

TITLE 7 HEALTH
CHAPTER 27 EMERGENCY MEDICAL SERVICES
PART 2 LICENSING OF EMERGENCY MEDICAL SERVICES PERSONNEL

7.27.2.11 LICENSURE RENEWAL: All licensed New Mexico EMS providers are required to renew their license every two years. Current renewal documents and information may be obtained from the bureau, website, or by requesting them from the bureau. Individuals renewing their New Mexico EMS provider's license shall submit verification of the required number of continuing education (CE) hours, as described for each licensure level. Required certification or education, such as *advanced cardiac life support* (ACLS) or cardiopulmonary resuscitation (CPR), may each be used once to fulfill a portion of the CE hour requirement during each two year renewal period. Additional cards may not be used for additional CEs. New Mexico license renewal requirements may not match those of national registry or other states; it is the individual's responsibility to assure their completed CE meets the requirements of other states or the national registry if they want to renew those certifications and licensures. A maximum of one-half of the required number of CEs necessary for renewal for each level may come from asynchronous distance/distributive learning programs as defined later in this rule. This may differ from the requirement for maintaining national registry certification.

A. Receipt of licensure renewal from the EMS bureau: Licensure renewal is the responsibility of each individual licensee. A renewal applicant shall provide a valid personal (i.e., non-service or business) address in the application materials. If an individual licensee fails to notify the bureau of a change of address within one-year from the date of relocation, as determined by the bureau, a bad address fee may be assessed by the bureau. For individuals who have submitted their complete licensure renewal packet to the bureau in a timely manner, the bureau will review the renewal requests in the order they are received.

(1) If there is a delay in notification from the bureau about the status of the licensure renewal beyond the expiration of the license, the individual shall remain licensed until:

(a) notified by the bureau that the license application has been denied or the license expired without renewal; or

(b) they receive their license from the bureau or the bureau website lists the individual as licensed.

(2) If an individual's renewal packet is incomplete, the individual shall be notified by the bureau by U.S. postal mail or by electronic mail.

(3) If an individual licensee is notified that a renewal problem exists with their license, and the license has expired, the individual shall not remain licensed, and their name will be removed from the list of those licensed on the bureau website.

B. Renewal deadlines: Specific renewal requirements must be completed no later than the December 31st that occurs prior to licensure expiration. Required CPR and ACLS certifications and education are exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the ACLS or CPR certification(s) for CE, at which time the course(s) must have been completed prior to December 31. In order to pay the standard renewal fees, renewal applications must be postmarked or received by the bureau by the last day of February prior to expiration of licensure. Renewal applications postmarked or received after the last day of February, but before March 31, will be accepted but require a higher fee as described later in this rule.

(1) The applicant may submit the complete renewal application to the bureau as soon as requirements are complete; the complete renewal application shall be postmarked no later than the final month of licensure. A normal renewal fee is assessed for renewal applications postmarked prior to the final month of licensure.

(2) Renewal applications received during the final month of licensure will be accepted, but will be assessed a higher renewal fee due to the requirement for speedier processing.

(3) Applications for renewal of licensure shall be postmarked or received no later than the last day of licensure (March 31st).

C. Mandatory updates: The bureau may require mandatory updates to education in any given year of licensure. Mandatory updates may include required content hours during specific continuing education courses or other mandatory classes.

D. Audits: The bureau may require full documentation of continuing education, including copies of certification cards, course completion certificates, and any other relevant documents from any individual applying for renewal of their license.

E. Waivers: The licensing commission may, for good cause shown, waive portions of these rules pertaining to licensure renewal pursuant to 7.27.2.14 NMAC of these rules. Persons requesting waivers for licensure renewal shall submit requests in writing to the EMS licensing commission, in care of the bureau.

F. Licensed emergency medical dispatcher (EMD): Renewal for a licensed EMD is required within each licensure period. Documentation must show that all renewal requirements have been completed before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. If the EMD is concurrently licensed as an EMT-B, EMT-I, or EMT-P, the renewal dates for EMD licensure may be adjusted by the bureau to match the renewal dates for the EMT-B, EMT-I, or EMT-P license. The following requirements are necessary for a person to renew their EMD license:

(1) submit copies of course completion certificates or verification showing a minimum of 20 contact hours of CE activity; of which at least 10 hours shall be medical subjects/skills of bureau approved CE activity and 10 hours of dispatch related subjects/skills, unless the EMD is also licensed at the EMT-B, EMT-I, or EMT-P level; the EMD may then use those contact hours of CE activity obtained during the renewal period for the EMT-B, EMT-I, or EMT-P licensure toward the medical renewal requirements;

(2) provide evidence of current bureau approved CPR certification and education; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(3) submit required application and payment of all license renewal fees as required by these rules.

G. Licensed emergency medical dispatcher-instructor: Renewal of a licensed EMD-instructor is required within each licensure period. Documentation must show that all renewal requirements have been completed before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for a person to renew their EMD-I license:

(1) submit verification from a bureau approved EMD education program showing that the EMD- instructor is current and in good standing with the approved EMD education program;

(2) submit verification of completion of all EMD CE renewal requirements;

(3) submit a copy of current licensure at the EMT-B or higher level;

(4) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(5) submit the required application and payment of all licensure renewal fees as required by these rules.

H. Emergency medical services first responder: Renewal of the EMSFR license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for a person to renew their license:

(1) submit a completed renewal application;

(2) submit verification of a minimum of twenty contact hours of bureau approved CE activity consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, two hours;

(b) airway and ventilation, three hours;

(c) cardiovascular emergencies, two hours;

(d) medical emergencies, four hours;

(e) trauma emergencies, four hours;

(f) special considerations, five hours, two of which must consist of pediatric

content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation education or certification;

- (4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMSFR skills listed in the current scopes of practice that require medical direction; and
- (5) submit payment of all licensure renewal fees as required by these rules.

I. Emergency medical technician basic (EMT-B): Renewal of the EMT-B license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for an EMT-B to renew their license:

- (1) submit a completed renewal application;
- (2) submit verification of a minimum of 40 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:
 - (a) preparatory/operations, four hours;
 - (b) airway and ventilation, six hours;
 - (c) cardiovascular emergencies, six hours;
 - (d) medical emergencies, eight hours;
 - (e) trauma emergencies, eight hours;
 - (f) special considerations, eight hours, four of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-basic skills listed in the current scopes of practice that require medical direction;

- (5) submit payment of all licensure renewal fees as required by these rules; and
- (6) applicants who have completed a bureau approved EMT-I or EMT-P course or completed appropriate sections of the EMT-I or EMT-P course, as determined by the bureau, may fulfill the CE requirement.

J. Emergency medical technician intermediate (EMT-I): Renewal of the EMT-I license is required within each licensure period. Documentation must show that all renewal requirements have been met on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for an EMT-I to renew their license:

- (1) submit a completed renewal application;
- (2) submit verification of a minimum of 50 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:
 - (a) preparatory/operations, four hours;
 - (b) airway and ventilation, [~~six~~]eight hours;
 - (c) cardiovascular emergencies, six hours;
 - (d) medical emergencies, twelve hours;
 - (e) trauma emergencies, [~~twelve~~]ten hours;
 - (f) special considerations, ten hours, five of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-intermediate skills listed in the current scopes of practice that require medical direction. Persons who are not currently providing care through an EMS provider service and do not have a service medical director may for good cause petition the bureau for designation of inactive status, which will remain in effect until the bureau is notified of the applicant obtaining medical direction. No patient care should be performed until the inactive status is removed;

(5) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules; and

(6) applicants who have completed a bureau approved EMT-P course or completed appropriate sections of the EMT-P course, as determined by the bureau, may fulfill the continuing education requirement.

K. Emergency medical technician paramedic (EMT-P): Renewal of the EMT-P license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to the expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification and advanced emergency cardiac care education/advanced cardiac life support (ACLS) certifications are exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the ACLS or CPR certification(s) for CE, at which time the course(s) must have been completed prior to December 31. The following requirements are necessary for an EMT-P to renew their license:

- (1) submit a completed renewal application;
- (2) submit verification of a minimum of 60 contact hours of bureau approved CE activity at any level, consisting of the following subjects and minimum hours per subject:
 - (a) preparatory/operations, six hours;
 - (b) airway and ventilation, eight hours;
 - (c) cardiovascular emergencies, ten hours;
 - (d) medical emergencies, fourteen hours;
 - (e) trauma emergencies, ten hours;
 - (f) special considerations, twelve hours, six of which must consist of pediatric content.
- (3) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-paramedic skills listed in the current scopes of practice that require medical direction. Persons who are not currently providing care through an EMS provider service and do not have a service medical director may for good cause petition the bureau for designation of inactive status, which will remain in effect until the bureau is notified of the applicant obtaining medical direction. No patient care should be performed until the inactive status is removed;
- (4) submit proof of current bureau approved education which meets or exceeds the current national standards for advanced emergency cardiac care education, or advanced cardiac life support (ACLS) certification;
- (5) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; and
- (6) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules.

L. Re-attaining a license after expiration for all categories: The bureau provides three methods for expired licensees to regain their licensure; reinstatement, re-entry, and re-licensure.

(1) **Reinstatement:** Those persons who have completed the renewal requirements on or before the December 31st cutoff, but failed to renew licensure by March 31st, may renew between April 1st and May 31st of the expiration year. A complete renewal application for reinstatement must be received at the bureau by May 31st. Paperwork postmarked after March 31st will be assessed with an additional late fee (see fees, 7.27.2.13 NMAC).

(2) **Re-entry:** A person whose license is expired, who does not meet the circumstances of Paragraph (1) of Subsection L of 7.27.2.11 NMAC above, but whose date of expiration of the previously held license is less than two years, may re-enter EMS at the previously held or lower level if the person left EMS in good standing and successfully completes the following:

(a) for basic, intermediate and paramedic, complete a minimum of half of the number of hours of bureau approved continuing education at the appropriate level within the twelve months preceding the date of application for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the level for which the individual is applying for, as described herein;

(b) for first responder, complete a minimum of 10 hours of bureau approved continuing education within the twelve months preceding the request for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the first responder level as described herein;

(c) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or education, which may not be used as part of the CE hour requirement;

(d) successfully complete an approved New Mexico licensing examination and other practical examinations, as determined by the bureau, at the appropriate provider licensure level (maximum of two examination attempts allowed), if applicable;

(e) if EMD or EMD-I applicant, provide verification of a minimum of 10 contact hours of bureau approved CE activity, of which 5 hours shall be medical subjects/skills and 5 hours shall be dispatch related subjects/skills of bureau approved CE activity;

(f) if an EMT-P applicant, provide evidence of bureau approved advanced emergency cardiac care education/advanced cardiac life support (ACLS) certification education which may not be used as part of the CE hour requirement; and

(g) submit required application and payment of licensure fees as identified for the appropriate level in 7.2.27.13 NMAC of these rules;

(h) the re-entry process may only be attempted once; if a candidate for re-entry does not successfully complete the exam within two testing attempts, the re-entry candidate must complete a full licensure course at the appropriate licensure level to be eligible for NM EMS licensure.

(3) **Re-licensure:** A person whose license has been expired for more than two years from the date of expiration shall be considered an initial licensure applicant. To become licensed, a person must complete the requirements of 7.27.2.9 NMAC of these rules.

M. Expiration of licensure: All New Mexico EMS personnel, whose licensure expires on March 31st of any given year, will receive notification of EMS license expiration, and that they are no longer authorized to perform patient care. The bureau will send this notice to the address of record notifying the former licensee of expiration during the first week of April, will remove the former licensee from the bureau website list of licensed personnel, and will notify the national registry of EMTs if applicable.

N. Bureau approved continuing education: Continuing education (CE) credit may be granted for any education that has been approved in advance by the bureau. All individuals or EMS services wishing to grant CE credit to licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics in New Mexico shall submit the appropriate documentation to the bureau at least 30 days in advance. Bureau approved CEs must include information that addresses the New Mexico scope of practice. CEs submitted to the bureau for approval after education has been completed may be denied, and will be reviewed for approval or disapproval on a case-by-case basis. Application for CE approval shall be made utilizing the bureau's "notification of intent to conduct a CE program" application form available from the bureau. Information regarding CEs may be found on the bureau website.

(1) **Purpose:** Continuing education is designed to meet three main objectives:

(a) to provide exposure to new and current trends in the area of patient care;

(b) to review areas of patient assessment and management that are not used on a frequent basis;

(c) to meet licensure renewal requirements.

(2) **Continuing education categories:** The EMS bureau has adopted the CE category designations similar to those published by many states and national EMS organizations. A more detailed explanation of these categories can be found in the "EMS CE user's guide" available from the bureau. The CE categories are:

(a) preparatory and operations topics: preparatory topics include roles and responsibilities, well-being of the EMT, injury prevention, medical/legal issues, ethics, anatomy/physiology, principles of pathophysiology, principles of pharmacology, IV therapy and medication administration, therapeutic communications; operations topics include ambulance operations, medical incident command, rescue awareness and operations, hazardous materials incidents, crime scene awareness;

(b) airway and ventilation;

(c) cardiovascular emergencies: general topics include treatment of cardiac arrest, post resuscitation care, congestive heart failure, ventricle assist devices, acute coronary syndrome, multi-lead ECG, myocardial infarction, general cardiology, stroke (stroke may also be considered neurology/medical emergency);

(d) medical emergencies: general topics include pulmonary, neurology, endocrinology, allergies and anaphylaxis, gastroenterology, urology/renal, toxicology, hematology, environmental conditions, infectious and communicable diseases, behavioral and psychiatric disorders, gynecology, obstetrics;

(e) trauma emergencies: general topics include kinematics, blunt trauma, penetrating trauma, hemorrhage and shock, soft tissue trauma, burns, head and facial trauma, spinal trauma, thoracic trauma, abdominal trauma, musculoskeletal trauma; and

(f) special considerations: general topics include neonatology, pediatrics, geriatrics, abuse and neglect, patients with special challenges, acute interventions for the home health care patient.

(3) Forms of CE: The following forms of CE are currently recognized by the bureau. The bureau reserves the right to approve additional forms of CE as necessary. More detailed information may be found in the "EMS CE user's guide" available from the bureau.

(a) Classroom instruction: Standard instructor-student relationship in the classroom or field setting.

(b) Pre-approved courses: A list of national and statewide recognized certification courses that are pre-approved for CE credit is found in the CE guide available online and from the bureau. Individuals completing any of these courses need only to submit their course completion certificate or card when renewing their licenses. Courses that are approved by a bureau approved nationally recognized CE course approval entity are, at the discretion of the bureau, pre-approved for credit in New Mexico.

(c) EMS related college courses: Credit may be awarded to individuals who are attending college courses relevant to EMS. Individuals who are interested in receiving credit should submit a copy of their unofficial student transcript and course syllabus. The EMS bureau will determine relevance and the number of CE hours allowed.

(d) Teaching bureau approved courses: Licensed individuals who teach bureau approved courses may receive the same number of CE hours as students who are taking the program; refer to the "EMS CE user's guide" for a more complete description.

(e) Field or clinical preceptorship: A maximum of 20 hours of CE may be allowed for EMS preceptor activities; documentation of preceptor activities must be on letterhead from an approved New Mexico EMS education institution or EMS service director.

(f) Asynchronous distance/distributive education learning programs: This is a method of delivering training and education that does not require an educator and student to interact in real time. This may include EMS videos, computer-based-education, self-study modules, recorded broadcasts via satellite, internet, or other media, and other methods of out-of-classroom didactic education that includes a student evaluation component (i.e.: post course test/quiz). A maximum of one-half of the required number of CEs necessary for renewal for each level may come from asynchronous distance/distributive learning programs. Please note, this may differ from the requirement for maintaining national registry certification.

(g) Synchronous distance education learning programs: This is a method of delivering training and education via electronic media that links an educator and students, allowing them to interact in real time despite being in different places. This includes live, instructor interactive satellite broadcasts or webcasts that allow for live video, audio, or other immediate feedback and communication between the instructor and the students. There is no limit to the number of CE hours a licensed individual may obtain through this method. The CE certification must document that the offering was provided and completed via a live broadcast. The decision regarding a CE being accepted as synchronous distance learning is discretionary and rests with the EMS bureau alone.

(h) EMS agency/fire department medical director courses: The medical director may conduct CE courses without a bureau approved CE number. All other requirements for conducting an EMS CE course must be followed, and records must be maintained by the agency/department CE coordinator, including class roster and teaching outlines. CEs submitted as medical director courses must include the physician's signature.

(i) On-the-job education/staff meetings: A maximum of eight hours of CE will be accepted for agency/department staff meetings, job orientation classes, take home work sheets, etc., for each renewal period

(j) Meetings/Committees: A maximum of eight hours of CE will be accepted for attending EMS related committees/meetings for each renewal period.

(k) Unacceptable CE: CEs obtained for completing evaluations for any EMS classes or conferences, participating in EMS related surveys, etc., will not be accepted.

(4) Record keeping: Once approval of a CE program is obtained and the course is presented, records of attendance must be maintained. The bureau may audit the CE records of an approved CE program. Attendance records with original signatures of course participants and a copy of any course presentation material must be kept for a minimum of 36 months by the service, for bureau audit purposes.

(a) In order for participating EMS personnel to receive credit, each individual shall be given a certificate, letter of attendance/completion, or copy of course attendance roster and advised to retain it until their licensure renewal. Many EMD Agencies (EMDA) and EMS services have computerized records of their personnel concerning CE. The EMS bureau will recognize CE summary documentation, on letterhead, from EMDA or EMS service directors, education coordinators, medical directors, or CE coordinators with appropriate original signatures.

following information:

- (b) Course completion letters, certificates, and course rosters shall contain the following information:
 - (i) location and date of the CE program;
 - (ii) title and short description of the class or course;
 - (iii) number of actual contact hours (half hour increments are acceptable);
 - (iv) CE category;
 - (v) name of participant;
 - (vi) CE coordinator's name with designation "CE coordinator" placed after the name;
 - (vii) signature of CE coordinator;
 - (viii) the statement: "reviewed and approved by the New Mexico EMS bureau for CE"; and
 - (ix) method of delivery (classroom, asynchronous, or synchronous distance program); and
 - (x) EMS bureau approval number.

(5) **CE audits for EMS services and personnel:** The bureau may periodically perform audits of CE programs. These audits are usually provided as a way for services to evaluate their current program, identify areas in which the program excels, as well as areas that may be problematic. The following types of CE audits may be conducted by the bureau:

(a) **CE course audit:** this audit evaluates the actual class or course being conducted; the purpose of this audit is to provide written feedback to the instructor on presentation, content, and participant evaluations conducted at the end of the class; this audit is usually unannounced;

(b) **CE recordkeeping audit:** this audit evaluates the CE program sponsor recordkeeping process; records of prior classes or courses conducted are inspected for completeness and feedback is provided to the CE program sponsor that identify areas for improvement; CE program sponsors will be given at least five days advance notification of these audits; records that will be inspected include:

(i) original copies of attendance rosters with the signatures of course participants;

(ii) course presentation materials/outlines or learning objectives;

(iii) handouts that were given to participants;

(iv) any evaluation tools, including written exams or practical skill

forms; and

(v) CE approval letter or approval numbers;

(c) **CE complaint audit:** this audit is a preliminary investigation conducted by the EMS bureau based on a complaint concerning falsification of the CE process.

(6) **Refreshers:** The EMS bureau does not require a refresher certificate for renewal, but refresher certificates from approved New Mexico EMS education institutions may be used to satisfy an equivalent number of hours for the CE requirement. The refresher documentation submitted must describe the number of CE hours for each CE category, and the number of synchronous and asynchronous hours that were delivered in the class. If a portion of the refresher was completed in an online or other asynchronous distance/distributive education format, the CE hours will be categorized as asynchronous CE by the bureau, and will count towards the maximum number of asynchronous education. For a formal refresher certificate from entities other than New Mexico approved institutions to be accepted for CEs, the course curriculum must be approved prior to an applicant completing the refresher.

[7.27.2.11 NMAC - Rp, 7.27.2.11 NMAC, 12/12/2017; A, xx/xx/2021]

7.27.2.12 IDENTIFICATION OF EMS PERSONNEL: Licensed EMDs, EMD- Is, EMSFRs, EMTs, and paramedics will be issued: one license certificate, [~~one license wallet card~~], and one uniform patch (if available).

A. The bureau shall charge a reasonable fee for replacement of lost [~~cards or certificates~~] documents. The bureau shall also charge a reasonable fee for additional uniform patches, pursuant to 7.27.2.12 NMAC of these rules.

B. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall [~~carry their current New Mexico state license wallet card, or bureau approved equivalent form of identification, while participating in a~~]

~~patient care situation. All EMS personnel must present, upon demand, proof of licensure]~~ be listed as fully licensed on the bureau's list of licensed personnel, and upon demand, present proof of this listing and licensure status.

C. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall promptly notify the bureau of any changes of name, address or EMS employment/affiliation status.

D. All volunteer, paid, and career EMS agencies regulated by the PRC or the EMS bureau utilizing EMS caregivers to perform patient care are required to verify the license of any volunteer or career EMS caregiver via direct contact with the EMS bureau or by accessing the bureau's license verification list. National Registry certification does not constitute licensure. Any other organization, business, or individual that employs or otherwise utilizes licensed EMS caregivers to provide medical care utilizing emergency medical dispatchers or emergency medical technicians including paramedics is strongly advised to verify the New Mexico license of the emergency medical dispatchers or emergency medical technicians via direct contact with the bureau or by accessing the bureau's license verification list.

[7.27.2.12 NMAC - Rp, 7.27.2.12 NMAC, 12/12/2017; A, xx/xx/2021]

7.27.2.14 ENFORCEMENT:

A. EMS licensing commission:

(1) **Statutory basis:** The emergency medical services licensing commission is established pursuant to Section 24-10B-5.1 NMSA 1978 of the act.

(2) **Duties:** The duties of the commission are to:

(a) provide a forum for the receipt of public comment regarding emergency medical services licensing matters;

(b) oversee the bureau's licensing and enforcement functions;

(c) receive complaints, direct investigations, and authorize the initiation of actions by the bureau regarding contemplated refusal to grant initial licensure and for disciplinary actions against licensees; and

(d) grant waivers, for good cause shown, of regulations pertaining to licensure renewal.

(3) **Organization:** Members of the commission are appointed by the secretary as provided by law.

(a) Commission members shall serve until their successors have been appointed by the secretary.

(b) In the event of a vacancy on the commission by resignation or removal, the bureau shall immediately notify the secretary so as to expedite the appointment of a new commission member. The secretary shall appoint such vacancies.

(c) The commission may recommend to the secretary removal of any commission member for the following reasons:

(i) failing to attend or otherwise participate in two consecutive meetings without a valid reason; or

(ii) any other good cause.

(d) The commission shall elect a chair and vice-chair annually. The term of office

begins with the meeting at which the officer is elected.

(e) The bureau shall serve as staff for the commission.

(4) **Commission meetings:** The commission shall meet as needed, but not less than semi-annually.

(a) Commission meetings for receipt of public comment regarding emergency medical services licensing functions and oversight of the bureau's licensure function shall be subject to the Open Meetings Act, Section 10-15-1, *et seq.*, NMSA 1978.

(b) Meetings pertaining to the issuance, suspension, renewal or revocation of a license, or other personnel matters, are closed meetings as provided by the Open Meetings Act.

(c) A meeting notice resolution, consistent with the provisions of the Open Meetings Act, shall be adopted by the commission and shall be reviewed in November of each year at a regularly scheduled meeting of the commission.

(d) Minutes of meetings shall be taken and maintained in accordance with the Open Meetings Act.

(e) A commission member may attend a meeting of the commission via telephone or other teleconferencing technology, if it otherwise difficult or impossible for the member to attend in person.

(5) **Receipt of public comment:** There shall be an opportunity for receipt of public comment regarding licensure matters, in writing or orally, at each open commission meeting.

(a) Written public comment intended for consideration by the commission shall be mailed to the bureau. The comments must include the person's name, address, and telephone number, if available. Unidentified comments may or may not be considered by the commission.

(b) The commission, upon receipt of public comments, may make an appropriate recommendation to the bureau to take action based on those comments.

(6) **Oversight:** During each regularly scheduled meeting, the bureau will provide a report of its licensure functions to the commission. Commission members may, at any time, request information about licensure functions from the bureau.

B. Complaint/incident procedures: Any person may communicate a written complaint or knowledge of an incident to the bureau or the commission.

(1) When the bureau has knowledge of a complaint that may affect a person's license, it shall notify the chair of the commission as soon as practicable.

(2) Similarly, when the commission has knowledge of a complaint or incident affecting licensure, it shall notify the bureau.

(3) Other complaints, which would not affect licensure, will be directed to, and examined by the bureau.

(4) The bureau shall communicate to the chair or designee its opinion as to whether or not an investigation of the complaint should be initiated.

(5) Upon knowledge of a complaint, the chair, or designee, after consultation with other members of the commission, as feasible, shall authorize that an investigation be conducted.

(6) The chair or designee shall direct the course of the investigation through periodic communication with the bureau as necessary.

(7) If an investigation indicates that the complaint may affect a person's license, the licensee shall be notified that the bureau is conducting an investigation, unless extenuating circumstances reasonably preclude notification.

(a) At the conclusion of the bureau's investigation, the bureau shall report its findings to the commission in a closed meeting at which a majority of commission members participate, either in person or by means of a conference telephone or other similar communications equipment.

(b) The commission, after consideration of the bureau's report, may authorize the initiation of an action by the bureau regarding contemplated refusal to grant initial licensure, or for disciplinary action against a licensee, by a majority vote of commission members participating in the closed meeting. The commission may immediately authorize a cease and desist order or other immediate action, including but not limited to suspension, subject to expedited hearing rights as outlined in Paragraph (5) of Subsection G of 7.27.2.14 NMAC, if it determines that the health and safety of the public would be jeopardized unless the bureau takes action as soon as possible.

(c) The chair of the commission may immediately authorize the initiation of an action by the bureau regarding contemplated refusal to grant initial licensure, or for disciplinary action against a licensee, without consulting the other members of the commission. This immediate action may be used if the chair makes a good faith judgment that the health and safety of the public would be jeopardized unless the bureau takes action as soon as possible. Actions may include cease and desist orders or immediate suspension, subject to expedited hearing rights pursuant to Paragraph (5) of Subsection G of 7.27.2.14 NMAC of these rules. If the chair authorizes the initiation of an action by the bureau, the bureau shall notify each commission member in writing of such action within 10 working days of the initiation of the action.

(d) Upon receipt of authorization from the commission to initiate an action, the bureau may deny, suspend or revoke licensure or take other disciplinary action, in accordance with the provisions of the act, Paragraph (2) of Subsection B of Section 24-10B-5 NMSA 1978 and the Uniform Licensing Act, Sections 61-1-1, *et seq.*, NMSA 1978.

C. Conduct of investigations: Investigations shall normally be conducted by the bureau.

(1) **Preliminary investigations:** When the bureau receives information that might form the basis for disciplinary action against a person, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the commission whether justification exists for

the commission to authorize the bureau to initiate an action or to conduct a formal investigation. The results of the preliminary investigation will be presented to the commission.

(2) **Formal investigations:** Formal investigations are authorized by the commission for the purpose of obtaining additional information to allow the commission to determine if it will authorize the bureau to initiate an action. The results of the formal investigation will be presented to the commission. Notice will be given to the person who is the subject of the formal investigation unless extenuating circumstances exist which would reasonably preclude notification.

D. Subpoena authority: In accordance with Subsection C of Section 24-10B-5. 1 NMSA 1978 of the EMS Act and Subsection A of Section 61-1-4 of the Uniform Licensing Act, the EMS licensing commission or the bureau, pursuant to the commissions authorization may, subject to the rules of privilege and confidentiality recognized by law, require the furnishing of information, the attendance of witnesses, and the production of books, records, papers or other objects necessary and proper for the purposes before it, and may take sworn statements of witnesses, including parties.

E. Waivers: The commission, upon good cause or for extenuating circumstances shown by a licensee, may grant a waiver of a specific regulation or regulations pertaining to licensure renewal for that licensee.

(1) A licensee shall demonstrate good cause to the commission by submitting written justification that identifies any extenuating circumstances, to the bureau. The licensee shall include any reasonable supporting documentation to relevant to the request.

(2) The bureau shall distribute the submitted written justification and supporting documentation to the members of the commission prior to their next meeting.

(3) The commission, as soon as practicable, shall determine if good cause exists to grant a waiver by a majority vote of commission members meeting in a closed meeting. To accomplish this, the commission shall evaluate the documentation and, if necessary, review other pertinent documentation requested from the licensee.

(4) The commission may also meet with the licensee at a closed meeting of the commission prior to rendering its decision as to whether good cause exists to grant a waiver.

(5) If the commission grants the waiver to the licensee, it shall direct the bureau to take appropriate action to implement the terms and conditions of the waiver.

(6) A licensee applying for a waiver shall be notified by the bureau of the commission's decision in writing within 20 calendar days of receipt of the commission's decision.

(7) The chair or his designee, with a recommendation from the bureau, may authorize a temporary waiver for licensure renewal, where they feel it may be justified, i.e., loss of employment, pecuniary interests, etc., subject to subsequent commission review and approval.

F. Impaired practitioner program: An EMT who voluntarily self-identifies to the bureau or the impaired practitioner committee that he is experiencing a physical or mental impairment shall be considered for the impaired practitioner program ("diversion program"). Consideration may not result in participation in the diversion program. Also, any impaired-EMT who the bureau, with the advice of the commission, determines may benefit from the impaired practitioner program may be compelled to attend the impaired practitioner committee.

(1) The bureau, with the advice of the commission, may appoint an impaired-EMT rehabilitation committee to organize and administer a program that will:

(a) serve as a diversion program to which the bureau may refer licensees in lieu of, or in addition to, other disciplinary action taken by the bureau under these regulations; and

(b) be a source of referral for EMTs who, on a voluntary basis, desire to avail themselves of treatment for behavioral health based or chemical-dependence impairments.

(2) The impaired practitioner committee shall be composed as a minimum of:

(a) one bureau staff member;

(b) one commission member;

(c) one mental health specialist; and

(d) one physician.

(3) The impaired practitioner committee shall:

(a) arrange evaluations for EMTs who request participation in the diversion program;

(b) review and designate treatment facilities and services to which EMTs in the diversion program may be referred;

(c) receive and review information concerning the status and progress of participants in the diversion program;

(d) publicize the diversion program in coordination with EMS professional organizations and the bureau; and

(e) prepare and provide reports as needed to the bureau and the commission.

(4) Each EMT entering the diversion program shall be informed of the procedures applicable to the diversion program, of the rights and responsibilities associated with participation in the diversion program and of the possible consequences of failure to participate in the diversion program. Failure to comply with any treatment requirement of the diversion program may result in termination of the diversion program participation. The bureau shall report termination of diversion program participation to the commission. Participation in the diversion program shall not be a defense against, but may be considered in mitigating any disciplinary action authorized by the commission and taken by the bureau. The commission is not precluded from authorizing the bureau to commence a disciplinary action against an EMT who is participating in the diversion program or has been terminated from the diversion program.

G. Denial, suspension, and revocation: A license may be denied, suspended, or revoked, or may be subject to any lesser disciplinary action, in accordance with the following:

(1) upon authorization by the commission, the bureau may suspend, revoke, or refuse to issue any license, or take other disciplinary action, in accordance with the provisions of the EMS Act, Subsection B, Section 24-10B-5, NMSA 1978 and the Uniform Licensing Act, Section 61-1-1, *et seq.*, NMSA 1978, for any of the reasons outlined below;

(2) if final disciplinary action is taken against a licensed EMS provider by the bureau, upon authorization from the commission, the bureau may publish the action in a periodical or other medium that has statewide distribution, and will notify the national registry of EMTs of the disciplinary action;

(3) grounds for denial, suspension, revocation or other disciplinary action are:

(a) misconduct in obtaining licensure;

(b) fraud, deceit, misrepresentation in obtaining licensure, including, but not limited to, cheating on an examination or attempting to subvert the initial or renewal licensing process;

(c) unprofessional conduct, whether committed while on duty or off duty, to include but not limited to, the following:

(i) dissemination of a patient's health information to individuals not entitled to such information and where such information is protected by law from disclosure;

(ii) falsifying or altering patient records or personnel records;

(iii) misappropriation of money, drugs or property;

(iv) obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation, or deceit;

(v) aiding, abetting, assisting or hiring an individual to violate the EMS Act or these duly promulgated rules;

(vi) failure to follow established procedure and documentation regarding controlled substances;

(vii) failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of pre-hospital emergency care;

(viii) failure to report an EMS provider who is suspected of violating the New Mexico Emergency Medical Services Act or these rules;

(ix) intentionally engaging in sexual contact with or toward a patient. ~~conviction of a felony [or a misdemeanor involving moral turpitude, as shown by a record of the court conviction], when the conviction relates directly to the profession or the practice of emergency medical services;~~

(e) negligence in the delivery of emergency medical services to include, but not limited to:

(i) practicing outside the standard of care, scope of licensure or without appropriate medical direction;

(ii) malpractice;

(iii) incompetence, in performance of pre-hospital emergency medical functions, whether direct patient care or the administration or management of that care. An EMS provider is under legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other EMS providers of the same licensure status and required by the generally accepted standards of the profession; the failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings. It shall not be necessary to show that actual harm resulted from the act or

omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient or to the public;

(iv) patient abandonment: patient abandonment occurs when the EMS provider has accepted the patient assignment thus establishing a provider-patient relationship and then severs the relationship without giving reasonable notice to a qualified person who can make arrangements for the continuation of care.

(f) unauthorized disclosure of medical or other confidential information;

(g) physical or mental incapacity which could result or has resulted in performance of emergency medical service duties in a manner which endangers the health and safety of the patient or others;

(h) any demonstrated pattern of alcohol or other substance abuse; or any single instance of alcohol or substance abuse in the performance of emergency medical services duties;

(i) failure to successfully complete the impaired practitioner program; or failure to meet the terms and conditions of an impaired practitioner agreement;

(j) failure to meet licensure requirements;

(k) dispensing, administering, distributing or diversion of controlled substances, other than those authorized in the scope of practice, as defined in the New Mexico Controlled Substance Act, Section 30-31-1, *et seq.*, NMSA 1978;

(l) failure to report revocation, suspension, denial, or other adverse actions taken in any other state or jurisdiction affecting the ability to practice emergency medical services;

(m) misrepresentation of the level of licensure or certification;

(n) performing duties as a licensed EMT without being licensed by the bureau to perform the authorized scope of practice for a level of licensure, including practicing after expiration of a license;

(o) any false, fraudulent, or deceptive statement in any document connected with the practice of emergency medical services, including, but not limited to, documents associated with:

(i) initial licensure;

(ii) renewal licensure;

(iii) licensure certificates, wallet cards; or

(iv) continuing education.

(p) failure to cooperate with an investigation, including but not limited to, failure to furnish the commission or bureau with information requested, or to appear for an interview as requested;

(q) inappropriate conduct or negligence by a licensed EMT who is also a registered instructor-coordinator;

(r) failure to comply with a judgment and order for child support or a warrant relating to paternity or child support proceedings issued by a district or tribal court, as provided in the Parental Responsibility Act, Section 40-5A-1 *et seq.*, NMSA 1978;

(s) failure to notify the bureau in writing of the entry against the licensee or applicant, at any time in any state or jurisdiction, of either a felony conviction, or a misdemeanor conviction involving the use, dispensation, administration or distribution of a drug, the use of alcohol, sexual contact, or the possession or use of a weapon, within 10 calendar days of the conviction;

(t) intimidating, threatening, or taking any adverse action against a person for providing information to the bureau or commission, either directly or through an agent;

(u) impersonating an agent or employee of the bureau; and

(v) issuing non-sufficient funds check for the payment of licensing related fees.

(4) the provisions of the New Mexico Criminal Offender Employment Act, Section 28-2-1 *et seq.*, NMSA 1978, shall apply to disciplinary actions proposed pursuant to this rule;

(5) procedures for enforcement of the Parental Responsibility Act:

(a) the New Mexico human services department (HSD) shall issue to the bureau a certified list of obligors (meaning persons who have been ordered to pay child support pursuant to a judgment and order for support issued by a district or tribal court) not in compliance with their judgment and order of support;

(b) upon determination by the bureau that the name and social security number of an applicant for licensure, a licensed person, or licensee, appears on the certified list, the bureau shall require that applicants for licensure:

(i) provide a statement of compliance from HSD to the bureau no later than 48 hours prior to scheduled attendance at a state EMS examination site; or

(ii) provide a statement of compliance from HSD to the bureau no later than the close of business, 60 days from the date of the letter of notification; or

(iii) if the applicant fails to provide a statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to deny the application;

(iv) that persons currently licensed shall provide the bureau with a statement of compliance from HSD by the earlier of the application for licensure renewal or a specified date not to exceed 60 days;

(v) if the licensed person fails to provide the statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to take appropriate action.

(c) upon authorization by the commission to issue a notice of contemplated action concerning violation of the Parental Enforcement Act, the bureau shall serve upon an applicant for licensure or licensee a notice of contemplated action in accordance with the Uniform Licensing Act stating that the bureau has grounds to take such action, and that the bureau shall take such action unless the applicant or licensed person mails a letter (certified mail, return receipt requested) within 20 days after service of the notice requesting a hearing, or provides the bureau, within 30 days of receipt of the notice of contemplated action, a statement of compliance from HSD; if the applicant or licensed person disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensed person shall contact the HSD child support enforcement division;

(d) in any hearing under this subparagraph, the following standards shall apply:

(i) a statement of non-compliance is conclusive evidence that requires the bureau to take appropriate action, unless the applicant or licensee provides the bureau with a subsequent statement of compliance, which shall preclude the bureau from taking any further action under this section;

(ii) when an action is taken against an applicant or licensee solely because the applicant or licensed person is not in compliance with a judgment and order for support, the order shall state that the application, license shall be reinstated upon presentation to the bureau of a subsequent statement of compliance.

(e) the secretary may also include in the order any other conditions necessary to comply with requirements for reapplication and re-issuance of licensure, including, but not limited to, requiring a surcharge fee of \$50, in addition to any other applicable fees.

(6) **right to a hearing:** in accordance with the provisions of the Uniform Licensing Act, Sections 61- 1-1, *et seq.*, NMSA 1978, every applicant or person licensed, shall be afforded notice and opportunity for a hearing, before the department shall have authority to take action, the effect of which would be to deny permission to take an examination for licensure for which application has been duly made, or to deny, suspend, or revoke a certification or license, or take other disciplinary action; exception:

(a) right to expedited hearing for an immediate suspension of a person's license: the person whose license is immediately suspended may request a hearing before a hearing officer appointed by the secretary to contest the action, by mailing a certified return receipt letter addressed to the bureau within 20 days after service of the notice;

(b) expedited hearing for a person whose license has been immediately suspended upon receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing, in accordance with the hearings portion of this rule.

(7) **records management:** a licensing record is maintained for every licensed EMT in New

Mexico; any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act; if the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigatory material;

(a) **confidentiality:** the commission and the bureau will take every precaution to insure that preliminary and formal investigations are conducted in a confidential manner; if the commission authorizes the bureau to initiate an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the licensee's licensing record, if one exists;

(b) **records confidentiality:** any files or records in the possession of the bureau, a regional office or a provider containing identifying information about individuals requesting or receiving treatment or other health services and any unsubstantiated complaints received by the bureau regarding any provider shall be confidential and not subject to public inspection; such files, records and complaints may be subject to subpoena for use in any pending cause, in any administrative proceeding, or in any of the courts of this state, unless otherwise provided by state or federal law.

H. Enforcement of education standards:

(1) **Process for non-compliance:** The bureau will make every attempt to resolve non-compliance of education standards at the lowest level possible. The following process shall be utilized:

(a) the bureau will notify the approved New Mexico education program, in writing, of any suspected or reported non-compliance of education standards received by complaint, report or course trends;

(b) the approved New Mexico education program will provide a plan to correct items of noncompliance and will submit the plan to the bureau in writing within 30 days;

(c) the bureau will re-evaluate the plan and progress reports for compliance of the education standards in three month increments until the problem is resolved; and

(d) if the bureau determines that non-compliance has not been adequately resolved, the bureau may initiate an enforcement action against the education program or the licensed EMT who is an instructor-coordinator.

(2) **Complaint/incident procedures:** Any person may communicate a complaint or knowledge of an incident to the bureau. Complaints shall be submitted in signed written form to the bureau. The bureau may begin an investigation if there is sufficient cause.

(a) When a complaint is received by the bureau, written acknowledgment shall be made within 10 working days and the bureau staff shall decide whether or not a preliminary or formal investigation of the complaint shall be initiated.

(b) Approved New Mexico EMS education programs being formally investigated shall receive written notification within 10 working days after a decision is made to begin a formal investigation.

(c) At the conclusion of the bureau's formal investigation, the bureau may report its findings to the investigated education program in written form. If the bureau investigation warrants an enforcement action, the education program will be given a notice of contemplated action.

(d) If no investigation is warranted, the education program or person filing a complaint will be notified, as determined by the bureau.

(3) **Investigations:** The bureau shall normally conduct preliminary and formal investigations.

(a) **Preliminary investigations:** When the bureau receives information that forms the basis for an enforcement action, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the bureau whether justification exists to initiate an action or to conduct a formal investigation.

(b) **Formal investigations:** Formal investigations are for the purpose of obtaining additional information to allow the bureau to determine if it will initiate an action. Notice will be given of the formal investigation, unless extenuating circumstances exist which would reasonably preclude notification.

(c) **Confidentiality:** The bureau will take every precaution to insure that preliminary and formal investigations are conducted in a confidential manner.

(d) **Records:** An official record is maintained for every approved New Mexico EMS education program. If the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigation material. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the education program's official record. Any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act.

(4) **Grounds for enforcement actions:** Enforcement actions may result in an action taken against an approved New Mexico EMS education program or an instructor-coordinator affiliated with the education program. These enforcement actions may result in the following actions:

(a) probation or suspension of the education program for a specified period of time;

(b) non-recognition of a education program course;

(c) withdrawal of approval status of a education program by the bureau;

(d) under 7.27.2.14 NMAC, a licensing action may be initiated against an instructor-coordinator when the bureau determines that there may be inappropriate conduct or negligence; grounds for enforcement actions include, but are not limited to the following:

(i) failure to comply with law or rules including but not limited to the failure to properly educate students on the licensure process; failure to comply with the education standards or non-compliance with a education standard found in these rules;

(ii) falsifying documents to include use of any false, fraudulent, or deceptive statement in any document;

(iii) failure to cooperate with an investigation to include failure to furnish the bureau with requested information, as provided by law;

(iv) failure of students or instructors to function within the approved New Mexico scopes of practice, New Mexico treatment guidelines and the drug formulary, as approved by the medical direction committee;

(v) failure to report required documentation including patient care data and annual education reports.

(5) **Right to appeal:** Any approved New Mexico EMS education program may appeal a decision by the bureau to take an enforcement action.

(6) **Notice of contemplated action:** When the bureau contemplates taking any action specified in this section, it shall serve upon the approved New Mexico EMS education program a written notice containing a statement of the grounds or subject upon which the proposed action is based and the rule(s) violated.

(7) **Right to hearing:** The approved New Mexico EMS education program may request a hearing before a hearing officer appointed by the secretary to contest the proposed enforcement action, by mailing a certified return receipt letter addressed to the bureau within 20 days after service of the notice.

(8) **Hearing:** Upon receipt of a timely request for a hearing, the department of health shall appoint a hearing officer and schedule a hearing, to be held in Santa Fe, New Mexico, within 45 working days of receipt of the timely request for a hearing.

(9) **Notice of hearing:** The department shall notify the approved New Mexico EMS education program of the date, time, and place of the hearing, the identity of the hearing officer, and the subject matter of the hearing, not less than 30 days prior to the date of the hearing.

(10) **Hearing officer duties:** The hearing officer shall preside over the hearing, administer oaths, take evidence, decide evidentiary objections, and rule on any motions or other matters that arise prior to the hearing.

(11) **Discovery:** Upon written request to another party, any party is entitled to: obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and inspect and copy any documents or items, which the other party will or may introduce in evidence at the hearing.

(12) **Conduct of hearing:** Hearings are open to the public unless either party makes a request for closed meeting.

(13) **Hearing officer written report and recommendation(s):** The hearing officer shall make a written report and recommendation(s) to the secretary containing a statement of the issues raised at the hearing proposed findings of fact and conclusions of law, and a recommended determination. The hearing officer or designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. The hearing officer written report shall be submitted to the secretary no later than 30 working days after the close of the hearing.

(14) **Secretary's determination:** The secretary shall render a final determination within 45 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested. A copy shall be provided to legal counsel for the bureau.

[7.27.2.14 NMAC - Rp, 7.27.2.14 NMAC, 12/12/2017; A, xx/xx/2021]

7.27.2.16 CRIMINAL HISTORY SCREENING:

A. **Authority; use of criminal history information:** The emergency medical services (EMS) bureau is authorized to obtain the criminal history records of applicants and licensees, and to exchange fingerprint data directly with the federal bureau of investigation, department of public safety (DPS) and any other law enforcement agency or organization. The EMS bureau shall require fingerprinting of applicants and licensees for the purposes of this section. Information regarding felonies [~~and misdemeanors involving moral turpitude~~] may form the basis of a denial, suspension or revocation of licensure, and other disciplinary action.

B. Procedure for applicants and licensees:

(1) If an applicant or licensee otherwise meets the application and eligibility requirements, then the bureau shall require the applicant or licensee to submit a request to the federal bureau of investigation, DPS or a DPS designated vendor for a current criminal history screening through the national crime information center ("NCIC"). The applicant or licensee shall undergo the criminal history screening when first applying for either initial or renewal licensure after the effective date of this rule, and every four years thereafter.

(2) The department shall provide applicants and licensees with the department's originating agency identification (ORI) number for the purposes of criminal history screening.

(3) An applicant or licensee shall provide to DPS or a DPS designated vendor a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to the department in accordance with the procedures of DPS or the DPS designated vendor.

(4) DPS or the DPS designated vendor will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be made available to the department for review.

(5) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or a DPS designated vendor. Fees cannot be waived by the department.

(6) The EMS bureau may, within its discretion, waive the criminal history screening requirements of this section for an applicant or licensee who has submitted to, and provided proof of, an equivalent criminal history screening through DPS or through the DPS designated vendor within the previous nine months and was found to have no criminal convictions.

(7) The EMS bureau shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

C. EMS bureau review of criminal history screening information:

(1) The EMS bureau shall conduct a review of applicants and licensees with an associated history of felonies ~~[or misdemeanors involving moral turpitude]~~. The bureau may require the submission of additional information in writing from the applicant or licensee in order to determine whether to pursue disciplinary action. Such information may include (but not be limited to) evidence of acquittal or dismissal, information concerning conviction of a lesser included crime, or evidence of rehabilitation.

(2) The Criminal Offender Employment Act, Section 28-2-1 *et seq.*, NMSA 1978 shall govern any consideration of criminal records required or permitted by this section. In accordance with Section 28-2-4 NMSA 1978 of that act, the following provisions shall apply:

~~[(a) — For convictions directly relating to the EMS profession or practice:]~~ If an applicant or licensee has been convicted of a felony ~~[or misdemeanor involving moral turpitude]~~, and if that conviction relates directly to the profession or the practice of emergency medical services, the department may deny, suspend, or revoke licensure, or take other disciplinary action, on the basis of the conviction(s). The burden of proof shall rest with the applicant or licensee to prove that he or she has been sufficiently rehabilitated.

~~[(b) — For convictions not directly relating to the EMS profession or practice: If an applicant or licensee has been convicted of a felony or misdemeanor involving moral turpitude, and if that conviction does not relate directly to the profession or the practice of emergency medical services, the department may deny, suspend, or revoke licensure, or take other disciplinary action, if the person so convicted has not been sufficiently rehabilitated to warrant the public trust. For purposes of this provision: the burden of proof shall rest with the department to demonstrate non-rehabilitation; and there shall be a rebuttable presumption of sufficient rehabilitation if the applicant or licensee has completed probation or parole supervision, or a period of at least three years has lapsed after final discharge or release from any term of imprisonment without subsequent conviction.]~~

~~[(3)](2)~~ Factors that may be considered by the EMS bureau in determining whether to pursue disciplinary action against a licensee or applicant on the basis of the individual's criminal history may include, but shall not be limited to:

- (a) the total number of convictions;
- (b) the time elapsed since the most recent conviction;
- (c) the circumstances and severity of the crime(s), including whether drugs or violence were involved;
- (d) activities evidencing rehabilitation, including but not limited to completion of probation and completion of drug or alcohol rehabilitation programs;
- (e) any false or misleading statements made by the applicant or licensee in an application or other materials; and
- (f) evidence concerning whether an applicant or licensee poses a risk of harm to the health and safety of patients or the public.

~~[(4)](3)~~ An applicant or licensee whose license is denied, suspended, or revoked, or who is otherwise made the subject of a contemplated disciplinary action based on information obtained in a criminal history background screening, shall be entitled to review the information obtained pursuant to this section and to appeal the

decision pursuant to the Uniform Licensing Act, Section 61-1-1 *et seq.*, NMSA 1978, in accordance with department rules.

[7.27.2.16 NMAC - Rp, 7.27.2.16 NMAC, 12/12/2017; A, xx/xx/2021]