

NOTICE OF INTENT
Louisiana Department of Health
Office of Public Health
Bureau of Emergency Medical Services

PROFESSIONAL AND OCCUPATIONAL STANDARDS
Emergency Medical Services Professionals
(LAC 46:XXXVIII.1-5)

The Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services (LDH-OPH-Bureau of EMS) and the Louisiana Emergency Medical Services Certification Commission (EMSCC) proposed to amend LAC 46:XXXVIII.Chapters 1-5 regarding emergency medical services professionals as authorized by R.S. 40:1131-1133.16 and R.S. 40:1141. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 4.2. 49:950, et seq. In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH-OPH-BEMS and the EMSCC propose to amend the regulations governing the professional and occupational standards for emergency medical services professionals in order to: 1) clarify and align these provisions with the corresponding legislative authorities governing emergency medical services; 2) ensure that the provisions are consistent with the standard language used in other healthcare licensing regulations; and, 3) promulgate the provisions clearly and concisely in the Louisiana Administrative Code.

Part XXXVIII is proposed to be substantively rearranged as regards to the location of the bulk of the text content which exists in some particular Sections of the current rule housed within Title 46 of the Louisiana Administrative Code (LAC) but which is now proposed to be moved into another Section of the proposed rule. The text content of each Section which has been moved does contain one or more amendments within the proposed new location. In addition, currently existing headings labeled as a particular Subpart, a particular Chapter and a particular Subchapter are proposed to be repealed. For this reason, the table below summarizes the proposed rearrangement of the text content and which specific items are proposed to be repealed.

This proposed Rule shall be effective upon publication as a Final Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVIII. Emergency Medical Services Professionals

Subpart 1. Rules of Procedure

Chapter 1. General

§101. Statement of Purpose/General Definitions

A. Purpose. 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 Certified and State Licensed Emergency Medical Services professionals, Louisiana Revised Statutes of 1950, R.S. 40:1131 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 practitioners, 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.

B. General Definitions. The following words and terms shall have general applicability to their usage within the entirety of this Part.

Bureau—unless otherwise specified, the Bureau of Emergency medical Services within the Office of Public Health of the Louisiana Department of Health.

Bureau Director— the duly appointed administrator who oversees the Bureau.

Certified Ambulance Operator—an individual who is certified by the Bureau of EMS as a certified ambulance operator. Documentation and requirements outlined in statute must be submitted and approved before certification is received.

Chair—the chairperson of the Louisiana Emergency Medical Services Certification Commission.

Commission—the Louisiana Emergency Medical Services Certification Commission as created under the Louisiana Department of Health pursuant to R.S. 40:1133.3.

Emergency Medical Services—a system that represents the combined efforts of various professionals and agencies to provide out-of-hospital emergency care to the sick and injured.

EMS Medical Director—a physician (MD or DO) licensed by the Louisiana State Board of Medical Examiners who has responsibility and authority to ensure the quality of care and provide guidance for all out-of-hospital medical care provided by EMS ambulance services and EMS Practitioners.

EMS Practitioner—an individual who is a licensed emergency medical responder, licensed emergency medical technician, licensed advanced emergency medical technician or a licensed paramedic.

EMS— emergency medical services

Public Safety Agency—a functional division of a public or private agency which provides firefighting, police, medical, or other emergency services.

Public Safety Telecommunicator—an individual answering 911 emergency medical condition calls on behalf of a public safety agency who has authority, based on a protocol adopted by the agency, to provide T-CPR instructions to a caller before arrival or medical assistance by an individual with CPR training.

T-CPR— telephone cardiopulmonary resuscitation

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.1 (A), R.S. 40:1133.4(A)(8), R.S. 40:1133.5.(9)(10) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services LR 49:

§103. Duties of EMS Practitioners

A. A licensed emergency medical services practitioner may perform any of the following functions while caring for a patient at the scene of a medical or other emergency, or during the transport of a patient where voice contact is established with a physician and under the physician's order, or under the protocol that has been approved by the local parish medical society or the emergency medical services practitioner's medical director:

1. services, treatment, and procedures consistent with the national EMS education standards that have been approved and adopted by the bureau, to the extent that he or she has been trained to perform such services, treatment or procedures.

2. administration of other drugs or procedures for which the licensed emergency medical services practitioner has received training, license, and approval by the commission and which may be considered necessary by the ordering physician.

3. determine, based on approved protocols, whether it is appropriate for a person to be transported by ground ambulance to an alternative destination when the individual condition does not meet the definition of emergency medical conditions, however:

- a. no person shall be transported to an alternative destination unless he or she consents to being transported to that destination; and

- b. no emergency medical services practitioner shall transport a person to an alternative destination in which the practitioner or practitioner's employer has a financial interest.

B. An emergency medical services practitioner student, while he or she is enrolled in good standing in a state-approved educational program, and under the direct supervision of a physician, registered nurse, paramedic or other preceptor recognized by the bureau, may:

1. perform services, treatments, and procedures consistent with national EMS education standards that have been approved and adopted by the bureau, and to the extent that he or she has been trained to perform such services, treatment, and procedures.

C. In case of a life-threatening situation as determined by a licensed emergency medical services practitioner, when voice contact with a physician is delayed, not possible, or when the delay in treatment could endanger the life of the patient, the emergency medical services practitioner may provide treatment to the patient in accordance with:

1. a protocol approved by the EMS medical director who is a board-certified or a board-eligible emergency medicine physician; or

2. a protocol established by the emergency medical services committee or the executive committee of the parish or component medical society or its designee.

a. In the event that there is no organized or functional local medical society within a parish of the state at the time that an EMS practitioner responds to a life-threatening situation therein under the conditions outlined in Subsection C of this Section, the protocol established by the EMS medical director may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§105. Public Safety Telecommunicator

A. No person shall act as a public safety telecommunicator unless he has received a certificate of completion of an approved training course in T-CPR conducted by an entity or individual approved by the Bureau to conduct such T-CPR course. A public safety telecommunicator must possess and maintain a current certificate of completion of the T-CPR training required under this Section.

B. The bureau shall give approval to a T-CPR training course if the course and the entity or individual proposing it meets the minimum standards for course approval set by the bureau, including standards concerning instruction, training and examination. Such standards shall mandate training every two years that meets or exceed nationally recognized emergency cardiovascular care guidelines adopted by the bureau and shall incorporate recognition protocols for out-of-hospital cardiac arrest and compression-only CPR instructions for callers. An approved entity or individual shall comply with the course approval criteria set by the bureau, and may be removed by the bureau from the roster of approved T-CPR trainers for failure to comply.

C. Each public safety agency employing public safety telecommunicators shall, for each individual so employed, upload the certificate of completion of the T-CPR training required by this Section, and any renewals thereof, to the Bureau's Information Management System (IMS). This requirement shall not apply with respect to any individual so employed who has already uploaded such certificates to the IMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

Chapter 3. Licensure and Certification

§301. State Licensure and National Certification

A. State licensure by the bureau of emergency medical services is mandatory for practicing as a licensed emergency medical responder.

B. National certification and state licensure are mandatory for practicing as a licensed emergency medical technician, advanced emergency medical technician, and paramedic.

C. State licensure as a licensed Emergency Medical Services practitioner shall be issued only to an applicant who qualifies by examination or endorsement in accordance with R.S. 40:1131.1, 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.

E. Reciprocity shall be granted to an applicant who submits evidence of licensing or certification in good standing from another state, territory, or country or has received military training and certification or licensure as an emergency medical services practitioner as defined in Section 101.B of this Part, and meets all other applicable requirements set forth in this Part.

1. The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA) has been enacted into state law under Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature and may be found under R.S. 40:1141.

F. A Louisiana EMS Practitioner license must be renewed every two years, and shall be if the licensee/applicant completes the appropriate renewal application and meets the requirements for renewal set forth in this part and R.S. 40:1133.1 et seq. prior to the expiration date on his or her current license.

1. An individual whose license expires by his or her failure to timely renew may be reinstated within 30 days of expiration provided the applicant submits a completed application and meets any additional requirements established by the bureau.

G. The commission shall render an opinion to the bureau on whether the applicant meets the requirements of licensure in all questionable cases.

H. Each license holder and each applicant for licensure must provide both a valid current mailing and email address at which the licensee or applicant can receive correspondence and official notices from the bureau. A licensee or applicant shall update either such address via the EMS information management system portal within five calendar days of any change thereto.

I. Whenever any provision of law or of this Part requires or authorizes service or delivery of a letter, notice, order, summons, or other document to be made upon a licensee or applicant, then, in addition to any other method authorized by law or this Part for such service or delivery, the following shall constitute good and valid service or delivery for all purposes related to this Part:

1. service made in any manner authorized by the Louisiana Code of Civil Procedure or the Louisiana Revised Statutes of 1950;

2. service made by U.S. Postal Service certified mail, return receipt requested, addressed to the mailing address provided to the bureau in accordance with Subsection F of this Section; or

3. service by email sent to the email address provided to the department in accordance with Subsection F of this Section, even if returned as undeliverable. A document served by email must be in printable document format (PDF) and may be either attached, in which case the entire email with the attachment cannot exceed 20 megabytes (MB), or linked within the body of the email to a file sharing or similar site from which it can be viewed or downloaded.

J. Whenever service or delivery by certified mail is authorized by this Section or any other provision of law or this Part, if a certified mail receipt shows that service has been refused or unclaimed, then service shall nevertheless be deemed complete and valid.

K. A certified mailing sent in accordance with this Section shall be deemed good and valid service if a signed receipt is returned to the bureau, regardless of whether the licensee/applicant to whom the mailing was addressed personally signed the return receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.2(E), R.S. 40:1131.1(A), R.S. 40:1133.5(9), R.S. 40:1133.6, R.S. 40:1141, R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

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

A. Applicants for licensure, reinstatement, or the right to practice as an EMS student may be denied approval for licensure, reinstatement, receipt of a temporary permit, eligibility to continue in or enter into an education program (didactic, clinical, or field internship aspects) if the applicant:

1. knowingly falsifies any documents submitted to the bureau, commission or the EMS educational facility;
2. is unfit or incompetent by reason of negligence, habit, or other cause;
3. has pled guilty, nolo contendere, or been convicted of, or any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

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 licensure, reinstatement, or the right to practice EMS as a student shall not be eligible to submit a new application, until a combination of the following conditions are met:

1. a minimum of two years has passed since the denial was issued; or
2. the applicant presents evidence that the cause for the denial no longer exists; and
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. 40:1131.1(E), R.S. 40:1133.1(A)and(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), R.S. 40:1133.4, and 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

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

A. Applicants for licensure, reinstatement, and for practice as a EMS student shall have approval delayed for licensure, for reinstatement, to receive a temporary working permit, to be eligible for the 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 for any crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought; or
3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly related to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole.

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 licensure, 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 40:1131.1(E), R.S. 40:1133.2(A)and(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§306. Pre-Application Eligibility Determination

A. An individual convicted of a crime may request at any time, including before obtaining any required education or training, a determination as to whether the individual's criminal conviction(s) disqualify the individual from licensure or certification by the Bureau.

1. The individual making the request shall provide to the Bureau all pertinent information and documents pertaining to the conviction(s), including any information relevant to the factors provided in La. R.S. 37:2950. Any such request shall list and include all of the individual's convictions, regardless of jurisdiction and regardless of subsequent pardon or expungement, through the date of the request. After initial receipt of the request, the Bureau may require that the individual submit additional pertinent information or documents.

2. The request and associated documents must be uploaded via the licensing website via student license application. Alternatively, the request may be made in writing and mailed to the Bureau at 7273 Florida Blvd., Baton Rouge, LA 70806.

3. The individual making the request shall also provide to the bureau the individual's pertinent identifying information, including date of birth, social security number, and driver's license number.

4. The individual making the request shall provide a valid email address to which the Bureau may send correspondence related to the request, including the determination as to whether the individual is disqualified.

5. Within 45 days after receipt of the request and all pertinent information and documents, including additional information or documents requested by the bureau pursuant to A.1. of this Section, or within 45 days of receipt by the bureau of any criminal background check provided or requested by the individual, whichever is later, the bureau shall send notification to the individual concerning whether, based on the criminal information submitted, the individual is disqualified from receiving or possessing a license from the bureau. This determination, which may be disseminated to the requesting individual by email, shall be one of the following:

a. The conviction(s) do not make the individual ineligible to be licensed ("not ineligible"). Such determinations include instances where licensing may be necessarily accompanied by concurrent initial probation, per the Commission's Deferred Decision Matrix or Commission Review Panel, unless a requested hearing before the commission determines otherwise.

b. The conviction(s) make the individual presumptively ineligible to be licensed, in which case the following information shall be provided to the individual:

i. specific conviction(s) that constitute the basis for the presumptive ineligibility;

ii. reasons the conviction(s) are directly related to the license, using the factors set forth in La. R.S. 37:2950;

iii. right to submit within 60 days additional documentation or evidence relevant to each of the factors listed in La. R.S. 37:2950 concerning the conviction(s) upon which the presumptive ineligibility is based; and

iv. date of eligibility to apply or reapply for a license.

5. An individual who is informed that the conviction(s) at issue make him presumptively ineligible is entitled to a hearing ("appeal") before the Commission concerning such determination.

a. Such individual shall be placed on the agenda for a formal hearing at the next regularly scheduled meeting of the commission, but may decline such a hearing if s/he does not wish to proceed. If the 60 day period for providing additional documentation or evidence, as provided in Subsection A.4.b.iii of this Section, expires after the next scheduled meeting, the individual may request that the hearing be postponed until the subsequent regularly scheduled meeting.

6. A determination of "not ineligible" made pursuant to this Section is binding upon the Bureau unless the individual is convicted of a subsequent crime between the inquiry period and the time of license application, has pending criminal charges at the time of license application, or has undisclosed criminal convictions not revealed at the time of inquiry.

B. When determining whether a conviction directly relates to the EMS profession, the commission shall consider:

1. the nature and seriousness of the offense;
2. the nature of the specific duties and responsibilities of licensed EMTs, Advanced EMTs, Paramedics, and Emergency Medical Responders.
3. the amount of time since the conviction;
4. facts relevant to the circumstances of the underlying offense, including any aggravating or mitigating circumstances, or social conditions surrounding the commission of the offense; and
5. evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§307. Application Eligibility Determination; Criminal Convictions; Right to hearing

A. When determining whether an applicant's criminal conviction directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, the commission shall consider the factors set forth in §306.C of this Part.

B. The bureau may utilize any "deferred decision matrix" or similar document setting forth guidelines approved by the commission in making an initial presumptive determination concerning whether an applicant's criminal conviction directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

C. Any applicant who is determined by the bureau to be presumptively ineligible, based upon the bureau's application of a deferred decision matrix (or similar guidance document approved by the commission) or otherwise, shall be entitled to a hearing ("appeal") before the commission concerning such determination, at which the applicant may present testimony, documentation, or evidence relevant to each of the factors set forth in §306.C of this Part concerning the conviction upon which the presumptive ineligibility is based.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A), R.S. 40:1133.5(9), R.S. 40:1133.16(D), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§308. Criminal History Record and Identification

A. The bureau is entitled to and shall require submission of the criminal history record and identification files of the Louisiana Bureau of Criminal Identification and Information, located within the Louisiana Department of Public Safety and Corrections, of any person who is seeking an initial license as an emergency medical technician, advanced emergency medical technician or paramedic; and any person who answers affirmatively to any of the criminal background questions on a license renewal application. In such situations, fingerprints and other identifying information of the applicant shall be required and submitted to the Louisiana Bureau of Criminal Identification and Information for qualification and registry.

1. The criminal history records must be not more than two years old.

B. The Louisiana Bureau of Criminal Identification and Information shall, after receipt of such fingerprint card and other identifying information from the applicant, make available to the bureau all arrest and conviction information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files which pertain to the applicant for licensure. In addition, the fingerprints shall be forwarded by the Louisiana Bureau of Criminal Identification and Information to the Federal Bureau of Investigation for a national criminal history record check.

C. The applicant shall pay the appropriate fees to the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in the Louisiana Bureau of Criminal Identification and Information's criminal history record and identification files, including any additional cost of providing the national criminal history records check, which pertains to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.(A)and(C), R.S. 40:1133.5(9), R.S.40:1133.7(1)and(2), and R.S. 40:2017.10.

HISTORICAL Note: Promulgated by the Department of Health, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Definition of Terms Applying to EMS Practice as Used in This Chapter

A. As they apply to EMS practice and/or to the exercise of the commission's disciplinary authority, the following words and terms are hereby defined as used within this Chapter.

Accountability—being answerable for one's actions or inactions. The licensed EMS practitioner answers to self, patient, agency, medical director, profession and society for the effectiveness and quality of EMS care rendered. It is the personal responsibility for each individual to maintain competency in practice. If the assigned EMS practitioner 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 state approved EMS education programs. Additional acts are authorized by the commission through rules and regulations or declaratory statements interpreting the legal definition of EMS. Licensed EMS practitioner are accountable for attaining and maintaining competency when performing approved additional acts.

Aiding and Abetting—to intentionally assist anyone by condoning, or to apply positive or negative force to assist anyone in violating Parts I-III of Chapter 5-C of Title 40 of the Revised Statutes or the rules and regulations of the commission or bureau

Assessment—identifying human responses, which indicate existing, or potential abnormal condition through the patient history, physical examination or observation, in accordance with the standards of EMS practice.

Assignment—designating EMS activities to be performed by an individual consistent with his or her scope of practice.

Carrying Out the Medical Orders of a Physician Licensed in Louisiana—

a. licensed EMS practitioners may, based on their individual judgment of each situation, accept verbal orders initiated by a licensed physician, provided the order is related to the said practitioner's scope of practice;

b. licensed EMS practitioners may execute standing orders of a licensed physician.

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 licensed EMS practitioner to other competent EMS personnel in selected situations. The licensed EMS practitioner retains the accountability for the total EMS care of the individual.

Deny—to refuse for cause

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 practitioners.

Field Diagnosis—out-of-hospital evaluation of the patient's condition and its causes.

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

Limit—to confine within certain bounds

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 licensed EMS practitioner for the total EMS care of the individual when tasks in the EMS care are delegated to other EMS personnel. These activities include:

- a. judging the priority of EMS needs of the individual(s);
- b. determining actions required to meet the needs;
- c. assigning personnel, including self, qualified to implement the prescribed EMS care components of that care;
- d. providing information needed by personnel for the implementation of the assigned EMS care and ascertaining the assimilation of same information;
- e. directing the EMS care and evaluating the outcomes of the care; and
- f. 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.

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

Moral Turpitude—an act of baseness, vileness, or depravity in the duties which one person owes to another, or to society in general, which is contrary to the usual, accepted, and customary rule of right and duty which a person should follow.

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 or documents, including patient records or any records or documents provided to the commission, the bureau, or any other any governmental or regulatory agency;
- 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 where there was a duty to act without properly notifying appropriate personnel;
- n. failing to report, or self-report, to the Bureau, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice or conduct, including criminal conduct, arrest, or conviction, of any EMS practitioner, including any practice or conduct that violates any provision, requirements, or prohibition contained in this Part or R.S. 40:1131-1141;

- 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 judgement 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.

Preventive Instruction—those EMS measures that provide health information and explanation to the public to reduce the incident of death and injury.

Probate—to stay a sentence of certification suspension during good behavior and placing under supervision of Bureau of a period of time. License 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 practitioner and the patient.

Reasonable Skill and Safety—practicing EMS in accordance with the standards of EMS practice.

Reprimand—written communication to the individual stating the commission’s concerns, and public notification of the individual’s name and reasons for the reprimand.

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

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

Scope of Practice—the range of duties and skill EMS professionals are expected to perform.

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 outlet. Any behavior that is seductive, sexually demeaning, harassing or reasonable interpreted by a patient as sexually inappropriate, is a violation of the EMS professional’s fiduciary responsibility to the patient.

Specialized Knowledge and Skills—required for the practice of EMS means the current theory and practice taught in state approved EMS education programs preparing persons for EMS practitioner licensure as well as information in the biological, physical and behavior sciences.

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

Student EMS Practitioner—a person who is engaged in learning experiences in a program of study leading to the candidacy for licensure to practice as a licensed EMS practitioners. The term applied only when the person is participating in an integral part of the program of study.

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

Teaching of EMS—instructing EMS practitioner student and providing continuing EMS education to licensed EMS practitioners.

Unfit or Incompetent—unsuitable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 1133.5(9) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of

Public Health, Emergency Medical Services Certification Commission and the Bureau of Emergency Medical Services, LR 49:

§503. Disciplinary Proceedings before the Commission

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct that allegedly fails to conform to R.S. 40:1131.1, et seq., as re-enacted and amended, or to the requirements and provision of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§505. Proceedings Against Licensed EMS Practitioner, Certification Ambulance Operators, Certification EMS Practitioner Applicants or Ambulance Operator Applicants

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine or restrict any certification or license to practice as a licensed EMS practitioner or certified ambulance operator; or otherwise discipline an individual in accordance with R.S. 40:1133.7 and R.S. 40:1133.18.

1. In accordance with R.S. 40:1133.9, the commission, through the bureau, may obtain an injunction without bond forbidding any person from violating or continuing to violate any of the applicable provisions of Part II of Chapter 5-C of Title 40 of the Revised Statutes. This injunction shall not be subject to release upon bond.

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. 40:1133.7, 40:1133.10, 40:1133.18, or this Part, 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. However, nothing shall prohibit the bureau or commission from acting upon an allegation or licenses wrongdoing learned of or submitted by other means.

D. Grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, are specified in R.S. 40:1133.7 including, but not limited to, the following:

1. selling or attempting to sell, falsely obtain or furnish a person a licensed EMS practitioner document;
2. providing emergency medical services without due regard for the health and safety of clients or patients;
3. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought
4. exhibiting incompetency or unfitness by reason of negligence, habit or other cause;
5. exhibiting habitual intemperance in the use of or abuses alcohol or habit-forming drugs
6. aiding or abetting another person in the violation of this Part;
7. exhibiting mental incompetence;
8. deceiving or defrauding the public;
9. exhibiting professional or medical incompetence;
10. exhibiting unprofessional conduct;
11. continuing or recurring practices which fail to meet the standards of EMS care in this state;
12. abandoning a patient;
13. has had a certification or license to practice as an emergency medical services practitioner or to practice as another health care provide denied, revokes, suspended or otherwise restricted;
14. being guilty of moral turpitude;
15. violating or failing to conform to any requirement or provision of this Part; or

16. intentionally falsifying any document related to license, emergency medical services education, or related to the care of the patient
17. aiding or abetting another person in the violation of any conduct proscribed under Paragraphs 1, 2, 3, 4, or 5 of this Subsection.

E. Grounds for disciplinary proceedings against a certified ambulance driver are specified in R.S. 40:1133.18 including, but not limited to, the following:

1. fraud or any misstatement of fact in the procurement of any certification or in any other statement or representation to the bureau or its representatives;
2. has pled guilty, nolo contendere, been convicted of or committed a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought;
3. Is unfit or incompetent by reason of negligence, habit, or other cause;
4. Is mentally incompetent;
5. Is habitually intemperate in the use of or abuses alcohol or habit-forming drugs;
6. Is guilty of aiding or abetting another person in violating any provision of this Part;
7. Continuing or recurring practices which fail to meet the standards of ambulance operators in this state;
8. Endeavors to deceive or defraud the public;
9. Is guilty of moral turpitude;
10. Has violated any rules and regulations of the commission or the bureau or any provision of this Part;
11. Intentional falsification of any document related to the procurement of any certification or license;
12. Operating any vehicle in violation of state or local traffic laws;
13. Revocation, suspension, or any restriction of the ambulance operator's driver's license;
14. Failure to maintain all current ambulance operator training standards as required by the bureau; or
15. Has had a certification or license to practice as an ambulance operator denied, revoked, suspended, or otherwise restricted in Louisiana or any other state or territory of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 40:1133.9, R.S. 40:1133.10, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§507. Proceedings Involving Students Enrolled in EMS Education Programs

A. The commission may direct the bureau to deny, revoke, suspend, probate, limit, reprimand, fine, or restrict any student enrolled in EMS education programs, or otherwise discipline a student enrolled in EMS education programs or attempting to enroll in EMS education programs 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 education programs subjected to the proceedings set forth in this Section, shall be afforded an opportunity for a hearing before the commission or its duly appointed hearing officer or committee.

C. Information obtained by the commission that an EMS student enrolled or attempting to enroll in EMS education programs is or has engaged in any conduct proscribed by R.S. 40:1133.7, shall be received in a form prescribed by the commission. However, nothing shall, prohibit the bureau or commission from acting upon an allegation of wrongdoing learned of or submitted by other means. 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 education programs are:

1. all of the grounds for disciplinary proceedings against a person, individual or licensed EMS practitioner, as applicable, listed in Subsection D of § 505 of this Chapter; or
2. has been denied a request to enroll in EMS education programs or has been denied a license to practice in any healthcare field or had such privileges revoked, suspended, or otherwise restricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 37:33, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§509. Disciplinary Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 40:1131.1 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 or she did, whether those acts violated the provisions or requirements of this Part; and to determine the appropriate disciplinary action.
3. Any disciplinary action shall also be forwarded to all applicable licensing agencies and/or required reporting entities.

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 provisions or requirements of this Part. 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 disciplinary review panel, settlement, informal or 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. 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 the provisions or requirements of this Part. 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 provisions or requirements of this Part 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 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 provisions or requirements of this Part 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. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§510. Disciplinary Process and Procedure Limitations on Disciplinary Proceedings by the Commission

A. Unless a special law is applicable, no disciplinary proceeding of any kind may be initiated by the bureau or commission as follows:

1. If the nature of the complaint is based on negligence or gross negligence, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act of omission.

2. If the nature of the complaint is based on an intentional act or omission, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act or omission.

3. If the nature of the complaint is based on fraud, no proceeding may be initiated after two years from discovery by the complainant.

4. If the nature of the complaint is based on a license or rules violation, no proceeding may be initiated after five years from the date of the act or omission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:21(A)and(C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1824 (September 2003) amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§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 license, 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 License. An individual who is under investigation for violation of the provisions or requirements of the Part may voluntarily surrender his or her license or certification to the bureau. The voluntary surrender invalidates the license or certification at the time of its relinquishment. An

individual practicing as a licensed EMS practitioner or a surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and RS 40:1131 et seq.

1. Any license surrender shall not be deemed to be an admission of the alleged facts of any pending investigation or complaint. The fact of license 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 license 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 license.

3. Individuals who surrender their license are not eligible for a reinstatement of their license for a minimum of two years following such surrender and, in addition, not until meeting the requirements for reinstatement of license 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 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, 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. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§513. Formal Hearing

A. The commission has the authority, granted by R.S. 40:1133.4, to bring administrative proceedings against licensed EMS practitioners, applicants for licensure, individuals seeking enrollment or progression in

an approved EMS education program, certified ambulance operators and individuals practicing EMS without licensure or 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 30 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, shall be sent to the individual respondent by any means authorized for such purpose by this Part.

3. At least 20 working days prior to the scheduled hearing date, the individual shall respond in writing as to his or her intention to appear or not appear at the scheduled hearing. At least 20 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.

5. An individual who fails without a valid continuance to appear at two consecutive meetings after being validly served with a notice to appear, as set forth in Subsection B of this Section, at each may be summarily suspended for such reason. Any such suspension shall continue until the individual appears for a hearing before the commission, opportunity for which shall be afforded at the next regularly scheduled meeting thereof.

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 licensed EMS practitioner, 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 Louisiana Department of Health's 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 director of the Bureau of EMS or their designee, or an attorney therefore, 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.

e. The director of the Bureau of EMS or their designee or an attorney therefore, 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 Louisiana Department of Health 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 provisions or requirements of this Part.
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 may set 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 provisions or requirements of this Part. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order license 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, consideration may be given to 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. License 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 20 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 license or 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 licensed EMS practitioner has his or her license 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 licensed or certified EMS practitioner shall be notified that his or her Louisiana license or 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 licensed EMS practitioner is issued a reprimand and the licensed EMS practitioner agrees to having his or her Louisiana License reprimanded identically to, or in excess of, the said jurisdiction's reprimand; or
- d. the license is encumbered with a reprimand with stipulations and the licensed EMS practitioner agrees to having his or her Louisiana license probated with stipulations that are identical to, or exceed, the stipulations in said jurisdiction.

2. The licensed EMS practitioner may have his or her license reinstated provided that the licensed EMS practitioner:

- a. provides evidence of an unencumbered license by the involved certification/licensing authority and
- b. meets requirements for reinstatement of license as described in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

§515. Appeal from Commission Decision

A. Any person whose license has been revoked, suspended, denied, or otherwise disciplined by the commission 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. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1827 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 49:

§517. Reinstatement of License

- A. Application for reinstatement of a suspended or surrendered license shall be in writing.
- B. The application for reinstatement of a suspended license certification does not require the satisfaction of all of the requirements for initial licensure. However, the requirements of this Part, as determined by the commission or bureau shall be met.
- C. Prior to reinstatement of a license 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 license 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 the 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. 40:1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1828 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Commission, LR 49:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- 1. the stability of the family;
- 2. the authority and rights of persons regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with Sections 978.1 through 978.8 of the Small Business Protection Act of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis/small business analysis on the rule proposed for adoption, amendment or repeal.

The impact of the proposed rule on small businesses as defined in the Small Business Protection Act has been considered. The Office of Public Health's Bureau of Emergency Medical Services and the Louisiana Emergency Medical Services Certification Commission do not expect that adoption of the proposed amendments will have an adverse economic impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed rule. Such comments must be received no later than Wednesday, May 10, 2023 at COB, 4:30 p.m., and should be addressed to Susan Bailey, Director of the Bureau of Emergency Medical Services, 7273 Florida Blvd., Baton Rouge, LA 70806.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Wednesday, May 10, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 2:00 p.m. on Thursday, May 25, 2023 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Wednesday, May 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Steve Russo
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Person
Preparing
Statement:

Susan Bailey

Dept.: Louisiana Department of Health

Phone: 225/925-1904

Office: Office of Public Health

Return

Address: 7273 Florida Blvd
Baton Rouge, LA 70080

Rule Title: 46 Emergency Medical Services Professionals

Date Rule Takes Effect: Upon promulgation

SUMMARY

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. **THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS

The proposed rule change is anticipated to increase LDH expenditures by approximately \$40,000 in federal funds in FY 23 and \$12,000 each year thereafter associated with updates to and maintenance fees for the Bureau of EMS Information Management System.

In compliance with Act 31 of the 2020 2nd Extraordinary Session of the Louisiana Legislature, the LDH proposes to amend LAC 46:XXXVIII Chapters 1-5 regarding emergency medical services professionals. Specifically, the rule defines "Certified Ambulance Operator;" outlines the duties of an EMS Practitioner; replaces the term "certified" with "licensed" to align with statute; defines "reciprocity;" provides terms for Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA); outlines pre-application eligibility determination; clarifies the process to obtain a criminal history record and identification for REPLICA; provides definitions of terms applying to EMS practice; outlines the authority of the EMS Certification Commission; outlines disciplinary processes; and procedure limitations on disciplinary proceedings by the Commission.

The department indicates any workload increases related to Certified Ambulance Operator eligibility determinations and disciplinary proceedings will be absorbed with existing resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS

This rule creates a new class of EMS professionals called Ambulance Operators, which requires certification. The cost is \$10 per certification. Depending on the number of ambulance operator applications, there will be an increase in self-generated revenue for the department. LDH anticipates there will be less than 100 applications per year, for a maximum of \$1,000 in increased revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NON-GOVERNMENTAL GROUPS (Summary)

Individuals seeking to become a certified ambulance operator will incur a fee of \$10 associated with the certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT

This rule creates a new class of EMS practitioners, Certified Ambulance Operators, which may result in more employment opportunities and competition in the EMS field.

Signature of Agency Head or Designee

Doris Gray, Brown, MEd, MS, APRN, CNS
Assistant Secretary, Office of Public Health
Typed Name & Title of Agency Head or Designee

Legislative Fiscal Officer or Designee

Date of Signature

Date of Signature