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HEALTH AND SAFETY CODE - HSC

DIVISION 2.5. EMERGENCY MEDICAL SERVICES [1797 - 1863] (*Division 2.5 added by Stats. 1980, Ch. 1260.*)

CHAPTER 3. State Administration [1797.100 - 1797.197a] (*Chapter 3 added by Stats. 1980, Ch. 1260.*)

ARTICLE 2.5. Paramedic Disciplinary Review Board [1797.125 - 1797.125.11] (*Article 2.5 added by Stats. 2021, Ch. 463, Sec. 2.*)

1797.125. (a) The Paramedic Disciplinary Review Board is hereby created in the Emergency Medical Services Authority. The board shall consist of seven members and shall enforce and administer this article.

(b) The protection of the public shall be the highest priority of the Paramedic Disciplinary Review Board in exercising its duties as prescribed in this article. If the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(c) On and after January 1, 2023, any reference to final determination regarding an appeal of EMT-P licensure discipline or final determination regarding an appeal of licensure denial pursuant to this division is a duty conferred upon the Paramedic Disciplinary Review Board.

(*Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.*)

1797.125.01. (a) The Paramedic Disciplinary Review Board shall be composed of the following members, who shall all be residents of California:

(1) One member shall be a California-licensed physician who is board certified in emergency medicine, whose primary practice is emergency medicine, and who has not less than five years of experience working in an emergency department. The physician shall not be employed or providing services by contract as a local emergency medical services (EMS) agency medical director or a medical director of an advanced life support (ALS) provider.

(2) Four members shall be field paramedics licensed in California, each of whom shall have not less than five years of experience working as a paramedic for an ALS provider. The paramedic members shall have not less than two years of experience as a paramedic preceptor, field training officer, or participating in the development or oversight of an agency continuous quality improvement review process. The two-year experience requirement may be achieved through any combination of those experiences.

(3) Two members shall be public members who are not licensed by the Emergency Medical Services Authority or by any previous authority under this division, have no pecuniary interest in the provision of emergency medical services, and are not employed by a local EMS agency, ALS provider, or basic life support provider.

(b) The Governor shall appoint the physician member and two of the paramedic members of the board. The Senate Rules Committee and the Speaker of the Assembly shall each appoint one paramedic member and one public member. The Governor's initial appointees shall serve two-year terms.

(c) Except for the Governor's initial appointments, appointments shall be made for four-year terms expiring on the first day of June. A member shall not serve more than two consecutive terms. Vacancies shall be filled by appointment to the unexpired term.

(d) Each member of the board shall receive a per diem of one hundred dollars (\$100) for each day spent in the discharge of official duties and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. These payments shall be made only from the Emergency Medical Services Personnel Fund from which the expenses of the EMT-P licensure enforcement program are paid. Notwithstanding any other law, a public officer or employee shall not receive per diem salary compensation for serving on the board on any day when the officer or employee also received compensation for the officer or employee's regular public employment.

(e) Each member of the board shall take an oath of office as provided in the California Constitution and the Government Code.

(f) The appointing authority may remove from office at any time a member of the board for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. This section is not a limitation or restriction on the power of the appointing authority conferred on the appointing authority by any other law to remove a member of the board.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)

1797.125.03. (a) The board shall select a chairperson from its members.

(b) The board, for the purpose of discharging its duties, shall meet quarterly and shall convene at dates, times, and locations that coordinate with the quarterly meetings of the Commission on Emergency Medical Services required pursuant to Section 1799.8.

(c) Special meetings may be held at times designated by the board. Additional meetings may be held upon call of the chair or at the written request of any two members of the board.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)

1797.125.05. (a) (1) Notwithstanding any other provision of this division, on and after January 1, 2023, the board may act on appeals of the authority's decision to impose licensure action and regarding the denial of licensure after review of the authority's decision as set forth in subdivision (b) of Section 1798.200.

(2) If a contested decision is heard by an administrative law judge, on and after January 1, 2023, the board shall act within 100 days of receipt of the proposed decision as prescribed in subparagraphs (A) to (E), inclusive, of paragraph (2) of subdivision (c) of Section 11517 of the Government Code. If the board fails to act within 100 days of receipt of the proposed decision, the proposed decision shall be deemed adopted by the board, pursuant to paragraph (2) of subdivision (c) of Section 11517 of the Government Code.

(b) (1) Proceedings against an EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The Firefighters Procedural Bill of Rights Act (Chapter 9.6 (commencing with Section 3250) of Division 4 of Title 1 of the Government Code) applies to the actions of the board.

(c) Decisions by the board made pursuant to subdivision (a) are not subject to review by the director and are final and binding, subject to any statutory rights of appeal.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)

1797.125.07. (a) The board shall develop criteria to aid it in making final determinations regarding appeals of licensure actions, for purposes of adoption by the authority pursuant to subdivision (b) of Section 1797.185. When considering appeals of licensure action, the board shall consider the investment made by both the employer and the licenseholder in terms of education to secure the license, training and continuing education to maintain the license, and equipment and appropriate adjuncts to perform the duties of the license.

(b) The board shall develop and implement progressive discipline criteria to aid it in considering appeals of licensure action pursuant to subdivision (a). The criteria shall include all of the following:

(1) The nature and duties of a paramedic.

(2) The time that has elapsed since the licenseholder's offense.

(3) The nature and gravity of the offense.

(4) The employer-imposed discipline for the offense.

(5) The licenseholder's prior disciplinary record.

(6) Mitigating evidence.

(7) Prior warnings to the licenseholder on record or prior remediation.

(8) The actual harm to the patient and the actual harm to the public.

(9) Evidence of the licenseholder's rehabilitation.

(10) Evidence of an expungement proceeding, if applicable.

(11) The licenseholder's compliance with the terms of their sentence or a court order, if criminally convicted.

(12) Aggravating evidence.

(13) The licenseholder's overall criminal record.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)

1797.125.09. (a) (1) An employer of a paramedic shall report to the director of the authority and the board the suspension or termination for cause of a paramedic in their employ within 72 hours of the event. The required reporting does not waive the confidentiality of medical records. The information reported or disclosed shall be kept confidential as investigative information consistent with subdivision (d) of Section 1798.200. Except as provided in subdivision (c) of Section 1797.117, the information reported shall not be subject to discovery in civil cases.

(2) The authority shall provide to the board information received pursuant to Section 1797.117.

(b) (1) The information submitted pursuant to this section that is not a public record shall be confidential, except that the licenseholder involved, or the licenseholder's counsel or representative, may inspect and have copies made of the licenseholder's information as long as it does not disclose the identity of an information source.

(2) For the purposes of this section, the board may protect an information source by providing a copy of the material with only the deletions necessary to protect the identity of the source or by providing a summary of the substance of the material. The board shall ensure that full disclosure is made to the licenseholder of any personal information that could reasonably reflect or convey anything detrimental, disparaging, or threatening to a licenseholder's reputation, rights, benefits, privileges, or qualifications, or be used by the board to make a determination that would affect a licenseholder's rights, benefits, privileges, or qualifications.

(3) The licenseholder may submit an additional exculpatory or explanatory statement or other information. If a statement or information is submitted, the board shall include it in the investigatory information.

(4) Disclosure of information that is not a public record does not change the confidential status of the information.

(c) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars (\$10,000) per violation.

(d) For purposes of this section, "suspension or termination for cause" means suspension or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice paramedicine.

(2) Unlawful sale of controlled substances or other prescription items.

(3) Patient neglect, physical harm to a patient, or sexual contact with a patient.

(4) Falsification of medical records.

(5) Gross incompetence or negligence.

(6) Theft from patients, other employees, or the employer.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)

1797.125.11. (a) If the board denies an appeal of an application for licensure, or upholds the authority's decision to deny an application for licensure, based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(1) The denial or disqualification of licensure.

(2) The procedure the board has for the applicant to challenge the decision or to request reconsideration.

(3) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127, inclusive, of the Penal Code.

(b) For a minimum of three years, the board shall retain application forms and other documents submitted by an applicant, a notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(Added by Stats. 2021, Ch. 463, Sec. 2. (AB 450) Effective January 1, 2022.)