

§90-A. Licensing actions

1. Disciplinary proceedings and sanctions. The board or, as delegated, its subcommittee or staff, shall investigate a complaint on its own motion or upon receipt of a written complaint filed with the board regarding noncompliance with or violation of this chapter or of any rules adopted by the board. Investigation may include an informal conference before the board, its subcommittee or staff to determine whether grounds exist for suspension, revocation or denial of a license or for taking other disciplinary action pursuant to this chapter. The board, its subcommittee or staff may subpoena witnesses, records and documents, including records and documents maintained by a health care facility or other service organization or person related to the delivery of emergency medical services, in any investigation or hearing it conducts.

[PL 2001, c. 229, §5 (AMD).]

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

[PL 2003, c. 559, §2 (AMD).]

3. Informal conference. 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 board or staff may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, subcommittee or staff, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal administrative or judicial hearing unless all parties consent. The licensee may, without prejudice, refuse to participate in an informal conference if the licensee prefers to request an adjudicatory hearing. If the licensee participates in the informal conference, the licensee waives the right to object to a participant at the hearing who participated at the informal conference.

[PL 2003, c. 559, §2 (AMD).]

4. Further action. If the board, its subcommittee or staff finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions.

A. The board, its subcommittee or staff may negotiate a consent agreement with the licensee that fixes the period and terms of probation necessary to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Department of the Attorney General.

[PL 2003, c. 559, §2 (AMD).]

B. If a licensee voluntarily surrenders a license, the board, its subcommittee or staff may negotiate stipulations necessary to ensure protection of the public health and safety and the rehabilitation or education of the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Department of the Attorney General. [PL 2001, c. 229, §7 (AMD).]

C. If the board, its subcommittee or staff concludes that modification, nonrenewal or suspension pursuant to section 88, subsection 3 of a license or imposition of a civil penalty pursuant to section 88, subsection 3 is in order, the board shall so notify the licensee and inform the licensee of the licensee's right to request an adjudicatory hearing. If the licensee requests an adjudicatory hearing in a timely manner, the adjudicatory hearing must be held by the board in accordance with Title 5,

chapter 375, subchapter 4. If the licensee wishes to appeal the final decision of the board, the licensee shall file a petition for review with the Superior Court within 30 days of receipt of the board's decision. Review under this paragraph must be conducted pursuant to Title 5, chapter 375, subchapter 7. [PL 2003, c. 559, §2 (AMD).]

D. Except in the specific circumstances where Title 5, section 10004 may be invoked, if the board or its staff concludes that suspension beyond the authority conferred by section 88 or revocation of the license is in order, the board or its staff shall request the Attorney General to file a complaint in the District Court in accordance with Title 4, chapter 5 and the Maine Administrative Procedure Act to commence either full or emergency proceedings. [PL 2001, c. 229, §7 (AMD).]
[PL 2003, c. 559, §2 (AMD).]

5. Grounds for licensing action. A decision to take action against any applicant or licensee pursuant to this chapter or any rules adopted pursuant to this chapter, including, but not limited to, a decision to impose a civil penalty or to refuse to issue or renew a license or to modify, suspend or revoke a license of a person, service or vehicle, may be predicated on the following grounds:

A. Fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued; [PL 1991, c. 588, §19 (AMD).]

B. [PL 2007, c. 274, §22 (RP).]

B-1. 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 or emergency medical dispatch services would be impaired; [PL 2007, c. 274, §23 (NEW).]

B-2. A declaration of or claim pertaining to the licensee of legal incompetence that has not been legally terminated; [PL 2007, c. 274, §24 (NEW).]

B-3. 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 or emergency medical dispatch services; [PL 2017, c. 407, Pt. A, §123 (AMD).]

C. [PL 2007, c. 274, §26 (RP).]

D. Aiding or abetting the practice of emergency care by a person not duly licensed under this chapter who purports to be so; [PL 1991, c. 588, §19 (AMD).]

E. Incompetent professional practice as evidenced by:

(1) Demonstrated inability to respond appropriately to a client, patient or the general public; or

(2) Inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed; [PL 1991, c. 588, §19 (AMD).]

F. Violation of any reasonable standard of professional behavior, conduct or practice that has been established in the practice for which the licensee is licensed; [PL 1991, c. 588, §19 (AMD).]

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement, conviction of a crime that relates directly to the practice for which the licensee is licensed, conviction of a crime for which incarceration for one year or more may be imposed or conviction of a crime defined in Title 17-A, chapter 11, 12 or 45; [PL 2007, c. 274, §27 (AMD).]

H. Any violation of this chapter or any rule adopted by the board; or [PL 1987, c. 273, §8 (NEW).]

I. For other purposes as specified by rules or law. [PL 1987, c. 273, §8 (NEW).]
[PL 2017, c. 407, Pt. A, §123 (AMD).]

6. Notice of action. In any proceeding under this section with regard to an ambulance service owned and operated by a municipality or a private ambulance service with which a municipality contracts for services, if the board takes further licensing action under subsection 4, the board shall notify in writing the town manager or city manager and the municipal officers of the municipality that owns and operates or contracts with the ambulance service within 5 business days of taking the action. [PL 2015, c. 6, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 273, §8 (NEW). PL 1991, c. 588, §19 (AMD). PL 1993, c. 575, §§2,3 (AMD). PL 1993, c. 600, §§A35,36 (AMD). PL 1999, c. 547, §B58 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 229, §§5-8 (AMD). PL 2003, c. 559, §2 (AMD). PL 2007, c. 274, §§22-27 (AMD). PL 2015, c. 6, §3 (AMD). PL 2017, c. 407, Pt. A, §123 (AMD).

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