

NOTICE OF INTENT

Department of Health and Hospitals Emergency Medical Services Certification Commission

EMS Certification Commission Rules of Procedure

Under the authority of the Department of Health and Hospitals R.S. 40:1710 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Emergency Medical Services Certification Commission, hereby gives notice of intent regarding the proposed rules to establish procedures to provide direction in the transaction of the business of administering and implementing the spirit and intent of the law governing the practice of emergency medical services professionals.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVIII. Emergency Medical Services Certification Commission

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose

A. The Louisiana Emergency Medical Services Certification Commission is a legally created administrative commission acting within the governmental structure of the state and possessing legal power. To safeguard life and health of the citizens of Louisiana, the law governing the practice of Nationally Registered and State Certified Emergency Medical Services professionals, Louisiana Revised Statutes of 1950, R.S. 40:1232 et seq., as re-enacted and amended, delegates to this commission the responsibility to establish and publish standards of out-of-hospital practice; to regulate the scope of practice of Emergency Medical Services professionals, to discipline and regulate the practice of Emergency Medical Services professionals and to establish standards for educational programs preparing individuals for out of hospital practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

Chapter 3. Registration and Certification

§301. State and National Certification

A. State certification by the Bureau of Emergency Medical Services is mandatory for practicing as a certified first responder.

B. National registration and state certification is mandatory for practicing as a certified emergency medical technician.

C. State certification as a certified Emergency Medical Services professional shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1231, et seq. All applicants shall meet the same standards.

D. The commission shall render an opinion to the Bureau of Emergency Medical Services on whether the applicant meets the requirements of certification in all questionable cases brought before the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§303. Denial of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, or the right to practice as an EMS student may be denied approval for certification, reinstatement, receipt of a temporary permit, eligibility for the National Registry exam, or entry or progress into any clinical or field internship aspects of an EMS course, if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility; or

2. has pled guilty, nolo contendere, been convicted of, or committed a: "crime of violence" as defined in R.S. 14:2(13), or any of the following crimes:

a. first degree feticide;

b. second degree feticide;

c. aggravated assault with a firearm;

d. stalking,

e. false imprisonment (offender armed with a dangerous weapon);

f. incest;

g. aggravated incest;

h. molestation of a juvenile;

i. sexual battery of the infirm; or

j. crime which involves felony drug charges.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are denied certification, reinstatement, or the right to practice EMS as a student shall not be eligible to submit a new application, unless the ground for denial is falsification of records and until the following conditions are met.

1. A minimum of two years has passed since the denial was issued.

2. The applicant presents evidence that the cause for the denial no longer exists.

3. A hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§305. Delay of Certification, Reinstatement, or the Right to Practice EMS as a Student

A. Applicants for certification, reinstatement, and for practice as a EMS student shall have approval delayed for certification, for reinstatement, to receive a temporary working permit, to be eligible for National Registry Exam, or to enter or progress into any clinical EMS course, if the applicant:

1. has any pending disciplinary action or any restrictions of any form by any licensing/certifying entity in any state; or

2. has a pending criminal charge that involves any violence or danger to another person, or involves a crime which constitutes a threat to patient care; or

3. has pled guilty, nolo contendere, been convicted of or committed a crime that reflects on the ability of the person to practice EMS safely, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole. If the crime is a "crime of violence" as defined in R.S. 14:2(13) or any of the following crimes: first degree feticide, second degree feticide, aggravated assault with a firearm, stalking, false imprisonment-offender armed with a dangerous weapon, incest, aggravated incest, molestation of a juvenile, sexual battery of the infirm, or a crime which involves felony drug charges, the applicant shall be denied.

B. For purposes of this Section, a pardon, suspension of imposition of sentence, expungement, or pretrial diversion or similar programs shall not negate or diminish the requirements of this Section.

C. Applicants who are delayed certification, reinstatement, or the right to practice EMS, as a student shall not be eligible to submit a new application until the following conditions are met.

1. The applicant presents sufficient evidence that the cause for the delay no longer exists; and

2. A hearing or conference is held before the commission to review the evidence, to afford the applicant the opportunity to prove that the cause for the delay no longer exists, and to provide an opportunity for the commission to evaluate changes in the person or conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Disciplinary Proceedings Before the Commission

A. The Emergency Medical Services Certification Commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 40:1231 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§503. Proceedings against Certified EMS Professional or Certified EMS Professional Applicants

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand, or restrict any certification to practice as a certified EMS professional or otherwise discipline an individual in accordance with R.S. 40:1232.6.

B. Every individual subjected to disciplinary proceedings shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. A complaint that an individual has engaged in, or is engaging in, any conduct proscribed by R.S. 40:1232.6 may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission or affixed to the form prescribed by the commission.

D. Grounds for disciplinary proceedings against a certified EMS professional are specified in R.S. 40:1232.6.

1. Is guilty of selling or attempting to sell, falsely obtaining, or furnishing to a person a certified emergency medical technician or certified first responder certification document.

2. Is guilty of a felony or is convicted of a crime or offense which reflects the inability to practice EMS with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including, but not limited to, expungement, non-adjudication or pardon.

3. Is unfit or incompetent by reason of negligence, habit, or other cause.

4. Is habitually intemperate in the use of or abuses alcohol or habit-forming drugs.

5. Has demonstrated actual or potential inability to practice EMS with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice EMS with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

6. Is mentally incompetent.

7. Has had a certification to practice EMS or to practice as another health care provider denied, revoked, suspended, or otherwise restricted.

8. Is guilty of moral turpitude.

9. Has violated any provision of this Subpart.

10. Is guilty of aiding or abetting another person in the violation of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§505. Proceedings Involving Students Enrolled in EMS Courses

A. The commission may direct the Bureau of Emergency Medical Services to deny, revoke, suspend, probate, limit, reprimand or restrict any student enrollment in EMS courses, or otherwise discipline a student enrolled in EMS courses or attempting to enroll in EMS courses as part of its duties and responsibilities in regulating the practice of EMS in Louisiana and in overseeing the administration of the curriculum and operation of EMS education programs in the state of Louisiana.

B. Every student enrolled or attempting to enroll in EMS courses subjected to the proceedings set forth above, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer.

C. Information obtained by the commission that a EMS student enrolled or attempting to enroll in EMS courses is or has engaged in any conduct prescribed by R.S. 40:1232.6, shall be received in a form prescribed by the commission. This information may be furnished by any person, staff, agency or by the commission.

D. Grounds for proceedings against a student enrolled or attempting to enroll in EMS courses are:

1. all of the grounds for disciplinary proceedings against certified EMS professional listed in section D. of Proceedings Against Certified EMS Professional or Certified EMS Professional Applicants;

2. has been denied a request to enroll in EMS courses or has been denied a Certification to practice in any health

care field or had such privileges revoked, suspended or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§507. Definition of Terms

A. The commission in the exercise of its disciplinary authority has adopted the following meaning for the following terms.

Aiding and Abetting: to intentionally assist anyone by condoning, or to apply positive or negative force to assist anyone in violating the Emergency Medical Services Practice Act or the rules and regulations of the commission or bureau.

Deny: to refuse for cause.

Habit: a mode of behavior, which an individual acquires over a period of time.

Limit: to confine within certain bounds.

Mentally Incompetent: a court judgment of legal insanity or incompetence or a medical diagnosis indicating insanity or incompetence.

Moral Turpitude: an act, which is dishonest, or contrary to good morals.

Negligence: a breach of duty of care owed to an individual.

Other Causes: includes, but is not limited to:

a. failure to practice EMS in accordance with the standards of EMS practice;

b. possessing a physical impairment or mental impairment, which interferes with the judgment, skills or abilities required for the practice of EMS;

c. failure to utilize appropriate judgment;

d. failure to exercise technical competence in carrying out EMS care;

e. violating the confidentiality of information or knowledge concerning the patient;

f. performing procedures beyond the authorized scope of EMS or any specialty thereof;

g. performing duties and assuming responsibilities within the scope of the definition of EMS practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;

h. improper use of drugs, medical supplies or equipment, patient's records, or other items;

i. misappropriating items of an individual, agency, or entity;

j. falsifying records;

k. failure to act, or negligently or willfully committing any act that adversely affects the physical or psychosocial welfare of the patient;

l. delegating or assigning EMS care, functions, tasks, or responsibilities to others contrary to regulations or failing to adequately supervise EMS tasks assigned to others during the course of providing EMS care.

m. leaving a EMS assignment without properly notifying appropriate personnel;

n. failing to report to the Bureau of Emergency Medical Services, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any EMS professional;

o. has violated a rule or an order adopted by the commission or the bureau, or a state or federal law relating to the practice of professional EMS, or a state or federal narcotics or controlled substance law;

p. inappropriate, incomplete or improper documentation;

q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty;

r. failure to cooperate with the commission or bureau by:

i. not furnishing in writing a full and complete explanation covering a matter requested in writing by the commission or bureau; or

ii. not responding to subpoenas issued by the commission in connection with any investigation or hearing;

s. exceeds professional boundaries, including but not limited to sexual misconduct; and

t. use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

Probate: to stay a sentence of certification suspension during good behavior and placing under supervision of Bureau for a period of time. Certification is marked "probated" and specific requirements are identified.

Professional Boundaries: the limits of the professional relationship that allow for a safe therapeutic connection between the professional and the patient.

Reprimand: written communication to the individual stating the commission's concerns, and public notification of the individual's name and reason for the reprimand.

Restrict: to limit or restrain EMS practice by settings, types of patients, or other means.

Reasonable skill and safety: practicing EMS in accordance with the standards of EMS practice.

Revoke: to annul or make void by calling back. Revocation of certification shall be indefinite as to the practice of EMS in Louisiana.

Sexual misconduct: an extreme boundary violation which involves the use of power, influence and/or knowledge inherent in one's profession in order to obtain sexual gratification, romantic partners and/or sexual deviant outlets. Any behavior that is seductive, sexually demeaning, harassing or reasonably interpreted by a patient as sexually inappropriate, is a violation of the EMS professional's fiduciary responsibility to the patient.

Suspend: to hold certification to practice as a certified EMS professional in abeyance for a definite or an indefinite period of time.

Unfit or Incompetent: unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1231 et seq., as re-enacted and amended.

1. A disciplinary proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be

conducted in accordance with considerations of fair play and constitutional requirements of due process.

2. The purpose of a disciplinary proceeding is to determine contested issues of law and fact; whether the individual did certain acts and, if he did, whether those acts violated the Emergency Medical Services Practice Act or rules and regulations of the commission or bureau; and to determine the appropriate disciplinary action.

3. Any disciplinary action shall also be forwarded to the National Registry of Emergency Medical Technicians (NREMT), as applicable, and any other certification agency and/or required reporting entity.

B. Investigation

1. The process of a disciplinary proceeding shall include certain steps and may include other steps as follows.

a. The bureau or commission receives information alleging that an individual has acted in violation of the Emergency Medical Services Practice Act. Communications from the informant shall be privileged and shall not be revealed to any person unless such documents will be offered for evidence in a formal hearing, or unless those documents are subpoenaed by a court, or requested by other regulatory or law enforcement agencies.

b. The information is investigated by the bureau's staff to determine if there is sufficient evidence to warrant disciplinary proceedings. Information received by the bureau or commission shall not be considered a complaint until the individual furnishing that information provides the information in writing. The commission chair or designee may issue a subpoena prior to the filing of charges if, in the opinion of the chair, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S.40:1231 et seq., or the rules, regulations, or orders of the bureau or commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony and/or to compel the production of books, records, papers, or other objects.

2. An agreement worked out between the complainant and the individual does not preclude disciplinary action by the commission. The nature of the offense alleged and the evidence before the commission must be considered.

C. Informal Disposition of with No Disciplinary Action

1. Some allegations may be settled informally by the commission and the individual, without formal disciplinary action. The following types of informal dispositions may be utilized.

a. Disposition by Correspondence

i. For less serious allegations, the chair, or a designee of the commission, may write to the individual explaining the nature of the information received. The individual's subsequent response may satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, and the matter may be dropped. If the situation is not satisfactorily explained, it shall be investigated and disposed of through another informal means or brought before the commission for a formal hearing.

b. Informal Conference

i. The chair, or a designee of the chair, and another member of the commission or a bureau staff member may hold a conference with the individual, in lieu of, or in addition to correspondence, in cases of less serious

allegations. If the respondent can satisfactorily explain that no violation of the Emergency Medical Services Practice Act, or rules, or order of the commission or bureau occurred, or that the matter does not rise to the level requiring formal disposition at this time, then the matter may be dismissed.

ii. The individual shall be given adequate notice of the fact that information brought out at the conference may later be used in a formal hearing.

iii. Referral to an alternative to the disciplinary process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§511. Formal Disciplinary Action

A. A decision to initiate formal disciplinary proceedings is made if one or more of the following conditions exist:

1. the complaint is sufficiently serious;
2. the individual fails to respond to the commission's correspondence concerning the complaint;
3. the individual's response to the commission's letter or investigative demand is not convincing that no action is necessary;
4. an informal approach is used, but fails to resolve all of the issues.

B. Informal Procedures

1. The matter may be resolved without a formal administrative hearing by either a voluntary surrender of certification, Consent Order, or Settlement Order. These actions shall constitute disciplinary action and shall be a public record of the commission. The commission shall publish the individual's name, a brief description of the violation, and the disciplinary action.

C. Voluntary Surrender of Certification. An individual who is under investigation for violation of the practice act or rules of the commission or bureau may voluntarily surrender his certification to the bureau. The voluntary surrender invalidates the certification at the time of its relinquishment. An individual practicing as a certified EMS professional during the period of voluntary certification surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40.1231 et seq.

1. Any certification surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of certification surrender shall be deemed a disciplinary action and shall be reported and distributed in the same manner as final decisions of the commission.

2. Surrender or non-renewal of certification shall not preclude the commission from investigating or completing a disciplinary proceeding based upon the individual's conduct prior to or subsequent to the surrender of certification.

3. Individuals who surrender their certification are not eligible for reinstatement of certification for a minimum of two years and until meeting the requirements for reinstatement of certification as described in this chapter.

D. Consent Order

1. An order involving some type of disciplinary action may be made by the commission with the consent of the individual.

2. The chair or the Bureau of EMS Director is authorized to offer the individual the choice of a Consent Order in lieu of an Administrative Hearing.

3. A Consent Order signed by an individual is an irrevocable offer by the individual until approved, or rejected, by the commission chair or designee.

4. A Consent Order requires formal approval of a quorum of the commission. All actions of the bureau shall be reported to the commission at its next regularly scheduled meeting.

5. A Consent Order is not the result of the commission's deliberation; it is the commission's formal approval of an agreement reached between the commission and the individual. The order is issued by the commission to carry out the parties' agreement.

a. Should the commission require evidence before arriving at a decision, the individual shall be notified and given an opportunity for a hearing.

b. Should the commission revise the terms of the agreement, said revised agreement shall be presented for the individual's acceptance. The commission may formulate its order contingent upon the individual's acceptance.

c. The commission shall have the right to refer any case directly to an Administrative Hearing without first offering a Consent Agreement.

E. Settlement Order

1. Disciplinary Settlement Committee, consisting of the chair, or a designee of the chair, and another member of the commission or a bureau staff member, is delegated the authority to render a final decision regarding settlement of a contested administrative matter by offering a Settlement Order in lieu of an administrative hearing. The Settlement Order shall be deemed an Order of the commission, effective immediately upon signature of all parties to the agreement.

a.. The Disciplinary Settlement shall be submitted to the commission for review at the next regularly scheduled disciplinary hearing.

b. Should the Disciplinary Settlement Committee be unable to successfully resolve a case, or should the Committee believe that the public would be better protected by a decision rendered by the entire commission, the matter will be forwarded to the commission for a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1232.3, to bring administrative proceedings to certified EMS professionals, applicants for certification, individuals seeking enrollment or progression in an approved EMS program, and individuals practicing EMS without certification. The commission and the individual are the parties to the proceeding. The individual has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The chair or a designee fixes a time and place for a hearing.

2. At least 15 days prior to the date set for the hearing, a copy of the charges and a notice of the time and place of the hearing are sent by certified mail, return receipt requested, to the individual's address of record. Notice to an

individual is effective and service is complete when sent by certified mail to the individual's address of record.

3. At least five working days prior to the scheduled hearing date, the individual shall respond in writing as to his intention to appear or not appear at the scheduled hearing. At least five working days prior to the scheduled hearing date, the individual shall also file with the commission a written response to the specific allegations contained in the notice of charges. Allegations not specifically answered shall be deemed admitted.

4. If the individual does not appear, in person or through counsel, after proper notice has been given, the individual has waived these rights and the commission may proceed with the hearing without the presence of the individual.

C. Motions for Continuance

1. The commission shall not postpone cases that have been scheduled for hearing absent good cause. A written motion by a certified EMS professional, applicant, or student for a continuance shall be filed with the commission five working days prior to the time set for the hearing, except for extreme emergencies. The motion shall contain the reason for the request, which reason must be based upon good cause and have relevance for due process. Requests for continuances may be approved or denied by the chair or designee. No more than three requests for continuance shall be granted.

D. Subpoenas

1. The chair, or a designee of the commission, issues subpoenas for the commission for disciplinary proceedings, and when requested to do so, may issue subpoenas for the other party. Subpoenas include:

a. a subpoena requiring a person to appear and give testimony;

b. a subpoena duces tecum, which requires that a person produce books, records, correspondence, or other materials over which he has control.

E. Hearing

1. The hearing is held, at which time the commission's primary role is to hear evidence and argument, and to reach a decision. Any commission member, who because of bias or interest is unable to assure a fair hearing, shall be recused from that particular proceeding. The reasons for the recusal are made part of the record. Should the majority of the commission members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

2. The commission shall be represented by a Department of Health and Hospitals' attorney. Evidence is presented that disciplinary action should be taken against the individual. The individual may present evidence personally or through an attorney, and witnesses may testify on behalf of the individual.

3. Evidence includes the following:

a. oral testimony given by witnesses at the hearing, except that, for good cause, testimony may be taken by deposition (cost of the deposition is borne by requesting party) and/or by sworn affidavits;

b. documentary evidence, i.e., written or printed materials including public, business or institutional records, books and reports; such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, if the incorporated materials are

available for examination by the parties before being received into evidence;

- c. visual, physical and illustrative evidence;
- d. admissions, which are written or oral statements of a party made either before or during the hearing;
- e. facts officially noted into the record, usually readily determined facts making proof of such unnecessary.;
- f. All testimony is given under oath. If the witness objects to swearing, the word "affirm" may be substituted.

4. The chair of the commission presides and the customary order of proceedings at a hearing is as follows.

a. The chair of the commission presents the case against the individual.

b. The individual, or his attorney, makes an opening statement, explaining why he believes that the charges against him are not legally founded.

c. The individual commission members ask relevant questions.

d. The individual, or his attorney, may make any statements or questions to the commission.

e. The chair of the commission makes the final statement.

f. The commission may impose reasonable time limits on all sides in a hearing, provided that limits will not unduly prejudice the rights of the parties.

g. The commission may exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record.

h. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

i. Motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before or after the hearing shall be in writing. Those made during the course of the hearing may be made orally since they become part of the transcript of the proceeding.

5. The records of the hearing shall include:

- a. all papers filed and served in the proceeding;
- b. all documents and other materials accepted as evidence at the hearing;
- c. statements of matters officially noticed;
- d. notices required by the statutes or rules, including notice of the hearing;
- e. affidavits of service or receipts for mailing or process or other evidence of service;
- f. stipulations, settlement agreements or consent orders, if any;
- g. records of matters agreed upon at a pre-hearing conference;
- h. orders of the commission and its final decision;
- i. actions taken subsequent to the decision, including requests for reconsideration and rehearing;
- j. a transcript of the proceedings, if one has been made, or a tape recording or stenographic record.

k. The record of the proceeding shall be retained until the time for any appeal has expired, or until the appeal has been concluded. The record is not transcribed unless a party to the proceeding so requests, and the requesting party pays for the cost of the transcript. A party who appeals a decision of the commission shall pay all of the costs incurred by the Department of Health and Hospitals for preparation of the original and any certified copy of the record of the

proceeding that is required to be transmitted to the reviewing court.

6. The decision of the commission shall be reached according to the following process.

a. Determine the facts in the issue on the basis of the evidence submitted at the hearing.

b. Determine whether the facts in the case support the charges brought against the individual.

c. Determine whether charges brought are a violation of the Emergency Medical Services Practice Act or rules and regulations of the commission or the bureau.

7. The vote of the commission shall be recorded. Minority views may be made part of the record.

8. Sanctions against the individual who is party to the proceeding are based upon the findings of fact and conclusions of law determined by the hearing. The party is notified by certified mail of the decision of the commission.

F. Disciplinary Sanctions

1. The type of disciplinary sanctions and length of time specified for the sanctions shall be determined on an individual basis, considering all facts pertinent to the case.

2. The commission sets forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for specific violations of the Emergency Medical Services Practice Act. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order certification sanctions.

3. The disciplinary guidelines are based upon a single count violation. Multiple counts of violations of the same action, or other unrelated violations contained in the same complaint will be grounds for enhancement of penalties. Each day of a continuum of violations may be treated as a separate violation.

4. In determining sanctions, the staff shall consider aggravating or mitigating circumstances identified by the commission in addition to any other factors. The list of aggravating and mitigating circumstances in the guidelines is not to be considered an exclusive list of circumstances.

a. Aggravating circumstances may result in the commission issuing maximum sanctions, or they may justify enhancement of a penalty beyond the maximum guidelines.

b. Mitigating or extenuating circumstances may justify lessening of the sanctions below the minimum guidelines. Certification suspensions may be stayed with stipulated probations in some extenuating circumstances.

5. The Order may stipulate remedial education, specific evaluation and therapy, and other sanctions as deemed necessary and appropriate to the case.

G. Reconsideration or Rehearing

1. The commission shall reconsider a matter when ordered to do so by a higher administrative authority or when the case is remanded for reconsideration or rehearing by a court to which the commission's decision has been appealed.

2. The commission may reconsider a matter which it has decided. This may involve rehearing the case, or it may involve reconsidering the case on the basis of the record. Such reconsideration may occur when a party files a petition requesting that the decision be reconsidered by the commission and specifies the particular grounds therefore.

3. A petition by a party for reconsideration or rehearing must be in proper form and filed within 10 days from the date of entry of the decision. A decision is deemed to be entered when it is signed by the chair or designee and sent by certified mail to the individual's address of record. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

a. the commission's decision is clearly contrary to the law and the evidence;

b. there is newly discovered evidence, which was not available to the individual at the time of the hearing and which may be sufficient to reverse the commission's action.;

c. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

d. it would be in the public interest to further consider the issues and the evidence;

e. upon the commission's receipt of a petition for rehearing or reconsideration, the commission may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the above stated reasons. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

H. Emergency Action

1. If the commission finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a certification may be ordered by the chair or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next regularly scheduled commission meeting.

I. Disciplinary Proceedings in another Licensing Jurisdiction

1. When a certified EMS professional has his certification revoked, suspended, denied or sanctioned in other ways for disciplinary reasons by the original certification/licensing jurisdiction or by a subsequent certification/licensing authority that certified EMS professional shall be notified that his Louisiana Certification is automatically suspended, except for the following:

a. nonpayment of fees;

b. a person in a recovery program for chemical dependency receives permission of the state of origin to transfer to another state;

c. the certified EMS professional is issued a reprimand and the certified EMS professional agrees to having his Louisiana Certification reprimanded identically to, or in excess of, the said jurisdiction's reprimand; and

d. the certification is encumbered with a reprimand with stipulations and the certified EMS professional agrees to having his Louisiana Certification probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The certified EMS professional may have his certification reinstated provided that the certified EMS professional:

a. provides evidence of an unencumbered certification by the involved certification/licensing authority and all subsequent certification/licensing authorities; and

b. meets requirements for reinstatement of certification as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§515. Appeal from Commission Decision

A. Any person whose certification has been revoked, suspended, denied, or otherwise disciplined by the bureau shall have the right to have the proceedings of the commission reviewed by the court having jurisdiction over the commission, provided that such appeal is made within 30 days after the date indicated on the registered mail receipt of the written notice of the commission's decision. The commission's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§517. Reinstatement of Certification

A. Application for reinstatement of a suspended or surrendered certification shall be in writing.

B. The application for reinstatement of a suspended certification does not require satisfaction of the requirements for initial certification. However, the requirements of LAC 46:XXXVIII shall be met.

C. Prior to reinstatement of a certification previously suspended (except for nonpayment of fees), a hearing or conference is held before the commission to afford the applicant with the opportunity to present evidence that the cause for the revocation or suspension no longer exists and to provide an opportunity for the commission to evaluate changes in the person or conditions. In certain situations, the certification may be reinstated by consent order or settlement order. The burden of proof is on the applicant to prove that conditions that led to the suspension no longer exist and/or no longer affect applicant's ability to practice safely. If reinstatement is granted, a period of probation with stipulations may be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

§519. Definition of Terms Applying to EMS Practice as used in This Chapter.

Accountability: being answerable for one's actions or inactions. The certified EMS professional answers to self, patient, agency, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility of each individual to maintain competency in practice. If the assigned EMS professional does not possess the specialized EMS knowledge, skills and abilities required to provide the required care, said professional shall notify the appropriate supervisory EMS personnel.

Additional Acts: activities beyond those taught in basic EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Certified EMS professional are accountable for attaining and maintaining competency when performing approved additional acts.

Assessment: identifying human responses, which indicate existing, or potential abnormal condition through

means of the patient history, physical examination, and observation, in accordance with the Standards of EMS Practice.

Assignment: designating EMS activities to be performed by an individual consistent with his scope of practice. Carrying out the medical orders of a physician licensed in Louisiana.

Collaborating: a process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

Delegating EMS Interventions: committing or entrusting the performance of selected EMS tasks by the certified EMS professional to other competent EMS personnel in selected situations. The certified EMS professional retains the accountability for the total EMS care of the individual.

EMS Services: activities designed to resolve, diminish, or prevent the needs that are inferred from the individual's problem; includes the planning, implementation and evaluation of said activities in accordance with the Standards of EMS Practice.

Expanded scope of practice: those functions, procedures and activities which are currently not part of the approved National EMS curriculum, but have been approved by the EMS Certification Commission as appropriate for the various levels of EMS professionals.

Field diagnosis: prehospital evaluation of the patient's condition and its causes.

Maintaining EMS Care Rendered Directly or Indirectly: preserving the continuity of safe and effective EMS care, including the delegated EMS activities.

Managing and Supervising the Practice of EMS: those activities which serve to fulfill the accountability of the certified EMS professional for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

1. judging the priority of EMS needs of the individual(s);
2. determining actions required to meet the needs;
3. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;
4. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;
5. directing the EMS care and evaluating the outcomes of that care;
6. determining and initiating changes in EMS care or in assignment of EMS personnel.

Medical Diagnosis: the conclusion reached in identification of the patient's disease, especially the art of distinguishing among several possibilities with the intent of prescribing relevant treatment.

Medical interventions: all functions, activities, medications and medical treatments of therapeutic or corrective nature approved by the Bureau of EMS and the EMS Certification Commission.

Preventive instruction: those EMS measures that provide health information and explanation to the public to reduce the incidence of death and injury.

Specialty Care Transport Paramedic: those individuals who have met the requirements as approved by the EMS Certification Commission.

Specialized Knowledge and Skills: required for the practice of EMS means the current theory and practice taught in basic EMS education programs preparing persons for EMS professional certification as well as information in the biological, physical and behavioral sciences.

Student EMS Professional: a person who is engaged in learning experiences in a program of study leading to candidacy for certification to practice as a certified EMS professional. The term applies only when the person is participating in an integral part of the program of study.

Teaching of EMS: instructing EMS professional students and providing continuing EMS education to certified EMS professionals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 28:

Chapter 7. Administrative Provisions

Subchapter A. Fees and Costs

Reserved.