

16 DEPARTMENT OF PUBLIC SAFETY**163 BUREAU OF EMERGENCY MEDICAL SERVICES (MAINE EMS)****CHAPTER 14: SEXUAL MISCONDUCT****§1. Definitions**

1. ~~“EMS Provider” is an individual who is licensed or certified according to the provisions of 32 M.R.S. §81 *et seq.* and the Maine EMS Rules.~~
2. ~~“Sexual misconduct” is behavior that exploits the EMS Provider-patient relationship in a sexual way. This behavior is non-diagnostic and/or non-therapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such. Sexual misconduct is considered unprofessional conduct pursuant to 32 M.R.S. §90-A(5)(F) and Chapter 11 of the Maine EMS Rules. There are two levels of sexual misconduct: sexual violation and sexual impropriety. Behavior listed in either category may be the basis for disciplinary action.~~
3. ~~“Sexual violation” is any conduct by an EMS Provider with a patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by a patient, including but not limited to:~~
 - A. ~~Sexual intercourse, genital to genital contact;~~
 - B. ~~Oral to genital contact;~~
 - C. ~~Oral to anal contact or genital to anal contact;~~
 - D. ~~Kissing in a sexual manner;~~
 - E. ~~Any touching of a body part for any purpose other than appropriate examination or treatment.~~
 - F. ~~Encouraging the patient to masturbate in the presence of the EMS Provider or masturbation by the EMS Provider while the patient is present; and,~~
 - G. ~~Offering to provide practice-related services, such as drugs, in exchange for sexual favors.~~
4. ~~“Sexual impropriety” is behavior, gestures, or expressions by the EMS Provider that are seductive, sexually suggestive, or sexually demeaning to a patient, including but not limited to:~~

- ~~A. Kissing;~~
- ~~B. Disrobing, draping practices or touching of the patient's clothing that reflect a lack of respect for the patient's privacy; deliberately watching a patient dress or undress, instead of providing privacy for disrobing;~~
- ~~C. Examination or touching of genitals without a reported, suspected or obvious injury;~~
- ~~D. Inappropriate comments about or to the patient, including but not limited to making sexual comments about a patient's body or underclothing; making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, making comments about potential sexual performance during an examination or consultation, requesting details of sexual history or requesting information on sexual likes or dislikes;~~
- ~~E. Using the EMS Provider-patient relationship to solicit a date or initiate romantic relationship;~~
- ~~F. Initiation by the EMS Provider of conversation regarding the sexual problems, preferences, or fantasies of the EMS Provider, the sexual preferences or fantasies of the patient, or sexual problems of the patient that are not relevant to emergency medical treatment.~~

~~§2. Sanctions~~

- ~~1. If the Board finds that an EMS Provider has engaged in sexual misconduct as defined in §1 of this chapter, the EMS Provider shall be disciplined in accordance with Maine statutes and these Rules.~~
 - ~~A. All disciplinary sanctions under 32 M.R.S. §§ 88 and 90-A are applicable.~~
 - ~~B. Sexual Violation—Finding of a sexual violation is egregious enough to warrant revocation of an EMS Provider's license. The Board may, at times, find that mitigating circumstances do exist and may impose a lesser sanction.~~
 - ~~C. Sexual Impropriety—Finding of a sexual impropriety will result in harsh sanction, which may include license revocation.~~
- ~~2. Special consideration should be given to at least the following when determining an appropriate sanction for sexual misconduct:~~
 - ~~A. Patient harm;~~
 - ~~B. Severity of conduct;~~

- ~~C. Motive and intent of licensee;~~
- ~~D. Inappropriate termination of EMS Provider-patient relationship;~~
- ~~E. Age of patient;~~
- ~~F. Physical and mental capacity of patient;~~
- ~~G. Frequency and duration of behavior;~~
- ~~H. Number of patients involved;~~
- ~~I. Evaluation/assessment results.~~

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

EFFECTIVE DATE: July 3, 1978 (EMERGENCY)

AMENDED: April 1, 1982
 December 25, 1982 - Sec. 2.31, 3131, 6.311, 6.63 and 6.73
 January 1, 1984 - Sec. 1, 2, 3, 5, 6, 8.32, 10.2, 10.3, 11.1066, 11.1067
 April 30, 1985 - Sec. 1, 2.846.222, 6.332, 9.313, 8.3216 and 9.11
 January 1, 1986 - Sec. 1, 6. 8.15, 8.2, 8.3, 8.4 and 11.103
 September 1, 1986
 August 25, 1987 - Sec. 5, 6.011 and 12 (added)
 July 1, 1988
 March 4, 1992
 September 1, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
 July 1, 2000

REPEALED AND REPLACED: July 1, 2000
 July 1, 2003
 October 1, 2009
 January 10, 2021

REPEALED: (TBD)
 TBD