



Maine EMS Policy/Procedure			
Investigations			
Policy #	Title		Date Issued
006-02-01	Complaints		May 11, 2023
Policy Superseded	Next Review Date	Author	Pages
N/A - Initial	November 2025	Melissa Adams & Jason Cooney	7
Approved By:	Maine Board of Emergency Medical Services J. Sam Hurley, MPH, EMPS, NRP, Director of Maine EMS		

- I. **Scope**
 - A. This policy and procedure cover the actions that may be undertaken in the investigation of complaints.
- II. **Applicability**
 - A. All persons engaged in the Complaints and Investigations Process, including Maine EMS Office Staff, licensees, the Maine Board of EMS, and the Director of Maine EMS.
- III. **Review**
 - A. This policy should be reviewed every two (2) years to ensure that it continues to meet the expectations set by the Board of Maine EMS.
- IV. **Definitions**
 - A. **Board** – As defined in [M.R.S. Title 32 Chapter 2-B, §83.8-A](#)
 - B. **Director of Maine EMS** – As defined in [M.R.S. Title 32 Chapter 2-B, §83.10-A](#)
 - C. **Docket** – A number assigned for the tracking of a complaint through the evaluation and formal process.
- V. **General**
 - A. Maine EMS receives complaints of various natures and scopes against licensees. There is a need within our system and rules to develop a standard way of evaluating and processing complaints to ensure timely and appropriate resolution.
- VI. **Policy**
 - A. The information contained within this document is the model process to be followed with the understanding that Maine EMS reserves the right to deviate from this procedure when necessary. The information contained within this document is intended to be informative and must not be used to supplement the advice of legal counsel.
- VII. **Procedure**
 - A. **Receipt:** Maine EMS receives or generates a complaint based on concerning information.¹
 - i. Docket the Complaint in the e-Licensure system
 1. Add New Investigation in ImageTrend e-License Management system
 2. Set status to Open
 3. Docket Number: Populated by the system
 4. Source: Record the source of the violation
 5. Submitted by: How/Who was this report received from?
 6. Investigator: Select the investigator primarily assigned to this docket number

¹ [M.R.S. Title 32 §90-A.1](#)

7. Personnel: record the subject of investigation
 8. Services: record the service name if a service is involved.
 9. Date: record the earliest date of violation
 10. Message: Record a brief description of the alleged violation
- ii. Enter the docket number and information into the Investigations Tracker in SharePoint

B. Notice:

- i. If the complaint was initiated from an external source, include with the Notice of Complaint a copy of the written complaint. Portions of the complaint may be redacted to protect the health, safety, and welfare of the public.²
- ii. If the complaint was initiated from an internal source, include within the Notice of Complaint the basis that led to the citation of a potential violation of rule or statute.
- iii. The party being investigated is sent the Notice of Complaint.
 1. 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 initial pertinent information.³
 2. Notice shall be sent by certified mail, regular mail, and electronically by e-mail (if available).⁴ 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.
 3. A copy of the Notice of Complaint shall be sent to the Attorney General's Office via the email provided.

C. Response:

- i. 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.
- ii. 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.⁵
- iii. 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.⁶
- iv. If additional information is requested by the licensee, that request shall be forwarded to the Director of Maine EMS for review and direction⁷
- v. Any response is also forwarded to the Attorney General's Office via the email provided.

D. Evaluation for Staff Resolution: When an allegation of misconduct is received, initial fact-finding is conducted to determine if there is a factual and/or credible basis for a formal investigation to be initiated.⁸

- i. Determine if the complaint can be resolved without discipline:
 1. Evaluate if the complaint can be resolved with a letter of guidance or concern.⁹ (see Appendix A) If so, proceed to **H.ii** If not, continue to evaluate the complaint.
 2. Evaluate the complaint according to the Patient Care/ Clinical Practice Matrix (See Appendix B) for allegations of protocol violation. If the complaint only alleges conduct that relates solely to violation of protocol, follow the recommendation of the Patient Care/Clinical Practice Matrix.
 3. If the complaint alleges both clinical practice issues and issues appropriate for discipline by the Board; continue to evaluate the complaint. A complaint may be referred both to the Regional Medical Director for review of clinical practice issues and evaluated for additional violations.

² [M.R.S. Title 32 §81-A](#)

³ [M.R.S. Title 32 §90-A.2](#)

⁴ [M.R.S. Title 5 §9052.1](#)

⁵ [Maine EMS Rules Chapter 12 §1.2.B](#)

⁶ [M.R.S. Title 5 §90-A.2](#)

⁷ [M.R.S. Title 32 §91-B.2.D.7](#)

⁸ [M.R.S. Title 32 §90-A.2](#)

⁹ [M.R.S. Title 32 §88.4](#)

4. Evaluate the complaint according to the *NAEMT Code of Ethics* (See Appendix C) for complaints that are related to professionalism and professional conduct not otherwise addressed in Maine EMS's statutes or rules. If the alleged conduct rises to a level where it clearly violates the *NAEMT Code of Ethics*, cite the section(s) of the *NAEMT Code of Ethics* violated and proceed with the investigative process. If it does not, and there are no other potential violations identified, continue to evaluate the complaint.
5. If the complaint is determined to be factually unfounded proceed to **H.i**¹⁰
- ii. If any question exists about the significance of a material violation, bring the matter to the Investigations Committee for review and guidance.

E. Investigation:

- i. Maine EMS Board Investigators pursue an investigation to find additional facts or evidence to clarify the event and related events surrounding the complaint.
 1. Identify possible material evidence that can be gathered, such as documents, photographs, lab results, statements, expert testimony, QA/QI records, service disciplinary records, etc.
 2. Identify witnesses, experts, and other agencies that may be involved.
 3. Identify any unexpected or unique financial impacts and how to proceed with these.
 4. A subpoena¹¹ shall be used to request information related to:
 - a. Personnel Records
 - i. Employment
 - ii. Disciplinary
 - iii. Training records
 - b. Medical/Treatment Records
 - i. Patient medical records
 - ii. Licensee medical records
 - c. Quality Assurance/Improvement Records
 - i. Service
 - ii. Regional
 - d. Insurance Records
 - i. Licensee Billing
 5. A subpoena may be used in other circumstances as determined by the investigator or with the following record types:
 - a. Law Enforcement Records
 6. When a summary of facts is completed by the assigned investigator, the docket moves for review with the Investigations Committee.

F. Investigations Committee Meeting: The Investigations Committee is a subcommittee of board members who review the complaint, investigative findings, and, when appropriate, request the subject of the complaint to attend an informal conference.

- i. Maine EMS Staff shall schedule the docket for an informal review or informal conference with the Investigations Committee. The agenda shall be published listing the Case docket numbers on the Maine EMS Website prior to the meeting:
 1. Case Reviews are typically conducted in open session; they may not identify individual licensees, patients, or services, or any confidential medical information. If such identification is necessary or requested by the Investigation Committee, such activities will occur in an executive session.
 2. Informal Conferences are conducted in executive session; typically this occurs when the licensee is present and is it is used to encourage an open forum for dialogue between present parties. Informal conferences are conducted in accordance with Maine EMS Rules.¹² The licensee shall be provided with at least seven (7) days written notice of the conference and of the issues to be

¹⁰ [Maine EMS Rules Chapter 12 §1.2.E.3](#)

¹¹ [M.R.S. Title 32 §90-A.1](#)

¹² [Maine EMS Rules Chapter 12 §1.3](#)

discussed, unless the licensee waives such right to notice or extraordinary circumstances warrant a shorter period of notice.¹³

- a. Participation in an Informal Conference is limited to the Licensee, Board Staff (the Licensing Agents and/or Director of Maine EMS), the Investigations Subcommittee, the Assistant Attorney General assigned to the Maine EMS Board, and the Licensee's legal counsel (if applicable). A licensee may consent to the presence of outside participant(s) who can offer additional information (e.g. may serve as a character witness), whose participation would assist the subcommittee in their deliberations. An outside participant may not be present to simply observe the proceedings. The necessity of the inclusion of an outside participant is determined by the Investigation Subcommittee prior to their inclusion in an Informal Conference.
 - ii. **Not all dockets involve an Informal Conference.**
 1. An Informal Conference may be offered to the licensee under investigation at the discretion of the Board, Maine EMS Staff, or a licensee's request. Some circumstances where an Informal Conference may be warranted include but are not limited to:
 - a. When a discrepancy exists between evidence discovered during the investigation that requires additional explanation not available otherwise.
 - b. When the subject of the complaint does not submit a written statement.
 - iii. Notice of Agenda will be sent directly to the licensee with guidance on meeting format as described above (Case review Vs. Informal Conference)
 - iv. Once the Investigations Committee has completed its review and deliberation of the docket, a recommendation for resolution is made to the Board of EMS.
- G. **Board Review:** A review of the complaint, findings, and Investigation Committee's recommendation for resolution is performed by the Board of EMS.
- i. The Board of EMS makes the final decision on the appropriate resolution of a docket. The Board may accept the recommendation made by the Investigations Committee or modify the disposition partially or completely. The Board of EMS may take any of the following actions:
 1. Direct that further investigation is made by the Office of Maine EMS Investigators upon finding that further information is needed to reach a final disposition.
 2. Schedule an Informal Conference with the licensee and the Board
 3. Dismiss the docket
 4. Issue a Letter of Guidance.
 - a. A Letter of Guidance or Concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or applicant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action.
 5. Offer a Consent Agreement.
 - a. The Board, its subcommittee, or staff may enter into a Consent Agreement with the licensee.¹⁴ 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.
 - b. The Board, its subcommittee, or staff may negotiate the voluntary surrender of a license by means of a Consent Agreement.¹⁵
 6. Issue a Preliminary Notice of Action

¹³ [Maine EMS Rules Chapter 12 §1.3.A](#)

¹⁴ [M.R.S. Title 32 §88.3.E](#) and [§90-A.4.A](#)

¹⁵ [M.R.S. Title 32 §90-A.4.B](#)

- a. It is best practice when using a Preliminary Notice of Action, that it is used in conjunction with a Consent Agreement, and that it must be offered with the right to a hearing.¹⁶
 - b. A Preliminary Notice of Action may only be used when the action desired is modification, non-renewal, suspension of less than or equal to 90 days, or the imposition of a civil penalty of not more than \$1500.00 per violation¹⁷.
- ii. Maine EMS Staff shall complete the relevant section of the Board Disposition Report (see Appendix D) and attach it to the final summary document.

H. Resolution

- i. Dismissal:
 - 1. A Letter of Dismissal will be sent to the complainant.¹⁸
 - 2. A Letter of Dismissal will be sent to the licensee.
 - 3. If a complaint solely relates to clinical practice issues, in addition to dismissal by the Board of Maine EMS, its subcommittee, or staff, it may be referred to the Regional Medical Director for resolution.
- ii. Letter of Guidance or Concern:
 - 1. Draft a Letter of Guidance or Concern that incorporates the guidance or concern the Board has authorized. Place the Letter of Guidance on file in the e-licensure system with the appropriate expiration date based on the board's direction. A copy of the Letter of Guidance shall be sent to the licensee by certified mail. Non-disciplinary action may be appealed in accordance with statute.¹⁹
- iii. Consent Agreement:
 - 1. A Consent Agreement shall be drafted by the Attorney General's Office and will be sent to the Licensing Agent assigned to the case. The Consent Agreement shall be sent by certified mail with a return receipt to the licensee.
 - 2. If the licensee chooses to execute the Consent Agreement as written, the Consent Agreement shall be signed by the licensee and returned to the Maine EMS Office by the date identified within the document.
 - 3. If the licensee does not choose to execute a Consent Agreement, they may request an adjudicatory hearing and return notice of such within the response period as noted in the consent agreement.
 - 4. If the licensee wishes to negotiate the Consent Agreement as proposed, the licensee may respond with a counterproposal that shall be returned within the response period as noted in the initial Consent Agreement to the Board of Maine EMS for consideration.²⁰
 - 5. If a response is not received within the response period as noted in the Consent Agreement, the matter is moved to an adjudicatory hearing.
- iv. A Notice of Preliminary Action:
 - 1. A Notice of Preliminary Action shall be drafted by the Attorney General's Office and will be sent to the Licensing Agent assigned to the case. The Notice of Preliminary Action shall be sent by certified mail with a return receipt to the licensee.
 - 2. If the licensee contests the Action, they may request an adjudicatory hearing and return notice of such within the response period as noted in the Preliminary Notice.
 - 3. If no response is received from the licensee within the response period within the Preliminary Notice, A Notice of Final Action shall be drafted by the Attorney General's Office to be sent to the licensee. The Action shall be considered Final and is effective as of the expiration of the Preliminary Notice.²¹

¹⁶ [M.R.S. Title 32 §88.3.B/C](#) and [§90-A.4.C](#)

¹⁷ [M.R.S. Title 32 §90-A.4.C](#)

¹⁸ [M.R.S. Title 32 §90-A.2](#)

¹⁹ [M.R.S. Title 32 §91-A](#)

²⁰ [M.R.S. Title 32 §90-A.4.A](#)

²¹ [M.R.S. Title 32 §90-A.4.C](#)

- v. The subject of the complaint is notified of the Board’s decision, in writing. The licensee may also agree to accept the Board’s decision via email.
- vi. Staff may work with the interested parties to facilitate a dialogue between the complainant and a licensee or their representative outside of the formal complaint process. This dialogue can occur in conjunction with the formal complaint process but may not occur in place of the formal complaint process.

I. Hearings²²:

- i. The Attorney General’s Office, once aware of the hearing request, will assign an AAG to represent staff in the matter.
- ii. Staff will secure a Hearing Officer.
- iii. Staff, the assigned AAG, and the Hearing Officer will schedule a hearing date.
- iv. The assigned AAG will draft a Notice of Hearing.
- v. Staff will send the Notice of Hearing to the licensee or their legal representation and Hearing Officer.
- vi. The Hearing Officer will provide instructions and a schedule of pre-hearing events.

J. Post-Resolution:

- i. At their regular meeting on December 4, 2019, the Maine EMS Board determined that Maine EMS will notify services at the conclusion of any investigation involving a licensee on their roster.
- ii. Statute requires that the board shall notify in writing, the town manager or city manager and the municipal officers of the municipality that owns and operates or contracts with the ambulance service within five (5) business days of taking the action.²³
- iii. When a complaint is dismissed by the Board with a referral to the Regional Medical Director, Maine EMS will send a copy of the Notice of Dismissal to the Regional Medical Director in all Regions the EMS Clinician is affiliated with, in addition to any information not held as confidential under law at the conclusion of an investigation²⁴.

K. National Practitioner Data Bank reporting

- i. If adverse action becomes final, report the action to the National Provider’s Data Bank within 30 days of the execution of the consent agreement.²⁵
- ii. Post the resolution on the Maine EMS Website under the appropriate section or lookup.

- L. Documents sent to licensees addressing final agency action are forwarded to the AAGs office as appropriate.

NOTE: Further information about the investigative process and procedures may be found in Maine EMS Rule Chapter 12, and is granted authority by M.R.S. 32 Chapter 2-B. More information about the Administrative Procedures contained within this document can be found within M.R.S. Title 5 Chapter 375.

VIII. References

- A. [Maine Revised Statute, Title 32 Chapter 2-B, MAINE EMERGENCY MEDICAL SERVICES ACT OF 1982](#)
- B. [Maine Revised Statute, Title 5 Chapter 375, MAINE ADMINISTRATIVE PROCEDURE ACT](#)
- C. [Maine EMS Rules published January 10, 2021](#)
- D. [Code of Federal Regulations, Title 45 Public Welfare, Part 60](#)

IX. Summary of document changes

- A. None

²² [M.R.S. Title 5 Chapter 375 §9051-§9064](#)

²³ [M.R.S. Title 32 §90-A.6](#)

²⁴ [M.R.S. Title 32 §91-B.2.C](#)

²⁵ [45 CFR §60.9](#)

- X. Appendices (Forms, Attachments, etc.)**
- A. Orders of Limited Delegation of Authority to the Maine EMS Office
 - B. Patient Care / Clinical Practice Matrix
 - C. NAEMT Code of Ethics
 - D. EMS Board Case Disposition Report
 - E. Investigation Process Flowchart
 - F. Subpoena Cover Letter and Subpoena Example

Appendix A

Orders of Limited Delegation of Authority to the Maine EMS Office

Maine Board of Emergency Medical Services - Board Policy

Limited Delegation of Authority to Maine EMS Staff To Issue Letters of Guidance

Effective Date: November 2, 2022

Expiration Date: November 30, 2025 (unless rescinded earlier)

Background

In April and June 2016, the Maine Board of Emergency Medical Services ("the Board") adopted formal policies that provided guidelines to the staff of Maine Emergency Medical Services ("Maine EMS") for issuing letters of guidance for the failure to submit patient care reports, the failure to participate in quality assurance activities, unlicensed practice, and allowing EMS personnel or emergency medical dispatchers to practice without a license. In April 2022, the Board added guidelines for issuing letters of guidance for the failure to demonstrate required continuing education at the time of renewal.

This Limited Delegation of Authority revises and updates those policies. It allows the Maine EMS staff to issue letters of guidance to applicants and licensees in limited situations where their conduct does not rise to the level of misconduct sufficient to merit disciplinary action. The practical effect of this delegation of authority will be to avoid having to bring every such matter to the Board's Investigations Committee and the Board for resolution.

This policy expires on November 30, 2025, but may be revisited by the Board at any time.

Applicable Law

Pursuant to 32 M.R.S. § 88(4), the Board has the ability to issue a letter of guidance or concern to an applicant or licensee. Section 88(4) also gives the Board the authority to delegate this power to the Board's staff at Maine EMS:

4. Authority to issue letters of guidance. In addition to authority otherwise conferred, the board, or as delegated, its subcommittee or staff may issue a letter of guidance or concern to an applicant or licensee....

A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or applicant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, a letter of guidance or concern is not confidential. The board or, as delegated, its subcommittee or staff may place a letter of guidance or concern, together with any underlying complaint, report, and investigation materials, in a licensee's or applicant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and

considered by the board, its subcommittee or staff in any subsequent action commenced against the applicant or licensee within the specified time frame.

Limited Delegation of Authority to Maine EMS Staff

The Board delegates to the Maine EMS staff the authority to issue a letter of guidance ("LOG") to an applicant or licensee pursuant to 32 M.R.S. § 88(4) in the following situations:

Issue	Limitations	Length LOG and Related Materials Placed on File
Licensed EMS provider failed to complete and submit a patient care report within one business day pursuant to Maine EMS System Rules, Chapter 3 § 9, Chapter 4 § 9, or Chapter 5 § 3	One patient care report only	3 years
Providing patient care or EMD services after the person's or service's Maine EMS license has expired (unlicensed practice under 32 M.R.S. § 82(1))	<p>(1) The person or service provided patient care or EMD services on 10 or fewer emergency medical calls;</p> <p>(2) The person or service was licensable at the time of expiration of the license;</p> <p>(3) No patient harm occurred on the calls on which the person or service provided patient care or provided EMD services while unlicensed; and</p> <p>(4) The incident was the first occurrence of such conduct.</p> <p>*Absent serious circumstances (e.g., patient harm), Maine EMS should not delay the issuance of the license while the investigation is ongoing.</p>	3 years
Licensed EMS service or EMD center failed to participate in Maine EMS quality assurance activities pursuant to Maine EMS	First occurrence of conduct only	3 years

Issue	Limitations	Length LOG and Related Materials Placed on File
System Rules, Chapter 18 §§ 4-5		
<p>Licensed EMD center allowed an emergency medical dispatcher to provide EMD services without a valid EMS license (pursuant to Maine EMS System Rules, Chapter 3-A § 6(1), EMD centers must use licensed dispatchers unless the person is a dispatcher in training)</p>	<p>(1) The dispatcher provided EMD services on 10 or fewer emergency medical calls; (2) The dispatcher was licensable at the time of expiration of the license; (3) No patient harm occurred on the calls on which dispatcher provided EMD services while unlicensed; and (4) The incident was the first occurrence of such conduct.</p> <p>*Absent serious circumstances (e.g., patient harm), Maine EMS should not delay the issuance of the license while the investigation is ongoing.</p>	3 years
<p>Ambulance service allowed EMS person to practice without a license (aiding or abetting the practice of emergency medical care by unlicensed person under 32 M.R.S. § 90-A(S)(D))</p>	<p>(1) The person provided patient care on 10 or fewer emergency medical calls; (2) The person was licensable at the time of expiration of the license; (3) No patient harm occurred on the calls on which the person provided patient care; and (4) The incident was the first occurrence of such conduct.</p> <p>*Absent serious circumstances (e.g., patient harm), Maine EMS should not delay the issuance of the license while the investigation is ongoing.</p>	3 years

Issue	Limitations	Length LOG and Related Materials Placed on File
<p>Licensee failed to notify the board in writing within 10 days of certain information pursuant to 32 M.R.S. §90-C</p>	<p>(1) Relative to §90-C (B), the criminal conviction does not involve conduct directly related to the license, dishonesty or false statement, if the conviction provides for incarceration for less than one year.</p> <p>(2) Relative to §90-C (C), the disciplinary action taken was not based on conduct related to the profession or otherwise open to disciplinary proceedings with the Board.</p> <p>(3) Relative to §90-C (D), there was no harm to the public as a result of the delay.</p> <p>(4) The incident was the first occurrence of such conduct.</p> <p>*Absent serious circumstances (e.g., patient harm), Maine EMS should not delay the issuance of the license while the investigation is ongoing.</p>	<p>4 years</p>

<p>Licensee failed to present proof of satisfactory completion of continuing education upon submitting a license renewal application pursuant to Maine EMS Rules - Chapter 5 §6 (2)(C)(4,5)</p>	<p>(1) The licensee was deficient in a total of less than or equal to two (2) Continuing Education Hours at the time of application.</p> <p>(2) The licensee subsequently satisfies the deficient Continuing Education Hour(s) in accordance with Maine EMS Rules, within 10 business days after notification is made to the applicant by Maine EMS of the deficiency(s) found.</p> <p>(3) The incident was the first occurrence of such conduct.</p>	<p>2 Licensing cycles, up to 6 years</p>
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The Maine EMS staff reserves the right to bring any case fitting into the above situations to the Board and/or Investigation Committee for resolution. In the event that a licensee has another letter of guidance on file or discipline concerning the same issue, Maine EMS staff will schedule the licensee for an informal conference with the Board's Investigations Committee.

This Limited Delegation of Authority will expire on the Expiration Date indicated above, at which time the Board shall review the actions taken pursuant to this Limited Delegation of Authority and determine whether to renew or modify this delegation.

Adoption

Adopted by the Board on November 4, 2020, by a vote of 13 in favor, 0 opposed, 0 abstained.
 Revised by the Board on March 3, 2021, by a vote of 15 in favor, 0 opposed, 0 abstained.
 Revised by the Board on April 6, 2022, by a vote of 14 in favor, 1 opposed, 0 abstained.
 Renewed by the Board on November 2, 2022, by a vote of 13 in favor, 0 opposed, 0 abstained.



Maine Board of Emergency Medical Services – Board Policy

Limited Delegation of Authority to Maine EMS Staff to Dismiss Complaints

Effective Date: May 9, 2023

Expiration Date: November 30, 2025 (unless rescinded earlier)

Background

From August 2022 through April 2023, the Investigation Sub-Committee of the Maine Board of Emergency Medical Services (“the Board”) reviewed and participated in a blind-pilot with the Complaint Investigations Policy and Clinical Care Matrix, making revisions to both as the need was identified to ensure the sensitivity of the matrix. The matrix is an adaptation of an evaluation tool designed by the North Carolina Board of Nursing for a Just Culture approach to coaching, remediation, and discipline. The Investigation Sub-Committee recommends the Board adopt formal policies that provide guidelines for the staff of Maine Emergency Medical Services (“Maine EMS”) to resolve clinical care complaints that do not rise to the level of discipline.

The Limited Delegation of Authority allows Maine EMS staff to resolve complaints specifically and solely alleging conduct which violates pre-hospital protocol when the conduct does not rise to the level of discipline. Delegated resolution includes dismissal, dismissal with a letter of guidance, and dismissal and referral to a Regional Medical Director in accordance with the complaint policy and the clinical care matrix. The practical effect of this delegation of authority is to embrace and standardize a just-culture approach to these complaints and avoid bringing every such matter to the Investigations Sub-Committee and the Board for resolution.

Applicable Laws & Rules

Pursuant to 32 M.R.S. § 88(4), the Board may issue a letter of guidance or concern to an applicant or licensee. Section 88(4) also gives the Board the authority to delegate this power to the Board’s staff at Maine EMS:

4. Authority to issue letters of guidance. In addition to authority otherwise conferred, the board, or as delegated, its subcommittee or staff may issue a letter of guidance or concern to an applicant or licensee...

A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or applicant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, a letter of guidance or concern is not confidential. The board, or as delegated, its subcommittee or staff may place a letter of guidance or concern, together with any underlying complaint, report, and investigation materials, in a licensee’s or applicant’s file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board, its

subcommittee or staff in any subsequent action commenced against the applicant or licensee within the specified time frame.

Pursuant to 32 M.R.S §90-A(2), the Board or staff has the ability to dismiss a complaint filed against a licensee when the complaint does not merit further investigation or action:

2. Notice. The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than 60 days after the board or staff receives the initial pertinent information. The licensee has the right to respond within 30 days in all cases except those involving an emergency denial, suspension or revocation, as described in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 5. If the licensee's response to the complaint satisfies the board or staff that the complaint does not merit further investigation or action, the matter may be dismissed, with the notice of dismissal to the complainant, if any.

Pursuant to Maine EMS Rules, Chapter 12 §1.2 (E) 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.

Limited Delegation of Authority to Maine EMS Staff

The Board delegates to the Maine EMS staff the authority to dismiss a complaint or issue a letter of guidance to an applicant or licensee pursuant to 32 M.R.S. § 90-A(2) and §88(4) when appropriate according to the application of the Complaint Investigation Policy and as indicated by the Clinical Care Matrix.

This limited delegation of authority will expire on the Expiration Date indicated above, at which time the Board shall review the actions taken pursuant to this Limited Delegation of Authority and determine whether to renew or modify this delegation.

Adoption

Adopted by the Board on May 9, 2023, by a vote of 9 in favor, 0 opposed, 0 abstained.

Dated: May 9, 2023



Brent Libby, Board Chair

Appendix B

Patient Care/Clinical Practice Matrix

	Criteria	Human Error	At-Risk Behavior			Reckless Behavior		Score
		0	1	2	3	4	5	
G	General EMS Clinician Practice	No prior complaints or actions taken against licensee.	Active letter of guidance on file for separate issue.	Prior consent agreement for a separate issue, met terms of consent agreement or documented prior attempt(s) at remediation at the regional medical director level for similar concerns.	Multiple previous complaints/disciplinary action for separate issues. Active letter of guidance or consent agreement for same issue.	Multiple complaints for same issue, separate incidents, that resulted in disciplinary action.	Failure to comply with consent agreement. Multiple complaints for same issue, separate incidents, that resulted in disciplinary action, within 2 licensure cycles.	
U	Understanding/ Level of Experience of EMS Clinician	Has knowledge, skills, and ability, the incident was accidental, inadvertent, or oversight.	Limited understanding of the correct procedure.	Aware of the correct procedure but demonstrated limited understanding of options or resources.	Aware of correct action / how to respond but failed to apply in this incident. Did not obtain sufficient information or utilize resources before acting.	Intentional negligence or failure to act or did not act according to standards. Risk to patient outweighed benefits.	Gross negligence/un-safe action/inaction. Licensee demonstrated no regard for patient safety.	
I	Implemented State Protocols/ Standards	No rule or protocol exists, No deviation from Rule or Protocols identified.	Rule/Protocol has not been enforced or is new (less than 6 months old).	Aware of Rule/Protocol, but ignored or disregarded rule due to misunderstanding, misinterpretation, or misapplication.	Rule/Protocol was clearly understood. Other Rules/Protocols were followed.	Rule/Protocol was clearly understood and Rule/Protocol is 1 protocol-cycle old.	Rule/Protocol was clearly understood, and Rule/Protocol is multiple protocol-cycles old.	
D	Decision / Choice	Accidental/Inadvertent Error: A “reasonable” individual could have made the same decision and did not present a risk to the patient.	Decision was required to be made rapidly to avoid harm.	Decision was not required to be made rapidly, Decision to act/not act made because benefit outweighed risks.	Decision may have or may not have been needed to be made rapidly, chose to act/not act without weighing options or utilizing resources. Used poor judgement.	A “reasonable” individual would not have made the same decision. Resulted in unacceptable risk to patient/agency/public. Intentional or willful disregard for safety, standards, or protocols.	Willful choice to put own interests/agency interests before patient/public. Intentionally neglected red flags. Resulted in substantial/unjustifiable risk to patient/agency/public.	
E	Ethics / credibility / accountability	Identified own error and self-reported. Honest and remorseful. Taken action to avoid reoccurrence.	Readily admitted to error and accepted responsibility when questioned. Identified opportunities and plan for improvement.	Reluctantly admitted to error but attributed to circumstances to justify action/inaction. Cooperative during investigation and demonstrated acceptance of improvement plan.	Denied responsibility until confronted with evidence. Blamed others or made excuses for action/inaction. Failed to see significance of error. Reluctantly admitted responsibility and denied need for corrective action.	Indifferent to situation. Uncooperative (Did not respond to notice of complaint), insubordinate and/or dishonest during investigation.	Took active steps to conceal error or failed to disclose known error. Provided misleading information during investigation, withheld information, or destroyed evidence. May have inappropriately confronted others regarding investigation.	

Disclaimer – The use of this matrix is as a guide through which to evaluate clinical practice issues. Maine EMS Staff reserves the right to deviate from this matrix, and to refer clinical practice issues as appropriate.

Mitigating Factors		Aggravating Factors	
	Clinician Fatigue (>24 hours actively working)		Took Advantage of/Is in a Position of Power/Influence/Leadership/Mentorship
	Insufficient Training / Orientation		Threatening / Bullying Behaviors
	High Acuity /Low-Frequency Event		Vulnerable Patient / Population (e.g., geriatric, disabled, pediatric, sedated and/or restrained patient)
	Action/Inaction occurred when at risk for imminent harm to self or team		Multiple Occurrences/Multiple Patients involved
	EMS Clinician has held license for less than 2 years		Documented prior attempt(s) at remediation at the regional level for similar concerns
	Other:		Other:

Aggravating/Mitigating Factors are areas of concern identified, which may or may not relate to the conduct or care delivered, but have special interest attached to those circumstances.

Dismiss Complaint or Consider A letter of guidance and referral to Regional Medical Director	Letter of Guidance and Refer to Regional Medical Director	To Investigations Subcommittee
A Score of ≤ 5 and no yellow or red, and no aggravating factors	A Score of ≥ 6 and ≤ 10 with no red or aggravating factors	Any red, a score of ≥ 11 , or aggravating factors

(Medical Directors may reference the [Medical Director Guidebook](#) for more information on expectations with referred cases)

Created on June 17, 2022, Updated on April 6, 2023

Reviewed by Investigation Subcommittee between August 2022 and April 2023

Delegation order for use of matrix approved by Board of Maine EMS on: May 9, 2023

This Matrix uses the Complaint Evaluation Tool (CET) published by the North Carolina Board of Nursing as a model, which at the time of publication was accessed at: <https://www.ncbon.com/discipline-compliance-employer-complaint-complaint-evaluation-tool-cet>

Appendix C

NAEMT Code of Ethics

NAEMT Code of Ethics for EMS Practitioners

Professional status as an Emergency Medical Services (EMS) Practitioner is maintained and enriched by the willingness of the individual practitioner to accept and fulfill obligations to society, other medical professionals, and the EMS profession. As an EMS practitioner, I solemnly pledge myself to the following code of professional ethics:

- To conserve life, alleviate suffering, promote health, do no harm, and encourage the quality and equal availability of emergency medical care.
- To provide services based on human need, with compassion and respect for human dignity, unrestricted by consideration of nationality, race, creed, color, or status; to not judge the merits of the patient's request for service, nor allow the patient's socioeconomic status to influence our demeanor or the care that we provide.
- To not use professional knowledge and skills in any enterprise detrimental to the public well being.
- To respect and hold in confidence all information of a confidential nature obtained in the course of professional service unless required by law to divulge such information.
- To use social media in a responsible and professional manner that does not discredit, dishonor, or embarrass an EMS organization, co-workers, other health care practitioners, patients, individuals or the community at large.
- To maintain professional competence, striving always for clinical excellence in the delivery of patient care.
- To assume responsibility in upholding standards of professional practice and education.
- To assume responsibility for individual professional actions and judgment, both in dependent and independent emergency functions, and to know and uphold the laws which affect the practice of EMS.
- To be aware of and participate in matters of legislation and regulation affecting EMS.
- To work cooperatively with EMS associates and other allied healthcare professionals in the best interest of our patients.
- To refuse participation in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner.

Originally written by: Charles B. Gillespie, M.D., and adopted by the National Association of Emergency Medical Technicians, 1978. Revised and adopted by the National Association of Emergency Medical Technicians, June 14, 2013.

Accessed on May 10, 2023, at <https://www.naemt.org/about-ems/code-of-ethics>

Appendix D

EMS Board Case Disposition Report

EMS Board Investigation Disposition Report

Licensee:

Case Number:

Date of Presentation to Committee/Board:

Notice Date:

Signature on Waiver Form (Informal Conference/Review): ___

Nature of Matter: Complaint/Initial Licensing/Relicensing

Vote of Committee/Board:

Complaint: Dismissal/Letter of Guidance/Consent Agreement/Referral for Adjudication

Licensing: Issue License/Issue License with Letter of Guidance/Preliminarily Deny

Potential Statutory Grounds for Discipline or Preliminary Denial:

___ Fraud/Deceit ___ Use of Illegal Drugs ___ Use of Substance That Would Impair Practice
32 MRS § 90-A(5)(A) 32 MRS § 90-A(5)(B-1) 32 MRS § 90-A(5)(B-1)

___ Legal Incompetence ___ Mental or Physical Condition ___ Aiding/Abetting Unlicensed Practice
32 MRS § 90-A(5)(B-2) 32 MRS § 90-A(5)(B-3) 32 MRS § 90-A(5)(D)

___ Incompetent Practice 32 MRS § 90-A(5)(E)
 ___ (1) Inability to respond appropriately
 ___ (2) Inability to apply principles, skills or knowledge

___ Unprofessional Conduct ___ Conviction of Crime ___ Statute or Rule Violation: _____
32 MRS § 90-A(5)(F) 32 MRS § 90-A(5)(G) 32 MRS § 90-A(5)(H)

Potential Findings of Unprofessional Conduct under Board Rules Ch. 11 §1:

- | | | |
|---------------------------------------|--|--|
| ___ (1) obtain license by fraud | ___ (2) violate Board order/CA | ___ (3) statutory violation |
| ___ (4) criminal conviction | ___ (5) dangerous/injurious ways | ___ (6) rent/sell/lend license |
| ___ (7) drug/alcohol addiction | ___ (8) unneeded transport/fee | ___ (9) obtain fee by fraud |
| ___ (10) refuse to turn over care | ___ (11) refuse to provide pt info. | ___ (12) disclose confidential pt info. |
| ___ (13) conduct prohibited by law | ___ (14) violation of standard | ___ (15) inaccurate patient recording |
| ___ (16) exploitation of relationship | ___ (17) drug diversion | ___ (18) possession of unauthorized script |
| ___ (19) impersonate practitioner | ___ (20) impersonate examinee | ___ (21) clinician negligence/neglect |
| ___ (22) loss of cert/license | ___ (23) service negligence/neglect | ___ (24) education negligence/neglect |
| ___ (25) alter/falsify license | ___ (26) unlicensed vehicle oper | ___ (27) counterfeit license |
| ___ (28) transfer of vehicle license | ___ (29) false statement in appl. | ___ (30) act beyond license |
| ___ (31) fraud/deceit | ___ (32) misuse of drugs/alc. | ___ (33) aid unlicensed EMS |
| ___ (34) improper delegation of care | ___ (35) abandonment or neglect | ___ (36) phys./emot. injury to pt |
| ___ (37) fail to safeguard pt dignity | ___ (38) sexual misconduct | ___ (39) instruct beyond I/C license |
| ___ (40) instruct beyond TC license | ___ (41) aid unlicensed instruction | ___ (42) viol. training ctr standards |
| ___ (43) fail to provide course docs | ___ (44) inaccurate EMD recording | ___ (45) EMD negligence/neglect |
| ___ (46) EMD ctr negligence/neglect | ___ (47) unlicensed EMD | ___ (48) aid unlicensed EMD |
| ___ (49) fail to participate in QA | ___ (50) fail to meet CEH requirements | |

Letter of Guidance Terms:

32 MRS § 88(4)

Specific guidance: _____

of Years LOG to Remain on File (up to 10 years): _____

Proposed Consent Agreement Terms:

32 MRS §§ 88(3) and 90-A(4)

Warning **Censure** **Reprimand**

Suspension for _____

(generally, up to 90 days per violation or instance of actionable conduct and cannot exceed 1 year, but long-term suspension by CA is OK)

If multiple suspensions: (1) concurrent OR (2) consecutive

Full suspension stayed pending successful completion of probation below

Years/months of suspension stayed pending successful completion of probation below

Civil Penalty: \$ _____ total (\$ _____ per violation)
(up to \$1,500 per violation or instance of actionable conduct)

Probation: Years or Months

Conditions: _____

Surrender **Revocation**

Notice of Preliminary Action Terms: (Issued only in conjunction with a Consent Agreement and the offer of a Hearing):

Suspension for _____ (must be less than or equal to 90 days per violation)

Civil Penalty: \$ _____ total (\$ _____ per violation, must be less than or equal to \$1500.00)

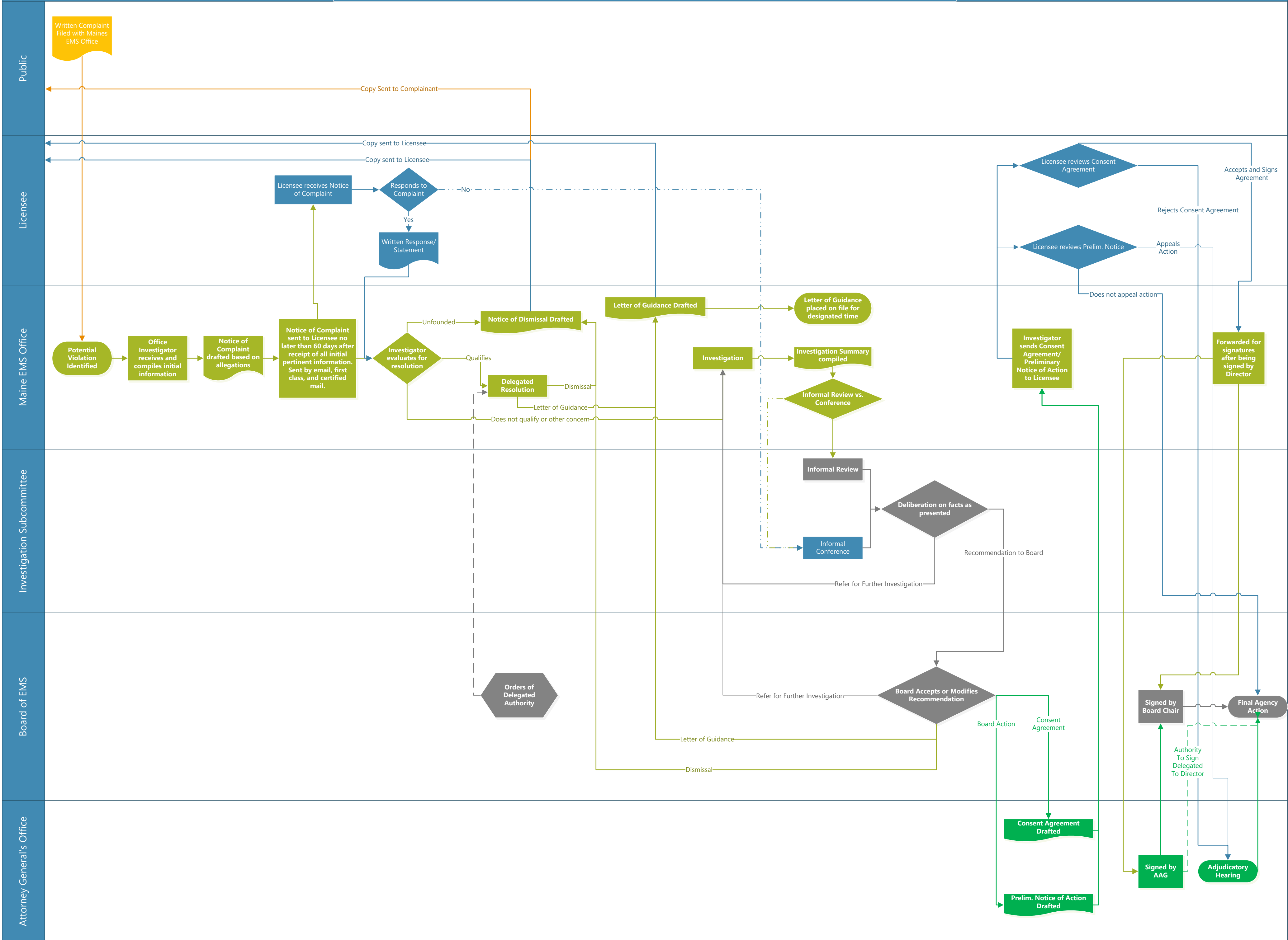
Non-Renewal of Licensure

Appendix E

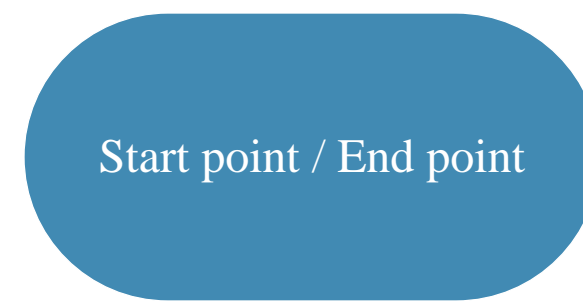
Investigation Process Flowchart

Maine EMS Complaint and Investigation Process Workflow

Workflow current as of May 10, 2023. NOTE: Workflow is subject to change based on modification of applicable laws and regulations, or as modified by the Board of Emergency Medical Services



Key



Appendix F

Sample Subpoena Cover Letter and Example



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
152 STATE HOUSE STATION
AUGUSTA, MAINE 04333



JANET T. MILLS
GOVERNOR

MICHAEL SAUSCHUCK
COMMISSIONER

J. SAM HURLEY
DIRECTOR

[Date]

[Address]

RE: Subpoena to produce disciplinary records and/or records of quality assurance/improvement

Dear [Service Name],

Maine EMS has an obligation to thoroughly investigate all complaints received by our office, which may include determining if any behavior is habitual or recurrent in nature. To fulfill this charge sometimes requires the review of confidential and/or sensitive documents (e.g. employee records, medical records, etc.).

In the interest of ensuring that entities can defend the production of confidential information to Maine EMS in the investigation of complaints, Maine EMS may utilize a subpoena as a written record of the information requested as well as to provide a defined mechanism of accountability for the requests of an entity's records. In accordance with 32 M.R.S. §90-A.1, Maine EMS has the authority to "...subpoena witnesses, records and documents, including records and documents maintained by a health care facility or other service organization or person related to the delivery of emergency medical services, in any investigation or hearing it conducts..."

The use of a subpoena in an investigation is *not* intended to be an escalation or intensification of an investigation; rather, it is a tool Maine EMS uses to protect all interested parties while meeting the obligation to conduct a thorough and complete inquiry.

Please ensure that you read the included subpoena completely, as it contains important information.

Respectfully,

[Licensing Agent Name]
Maine EMS Licensing Agent
[Licensing Agent Email Address]

cc: [Director Name], Director of Maine EMS
{Assistant Attorney General Name}, AAG

● Excellence ● Support ● Collaboration ● Integrity ●

PHONE: (207) 626-3860

TTY: (207) 287-3659

FAX: (207) 287-6251

With offices located at the Central Maine Commerce Center, 45 Commerce Drive, Suite 1, Augusta, ME 04330

**STATE OF MAINE
BOARD OF MAINE EMERGENCY MEDICAL SERVICES**

IN RE: Maine EMS Investigation # [Insert Case No]

TO: [Address]) **INVESTIGATIVE SUBPOENA**
) **TO PRODUCE RECORDS**
)
)

YOU ARE HEREBY ORDERED, pursuant to 5 M.R.S.A. § 9060 and 32 M.R.S.A. § 90-A, in the name of the State of Maine, Board of Maine Emergency Medical Services, to produce the following records to [Licensing Agent Name], Investigator for the Board of Maine Emergency Medical Services, 152 State House Station, Augusta, Maine 04333, for inspection and copying.

YOU ARE REQUIRED TO PRODUCE: Originals, facsimile is acceptable, of the complete records, related to complaints and corrective and disciplinary investigation and action, regarding the licensee, [Licensee Name], Maine EMS license number [License Number]. All records required to be produced shall pertain to the licensee’s work, behavior, and conduct as an EMS clinician. The records to be produced include, but are not limited to, complaint intake documentation, incident reports or other follow-up records regarding the licensee, interview transcripts or summaries, documentation of disciplinary actions taken, and narrative of investigative findings.

You must produce subpoenaed materials no later than thirty (30) days after receipt of this subpoena. In lieu of producing original documents, you may at your own expense, on or before the deadline for inspection and copying, send to [Licensing Agent Name], c/o Maine Emergency Medical Services, 152 State House Station, Augusta, ME 04333, copies of all requested records, certifying that the copies are complete and accurate copies of the original records identified in this subpoena.

[Licensing Agent Name] will contact you to make arrangements for compliance with this subpoena.

This information is subpoenaed as part of an investigation conducted by the Board of Maine Emergency Medical Services. This subpoena has been issued at the request of [Director of Maine EMS Name], Director, Maine Emergency Medical Services, 152 State House Station, Augusta, Maine 04333. The records and/or copies produced will be treated as confidential to the extent authorized by 32 M.R.S.A. § 91-B.

NOTICE: A statement of your rights and duties pursuant to this subpoena is set out in 5 M.R.S.A. § 9060(1)(C) and (D). If you object to the subpoena, you must petition the Board to vacate or modify the subpoena within thirty (30) days of the date you are served with this subpoena. The petition should be sent to the attention of [Director of Maine EMS Name], Director, Maine Emergency Medical Services, 152 State House Station, Augusta, Maine 04333. In the event you do petition the Board, the Board shall give prompt notice to the party who requested issuance of the subpoena. After such investigation as the Board considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any matter in question, or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive or has not been issued within a reasonable period in advance of the time when the evidence is requested.

PLEASE TAKE NOTE that failure to act in accordance with the commands of this subpoena may result in the imposition of sanctions as provided by law.

Dated:

[Director of Maine EMS Name], Director
Maine Emergency Medical Services

SERVICE OF SUBPOENA

On the [Date], I served the by serving, an authorized agent of same, a copy of this subpoena by first class mail/service in hand.

[Licensing Agent Name], Licensing Agent
Maine Emergency Medical Services