

16 DEPARTMENT OF PUBLIC SAFETY

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

CHAPTER 12: ~~PROCEDURES FOR LICENSING ACTIONS AND BOARD ACTIONS~~  
EMERGENCY MEDICAL SERVICES LICENSING BOARD

**PURPOSE:** The purpose of this chapter is to outline the operation of the Emergency Medical Services Licensing Board (hereafter “Licensing Board”), including the terms of service of a Licensing Board appointee, the selection of a Chair and Chair-elect, the calling and frequency of meetings, and explanation of the consultation process during rulemaking on licensure functions required by statute.

**SECTION 1. Licensing Board Operations**

1. Delegation of Authority to Issue Licensure

A. The Licensing Board and its staff are hereby delegated the authority, pursuant to 32 M.R.S. § 88(2)(C) and 32 M.R.S. § 88(2)(H) to issue licensure to Emergency Medical Services Persons, Ambulances and Emergency Medical Services Vehicles, Emergency Medical Services Ambulance Operators, Emergency Medical Services Dispatchers, Emergency Medical Services Instructor/Coordinators, and Emergency Medical Services Training Centers.

2. Appointment to Licensing Board and Selection of Chair and Vice-Chair.

A. The Licensing Board is appointed in accordance with 32 M.R.S. § 84(1)(H).

B. If the Director of Maine EMS selects a designee for appointment to the Licensing Board, that designee must be an employee of Maine Emergency Medical Services, in the Department of Public Safety. The Designee’s appointment must be confirmed by the Emergency Medical Services Board.

C. No more than two (2) current members of the Emergency Medical Services Board may serve on the Licensing Board.

D. The Emergency Medical Services Board must make a reasonable effort to fill a vacancy of a position with a suitable candidate within one (1) calendar year of the vacancy.

(1) A “reasonable effort” means that the Emergency Medical Services Board must advertise the vacancy of the position on its website, and consider any applications received within such time as the Emergency Medical Services Board considers appropriate. It does not require the Emergency Medical Services Board to appoint any applicant to the position upon the elapse of one (1) calendar year

E. The Licensing Board may, by majority vote, elect a chair and a chair-elect. The Director of Maine Emergency Medical Services or the director’s designee may not serve as chair or chair-elect. In the event of a tie for chair or chair-elect, the Director of Maine Emergency Medical Services or the director’s designee may cast the deciding vote; the Director or the Director’s designee may not otherwise participate in the election of a Chair or Chair-elect of the Licensing Board.

F. The Chair-elect serves for a term of two (2) years, after which they will become the Chair.

G. The Chair serves for a term of up to two (2) years.

H. Upon the resignation or departure of a Chair who has not completed their term, the Chair-elect shall become the Chair. A Chair-elect shall serve the remainder of the resigning or departing Chair's term, plus their own, but in no case may their term as Chair exceed the term limit of their appointment to the Licensing Board.

### 3. Terms, Term Limits, and Removal for Cause

A. A member is appointed to the Licensing Board for a term of four (4) years. Three (3) of the appointed members may be appointed to a single term of five (5) years upon the inaugural appointment of members to the Licensing Board for the purpose of ensuring that terms of the members are staggered so that no more than half of the appointed members' terms expire in any given year.

B. If a designee is appointed by the Director to the Licensing Board, confirmed by the Emergency Medical Services Board, their term shall be four (4) years.

C. Terms shall be staggered so that no more than half of the appointed members' terms expire in any given year.

D. A member appointed to the Licensing Board may not serve for more than two (2) consecutive terms, excluding the director or the director's designee.

(1) A member appointed may continue to serve in their position at the discretion of the current Chair of the Emergency Medical Services Board until a new member is appointed to their position.

(2) A member whose term has expired may not serve in this manner longer than one (1) calendar year from the date of expiration of their term.

E. A member who resigns may have their term completed by the appointment of an appropriate person who is not already serving on the Licensing Board, to the resigning member's position by the Emergency Medical Services Board Chair. This person may not be a member of the Maine Emergency Medical Services Board. A person appointed in this manner does not have this term counted as consecutive.

F. Any member, except the Director of Maine Emergency Medical Services, may be removed for cause by a 2/3 majority vote of the Emergency Medical Services Board. In the event the Director's designee is removed for cause or resigns, the Director shall serve the remainder of the term.

G. Once the Director, or the Director's designee is appointed to the Licensing Board, that individual shall be considered the appointee to serve the designated term; a designee currently serving on the Licensing Board may not be substituted by the Director.

### 4. Meetings

A. The Licensing Board shall meet at least monthly unless there is no business to come before the Licensing Board, at the call of its chair, or at the request of four (4) of its currently appointed and serving members. The Licensing Board may meet more frequently should sufficient need arise.

B. The Licensing Board may only conduct its business with a quorum of members; a quorum is a majority of the members currently appointed and serving.

C. Public input into the public proceedings of the Licensing Board is not permitted when considering a complaint during an initial presentation or preliminary review.

D. All members shall identify conflicts of interest related to agenda items at the beginning of each meeting. Should an additional item be added to the agenda,

- 92 members shall acknowledge any potential conflicts of interest for transparency in  
 93 process. Those with conflicts that have the potential to impact their decision-making  
 94 on the matter at hand shall recuse themselves from the matter.
- 95 5. Remote Meetings
- 96 A. This section of rule covers the use of remote methods of participation in a public  
 97 proceeding by a member of the Licensing Board. The Emergency Medical Services  
 98 Board recognizes that there are benefits to meeting in-person. It further recognizes  
 99 that in-person participation can be challenging for various members who have  
 100 impediments to meeting in-person at each meeting and those impediments may, over  
 101 time, discourage people from participating on the Licensing Board. Accordingly,  
 102 Licensing Board members are encouraged to attend in person but are permitted to  
 103 participate remotely.
- 104 B. The Licensing Board may hold a virtual meeting, meaning a meeting where there is  
 105 no physical location where either the public or Licensing Board members can attend,  
 106 if an emergency or urgent issue exists as determined by the Licensing Board Chair, or  
 107 if the Chair is unavailable, the Chair-elect.
- 108 C. An “emergency” or “urgent issue” includes, but is not limited to:
- 109 (1) A declaration of emergency issued by the Governor of the State of Maine, the  
 110 President of the United States, or by an applicable state or federal agency;
- 111 (2) Circumstances that required an immediate meeting such as an imminent risk of  
 112 harm to person or property; or
- 113 (3) Conduct or condition of a licensee or any other person that places the health or  
 114 physical safety of the Licensing Board or any other person in immediate jeopardy  
 115 by holding an in-person meeting.
- 116 D. Access to virtual meetings due to an emergency or urgent issue shall be provided by  
 117 the Licensing Board to members of the public to permit a meaningful opportunity to  
 118 attend.
- 119 E. The Licensing Board may not limit the public’s ability to attend a public proceeding  
 120 in person except when the existence of an emergency or urgent issue is determined  
 121 pursuant to paragraph C of this rule;
- 122 F. The Licensing Board shall identify a physical location for members of the public to  
 123 attend in person, except when the existence of an emergency or urgent issue is  
 124 determined pursuant to paragraph C of this rule.
- 125 G. The Licensing Board shall provide remote methods for the public to attend whenever  
 126 members of the Licensing Board participate by remote methods, and reasonable  
 127 accommodations may be provided when necessary to provide access to individuals  
 128 with disabilities.
- 129 H. Any Licensing Board member who participates remotely must have the technology,  
 130 including internet access, in their remote location sufficient to be seen and heard  
 131 during the meeting and participate in the same capacity as those members physically  
 132 present. Licensing Board members shall be responsible for any costs associated with  
 133 obtaining and maintaining the technology and equipment necessary to participate  
 134 remotely.

- I. In the event that technical difficulties preclude any member of the Licensing Board from participating in a meaningful way, then the Licensing Board members shall determine whether the member may continue to participate remotely.
  - J. A member of the Licensing board who participates remotely in a public Board proceeding is present for the purposes of quorum and voting.
  - K. All votes taken by the Licensing Board during a public Board proceeding using remote methods for participation by any Licensing Board member must be taken by roll call vote that can be seen and heard by the other members of the Licensing Board and the public.
6. Emergency Medical Services Board Consultation
- A. Consultation
    - (1) When the Emergency Medical Services Board initiates the drafting of a rule for which consultation with the Licensing Board is required, the Emergency Medical Services Board will, prior to the proposal of the rule for public comment, send the draft to the Licensing Board for their review and advice.
    - (2) After the conclusion of a public comment period and review by the Emergency Medical Services Board, for any rule for which consultation with the Licensing Board is required, the Emergency Medical Services Board will send a copy of the proposed rule with any changes resulting from the public comment period, a copy of those public comments and the Emergency Medical Services Board's Responses to those comments, to the Licensing Board for their review and advice on any proposed changes to the rule as a result of public comments, and the Emergency Medical Services Board's responses to those comments.
  - B. Timeline
    - (1) When the Licensing Board has been sent rulemaking documents for its consultation prior to proposal for public comment, the Licensing Board has thirty (30) calendar days to complete its review and provide advice.
      - (a) The Licensing Board shall notify the Chair of the Emergency Medical Services Board if more time is needed, and an extension may be granted by the Chair, not to exceed a total of ninety (90) calendar days.
        - (i) The Chair of the Emergency Medical Services Board may choose, in the case where an extension has been requested, to hold a joint meeting with the Licensing Board, during which the rule may be debated, and after which the Emergency Medical Services Board may determine the grant of the extension.
    - (2) When the Licensing Board has been sent rulemaking documents after the public comment period and review by the Emergency Medical Services Board for its consultation, the Licensing Board has no more than thirty (30) business days to complete its review and provide advice.
  - C. Record
    - (1) The Licensing Board's advice on a rule shall be in writing and shall advise the Board on the policy as it pertains to the proper execution of the Licensing Board's duties.
    - (2) The Licensing Board's written advice shall be made part of the rulemaking record.

D. Authority

- (1) The phrase “consultation with” does not authorize or grant permission to the Licensing Board to veto or override any rule of the Emergency Medical Services Board.

~~§1. —Disciplinary Actions~~

~~1. —Investigation of Complaints~~

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

~~2. —Notice of Complaints and Response~~

~~A. Notice~~

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

~~B. Response~~

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

~~C. Additional Information~~

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

~~D. Further Communications with Complainant~~

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

#### ~~E. Resolution of Complaints Without Discipline~~

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

- ~~1. Issue a letter of guidance or concern pursuant to 32 M.R.S. §88(4);~~
- ~~2. Dismiss the complaint and refer it to the Regional Medical Director for resolution to the extent that the complaint alleges conduct that relates solely to clinical practice issues. A complaint may be referred both to the Regional Medical Director for review of clinical practice issues and for further disciplinary procedures in accordance with these Rules, if the complaint alleges both clinical practice issues and issues appropriate for discipline by the Board; or~~
- ~~3. Dismiss the complaint upon a finding that the complaint is factually unfounded or alleges conduct that is not a violation of EMS Rules or statutes.~~

### ~~3. Informal Conferences~~

~~A. If, in the opinion of the Board, its subcommittee or staff, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the licensee may be requested to participate in an informal conference in accordance with 32 M.R.S. §90-A. The licensee shall be provided with at least seven days written notice of the conference and of the issues to be discussed, unless the licensee waives such right to notice or extraordinary circumstances warrant a shorter period of notice.~~

~~B. If, after the informal conference, the Board, subcommittee or staff determines that resolution without discipline is appropriate, the matter may be resolved by referral to the Regional Medical Director, a letter of guidance or concern, or dismissal as appropriate, and in accordance with EMS statutes and these Rules.~~

### ~~4. Sanctions~~



~~A. If, upon review of the written information provided by the complainant, licensee and any others in support of the complaint and responses, or after an informal conference, the Board, its subcommittee or staff determines that the complaint is true, that a current or former licensee has violated Maine EMS statutes or Rules, and the violation is of sufficient gravity to warrant further action, any of the following may occur:~~

~~1. The Board, its subcommittee or staff may enter into a consent agreement with the licensee in accordance with 32 M.R.S. §88(3)(E) and §90-A (4)(A). Any remedy, penalty or fine, or cost recovery that is otherwise available by law may be achieved by consent agreement, including long term suspension and permanent revocation of a license.~~

~~2. The Board, its subcommittee or staff may negotiate the voluntary surrender of a license by means of a consent agreement, in accordance with 32 M.R.S. 90-A (4)(B).~~

~~B. If the Board, its subcommittee or staff concludes that modification, nonrenewal, or suspension or other discipline within the Board's authority pursuant to 32 M.R.S. §88(3) (civil penalty; warning censure or reprimand; probation; suspension of up to 90 days per violation) is in order, the process is as follows:~~

~~1. The board shall notify the licensee in writing of the licensee's right to request an adjudicatory hearing concerning any proposed action of the Board.~~

~~2. The licensee must file a written request for hearing within thirty (30) days of receipt of the notice of opportunity for hearing. The request is considered filed when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1). The Board may extend this period for good cause shown.~~

~~3. If the licensee makes a timely request for hearing, that hearing must be held by the Board in accordance with the Maine Administrative Procedure Act, Title 5, Chapter 375, Subchapter IV.~~

~~4. Failure to make a timely request for hearing shall be a waiver of any right to hearing and may result in a hearing being held or the proposed action of the Board becoming final without further hearing.~~

~~5. If, after hearing, the Board concludes that the licensee committed one or more violations and imposes sanctions, this decision constitutes final agency action appealable pursuant to 32 M.R.S. 90-A (4)(C) and the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.~~

~~C. Except in the specific circumstances where 5 M.R.S. §10004, Action without hearing, may be invoked, if the Board or staff concludes that suspension beyond the authority conferred by 32 M.R.S. §88 or revocation is in order, the Board or staff may request the Attorney General to file a complaint in the District Court.~~

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

## ~~§2. Initial License Applications~~

### ~~1. Issuance Subject to Letter of Guidance or Consent Agreement~~

~~A. A license may be issued in conjunction with a letter of guidance pursuant to 32 M.R.S. §88(4). The purpose of the letter is to educate the applicant, reinforce knowledge regarding legal or professional obligations, and express concern over action or inaction by the applicant that does not rise to the level of misconduct sufficient to merit denial of the application or negotiation of a consent agreement.~~

~~B. A license may be issued subject to a consent agreement with the applicant in accordance with 32 M.R.S. §88(3)(E) and 90-A (4)(A) if the applicant has engaged in conduct actionable under Maine EMS statutes or Rules and the terms of the consent agreement, in the opinion of the Board, subcommittee or staff, are adequate to protect the public health and safety and to rehabilitate or educate the licensee.~~

### ~~2. Denial~~

~~A. The staff or a subcommittee of the Board may deny an initial license application if done so in a written decision that reflects the reasons for the denial and informs the applicant of the right to appeal the decision to the Board.~~

~~B. A person or organization aggrieved by a subcommittee or staff decision to deny a license may appeal the decision to the Board for a final decision in accordance with 32 M.R.S. §91-A.~~

~~C. If the applicant wishes to appeal the denial, the applicant must notify the Board in writing. The notice must be received by the Board within thirty (30) days of the applicant's receipt of notice of the denial. Service of the notice of appeal is complete when received by Maine EMS by mail, in hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1).~~

~~D. The staff's or subcommittee's decision stands until the Board issues a decision to uphold, modify or overrule the challenged decision.~~



~~E. The Board may, in its discretion, entertain additional evidence or argument from the parties, but need not conduct a full or formal adjudicatory hearing unless otherwise required by law.~~

~~F. 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.~~

~~G. The Board's decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.~~

### **~~§3. License Renewals~~**

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

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

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

~~2. The Board's decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.~~

### **~~§4. Other Staff/Board Actions~~**

~~1. A person or organization aggrieved by the decision of Maine EMS staff or a subcommittee of the Board in taking any non-disciplinary action pursuant to the Board's statutes and Rules, including waiving the application of any rule, or in interpreting statutes or Rules governing the EMS system, may appeal the decision to the Board for a final decision in accordance with 32 M.R.S. §91-A.~~

- ~~2. In order to appeal such a decision, the person or organization must notify the Board in writing. The notice must be received by the Board within thirty (30) days of the applicant's receipt of notice of the challenged decision. Service of the notice of appeal is complete when received by Maine EMS by mail, in-hand delivery, fax, or e-mail in accordance with 5 M.R.S. §8051 (1).~~
- ~~3. The staff's or subcommittee's decision stands until the Board issues a decision to uphold, modify or overrule the challenged decision.~~
- ~~4. The Board may, in its discretion, entertain additional evidence or argument from the parties, but need not conduct a full or formal adjudicatory hearing.~~
- ~~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 Board's decision constitutes final agency action, appealable to the Superior Court in accordance with the Maine Administrative Procedure Act, 5 M.R.S. Chapter 375, Subchapter VII.~~

AUTHORITY: 32 M.R.S. § 84(1)(A) & (H), 32 M.R.S. § 88(2)(C)

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