

16 DEPARTMENT OF PUBLIC SAFETY

163 ~~BUREAU OF~~ EMERGENCY MEDICAL SERVICES BOARD (MAINE EMS)

**CHAPTER 11: STANDARDS AND PROCEDURES FOR ~~REFUSING TO ISSUE, OR RENEW, A~~
~~LICENSE, AND FOR MODIFYING, SUSPENDING, OR REVOKING A LICENSE~~
EMERGENCY MEDICAL SERVICES LICENSING BOARD ACTION**

PURPOSE:

EMS professionals are tasked with entering people's lives during what may be their worst and most vulnerable times. The public grants EMS professionals near limitless access to their homes, businesses, and personal spaces, all within close proximities to their families, friends, and loved ones. This level of access is essential for EMS professionals to carry out their duties of delivering emergency medical care. The public, therefore, places EMS professionals in the highest level of trust and demands that EMS professionals abide by a strong ethical code and enforce the highest standard of personal and professional conduct. For the Maine EMS system to function properly and serve the public interest in protecting public health, safety, and welfare, it must hold the members of its profession, including Ambulance Services, Non-Transporting Emergency Medical Services, Training Centers, and Emergency Medical Dispatch Centers, accountable to their commitments and duties and ensure that its decisions affecting licensure are based upon evidence and rooted in a foundation of transparency and justice. To this end, it is therefore necessary to set forth the procedures, standards, and grounds for disciplinary and non-disciplinary action involving Maine Emergency Medical Services' licensees.

Because EMS professionals have specialized medical training that their patients may not fully understand, EMS professionals have a duty to always use that knowledge to act in the best interest of the patient. It is the duty of the EMS professional to not only treat each patient with the most appropriate and competent medical care according to their illness or injury, but also treat each patient, family member, friend, loved one, and caregiver with compassion, respect, and dignity. To make sound ethical and moral decisions, an EMS professional needs to understand and be held accountable to the ethical principles that guide choices made and actions taken, not just at a patient-centric level, but also at a level of professionalism toward fellow EMS professionals, and other healthcare professionals. In the interest of ensuring that an EMS professional has a sufficient understanding of the expectations related to the ethical principles present within the Maine EMS system, it is necessary to set forth a Code of Ethics that represents the values of the Maine EMS system.

SECTION 1. DEFINITIONS

1. These terms have the following meanings as used within this chapter:
 - A. **Ambulance Operator** means an Emergency Medical Services Ambulance Operator licensed by the Emergency Medical Services Licensing Board pursuant to 32 M.R.S. § 85-B.
 - B. **Ambulance Service** has the same meaning as in 32 M.R.S. § 83(5).
 - C. **Board Staff** means those employed by the Office of Maine Emergency Medical Services within the Maine Department of Public Safety, assigned by the Director to the Licensing Board.
 - D. **Community Paramedic**, as used in this chapter, means a person licensed or conditionally licensed under Chapter 19 of these rules engaged in Community Paramedicine as defined in Chapter 19 of these rules.
 - E. **Emergency Action** means action taken against a license under 5 M.R.S. § 10004.

- 46 F. **EMS Clinician** means an Emergency Medical Services Person licensed by the Emergency
 47 Medical Services Licensing Board pursuant to 32 M.R.S. § 85.
- 48 G. **Emergency Medical Dispatcher** means an Emergency Medical Dispatch Person licensed by
 49 the Emergency Medical Services Licensing Board pursuant to 32 M.R.S. § 85-A.
- 50 H. **Emergency Medical Services** means the services provided under licensure granted by the
 51 Maine Emergency Medical Services Licensing Board or the Maine Emergency Medical
 52 Services' Board, including, but not limited to: emergency medical treatment, interfacility
 53 transfer operations, ambulance operation, community paramedicine, and EMS-licensure
 54 education.
- 55 I. **EMS Professional** means an EMS Clinician, Ambulance Operator, Emergency Medical
 56 Dispatcher, Instructor/Coordinator, or Community Paramedic
- 57 J. **First Responder** means a Law Enforcement Officer as defined by 25 M.R.S. § 2801-A(5), a
 58 Municipal Firefighter as defined by 30-A M.R.S. § 3151(2), or any person licensed under
 59 Title 32, Chapter 2-B.
- 60 K. **Instructor/Coordinator** means a person licensed under Chapter 9 of these rules acting as the
 61 lead instructor in course(s) leading to licensure at the level of licensure held.
- 62 L. **Licensing Board** has the same meaning as in 32 M.R.S. § 83(13-B).
- 63 M. **Licensed Medical Practitioner** means physicians and all others certified, registered, or
 64 licensed in the healing arts, including, but not limited to: nurses, podiatrists, pharmacists,
 65 optometrists, chiropractors, physical therapists, dentists, psychologists, physician assistants,
 66 respiratory therapists, massage therapists, midwives, and veterinarians.
- 67 N. **Non-Disciplinary Action** means a Letter of Guidance/Concern issued pursuant to 32 M.R.S.
 68 § 90-A(8).
- 69 O. **Non-transporting Emergency Medical Service ("NTEMS")** has the same meaning as in 32
 70 M.R.S. § 83(14).
- 71 P. **Sexual Misconduct** means a behavior that exploits an EMS Clinician-Patient relationship, an
 72 Ambulance Operator-patient relationship, an Emergency Medical Dispatcher-caller
 73 relationship, an Inter-Licensee relationship, an Educator-student relationship, or a Mentor-
 74 mentee relationship in a sexual way. This behavior is non-diagnostic and/or non-therapeutic,
 75 may be verbal or physical, and may include expressions or gestures that have a sexual
 76 connotation or that a reasonable person may construe as such. There are two levels of sexual
 77 misconduct: gross misconduct and impropriety, which are described under the applicable
 78 grounds for licensing action in Section 3 of this rule. Behavior listed in either category may
 79 be the basis for disciplinary action.
- 80 Q. **Work Environment** means any location where an EMS licensee is engaged in activities
 81 requiring licensure under Title 32, Chapter 2-B, or a location where an EMS licensee is
 82 reasonably expected to adhere to the standards of the profession, including but not limited to:
 83 an ambulance service or NTEMS base location, a hospital or other health-care facility, a fire-
 84 department, an emergency medical dispatch center, an emergency medical services training
 85 center, any location where EMS-related education is occurring, an ambulance or emergency
 86 medical services vehicle, or the scene of an emergency medical call.

87 SECTION 2. MAINE EMS CODE OF ETHICS

- 88 1. As an EMS Professional and by acceptance of licensure in the State of Maine by the Maine
 89 Emergency Medical Services Licensing Board or the Emergency Medical Services' Board, a
 90 licensee solemnly pledges to meet the following code of professional ethics:
- 91 A. To do no harm, alleviate suffering, and promote the health and welfare of the citizens and
 92 visitors of the State of Maine;
 93

- B. To safeguard a patient's dignity and right to privacy in providing services regardless of race, nationality, creed, disability, color, sexual orientation, gender, religion, genetic information, or socio-economic status;
- C. To not prejudice the merits of a patient's request for service;
- D. 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;
- E. To demonstrate the highest standards of professional conduct in the practice of the profession by:
 - (1) Not using professional knowledge and skills in any enterprise that is detrimental to the public well-being;
 - (2) Caring for all patients with compassion and respect for human dignity, taking care with the demeanor presented;
 - (3) Assuming responsibility for individual professional actions and judgment;
 - (4) Knowing and upholding the laws and rules that affect the practice of EMS;
 - (5) Working cooperatively with EMS associates and other healthcare and public safety professionals in the best interest of patients and the general public;
 - (6) Refusing to participate in unethical procedures or practices;
 - (7) Exposing the incompetence or unethical conduct of others to the appropriate authority in a proper, timely, and professional manner; and
 - (8) Using technology, including social media, in a responsible and professional manner that does not discredit, dishonor, or embarrass an EMS organization, co-workers, other public safety and healthcare agencies, other public safety and healthcare professionals, patients, individuals, or the community at large.
- F. To protect the health, safety, and well-being of themselves, their co-workers, patients, and the community by following safety guidelines, principles, and practices.
- G. To continually seek to maintain and improve their professional knowledge, skill, and competence by seeking to update their practice by engaging in life-long learning, including engaging in continuing education whenever available

SECTION 3. GROUNDS FOR LICENSURE ACTIONS

- 1. **Grounds for Licensure Actions Against Applicants for new or change in licensure as an EMS Clinician, Ambulance Operator, Instructor/Coordinator, Community Paramedic, or Emergency Medical Dispatcher**
 - (1) Criminal History
 - (a) Subject to the limitations of Title 5, Chapter 341, the Licensing Board may take Disciplinary Action or Non-Disciplinary Action against an applicant who:
 - (i) Was convicted of a crime that involves dishonesty or false statement;
 - (ii) Was convicted of a crime that relates directly to the practice of Emergency Medical Services;
 - (iii) Was convicted of a crime for which incarceration for one year or more may be imposed, whether or not such sanction was imposed;
 - (iv) Was convicted of a crime defined in Title 17-A, Chapter 11, 12, or 45; or
 - (v) Was convicted of a crime for which incarceration for less than one year may be imposed that involves sexual misconduct.
 - (2) Fraud/Deceit:
 - (a) The Licensing Board may take Disciplinary or Non-Disciplinary Action against an applicant who engages in or attempts to engage in fraud or deceit, including, but not limited to:

- (i) Fraud, deceit, or misrepresentation in the application submitted or in any activity or document intended to be used to satisfy a requirement for licensure.
- (ii) Impersonation of another licensed medical practitioner.
- (iii) Impersonation of an applicant or licensee or acting as a proxy for an applicant or licensee in any licensing exam.
- (iv) Uses or attempts to use as a valid certificate or license, one that has been purchased, counterfeited, or materially altered.
- (3) Legal Incompetence or Impairment:
 - (a) The Licensing Board may take Disciplinary Action or Non-Disciplinary Action against an applicant who:
 - (i) Has a declaration or claim of legal incompetence that has not been legally terminated.
 - (ii) Has any condition or impairment within the preceding 3 years, including, but not limited to, substance use disorder or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the applicant's ability to provide emergency medical services
- (4) Violation of Board Statute:
 - (a) The Licensing Board may take Disciplinary or Non-Disciplinary Action against an applicant who engages in, or attempts to engage in, a violation of the Board's statute, including, but not limited to:
 - (i) A failure to notify the Licensing Board in writing within 10 days of a:
 - a. Change of name or address;
 - b. Criminal conviction
 - c. Revocation, suspension, or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant; or
 - d. Material change in the conditions or qualifications set forth in the original application for licensure submitted to the Licensing Board.
 - (ii) Activities that require licensure pursuant to 32 M.R.S. § 82(1) when such licensure has not been granted or is not valid.
- (5) Disqualifying Conduct:
 - (a) The Licensing Board may take Disciplinary or Non-Disciplinary Action against an applicant who engages in or attempts to engage in disqualifying conduct, including, but not limited to:
 - (i) Sexual Misconduct as described in Section 3(2).
 - (ii) Has disciplinary action against any professional medical licensure by another authority or jurisdiction, or has disciplinary action pending, which constitutes evidence of an inability to respond appropriately to a client, patient, or the general public.
 - (b) The Licensing Board may take Disciplinary or Non-Disciplinary Action against an applicant when the applicant was previously licensed by the Emergency Medical Services' Board and the applicant engaged, or attempted to engage in, conduct that would have been a violation of the Board's Rules or Statutes.

2. Grounds for Licensing Action Against Currently Licensed EMS Clinicians, Ambulance Operators, Instructor/Coordinators, Community Paramedics, or Emergency Medical Dispatchers

- 188 A. The Licensing Board may take Disciplinary Action or Non-Disciplinary Action against any
189 licensee whose conduct gives rise to a ground for licensing action. Grounds for licensing
190 action include, but are not limited to, engaging in, or attempting to engage in: fraud or deceit,
191 unprofessional conduct, incompetent professional practice, sexual misconduct, or having
192 legal incompetence or impairment, as defined in the applicable part below.
- 193 B. Grounds for Licensing Action Applicable to All Licensees
- 194 (1) Fraud or Deceit
- 195 (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in
196 connection with service rendered within the scope of the license issued, which
197 includes but is not limited to:
- 198 (i) Obtaining a license or certification by fraud or deceit
- 199 (ii) Willfully making a false statement in an application for a license or renewal of a
200 license, or in any activity or documents intended to be used to satisfy a
201 requirement for licensure;
- 202 (iii) Falsifying or improperly altering a patient or healthcare provider record.
- 203 (iv) Impersonating another licensed practitioner.
- 204 (v) Impersonating any applicant or licensee or acting as a proxy for an applicant or
205 licensee in any licensing exam.
- 206 (vi) Altering or falsifying documents used or intended to be used to obtain a course
207 card or certificate.
- 208 (vii) Using or attempting to use as a valid license or certificate, one that has been
209 purchased, counterfeited, materially altered, or obtained by fraud, deceit, or
210 misrepresentation.
- 211 (2) Legal Incompetence or Impairment
- 212 (a) Engaging in, the use of any drug, narcotic or substance that is illegal under state or
213 federal law, or to the extent that the licensee's ability to provide emergency medical
214 services would be impaired, which includes, but is not limited to:
- 215 (i) The misuse of drugs, including alcohol or other substances, the use of which has
216 resulted or may result in the licensee performing their duties in a manner that
217 endangers the health or safety of their patients, other first responders, or the
218 general public.
- 219 (b) A declaration of or claim pertaining to the licensee of legal incompetence that has not
220 been legally terminated;
- 221 (3) Unprofessional Conduct
- 222 (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to
223 engage in the following:
- 224 (i) Obtaining a license by misrepresentation or by concealing material facts;
- 225 (ii) Failure to comply with a Consent Agreement or Board Order;
- 226 (iii) Acting in ways that are dangerous or injurious to the licensee or other persons;
- 227 (iv) Any criminal conviction, subject to the limitations of Maine Statute;
- 228 (v) Renting, selling, bartering, or lending a license to another person;
- 229 (vi) Violation of the Maine EMS's Code of Ethics;
- 230 (vii) Disclosing or causing to be disclosed confidential information to an
231 unauthorized person or using confidential information for personal or
232 unauthorized financial benefit;
- 233 (viii) Failing to participate in Maine EMS-approved quality assurance activities;
- 234 C. Additional Grounds for Licensing Action Applicable for an EMS Clinician

(1) Fraud or Deceit

(a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:

(i) Initiating the transport of a person, knowing that the person does not need to be transported, or treating a person knowing the person does not need to be treated, when the primary purpose of the action is to collect a fee or charge.

(2) Legal Incompetence or Impairment

(a) Engaging in, or attempting to engage in, the use of any drug, narcotic or substance that is illegal under state or federal law, or to the extent that the licensee's ability to provide emergency medical services would be impaired, which includes, but is not limited to:

(i) Responding to the scene of a call while under the influence of drugs or alcohol, whether or not the use of such substances is habitual;

(b) Any condition or impairment within the preceding 3 years, including, but not limited to, substance use disorder or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to provide emergency medical services;

(3) Incompetent Professional Practice

(a) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:

(i) The demonstration of an inability to respond appropriately to a client, patient or the general public as evidenced by:

1. Causing a physical or emotional injury to a patient because of a violation of the applicable standard of care;

(ii) An inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed as evidenced by:

1. A deviation from the applicable standard of care or failure to perform emergency medical treatment in accordance with the most recent version of Maine EMS's protocols, after quality assurance/improvement and/or remediative efforts;

2. A failure to demonstrate entry-level competency with sufficient breadth and depth as outlined in the 2021 National Emergency Medical Services Education Standards as published by the National Highway Traffic Safety Administration, which is incorporated into this rule by reference and a copy of which is available at the Office of Maine Emergency Medical Services, Department of Public Safety, 45 Commerce Dr, Suite 1, Augusta, ME 04333-0152;

(4) Unprofessional Conduct

(a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:

(i) Responding to the scene of an accident or incident to which the licensee has not been dispatched, when there is reason to believe that another licensee has been or will be called to that scene, and refusing to turn over care of the patient to the responsible service when it arrives;

(ii) Failing to provide patient information to a hospital or other health care facility in response to an authorized request;

- (iii) Inaccurate recording of material information in a patient or healthcare provider record;
 - (iv) Exploiting the provider-patient relationship for the purpose of personal or financial gain by the licensee or by a third party including, but not limited to, promoting or selling services, goods, appliances or drugs;
 - (v) Diverting drugs, supplies or property of patients, patient's families, services or healthcare providers;
 - (vi) Possessing, obtaining, furnishing, or administering prescription drugs, equipment or supplies to any person, including one's self, except as directed by a person authorized by law to prescribe such items;
 - (vii) Acting negligently or neglectfully when caring for or treating a patient;
 - (viii) Operating a vehicle as an Ambulance or Emergency Medical Services Vehicle when it is not licensed or authorized by the Board;
 - (ix) Providing treatment at a level for which a person is not licensed, except:
 1. When the person is a student currently enrolled in a course leading to licensure and is practicing procedures learned in that course; and
 2. The person has received permission to practice those procedures from the Maine EMS-licensed Training Center conducting the course; and
 3. The person is participating in a scheduled field-internship session approved by the course's clinical coordinator; and
 4. The person is practicing those procedures with a Maine EMS-licensed service that complies with guidelines developed by Maine EMS for conducting field internship sessions; and
 5. The person is supervised by a preceptor licensed to perform those procedures and who is acting in accordance with any requirements or guidelines approved by the Emergency Medical Services Board.
 - (x) Misrepresentation or concealment of material facts in connection with service(s) rendered, by commission or omission;
 - (xi) Delegation of practice, skills, or treatment to a person who is not licensed and qualified to perform said practice, skills, or treatment contrary to the Rules and Regulations of the Maine Emergency Medical Services' Board.
 - (xii) Abandonment or neglect of a patient;
 - (xiii) Failing to comply with continuing education requirements for license renewal.
- (5) Sexual Misconduct
- (a) Gross misconduct
- (i) Gross misconduct is any conduct by an EMS Clinician in the Work Environment that is sexual or may be reasonably interpreted as sexual, even when consented to between an EMS Clinician and a patient, between licensees, between an educator and a student, or between a mentor and a mentee. This includes, but is not limited to:
 1. Sexual intercourse, genital to genital contact;
 2. Oral to genital contact;
 3. Oral to anal contact or genital to anal contact;
 4. Kissing;
 5. Any touching or examination of a body part for any purpose other than appropriate examination or treatment during an established EMS clinician-patient interaction without a reported, suspected, or obvious injury or medical condition;

6. Encouraging an individual to masturbate in the presence of the EMS Clinician or masturbation by an EMS Clinician in the presence of anyone else;
7. Offering to provide practice-related services or supplies, such as medications, in exchange for sexual favors.

(b) Impropriety

- (i) Impropriety is behaviors, gestures, or expressions by an EMS Clinician in the Work Environment that are seductive, sexually suggestive, or sexually demeaning, including but not limited to:
 1. Disrobing, draping practices, or touching of a patient's clothing that reflect a lack of respect for a patient's privacy; deliberately watching a patient dress or undress, instead of affording a patient privacy for disrobing to the extent dictated by circumstances on scene;
 2. Inappropriate comments about or to a third party, including but not limited to making sexual comments about their body or underclothing, making sexualized or sexually demeaning comments, criticizing sexual orientation, making comments about potential sexual performance of a patient during an examination or consultation, unnecessarily requesting details of sexual history or requesting information on sexual likes or dislikes;
 3. Using the EMS Clinician-patient relationship to solicit a date or initiate a romantic relationship;
 4. Initiation by an EMS Clinician of conversation regarding sexual problems, preferences, or fantasies of the EMS Clinician, the sexual preferences or fantasies of a patient, or sexual problems of a patient that are not relevant to emergency medical treatment.

D. Additional Grounds for Licensing Action Applicable for an Ambulance Operator

(1) Fraud or Deceit

- (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:
 - (i) Initiating the transport of a person, knowing that the person does not need to be transported, or treating a person knowing the person does not need to be treated, when the primary purpose of the action is to collect a fee or charge.

(2) Legal Incompetence or Impairment

- (a) Engaging in, or attempting to engage in, the use of any drug, narcotic or substance that is illegal under state or federal law, or to the extent that the licensee's ability to provide emergency medical services would be impaired, which includes, but is not limited to:
 - (i) Responding to the scene of a call while under the influence of drugs or alcohol, whether or not the use of such substances is habitual;
- (b) Any condition or impairment within the preceding 3 years, including, but not limited to, substance use disorder or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to operate an ambulance;

(3) Unprofessional Conduct

- (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:

- (i) Responding to the scene of an accident or incident to which the licensee has not been dispatched, when there is reason to believe that another licensee has been or will be called to that scene, and refusing to turn over care of the patient to the responsible service when it arrives;
- (ii) Exploiting the provider-patient relationship for the purpose of personal or financial gain by the licensee or by a third party, including, but not limited to, promoting or selling services, goods, appliances, or drugs;
- (iii) Diverting drugs, supplies or property of patients, patient's families, services or healthcare providers;
- (iv) Possessing, obtaining, furnishing, or administering prescription drugs, equipment or supplies to any person, including one's self, except as directed by a person authorized by law to prescribe such items;
- (v) Operating a vehicle as an Ambulance or Emergency Medical Services Vehicle when it is not licensed or authorized by the Board;
- (vi) Providing emergency medical treatment without a clinical license, except:
1. When the person is a student currently enrolled in a course leading to licensure and is practicing procedures learned in that course; and
 2. The person has received permission to practice those procedures from the Maine EMS-licensed Training Center conducting the course; and
 3. The person is participating in a scheduled field-internship session approved by the course's clinical coordinator; and
 4. The person is practicing those procedures with a Maine EMS-licensed service that complies with guidelines developed by Maine EMS for conducting field internship sessions; and
 5. The person is supervised by a preceptor licensed to perform those procedures and who is acting in accordance with any requirements or guidelines approved by the Emergency Medical Services Board.
- (vii) Misrepresentation or concealment of material facts in connection with service(s) rendered, by commission or omission;
- (4) Sexual Misconduct
- (a) Gross misconduct
- (i) Gross misconduct is any conduct by an Ambulance Operator in the Work Environment that is sexual or may be reasonably interpreted as sexual, even when consented to between an Ambulance Operator and a patient, between licensees, between an educator and a student or between a mentor and a mentee. This includes, but is not limited to:
1. Sexual intercourse, genital to genital contact;
 2. Oral to genital contact;
 3. Oral to anal contact or genital to anal contact;
 4. Kissing in a sexual manner;
 5. Examination or touching of the genitals of a patient without a reported, suspected or obvious injury or medical condition;
 6. Encouraging an individual to masturbate in the presence of the Ambulance Operator or masturbation by an Ambulance Operator in the presence of a third-party;
 7. Offering to provide practice-related services or supplies, such as drugs, in exchange for sexual favors.
- (b) Impropriety

- (i) Impropriety is behaviors, gestures, or expressions by an Ambulance Operator in the Work Environment that are seductive, sexually suggestive, or sexually demeaning, including but not limited to:
1. Kissing;
 2. Disrobing, draping practices, or touching of a patient's clothing that reflect a lack of respect for a patient's privacy; deliberately watching a patient dress or undress, instead of affording a patient privacy for disrobing to the extent dictated by circumstances on scene;
 3. Any touching of a body part for any purpose other than appropriate examination or treatment of a patient;
 4. Inappropriate comments about or to a third party, including but not limited to making sexual comments about their body or underclothing, making sexualized or sexually demeaning comments, criticizing sexual orientation, making comments about potential sexual performance of a patient during an examination or consultation, unnecessarily requesting details of sexual history or requesting information on sexual likes or dislikes;
 5. Using the Ambulance Operator-patient relationship to solicit a date or initiate a romantic relationship;
 6. Initiation by an Ambulance Operator of conversation regarding sexual problems, preferences, or fantasies of the Ambulance Operator, the sexual preferences or fantasies of a patient, or sexual problems of a patient that are not relevant to emergency medical treatment.

E. Additional Grounds for Licensing Actions Applicable for an Emergency Medical Dispatcher

(1) Legal Incompetence or Impairment

- (a) Engaging in, or attempting to engage in, the use of any drug, narcotic or substance that is illegal under state or federal law, or to the extent that the licensee's ability to provide emergency medical dispatch services would be impaired, which includes, but is not limited to:
- (i) Providing emergency medical dispatch services while under the influence of drugs or alcohol, whether or not the use of such substances is habitual;
 - (b) Any condition or impairment within the preceding 3 years, including, but not limited to, substance use disorder or a mental, emotional, or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to provide emergency medical dispatch services;

(2) Incompetent Professional Practice

- (a) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:
- (i) The demonstration of an inability to respond appropriately to a client, patient or the general public as evidenced by:
 1. Causing a physical or emotional injury to a patient because of a violation of the applicable standard of care;
 - (ii) An inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed as evidenced by:
 1. A deviation from the applicable standard of care or failure to perform emergency medical dispatch services in accordance with the most recent version of Emergency Medical Dispatch protocols, after quality assurance/improvement and/or remediative efforts;

(3) Unprofessional Conduct

- (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:
- (i) Inaccurate recording of material information in a patient or healthcare provider record;
 - (ii) Exploiting the Emergency Medical Dispatcher-caller relationship for the purpose of personal or financial gain by the licensee or by a third party including, but not limited to, promoting or selling services, goods, appliances or drugs;
 - (iii) Acting negligently or neglectfully when caring for or treating a patient;
 - (iv) Providing services at a level for which a person is not licensed, except:
 - 1. When the person is a dispatcher-in-training, under direct supervision of a Maine EMS licensed emergency medical dispatcher designated by the EMD Center director; and
 - a. For purposes of this paragraph, direct supervision means that the designated licensed emergency medical dispatcher is contemporaneously listening to the call for medical assistance being processed by the dispatcher-in-training and is able to assume control of the call and provide emergency medical dispatch, if the dispatcher-in training is unable to process the call in accordance with protocol.
 - 2. Processes calls using the emergency medical dispatch protocol after the dispatcher-in-training has attended the Maine EMS-approved certification course for emergency medical dispatch.
 - (v) Misrepresentation or concealment of material facts in connection with service(s) rendered, by commission or omission;
 - (vi) Delegation of practice, skills, or treatment to a person who is not licensed and qualified to perform said practice, skills, or treatment;
 - (vii) Abandonment or neglect of a patient;
 - (viii) Failing to comply with continuing education requirements for license renewal.
- (4) Sexual Misconduct
- (a) Gross misconduct
- (i) Gross misconduct is any conduct by an Emergency Medical Dispatcher in the Work Environment that is sexual or may be reasonably interpreted as sexual, even when consented to between an Emergency Medical Dispatcher and a patient or caller, between licensees, between an educator and a student, or between a mentor and a mentee. This includes, but is not limited to:
 - 1. Sexual intercourse, genital to genital contact;
 - 2. Oral to genital contact;
 - 3. Oral to anal contact or genital to anal contact;
 - 4. Kissing;
 - 5. Any examination of a body part for any purpose other than appropriate examination or treatment during an established Emergency Medical Dispatcher-patient/caller interaction without a reported, suspected, or obvious injury or medical condition;
 - 6. Encouraging an individual to masturbate in the presence of the Emergency Medical Dispatcher or masturbation by an Emergency Medical Dispatcher in the presence of anyone else;
 - 7. Offering to provide practice-related services or supplies, such as medications, in exchange for sexual favors.
- (b) Impropriety

- (i) Impropriety is behaviors, gestures, or expressions by an Emergency Medical Dispatcher in the Work Environment that are seductive, sexually suggestive, or sexually demeaning, including but not limited to:
1. Disrobing that reflects a lack of respect for a patient or caller's privacy; deliberately watching a patient or caller dress or undress, instead of affording a patient or caller privacy for disrobing to the extent dictated by circumstances on scene;
 2. Inappropriate comments about or to a third party, including but not limited to making sexual comments about their body or underclothing, making sexualized or sexually demeaning comments, criticizing sexual orientation, making comments about potential sexual performance of a patient or caller, unnecessarily requesting details of sexual history or requesting information on sexual likes or dislikes;
 3. Using the Emergency Medical Dispatcher-patient or caller relationship to solicit a date or initiate a romantic relationship;
 4. Initiation by an Emergency Medical Dispatcher of conversation regarding sexual problems, preferences, or fantasies of the Emergency Medical Dispatcher, the sexual preferences or fantasies of a patient or caller, or sexual problems of a patient or caller that are not relevant to emergency medical dispatcher services.

F. Additional Grounds for Licensing Actions Applicable for an Instructor/Coordinator

(1) Fraud or Deceit

- (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:

- (i) Falsification of any educational record.

(2) Legal Incompetence or Impairment

- (a) Engaging in, or attempting to engage in, the use of any drug, narcotic or substance that is illegal under state or federal law, or to the extent that the licensee's ability to provide emergency medical dispatch services would be impaired, which includes, but is not limited to:

- (i) Providing licensure course instruction while under the influence of drugs or alcohol, whether or not the use of such substances is habitual;

- (b) Any condition or impairment within the preceding 3 years, including, but not limited to, substance use disorder or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to provide emergency medical services;

(3) Incompetent Professional Practice

- (a) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:

- (i) An inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed, evidence of which includes, but is not limited to:
1. A deviation by the licensee, from the applicable educational standards for entry-level instruction as outlined in the 2021 National Emergency Medical Services Education Standards as published by the National Highway Traffic Safety Administration, which is incorporated into this rule by reference and a copy of which is available at the Office of Maine Emergency Medical

Services, Department of Public Safety, 45 Commerce Dr, Suite 1, Augusta, ME 04333-0152;

2. A deviation by the licensee, from the applicable educational standards for entry-level instruction as outlined in the June 30, 2024, Maine Community Paramedicine Education Standards, as published by the Office of Maine Emergency Medical Services, which is incorporated into this rule by reference and a copy of which is available at the Office of Maine Emergency Medical Services, Department of Public Safety, 45 Commerce Dr, Suite 1, Augusta, Me 04333-0152;
3. A deviation by the licensee from the applicable guidelines for educating EMS Instructors as outlined in the 2002 National Guidelines for Educating EMS Instructors, as published by the National Highway Traffic Safety Administration, which is incorporated into this rule by reference and a copy of which is available at the Office of Maine Emergency Medical Services, Department of Public Safety, 45 Commerce Dr, Suite 1, Augusta, ME 04333-0152.

(4) Unprofessional Conduct

- (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:
 - (i) Diverting drugs, supplies or property of healthcare institutions or Maine EMS Training Centers;
 - (ii) Possessing, obtaining, furnishing, or administering prescription drugs, equipment or supplies to any person, including one's self, except as directed by a person authorized by law to prescribe such items;
 - (iii) Providing instruction at a level for which a person is not licensed;
 - (iv) Providing instruction at a level for which a Training Center is not authorized or licensed to provide.
 - (v) Delegation of educational instruction to a person who is not licensed and qualified to perform said educational instruction;
 - (vi) Failure to provide program or course documentation when required or requested by Maine EMS.
 - (vii) Failing to comply with continuing education requirements for license renewal.

(5) Sexual Misconduct

- (a) Gross misconduct
 - (i) Gross misconduct is any conduct by an Instructor/Coordinator in the Work Environment that is sexual or may be reasonably interpreted as sexual, even when consented to between an Instructor/Coordinator and a student, between Training Center Staff, or between licensees. This includes, but is not limited to:
 1. Sexual intercourse, genital to genital contact;
 2. Oral to genital contact;
 3. Oral to anal contact or genital to anal contact;
 4. Kissing;
 5. Any touching or examination of a body part for any purpose other than appropriate examination or treatment during an established educational interaction.
 6. Encouraging an individual to masturbate in the presence of the Instructor/Coordinator or masturbation by an Instructor/Coordinator in the presence of anyone else;

7. Offering to provide practice-related services or supplies, such as medications, in exchange for sexual favors.

(b) Impropriety

- (i) Impropriety is behaviors, gestures, or expressions by an Instructor/Coordinator in the Work Environment that are seductive, sexually suggestive, or sexually demeaning, including but not limited to:
 1. Disrobing, draping practices, or touching of a student's clothing that reflect a lack of respect for a student's privacy or deliberately watching a student dress or undress;
 2. Inappropriate comments about or to a third party, including but not limited to making sexual comments about their body or underclothing, making sexualized or sexually demeaning comments, criticizing sexual orientation, inappropriately requesting details of sexual history, or requesting information on sexual likes or dislikes;
 3. Using the Instructor/Coordinator-student relationship to solicit a date or initiate a romantic relationship;
 4. Initiation by an Instructor/Coordinator of conversation regarding sexual problems, preferences, or fantasies of the Instructor/Coordinator, the sexual preferences or fantasies of a student, or sexual problems of a student.

G. Additional Grounds for Licensing Actions Applicable for a Community Paramedicine Licensee

- (1) Any of the grounds separately identified in Section 3(2)(B) of this rule are also grounds for licensing actions against Community Paramedicine licensees, with the addition of the following:

(a) Incompetent professional practice

- (i) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:

1. An inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed as evidenced by:
 - a. A failure to demonstrate entry-level competency with sufficient breadth and depth as outlined in the June 30, 2024, Maine Community Paramedicine Education Standards, which is incorporated into this rule by reference and a copy of which is available at the Office of Maine Emergency Medical Services, Department of Public Safety, 45 Commerce Dr, Suite 1, Augusta, ME 04333-0152;

3. **Grounds for Licensure Action Against Ambulance Services, NEMS, Emergency Medical Dispatch Centers, and Training Centers.**

- A. The Licensing Board may take Disciplinary or Non-Disciplinary Action against any licensee whose conduct gives rise to a ground for licensing action. Grounds for Licensing Action include, but are not limited to, engaging in, or attempting to engage in: Fraud or Deceit, Unprofessional Conduct, or Incompetent Professional Practice, as defined in the applicable part below.

B. Grounds for Licensing Action Against All Licensees

(1) Fraud or Deceit

- (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:

- (i) Obtaining a license or certification by fraud or deceit
- (ii) Willfully making a false statement in an application for a license or renewal of a license, or in any activity or documents intended to be used to satisfy a requirement for licensure;
- (iii) Obtaining a fee by fraud or deceit.
- (iv) Using or attempting to use as a valid license one that has been purchased, counterfeited, materially altered, or obtained by fraud, deceit, or misrepresentation.

(2) Unprofessional Conduct

- (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:
 - (i) Obtaining a license by misrepresentation or by concealing material facts;
 - (ii) Failure to comply with a Consent Agreement or Board Order;
 - (iii) Acting in ways that are dangerous or injurious to the licensee or other persons;
 - (iv) Renting, selling, bartering, or lending a license to another person;
 - (v) Obtaining a fee by misrepresentation, including negligent misrepresentation;
 - (vi) Disclosing or causing to be disclosed confidential information to an unauthorized person or using confidential information for personal or unauthorized financial benefit;
 - (vii) Misrepresentation or concealment of material facts in connection with service(s) rendered, by commission or omission;
 - (viii) Failure to participate in Maine EMS-approved quality assurance activities.
 - (ix) Failure to report a termination, separation, or resignation from an agency or training center, related to the following grounds for licensure action:
 - 1. Sexual Misconduct
 - 2. Criminal Charge, Conviction, or Arrest
 - 3. Incompetent Professional Practice

C. Additional Grounds for Licensing Action Against Ambulance Services and Non-Transporting Emergency Medical Services

(1) Fraud or Deceit

- (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:
 - (i) Initiating the transport of a person, knowing that the person does not need to be transported, or treating a person knowing the person does not need to be treated, when the primary purpose of the action is to collect a fee or charge.
 - (ii) Aiding or abetting the practice of emergency care by a person not duly licensed under this chapter who purports to be so.

(2) Incompetent Professional Practice

- (a) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:
 - (i) A demonstration of an inability to respond appropriately to a client, patient or the general public as evidenced by:
 - 1. A failure to effect or have effected a response to an emergency medical call when the emergency medical call is in the service's primary 9-1-1 response area;

(3) Unprofessional Conduct

- (a) Unprofessional conduct includes, but is not limited to, engaging in or attempting to engage in the following:
 - (i) Failing to provide patient information to a hospital or other health care facility in response to an authorized request;
 - (ii) Acting negligently or neglectfully in conducting an ambulance or non-transporting emergency medical service;
 - (iii) Possessing, obtaining, or furnishing prescription drugs, equipment, or supplies to any person, except as directed by a person authorized by law to prescribe such items;
 - (iv) Permitting the operation of a vehicle as an Ambulance or Emergency Medical Services Vehicle when it is not licensed or authorized by the Board;
 - (v) Transferring a license from one vehicle to another without the consent of the Board;
 - (vi) Providing emergency medical services at a level for which the service does not have a valid license or permit for;
 - (vii) Permitting the practice of emergency medical treatment by a person not duly licensed as an EMS Clinician;
 - (viii) Permitting, by a Ground Ambulance Service, the operation of an ambulance in emergency mode or during the transport of a patient by an individual associated with that service, who does not hold valid licensure as an EMS Clinician or Ambulance Operator.

D. Additional Grounds for Licensing Action Against Emergency Medical Dispatch Centers

(1) Fraud or Deceit

- (a) Engaging in, or attempting to engage in, fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license issued, includes but is not limited to:
 - (i) Aiding or abetting the practice of emergency medical dispatch by a person not duly licensed under this chapter who purports to be so.

(2) Incompetent Professional Practice

- (a) Engaging in, or attempting to engage in, the following shall be considered Incompetent Professional Practice, which includes, but is not limited to:
 - (i) A demonstration of an inability to respond appropriately to a client, patient or the general public as evidenced by:
 - 1. A failure to provide emergency medical dispatch services on every emergency medical call;
 - 2. A failure to provide emergency medical dispatch services in compliance with the Emergency Medical Dispatch Priority Reference System, as defined in 32 M.R.S. § 85-A(1)(B).

(3) Unprofessional Conduct

- (a) Engaging in, or attempting to engage in, the following is considered unprofessional conduct:
 - (i) Acting negligently or neglectfully in conducting an emergency medical dispatch center;
 - (ii) Providing emergency medical dispatch services without valid licensure;
 - (iii) Permitting the practice of emergency medical dispatch services by a person not licensed to provide those services, except;

1. When the person is a dispatcher-in-training, under direct supervision of a Maine EMS licensed emergency medical dispatcher designated by the EMD Center director; and
 - a. For purposes of this paragraph, direct supervision means that the designated licensed emergency medical dispatcher is contemporaneously listening to the call for medical assistance being processed by the dispatcher-in-training and is able to assume control of the call and provide emergency medical dispatch, if the dispatcher-in training is unable to process the call in accordance with protocol.
- E. Additional Grounds for Licensing Action Against Training Centers
 - (1) Unprofessional Conduct
 - (a) Engaging in, or attempting to engage in, the following is considered unprofessional conduct:
 - (i) Providing instruction at a level for which a Training Center is not authorized or licensed to provide.
 - (ii) Violating any of the requirements of the Training Center Standards.
 - (iii) Failure to provide program or course documentation when required or requested by Maine EMS.

SECTION 4. LICENSING ACTIONS FOR AN APPLICANT FOR EMS CLINICIAN, AMBULANCE OPERATOR, INSTRUCTOR/COORDINATOR, COMMUNITY PARAMEDIC, OR EMERGENCY MEDICAL DISPATCHER LICENSURE.

1. Applications for Initial Licensure

A. Application Review

- (1) Upon the receipt of a complete application for licensure for which there is no cause for concern related to a potential violation of Maine EMS's Rules and/or Statutes, Board Staff may issue the licensure application.
- (2) Upon the receipt of a complete application for licensure that raises any concern related to a potential violation of Maine EMS's Rules and/or Maine State Statutes, Board Staff shall investigate.
- (3) After such investigation that Board Staff deems appropriate, a complete application with concerns will either:
 - (a) Be scheduled for review by the Licensing Board; or
 - (b) Have the matter resolved by Board Staff, in accordance with these rules. Board Staff will prepare a report for the Licensing Board on matters it has resolved for their awareness.

B. Notice to Applicant of Investigation

- (1) Upon the initiation of an investigation into an application, Board Staff shall send Notice of that Investigation to the applicant. This Notice should include a description of the concern investigated and an opportunity to provide additional information in writing.

C. Review and Preliminary Finding(s) of Ground(s) for Licensing Action(s)

- (1) Notice of Scheduling shall be sent to the applicant that their application has been scheduled for review by the Licensing Board at least ten (10) business days prior to the date of the review. This notice shall include a statement reflecting the ability of an applicant to request a copy of the investigative file. Additional case information may be accepted from an applicant up to five (5) business days prior to the date the case is scheduled for review. A case scheduled for review may be rescheduled or postponed at the discretion of Board Staff.

- 806 (2) At the meeting during which an application has been scheduled for review, the Licensing
 807 Board shall consider the application, the concern, and additional information presented,
 808 and, based upon the information presented, determine by majority vote, if there are
 809 preliminary grounds for licensing action as outlined in this rule, Section 3(1), or under 32
 810 M.R.S. § 90-A(5). The Licensing Board shall identify the specific preliminary grounds
 811 for licensing action in its motion.
- 812 (3) The Licensing Board may table any application to a future meeting and request that
 813 Board Staff obtain additional information.
- 814 (4) If the Licensing Board, by majority vote, does not see any preliminary grounds for
 815 licensing action, the Licensing Board shall issue the license.
- 816 (5) After review, if the Licensing Board, by majority vote, sees preliminary grounds for a
 817 licensing action pursuant to Section 3(1) of this rule, or 32 M.R.S. § 90-A(5), the
 818 Licensing Board may issue licensure with Non-Disciplinary or Disciplinary Action,
 819 and/or refuse to issue licensure.
- 820 D. Delegation of Authority to Board Staff
- 821 (1) Upon the receipt of a complete application for licensure, Board Staff may issue licensure
 822 with a Non-Disciplinary Action in the following circumstances:
- 823 (a) Limited Delegation Order:
- 824 (i) The Licensing Board has issued an Order of Limited Delegation of Authority for
 825 Board Staff to take Non-Disciplinary Action according to that order, provided
 826 that the delegation has not expired.
- 827 (ii) A Limited Delegation of Authority issued by the Licensing Board must be
 828 reviewed and renewed at least every three (3) years.
- 829 (iii) Board Staff cannot take Non-Disciplinary Action when:
- 830 1. The ground(s) for licensing action include Sexual Misconduct;
 831 2. The ground(s) for licensing action include a declaration of or claim
 832 pertaining to the EMS Clinician, Ambulance Operator,
 833 Instructor/Coordinator, Community Paramedic, or Emergency Medical
 834 Dispatcher, of legal incompetence that has not been legally terminated;
 835 3. There is a related Non-Disciplinary Action on file with the Licensing Board;
 836 4. There is a related Disciplinary Action on file with the Licensing Board.
- 837 (2) Upon receipt of a complete application for licensure, Board Staff may preliminarily deny
 838 EMS Clinician, Emergency Medical Dispatcher, Instructor/Coordinator, Community
 839 Paramedic, or Ambulance Operator licensure in the following circumstances:
- 840 (a) Revocation of EMS professional licensure in a foreign Jurisdiction or another U.S.
 841 State;
- 842 (b) Surrender in lieu of disciplinary action and/or investigation of EMS professional
 843 licensure in a foreign Jurisdiction or another U.S. State;
- 844 (3) If Board Staff deny licensure, they must provide a written decision that reflects the
 845 grounds for the denial and that informs the applicant of the right to appeal the decision to
 846 the Licensing Board in accordance with 32 M.R.S. § 90-A(10) (hereafter called a
 847 “Preliminary Notice of Denial”).
- 848 (4) A person wishing to appeal the decision of Board Staff to deny licensure may appeal this
 849 decision to the Licensing Board. If no appeal is requested within twenty-one (21)
 850 business days of the date of service of the Preliminary Notice Denial, the Board Staff’s
 851 decision becomes final agency action appealable to the Superior Court in accordance with
 852 the Maine Administrative Procedure Act, Title 5 Chapter 375 Subchapter 7. For an appeal
 853 to the Board to be considered, the person must:

- (a) Be the applicant or their authorized representative;
- (b) Submit a written request for a hearing before the board;
- (c) This written request for hearing must be received by the Office of Maine Emergency Medical Services within twenty-one (21) business days of the date the Preliminary Notice Denial is sent to the applicant.
- (d) Service of the request for hearing is complete when received by Maine EMS by mail, in-hand delivery, or electronic mail. A request for hearing may be accepted at the discretion of the Licensing Board after this timeframe if the petitioner later provides satisfactory justification as to why a timely submission was not made.
- (5) The Board Staff's decision to refuse to issue licensure stands until the Licensing Board issues a decision to uphold, modify, or overrule the staff's decision.

E. Non-Disciplinary Action

- (1) Non-Disciplinary Action constitutes a Letter of Guidance, and is used when the Board does not see evidence of potential violations of Board law or rule, or the matter does not rise to a level requiring Disciplinary Action. A Letter of Guidance may be placed on file for a period of time not to exceed ten (10) years.
- (2) The Licensing Board may resolve a complaint with Non-Disciplinary Action **except** when:
 - (a) The ground(s) for licensing action include Sexual Misconduct;
 - (b) The ground(s) for licensing action include a declaration of or claim pertaining to the EMS Clinician, Ambulance Operator, Instructor/Coordinator, Community Paramedic, or Emergency Medical Dispatcher, of legal incompetence that has not been legally terminated;
 - (c) There is a related Non-Disciplinary Action on file with the Licensing Board;
 - (d) There is a related Disciplinary Action on file with the Licensing Board.

F. Disciplinary Action

- (1) Any of the following sanctions may be taken with the issuance of the licensure application:
 - (a) Execution of a Consent Agreement that includes any or all of the following:
 - (i) The Issuance of a Warning, Censure, or Reprimand;
 - 1. Each warning, censure, or reprimand must be based upon violations of different applicable laws, rules, or conditions of licensure, or upon separate instances of actionable conduct or activity.
 - (ii) Conditions of Probation;
 - 1. Probation may be for a time period that the Licensing Board determines appropriate.
 - 2. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision; and other conditions as the Licensing Board determines appropriate.
 - 3. Costs incurred in the performance of terms of probation are borne by the licensee.
 - (iii) Any other remedy, penalty, fine, or cost recovery that is otherwise available by law, even if only in the jurisdiction of the District Court.
- (2) Denial of Licensure Issuance
 - (a) A refusal to issue licensure may only be predicated upon the grounds cited in Section 3 of this rule or upon grounds found in 32 M.R.S. § 90-A(5).

G. Appeal of Non-Disciplinary Action with Issuance of Licensure

- (1) A person wishing to appeal the decision of Board Staff to issue licensure with Non-Disciplinary Action may appeal this decision to the Licensing Board. If a petition for appeal does not meet the criteria for consideration below, or if no petition is submitted, the Board Staff's decision becomes final agency action appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375 Subchapter 7. For an appeal to the Board to be considered, the person must:
 - (a) Be the same individual or their authorized representative, against whom the Non-Disciplinary action was taken;
 - (b) Submit a written petition; such petition should have sufficient information to explain the rationale for the appeal, including, but not limited to:
 - (i) The name of the individual against whom the action was taken;
 - (ii) The specific nature of the appeal (e.g., an appeal to reduce the time frame of the action, or an appeal against the action in its entirety); and
 - (iii) The rationale supporting the grant of the appeal by the Licensing Board.
 - (c) This written petition must be received by the Office of Maine Emergency Medical Services within twenty-one (21) business days of the date the action was taken. Service of the petition is complete when received by Maine EMS by mail, in-hand delivery, or electronic mail. A petition may be accepted at the discretion of the Licensing Board after this timeframe if the petitioner later provides satisfactory justification as to why a timely submission was not made.
- (2) The Board Staff's decision to take Non-Disciplinary Action stands until the Licensing Board issues a decision to uphold, modify, or revoke the staff's decision.
- (3) The Licensing Board will review the action and information provided to determine if the Non-Disciplinary Action will be upheld, modified, or revoked.
- (4) The Licensing Board, at its discretion, may entertain additional information or argument from the parties.
- (5) 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.
- (6) The decision of the Board is considered Final Agency Action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375 Subchapter 7.

2. Applications for Renewal of Licensure

- A. Upon the receipt of a complete application for licensure renewal where there is a pending complaint or that raises any concern related to a potential violation of Maine EMS's Rules and/or Statutes, Board Staff shall proceed in accordance with Section 4 of this rule.
- B. The application will remain pending until the pending complaint or concern is resolved.
- C. An applicant who has submitted a complete application for licensure renewal prior to the expiration date of their licensure, and whose application is pending due to a pending complaint or a concern related to a potential violation of Maine EMS's Rules and/or Statutes, shall not have their existing licensure expire until the application has been finally determined by the Licensing Board or Board Staff pursuant to Title 5, Chapter 375.
- D. Delegation of Authority to Board Staff
 - (1) Upon the receipt of a complete application for licensure, Board Staff may issue licensure with a Non-Disciplinary Action in the following circumstances:
 - (a) Limited Delegation Order:

- (i) The Licensing Board has issued an Order of Limited Delegation of Authority for Board Staff to take Non-Disciplinary Action according to that order, provided that the delegation has not expired.

SECTION 5. Licensing Actions for EMS Clinician, Emergency Medical Dispatcher, Instructor/Coordinator, Community Paramedicine, and Ambulance Operator Licensees

1. Investigation

- A. A complaint against an EMS Clinician's, Emergency Medical Dispatcher's, Instructor/Coordinator, Community Paramedicine, or Ambulance Operator's licensure shall be investigated by the Licensing Board or Board Staff in accordance with 32 M.R.S. § 90-A(1).

2. Notice of Complaint

- A. Board Staff shall notify an EMS Clinician, Emergency Medical Dispatcher, Instructor/Coordinator, Community Paramedicine, or Ambulance Operator licensee in accordance with 32 M.R.S. § 90-A(2).

(1) Initial Pertinent Information Necessary to send a Notice is:

(a) A copy of the concern expressed or the information underlying the concern.

- B. Notice shall be in writing. Service of the Notice shall be complete upon the licensee upon mailing to the licensee or the licensee's attorney or by in-hand delivery to the licensee.

3. Response to Complaint

- A. If the licensee wishes to contest the complaint or dispute the information that forms the basis of the complaint, the licensee must respond in writing to the Licensing Board within thirty (30) calendar days of service of Notice of Complaint. Service of the licensee's response is complete when received by Maine EMS by mail, in-hand delivery, or electronic mail.

- B. If the licensee does not wish to contest the complaint or dispute the information that forms the basis of the complaint but does wish to provide additional information or context for consideration, the licensee must respond in writing to the Licensing Board within thirty (30) calendar days of service of Notice of Complaint. Service of the licensee's response is complete when received by Maine EMS by mail, in-hand delivery, or electronic mail. If a licensee responds in this manner, the provisions of paragraph C, below, do not apply.

- C. If no response to the complaint from the licensee is received in writing within thirty (30) calendar days, the matter will be presented to the Licensing Board without the licensee's response.

4. Preliminary Review of a Concern of Physical or Mental Impairment by the Licensing Board

- A. Any investigation involving a complaint where there is a concern, or where information generates a concern during the investigation of a complaint, of a mental illness that may be interfering with the competent practice of emergency medical services or emergency medical dispatcher services, or from the use of intoxicants or drugs to an extent that they are preventing the licensee from practicing competently and with safety to patients shall, after appropriate investigation by Board Staff, be brought before the Licensing Board for consideration of an order for the licensee to submit to an examination pursuant to 32 M.R.S. § 90-A(9).

- B. Any investigation involving a complaint where there is a concern, or where information generates a concern during the investigation of a complaint, that a licensee may have diminished physical capability to an extent that it is preventing the licensee from practicing competently and with safety to patients, after appropriate investigation by Board Staff, shall be brought before the Licensing Board for consideration of an order for the licensee to submit to an examination pursuant to 32 M.R.S. § 90-A(9).

- 995 C. The ability to order a licensee to submit to an examination under this section may not be
996 delegated by the Licensing Board.
- 997 D. The Licensing Board, or as delegated Board Staff, shall select the evaluator as appropriate for
998 the examination ordered.
- 999 E. All costs of any examination are the responsibility of the licensee; a licensee may petition the
1000 Licensing Board to waive the expense on the affirmative demonstration of hardship.
- 1001 5. Review and Preliminary Finding(s) of Ground(s) for Licensing Action(s)
- 1002 A. After Board Staff has determined that sufficient information have been obtained, a complaint
1003 shall be scheduled for review by the Licensing Board.
- 1004 B. Notice of Scheduling shall be sent to the licensee under investigation that their case has been
1005 scheduled for review by the Licensing Board at least ten (10) business days prior to the date
1006 of the review. This notice shall include a statement reflecting the ability of a licensee to
1007 request a copy of the investigative file. Additional case information may be accepted from a
1008 licensee up to five (5) business days prior to the date the case is scheduled for review. A case
1009 scheduled for review may be rescheduled or postponed at the discretion of Board Staff.
- 1010 C. At the meeting during which a complaint has been scheduled for review, the Licensing Board
1011 shall consider the complaint and, based upon the information presented, determine by
1012 majority vote, if there are preliminary grounds for licensing action as outlined in this rule,
1013 Section 3, or under 32 M.R.S. §90-A(5). The Licensing Board shall identify the specific
1014 preliminary grounds for licensing action in its motion.
- 1015 (1) The Licensing Board may table any complaint to a future meeting and request that Board
1016 Staff obtain additional information.
- 1017 D. If the Licensing Board, by majority vote, sees there are no preliminary grounds for licensing
1018 action, the complaint shall be dismissed, and a Notice of Dismissal shall be sent to the
1019 complainant, if any.
- 1020 E. If the Licensing Board sees that there are preliminary grounds for licensing action, the
1021 complaint shall be scheduled for review at the Licensing Board's next meeting for
1022 determination of appropriate disciplinary or non-disciplinary action. This provision may be
1023 waived on the motion of any member present and voting, and the Licensing Board may
1024 proceed directly into the preliminary determination of Disciplinary or Non-Disciplinary
1025 Action.
- 1026 F. A motion to reconsider the preliminary grounds for licensing action may only be made during
1027 the meeting in which the complaint is reviewed for preliminary grounds for licensing action
1028 and may only be made by a member present and voting on the prevailing side of the initial
1029 motion. The motion to reconsider must pass by majority vote, and there may be no
1030 subsequent reconsideration of the same preliminary ground for licensing action.
- 1031 6. Preliminary Determination of Disciplinary or Non-Disciplinary Action
- 1032 A. At the meeting for which a complaint with preliminary ground(s) for licensing action is
1033 scheduled for determination of appropriate Disciplinary or Non-Disciplinary Action, or upon
1034 immediate consideration in accordance with these rules, the Licensing Board shall determine
1035 by majority vote, appropriate action in accordance with 32 M.R.S. § 90-A (7) & (8), and these
1036 rules. This action may consist of:
- 1037 (1) Non-Disciplinary Action
- 1038 (a) Non-Disciplinary Action constitutes a Letter of Guidance and is used when the Board
1039 does not see evidence of potential violations of Board law or rule, or the matter does
1040 not rise to a level requiring Disciplinary Action. A Letter of Guidance may be placed
1041 on file for a period of time not to exceed ten (10) years.

(b) The Licensing Board may resolve a complaint with Non-Disciplinary Action **except when:**

- (i) The ground(s) for licensing action include Sexual Misconduct;
- (ii) The ground(s) for licensing action include a declaration of or claim pertaining to the EMS Clinician of legal incompetence that has not been legally terminated;
- (iii) There is a related Non-Disciplinary Action on file with the Licensing Board;
- (iv) There is a related Disciplinary Action on file with the Licensing Board.

(2) Disciplinary Action

(a) The Licensing Board may resolve a complaint with Disciplinary Action if the Board determines there are preliminary grounds for action pursuant to Section 3 of this rule, or pursuant to 32 M.R.S. § 90-A(5).

(b) Any of the following sanctions may be taken pursuant to 32 M.R.S. § 90-A(7).

(i) Execution of a Consent Agreement that includes any or all of the following:

- 1. The issuance of a Warning, Censure, or Reprimand
 - a. Each warning, censure, or reprimand must be based upon violations of different applicable laws, rules, or conditions of licensure, or upon separate instances of actionable conduct or activity.
- 2. Conditions of probation
 - a. Probation may be imposed for a time period that the Licensing Board determines appropriate.
 - b. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision; and other conditions as the Licensing Board determines appropriate.
 - c. Costs incurred in the performance of terms of probation are borne by the licensee.
- 3. Suspension of licensure
 - a. Suspensions may be set to run consecutively or concurrently.
 - b. The execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation.
- 4. Surrender of Licensure
- 5. Revocation of Licensure
- 6. Any other remedy, penalty, fine, or cost recovery that is otherwise available by law, even if only in the jurisdiction of the District Court.

(ii) Imposition of a suspension of licensure for up to 90 calendar days for each violation or for each instance of actionable conduct or activity

- 1. Suspensions may be set to run consecutively or concurrently.

(iii) Imposition of a civil penalty of up to \$1,500.00 for each violation of applicable laws, rules, and conditions of licensure or for each instance of actionable conduct or activity.

(c) All sanctions must include notice to an EMS Clinician, Ambulance Operator, Instructor/Coordinator, Community Paramedicine-licensee, or Emergency Medical Dispatcher of their right to request an adjudicatory hearing.

7. Delegation

A. Board Staff may resolve a case with Non-Disciplinary Action in the following circumstances:

(1) Limited Delegation Order

- 1088 (a) The Licensing Board has issued an Order of Limited Delegation of Authority for
 1089 Board Staff to take Non-Disciplinary Action according to that order, provided that the
 1090 delegation has not expired.
- 1091 B. Board Staff may resolve a case with Disciplinary Action in the following circumstances:
 1092 (1) Voluntary Surrender of Licensure
 1093 (a) If a licensee seeks to voluntarily surrender licensure in lieu of further proceedings,
 1094 Board Staff are authorized to negotiate and enter into a Consent Agreement on behalf
 1095 of the Licensing Board, with stipulations as necessary to ensure the protection of the
 1096 public health and safety and the rehabilitation or education of the licensee seeking
 1097 surrender.
- 1098 8. Appeal of Non-Disciplinary Action
 1099 A. A person wishing to appeal the decision of Board Staff to take Non-Disciplinary Action may
 1100 appeal this decision to the Licensing Board. If a petition for appeal does not meet the criteria
 1101 for consideration below, or if no petition is submitted, the Board Staff's decision becomes
 1102 final agency action appealable to the Superior Court in accordance with the Maine
 1103 Administrative Procedure Act, 5 M.R.S. Chapter 375 Subchapter 7. For an appeal to the
 1104 Licensing Board to be considered, the person must:
 1105 (1) Be the same individual or their authorized representative, against whom the Non-
 1106 Disciplinary Action was taken, or the original complainant in the matter, or their
 1107 authorized representative.
 1108 (2) Submit a written petition; such petition should have sufficient information to explain the
 1109 rationale for the appeal, including but not limited to:
 1110 (a) The name of the individual against whom the action was taken;
 1111 (b) The specific nature of the appeal (e.g., an appeal to take disciplinary action, an appeal
 1112 to reduce the time frame of the action, or an appeal against the action in its entirety);
 1113 and
 1114 (c) The rationale that supports the Licensing Boards' grant of the appeal.
 1115 (3) This written petition must be received by the Office of Maine Emergency Medical
 1116 Services within twenty-one (21) business days of the date the action was taken. Service
 1117 of the petition is complete when received by Maine EMS by mail, in-hand delivery, or
 1118 electronic mail. A petition may be accepted at the discretion of the Licensing Board after
 1119 this timeframe if the petitioner later provides satisfactory justification as to why a timely
 1120 submission was not made.
- 1121 B. The Board Staff's decision to take Non-Disciplinary Action stands until the Licensing Board
 1122 issues a decision to uphold, modify, or overrule the staff's decision.
- 1123 C. The Licensing Board, at its discretion, may entertain additional information or argument from
 1124 the parties.
- 1125 D. The decision of the Licensing Board shall be in writing or stated on the record and contain or
 1126 reflect the Board's reasoning in a manner sufficient to inform the parties and the public of the
 1127 basis for the Licensing Board's decision.
- 1128 9. Adjudicatory Hearing
 1129 A. In the case where the discipline involves nonrenewal of licensure, suspension, or the
 1130 imposition of a civil penalty, an EMS Clinician, Ambulance Operator, Instructor/Coordinator,
 1131 Community Paramedicine-licensee, or Emergency Medical Dispatcher who fails to make a
 1132 request for a hearing within thirty (30) calendar days from receipt of the Licensing Board's
 1133 Notice of Preliminary Action, waives their right to request a hearing, and the Disciplinary
 1134 Action sought by the Licensing Board is imposed and becomes final agency action,
 1135 appealable pursuant to 5 M.R.S. Ch. 375, Subchapter 7. A request for a hearing must be

- 1136 made in writing and must be received by the Office of Maine EMS via electronic mail,
 1137 certified mail, or in-person delivery.
 1138 B. If the Board seeks to impose discipline other than nonrenewal, suspension, or the imposition
 1139 of a civil penalty, and a Consent Agreement is not executed resolving the complaint, the
 1140 matter shall be scheduled for an adjudicatory hearing.

1141 **10. Notification of Final Agency Action**

- 1142 A. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send a notice
 1143 containing only publicly available information to the complainant, if any.
 1144 B. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send only
 1145 publicly available information to the National Practitioner Data Bank as required by federal
 1146 law.
 1147 C. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send publicly
 1148 available information to any State Jurisdiction, or National Certifying Body that the licensee
 1149 is reasonably believed to hold licensure or certification with.
 1150 D. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send only
 1151 publicly available information to any Maine-EMS licensed service, or Emergency Medical
 1152 Dispatch Center that the licensee is affiliated with.
 1153

1154 **SECTION 6. LICENSING ACTIONS FOR AMBULANCE SERVICES, NON-TRANSPORTING**
 1155 **EMERGENCY MEDICAL SERVICES, TRAINING CENTERS, OR EMERGENCY**
 1156 **MEDICAL DISPATCH CENTER.**

1157 **1. Investigation**

- 1158 A. A complaint against an Ambulance Service, a Non-transporting Emergency Medical Service
 1159 ("NTEMS"), Training Center, or Emergency Medical Dispatcher Center's licensure shall be
 1160 investigated by the Licensing Board or Board Staff in accordance with 32 M.R.S. § 90-A(1).

1161 **2. Notice of Complaint**

- 1162 A. Board Staff shall notify an Ambulance Service, NTEMS, Training Center, or Emergency
 1163 Medical Dispatch Center in accordance with 32 M.R.S. § 90-A(2).

1164 **(1) Initial Pertinent Information Necessary to send Notice is:**

- 1165 **(a) A copy of the concern expressed or the information underlying the concern.**
 1166 B. Notice shall be in writing. Service of the Notice shall be complete upon the licensee upon
 1167 mailing to the licensee or the licensee's attorney, by in-hand delivery to the licensee, or by
 1168 delivery to the licensee's principal office or place of business.

1169 **3. Response to Complaint**

- 1170 A. If the licensee wishes to contest the complaint or dispute the information that forms the basis
 1171 of the complaint, the licensee must respond in writing to the Licensing Board within thirty
 1172 (30) calendar days of service of Notice of Complaint. Service of the licensee's response is
 1173 complete when received by Maine EMS by mail, in-hand delivery, or electronic mail.
 1174

- 1175 B. If the licensee does not wish to contest the complaint or dispute the information that forms
 1176 the basis of the complaint but does wish to provide additional information or context for
 1177 consideration, the licensee must respond in writing to the Licensing Board within thirty (30)
 1178 calendar days of service of Notice of Complaint. Service of the licensee's response is
 1179 complete when received by Maine EMS by mail, in-hand delivery, or electronic mail. If a
 1180 licensee responds in this manner, the provisions of paragraph C, below, do not apply.

- 1181 C. If no response to the complaint from the licensee is received in writing within thirty (30)
 1182 calendar days, the matter will be presented to the Licensing Board without the licensee's
 1183 response.

- 1184 4. Review and Preliminary Finding(s) of Ground(s) for Licensing Action(s)
- 1185 A. After Board Staff has determined that sufficient information has been obtained, a complaint
- 1186 shall be scheduled for review by the Licensing Board.
- 1187 B. Notice of Scheduling shall be sent to the licensee under investigation that their case has been
- 1188 scheduled for review by the Licensing Board at least ten (10) business days prior to the date
- 1189 of the review. This notice shall include a statement reflecting the ability of a licensee to
- 1190 request a copy of the investigative file. Additional case information may be accepted from a
- 1191 licensee up to five (5) business days prior to the date the case is scheduled for review. A case
- 1192 scheduled for review may be rescheduled or postponed at the discretion of Board Staff.
- 1193 C. At the meeting during which a complaint has been scheduled for review, the Licensing Board
- 1194 shall consider the complaint and, based upon the information presented, determine by
- 1195 majority vote of members present and voting, if there are preliminary grounds for licensing
- 1196 action as outlined in this rule, Section 3, or under 32 M.R.S. §90-A(5). The Licensing Board
- 1197 shall identify the specific preliminary grounds for licensing action in its motion.
- 1198 (1) The Licensing Board may table any complaint to a future meeting and request that Board
- 1199 Staff obtain additional information.
- 1200 D. If the Licensing Board, by majority vote, sees that there are no preliminary grounds for
- 1201 licensing action, the complaint shall be dismissed, and a Notice of Dismissal shall be sent to
- 1202 the complainant, if any.
- 1203 E. If the Licensing Board sees that there are preliminary grounds for licensing action, the
- 1204 complaint shall be scheduled for review at the Licensing Board's next meeting for
- 1205 determination of appropriate Disciplinary or Non-Disciplinary Action. This provision may be
- 1206 waived on the motion of any member present and voting, and the Licensing Board may
- 1207 proceed directly into the preliminary determination of Disciplinary or Non-Disciplinary
- 1208 Action.
- 1209 F. A motion to reconsider the preliminary grounds for licensing action may only be made during
- 1210 the meeting in which the complaint is reviewed for preliminary grounds for licensing action
- 1211 and may only be made by a member present and voting on the prevailing side of the initial
- 1212 motion. The motion to reconsider must pass by majority vote of those present and voting, and
- 1213 there may be no subsequent reconsideration of the same preliminary ground for licensing
- 1214 action.
- 1215 5. Preliminary Determination of Disciplinary or Non-Disciplinary Action
- 1216 A. At the meeting for which a complaint with preliminary ground(s) for licensing action is
- 1217 scheduled for determination of appropriate disciplinary or non-disciplinary action, or upon
- 1218 immediate consideration in accordance with these rules, the Licensing Board shall determine
- 1219 by majority vote of those present and voting, appropriate action in accordance with 32 M.R.S.
- 1220 § 90-A (7) & (8), and these rules. This action may consist of:
- 1221 (1) Non-Disciplinary Action
- 1222 (a) Non-Disciplinary Action constitutes a Letter of Guidance and is used when the Board
- 1223 does not see evidence of potential violations of Board law or rule or the matter does
- 1224 not rise to a level requiring Disciplinary Action.. A Letter of Guidance may be placed
- 1225 on file for a period of time not to exceed ten (10) years.
- 1226 (b) The Licensing Board may resolve a complaint with Non-Disciplinary Action **except**
- 1227 when:
- 1228 (i) There is a related Non-Disciplinary Action on file with the Licensing Board;
- 1229 (ii) There is a related Disciplinary Action on file with the Licensing Board.
- 1230 (2) Disciplinary Action

- 1231 (a) The Licensing Board may resolve a complaint with Disciplinary Action if grounds
 1232 for action are found pursuant to Section 3 of this Rule or pursuant to 32 M.R.S. § 90-
 1233 A(5).
- 1234 (b) Any of the following sanctions may be taken pursuant to 32 M.R.S. § 90-A(7):
 1235 (i) Execution of a Consent Agreement that includes any or all of the following:
- 1236 1. The issuance of a Warning, Censure, or Reprimand;
 - 1237 a. Each warning, censure, or reprimand must be based upon violations of
 1238 different applicable laws, rules, or conditions of licensure, or upon
 1239 separate instances of actionable conduct or activity.
 - 1240 2. Conditions of probation;
 - 1241 a. Probation may be imposed for a time period that the Licensing Board
 1242 determines appropriate.
 - 1243 b. Probation may include conditions such as: additional continuing
 1244 education; medical, psychiatric or mental health consultations or
 1245 evaluations; mandatory professional or occupational supervision; and
 1246 other conditions as the Licensing Board determines appropriate.
 - 1247 c. Costs incurred in the performance of terms of probation are borne by the
 1248 licensee.
 - 1249 3. Suspension of licensure
 - 1250 a. Suspensions may be set to run consecutively or concurrently.
 - 1251 b. The execution of all or any portion of a term of suspension may be
 1252 stayed pending successful completion of conditions of probation.
 - 1253 c. Prior to seeking to impose a suspension of licensure of an Emergency
 1254 Medical Dispatch Center, the Licensing Board shall table the matter and
 1255 contact the Emergency Services Communication Bureau within the
 1256 Public Utilities Commission for input on the effect of such an action on
 1257 the E-9-1-1 system.
 - 1258 d. Prior to seeking to impose a suspension of licensure of an Ambulance
 1259 Service or NTEMS, the Licensing Board shall table the matter and
 1260 contact the Emergency Medical Services Board for input on the effect of
 1261 such action on the Maine EMS system.
 - 1262 4. Surrender or Revocation of Licensure.
 - 1263 a. Prior to seeking to impose a surrender or revocation of licensure of an
 1264 Emergency Medical Dispatch Center, the Licensing Board shall table the
 1265 matter and contact the Emergency Services Communication Bureau
 1266 within the Public Utilities Commission for input on the effect of such an
 1267 action on the E-9-1-1 system.
 - 1268 b. Prior to seeking to impose a surrender or revocation of licensure of an
 1269 Ambulance Service, NTEMS, or Training Center, the Licensing Board
 1270 shall table the matter and contact the Emergency Medical Services Board
 1271 for input on the effect of such action on the Maine EMS system.
 - 1272 5. Any other remedy, penalty, fine, or cost recovery that is otherwise available
 1273 by law, even if only in the jurisdiction of the District Court.
 - 1274 (ii) Impose a suspension of licensure for up to 90 calendar days for each violation or
 1275 for each instance of actionable conduct or activity;
 - 1276 1. Suspensions may be set to run consecutively or concurrently.
 - 1277 2. Prior to seeking to impose a suspension of licensure of an Emergency
 1278 Medical Dispatch Center, the Licensing Board shall table the matter and
 1279 contact the Emergency Services Communication Bureau within the Public

Utilities Commission for input on the effect of such an action on the E-9-1-1 system.

3. Prior to seeking to impose a suspension of licensure of an Ambulance Service, NTEMS, or Training Center, the Licensing Board shall table the matter and contact the Emergency Medical Services Board for input on the effect of such action on the Maine EMS system.

- (iii) Impose a civil penalty of up to \$1,500.00 for each violation of applicable laws, rules, and conditions of licensure or for each instance of actionable conduct or activity;

- (c) All sanctions must include notice to an Ambulance Service, NTEMS, Training Center, or Emergency Medical Dispatch Center of their right to request an adjudicatory hearing.

6. Delegation

- A. Board Staff may resolve a case with Non-Disciplinary Action in the following circumstances:

- (1) Limited Delegation Order:

- (a) The Licensing Board has issued an Order of Limited Delegation of Authority for Board Staff to take Non-Disciplinary Action according to that order, provided that the delegation has not expired.

7. Appeal of Non-Disciplinary Action

- A. A person wishing to appeal the decision of Board Staff to take Non-Disciplinary Action may appeal this decision to the Licensing Board. If a petition for appeal does not meet the criteria for consideration below, or if no petition is submitted, the Board Staff's decision becomes final agency action appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375 Subchapter 7. For an appeal to the Licensing Board to be considered, the person must:

- (1) Be the same Ambulance Service, NTEMS, Training Center, or Emergency Medical Dispatch Center, or their authorized representative, against whom the Non-Disciplinary Action was taken, or the original complainant in the matter, or their authorized representative;
 - (2) Submit a written petition; such petition should have sufficient information to explain the rationale for the appeal, including but not limited to:
 - (a) The name of the Ambulance Service, NTEMS, Training Center, or Emergency Medical Dispatch Center, against whom the action was taken;
 - (b) The specific nature of the appeal (e.g., an appeal to take disciplinary action, an appeal to reduce the time frame of the action, or an appeal against the action in its entirety); and
 - (c) The rationale that supports the Licensing Boards' grant of the appeal.
 - (3) This written petition must be received by the Office of Maine Emergency Medical Services within twenty-one (21) business days of the date the action was taken. Service of the petition is complete when received by Maine EMS by mail, in-hand delivery, or electronic mail. A petition may be accepted at the discretion of the Licensing Board after this timeframe if the petitioner later provides satisfactory justification as to why a timely submission was not made.

- B. The Board Staff's decision to take Non-Disciplinary Action stands until the Licensing Board issues a decision to uphold, modify, or overrule the staff's decision.

- C. The Licensing Board, at its discretion, may entertain additional information or argument from the parties.

D. The decision of the Licensing 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 Licensing Board's decision.

8. Adjudicatory Hearing

A. In the case where the discipline involves nonrenewal of licensure, suspension, or the imposition of a civil penalty, an Ambulance Service, NTEMS, or Emergency Medical Dispatch Center who fails to make a request for a hearing within thirty (30) calendar days from receipt of the Licensing Board's Notice of Preliminary Action, waives their right to request a hearing, and the Disciplinary Action sought by the Licensing Board is imposed and becomes final agency action, appealable pursuant to 5 M.R.S. Ch. 375, Subchapter 7. A request for a hearing must be made in writing and must be received by the Office of Maine EMS via electronic mail, certified mail, or in-person delivery.

B. If the Board seeks to impose discipline other than nonrenewal, suspension, or the imposition of a civil penalty, and a Consent Agreement is not executed resolving the complaint, the matter shall be scheduled for an adjudicatory hearing.

9. Notification of Final Agency Action

A. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send a notice containing only publicly available information to the complainant, if any.

B. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send only publicly available information to the National Practitioners Data Bank as required by federal law.

C. Upon Disciplinary Action becoming Final Agency Action, Board Staff shall send notice 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 5 business days of taking the action.

~~§ 1.— The Board may refuse to issue or renew a license, or may modify, suspend, or revoke a license, if an applicant or licensee engages, or attempts to engage in any of the following, which shall be considered unprofessional conduct:—~~

~~1.— Obtaining a license or certification by fraud, by deceit, by misrepresentation, or by concealing material facts.—~~

~~2.— Violating a lawful order, rule or consent agreement of the Board.—~~

~~3.— Violating any of the provisions of 32 M.R.S.A, Chapter 2-B.—~~

~~4.— Any criminal conviction, subject to the limitations of Maine statute.—~~

~~5.— Acting in ways that are dangerous or injurious to the licensee or other persons.—~~

~~6.— Renting, selling, bartering, or lending a license to another person.—~~

~~7.— Responding to the scene of a call while under the influence of drugs or alcohol, whether or not the use of such substances is habitual.—~~

- 1373 ~~8. Initiating the transport of a person, knowing that the person does not need to be~~
 1374 ~~transported, or treating a person knowing the person does not need to be treated, when~~
 1375 ~~the primary purpose of the action is to collect a fee or charge.~~
- 1376 -
- 1377 ~~9. Obtaining a fee by fraud, deceit, or misrepresentation.~~
- 1378 -
- 1379 ~~10. Responding to the scene of an accident or incident to which the licensee has not~~
 1380 ~~been dispatched, when there is reason to believe that another licensee has been or will~~
 1381 ~~be called to that scene and refusing to turn over the care of the patient to the~~
 1382 ~~responsible service when it arrives.~~
- 1383 -
- 1384 ~~11. Failing to provide patient information to a hospital or other health care facility in~~
 1385 ~~response to an authorized request.~~
- 1386 -
- 1387 ~~12. Disclosing or causing to be disclosed confidential patient information to an~~
 1388 ~~unauthorized person or using confidential patient information for personal or~~
 1389 ~~unauthorized financial benefit.~~
- 1390 -
- 1391 ~~13. Engaging in conduct prohibited by law, other than conduct that falls within the~~
 1392 ~~following categories and is not related to the practice: minor traffic violations; minor~~
 1393 ~~civil violations; and conduct that could be charged as Class E crimes under Maine~~
 1394 ~~law.~~
- 1395 -
- 1396 ~~a. Possession of a useable amount of marijuana in violation of 22 M.R.S.A.~~
 1397 ~~§2383 is not considered a minor civil violation.~~
- 1398 -
- 1399 ~~14. Violation of any standard established in the profession.~~
- 1400 -
- 1401 ~~15. Inaccurate recording of material information or falsifying or improperly altering a~~
 1402 ~~patient or healthcare provider record.~~
- 1403 -
- 1404 ~~16. Exploiting the provider-patient relationship for the purpose of personal or~~
 1405 ~~financial gain by the licensee or by a third party including, but not limited to,~~
 1406 ~~promoting or selling services, goods, appliances or drugs.~~
- 1407 -
- 1408 ~~17. Diverting drugs, supplies or property of patients, patient's families, services, or~~
 1409 ~~healthcare providers.~~
- 1410 -
- 1411 ~~18. Possessing, obtaining, furnishing, or administering prescription drugs, equipment~~
 1412 ~~or supplies to any person, including one's self, except as directed by a person~~
 1413 ~~authorized by law to prescribe such items.~~
- 1414 -
- 1415 ~~19. Impersonating another licensed practitioner.~~
- 1416 -
- 1417 ~~20. Impersonating any applicant or licensee or acting as proxy for the applicant or~~
 1418 ~~licensee in any licensing exam.~~
- 1419 -
- 1420 ~~21. Acting negligently or neglectfully when caring for or treating a patient.~~

- 1421 -
- 1422 -
- 1423 ~~22. Losing certification or license when the certification or license is a necessary~~
- 1424 ~~condition of licensure. For instance, a person licensed in Maine on the basis of~~
- 1425 ~~training obtained in another state would lose his Maine license if the other state~~
- 1426 ~~revoked his or her certification or license.~~
- 1427 -
- 1428 ~~23. Acting negligently or neglectfully in conducting an ambulance service.~~
- 1429 -
- 1430 ~~24. Acting negligently or neglectfully in conducting a Maine EMS continuing~~
- 1431 ~~education program or licensure program.~~
- 1432 -
- 1433 ~~25. Altering or falsifying documents used or intended to be used to obtain a course~~
- 1434 ~~card or certificate.~~
- 1435 -
- 1436 ~~26. Operating an ambulance or EMS vehicle that is not licensed or authorized by the~~
- 1437 ~~Board.~~
- 1438 -
- 1439 ~~27. Using or attempting to use as a valid license one that has been purchased,~~
- 1440 ~~counterfeited materially altered, or obtained by fraud, deceit, or misrepresentation.~~
- 1441 -
- 1442 ~~28. Transferring a license from one vehicle to another without the consent of the~~
- 1443 ~~Board.~~
- 1444 -
- 1445 ~~29. Willfully making a false statement in an application for a license or renewal of a~~
- 1446 ~~license, or in any activity or documents intended to be used to satisfy a requirement~~
- 1447 ~~for licensure.~~
- 1448 -
- 1449 ~~30. Providing treatment or emergency medical dispatch services at a level for which a~~
- 1450 ~~person is not licensed or for which a service is not licensed or permitted.~~
- 1451 -
- 1452 ~~31. The practice of fraud, deceit, misrepresentation, or the concealment of material~~
- 1453 ~~facts in connection with service rendered within the scope of the license issued.~~
- 1454 -
- 1455 ~~32. Misuse of drugs, including alcohol, or other substances, the use of which has~~
- 1456 ~~resulted or may result in the licensee performing his or her duties in a manner that~~
- 1457 ~~endangers the health or safety of his or her patients or students.~~
- 1458 -
- 1459 ~~33. Aiding or abetting the practice of emergency medical treatment by a person not~~
- 1460 ~~duly licensed under 32 M.R.S.A., Chapter 2-B.~~
- 1461 -
- 1462 ~~34. Delegation of practice, skills, treatment, or educational instruction to a person~~
- 1463 ~~who is not licensed or qualified to perform said practice, skills or treatment.~~
- 1464 -
- 1465 ~~35. Abandonment or neglect of a patient.~~
- 1466 -
- 1467 ~~36. Causing physical or emotional injury to a patient as a result of a violation of the~~
- 1468 ~~applicable standard of care.~~

- ~~37. Failing to safeguard the patient's dignity and right to privacy in providing services regardless of race, creed, color, sexual orientation, gender, or socio-economic status.~~
- ~~38. Sexual misconduct as defined in Chapter 14 of these Rules.~~
- ~~39. Providing instruction at a level for which a person is not licensed.~~
- ~~40. Providing instruction at a level for which a Training Center is not authorized or licensed to provide.~~
- ~~41. Aiding or abetting the practice of instruction by a person not duly licensed as a Maine EMS Instructor Coordinator, when a licensed Instructor Coordinator is required.~~
- ~~42. Violating any of the requirements of the Training Center Standards.~~
- ~~43. Failure to provide program or course documentation when required or requested by Maine EMS.~~
- ~~44. Inaccurate recording of material information or falsifying or improperly altering an emergency medical dispatch record.~~
- ~~45. Acting negligently or neglectfully in the provision of emergency medical dispatch services to a caller or patient.~~
- ~~46. Acting negligently or neglectfully in conducting an Emergency Medical Dispatch Center.~~
- ~~47. Providing emergency medical treatment or emergency medical dispatch services when not licensed to do so.~~
- ~~48. Aiding or abetting the practice of emergency medical dispatch services by a person not duly licensed as a Maine EMS Emergency Medical Dispatcher.~~
- ~~49. Failing to participate in Maine EMS approved quality assurance activities.~~
- ~~50. Failure to comply with continuing education requirements for license renewal.~~

AUTHORITY: 32 M.R.S. § 84(1)(A),(G), &(H), 32 M.R.S. § 88(2), 32 M.R.S. § 90-A(7) & (8).

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, 4, 5, 6, 8.32, 10.2, 10.3, 11.1066, and 11.1067

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

1514 January 1, 1986 – Sec. 1, 6, 8.15, 8.2, 8.3, 8.4, and 11.103

1515 September 1, 1986

1516 August 25, 1987 – Sec 5, 6.011 and 12 (added)

1517 July 1, 1988

1518 March 4, 1992

1519 September 1, 1996

1520 EFFECTIVE DATE (ELECTRONIC CONVERSION):

1521 July 1, 2000

1522 REPEALED AND REPLACED:

1523 July 1, 2000

1524 July 1, 2003

1525 May 1, 2013

1526 January 10, 2021

1527 (TBD)