by referral to the Regional Medical Director, a letter of guidance or concern, or dismissal as appropriate, and in accordance with EMS statutes and these Rules.
	1. Sanctions
6. If, upon review of the written information provided by the complainant, licensee and any others in support of the complaint and responses, or after an informal conference, the Board, its subcommittee or staff determines that the complaint is true, that a current or former licensee has violated Maine EMS statutes or Rules, and the violation is of sufficient gravity to warrant further action, any of the following may occur:
	* 1. The Board, its subcommittee or staff may enter into a consent agreement with the licensee in accordance with 32 M.R.S. §88(3)(E) and §90-A (4)(A). Any remedy, penalty or fine, or cost recovery that is otherwise available by law may be achieved by consent agreement, including long-term suspension and permanent revocation of a license.
		2. The Board, its subcommittee or staff may negotiate the voluntary surrender of a license by means of a consent agreement, in accordance with 32 M.R.S. 90-A (4)(B).
7. If the Board, its subcommittee or staff concludes that modification, nonrenewal, or suspension or other discipline within the Board’s authority pursuant to 32 M.R.S. §88(3) (civil penalty; warning censure or reprimand; probation; suspension of up to 90 days per violation) is in order, the process is as follows:
	* 1. The board shall notify the licensee in writing of the licensee’s right to request an adjudicatory hearing concerning any proposed action of the Board.
		2. The licensee must file a written request for hearing within thirty (30) days of receipt of the notice of opportunity for hearing. The request is considered filed when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1). The Board may extend this period for good cause shown.
		3. If the licensee makes a timely request for hearing, that hearing must be held by the Board in accordance with the Maine Administrative Procedure Act, Title 5, Chapter 375, Subchapter IV.
		4. Failure to make a timely request for hearing shall be a waiver of any right to hearing and may result in a hearing being held or the proposed action of the Board becoming final without further hearing.
		5. If, after hearing, the Board concludes that the licensee committed one or more violations and imposes sanctions, this decision constitutes final agency action appealable pursuant to 32 M.R.S. 90-A (4)(C) and the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.
8. Except in the specific circumstances where 5 M.R.S. §10004, Action without hearing, may be invoked, if the Board or staff concludes that suspension beyond the authority conferred by 32 M.R.S. §88 or revocation is in order, the Board or staff may request the Attorney General to file a complaint in the District Court.

Time limits in these Rules may be modified as necessary to address emergency license suspensions, consistent with the Maine Administrative Procedure Act.

1. **Initial License Applications**
	1. Issuance Subject to Letter of Guidance or Consent Agreement
2. A license may be issued in conjunction with a letter of guidance pursuant to 32 M.R.S. §88(4). The purpose of the letter is to educate the applicant, reinforce knowledge regarding legal or professional obligations, and express concern over action or inaction by the applicant that does not rise to the level of misconduct sufficient to merit denial of the application or negotiation of a consent agreement.
3. A license may be issued subject to a consent agreement with the applicant in accordance with 32 M.R.S. §88(3)(E) and 90-A (4)(A) if the applicant has engaged in conduct actionable under Maine EMS statutes or Rules and the terms of the consent agreement, in the opinion of the Board, subcommittee or staff, are adequate to protect the public health and safety and to rehabilitate or educate the licensee.
	1. Denial
4. The staff or a subcommittee of the Board may deny an initial license application if done so in a written decision that reflects the reasons for the denial and informs the applicant of the right to appeal the decision to the Board.
5. A person or organization aggrieved by a subcommittee or staff decision to deny a license may appeal the decision to the Board for a final decision in accordance with 32 M.R.S. §91-A.
6. If the applicant wishes to appeal the denial, the applicant must notify the Board in writing. The notice must be received by the Board within thirty (30) days of the applicant’s receipt of notice of the denial. Service of the notice of appeal is complete when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1).
7. The staff’s or subcommittee’s decision stands until the Board issues a decision to uphold, modify or overrule the challenged decision.
8. The Board may, in its discretion, entertain additional evidence or argument from the parties, but need not conduct a full or formal adjudicatory hearing unless otherwise required by law.

1. The decision of the Board shall be in writing or stated on the record and contain or reflect the Board’s reasoning in a manner sufficient to inform the parties and the public of the basis for the Board’s decision.
2. The Board’s decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.
3. **License Renewals**

The staff or a subcommittee of the Board may recommend to the Board that it refuse to renew a license. Before presenting the recommended decision to the Board for consideration, staff shall mail or hand-deliver to the applicant/licensee written notice of the recommended decision and the reasons therefore with notice of applicant/licensee’s right to request a hearing in accordance with the Administrative Procedure Act. Service is complete upon mailing to the applicant/licensee or the applicant/licensee’s attorney, or upon in-hand delivery to the recipient or the recipient’s office in accordance with 5 M.R.S. §8051 (2).

* 1. If the applicant/licensee wishes to request a hearing, the applicant/licensee must submit a written request for a hearing to the Board. The written request must be received by the Board within thirty (30) days of the applicant/licensee’s receipt of notice of the proposed decision/opportunity to request hearing. Service of request is complete when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1). Failure to submit a request within this period shall be deemed a waiver of the right to hearing, and the Board may adopt the recommended decision without further hearing.

The decision of the Board shall be in writing or stated on the record and reflect the Board’s reasoning in a manner sufficient to inform the parties and the public of the basis for the Board’s decision.

* 1. The Board’s decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.
1. **Other Staff/Board Actions**
2. A person or organization aggrieved by the decision of Maine EMS staff or a subcommittee of the Board in taking any non-disciplinary action pursuant to the Board’s statutes and Rules, including waiving the application of any rule, or in interpreting statutes or Rules governing the EMS system, may appeal the decision to the Board for a final decision in accordance with 32 M.R.S. §91-A.
3. In order to appeal such a decision, the person or organization must notify the Board in writing. The notice must be received by the Board within thirty (30) days of the applicant’s receipt of notice of the challenged decision. Service of the notice of appeal is complete when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1).
4. The staff’s or subcommittee’s decision stands until the Board issues a decision to uphold, modify or overrule the challenged decision.
5. The Board may, in its discretion, entertain additional evidence or argument from the parties, but need not conduct a full or formal adjudicatory hearing.
6. The decision of the Board shall be in writing or stated on the record and contain or reflect the Board’s reasoning in a manner sufficient to inform the parties and the public of the basis for the Board’s decision.
7. The Board’s decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.

AUTHORITY: 32 M.R.S., Chapter 2-B.

EFFECTIVE DATE: July 3, 1978 (EMERGENCY)

AMENDED: April 1, 1982

 December 25, 1982 - Sec. 2.31, 3131, 6.311, 6.63 and 6.73

January 1, 1984 - Sec. 1, 2, 3, 5, 6, 8.32, 10.2, 10.3, 11.1066, 11.1067

 April 30, 1985 - Sec. 1, 2.846.222, 6.332, 9.313, 8.3216 and 9.11

 January 1, 1986 - Sec. 1, 6. 8.15, 8.2, 8.3, 8.4 and 11.103

 September 1, 1986

 August 25, 1987 - Sec. 5, 6.011 and 12 (added)

 July 1, 1988

 March 4, 1992

 September 1, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 July 1, 2000

REPEALED AND REPLACED:

 July 1, 2000

 July 1, 2003

 January 10, 2021