



Division of Emergency Medical Services Investigative Policy

I. Purpose

To establish guidelines for conducting administrative investigations into allegations of potential violations of the Ohio Revised Code (hereinafter “ORC”) and Ohio Administrative Code (hereinafter “OAC”) Chapters 4765 involving Emergency Medical Technicians, EMS Instructors, Accredited Training Programs, Approved Continuing Education Sites and applicants for such.

To insure that any person or entity who is the subject of an administrative investigation is afforded a fair, thorough and impartial investigation into any potential violations of the ORC and OAC.

II. Applicability

This policy applies to all Division of Emergency Medical Service (hereinafter “Division of EMS”) employees involved in the investigative process and any State Board of Emergency Medical Services (hereinafter “EMS Board”) members assigned to the Case Review Team.

III. Authority

ORC § 4765.10(B)(1) authorizes the EMS Board to “*Investigate complaints concerning emergency medical services and organizations as it deems necessary.*” Furthermore, ORC § 4765.101 states “*The state board of emergency medical services shall investigate any allegation that a person has violated this chapter [ORC Chapter 4765] or a rule adopted under it.*” The Division of EMS, under the authority of the EMS Board, conducts such investigations.

ORC § 4765.33 and § 4765.11 grant the EMS Board authority to promulgate rules for disciplinary actions to include revocation, suspension and other disciplinary actions. OAC Chapter 4765-10 authorizes the EMS Board to review all complaints and take administrative action on emergency medical technicians at all levels, EMS instructors and applicants for such.

Ohio Revised Code § 4765.18 grants the EMS Board the authority to suspend, revoke or cancel a certificate of accreditation or a certificate of approval issued by the EMS Board.

IV. Mission/Policy Statement

The mission statement of the Division of EMS is “*To promote quality and professionalism in hiring, training, education, and delivery of Fire and Emergency Medical Services with equal consideration given to all diverse populations and constituents.*” By conducting thorough, fair and impartial investigations, the mission statement of the Division of EMS is supported and reinforced.

The EMS Board and the Division of EMS is committed to insure the highest quality of care and the professional delivery of emergency medical services to the citizens we serve. Fair, impartial

and consistent investigations of all complaints or alleged rule violations build public trust and confidence. This promotes the highest professional standards for all emergency medical service providers and organizations.

The authority and duties of the EMS Board and Division of EMS necessitate prompt and thorough completion of administrative investigations. Division of EMS investigators must approach all investigations with a sense of urgency, recognizing the potential negative impact that long protracted investigations have on complainants, applicants, person(s) subject of a complaint and associated agencies. Unnecessary delays serve to further complicate difficult situations for all concerned. Due process provisions of ORC Chapter 119. shall be followed with adherence to all applicable hearing notices and times frames.

V. Investigative Process

Complaint Process

All complaints shall be in writing. The EMS Complaint Form is available on the Division's website. The Division of EMS shall investigate the allegations to determine the authenticity of the complaint and to determine if a violation of Chapter 4765 of the ORC or OAC has occurred. The Division of EMS shall investigate each complaint thoroughly. Not all complaints filed with the Board/Division fall within the jurisdiction of the Board/Division. If the Division does not have jurisdiction to investigate the complaint, the Division may refer the complainant to another agency or organization. The Division only has jurisdiction to investigate complaints regarding conduct that violates the rules and laws set forth in Chapter 4765 of the ORC or OAC.

Complaints may be filed anonymously with the Division; however the complainant will be must be in writing. In accordance with the objective of the Division of EMS to investigate all formal complaints, each anonymous complaint shall be reviewed to determine if the allegation(s) merit further investigation.

Complaints will not be taken over the telephone.

If the allegation(s) merit further investigation, then the policy outlined herein will be followed.

Confidentiality

Pursuant to ORC § 4765.102, during the investigation, complaints shall be kept confidential in accordance with the parameters set forth in this section of law. Information will only be divulged in accordance with this section of law. Since the investigations are confidential by law, the Division is not permitted to notify a complainant of the step-by-step progress of the investigation.

Some complaints originate from citizens or emergency medical service providers who are concerned about revealing their identity. The Division of EMS may promise confidentiality to a witness on a case by case basis and in accordance with ORC 149.43(A)(2)(b).

Complaint Review

The initial review of the complaint will be conducted by the Division of EMS Investigative Staff. The Investigative Staff will generate a case investigation on all formal complaints or observed violations. The Investigative Staff shall assign an appropriate case number to each investigation. This number shall permanently remain as the identifier for the administrative investigation case.

After a case is initiated, then persons, agencies, organizations or institutions subject of the investigation may be notified by the Division of EMS, as permitted by the ORC and OAC, in accordance with the confidentiality parameters set forth. Notification will be made in conjunction

with policy as not to jeopardize the investigation. In certain circumstances, notification may not be appropriate or permitted.

Collection of Evidence

The Investigative Staff will conduct a thorough investigation into the allegations set forth in the complaint. They will collect all necessary evidence and witness statements/interviews pertaining to the alleged infractions in order to substantiate if any violations of the ORC or OAC have occurred.

The investigative process may include, but is not limited to the following: gathering and collecting all pertinent information such as court and police records, dispatch records, medic run reports, hospital records, patient records, personnel and disciplinary records, medical protocols, work assignments, credentials, witness statements, administrative interviews with persons subject of the complaint and any other documents that are relevant to the investigation. The objective is to have a thorough, complete and factual investigation for the EMS Board to make the best informed decision about the merits of the allegation(s). Pursuant to ORC § 4765.101, the Board may issue subpoenas, may administer oaths, may order the taking of depositions as part of the investigative process.

The availability of records, documentation, witnesses, persons or organizations subject of the investigation and other relevant information will dictate the length of the investigative process. The investigative process will usually involve a minimum of sixty (60) days.

Board Action

After the investigation is completed and violations are supported or unfounded, the cases will be reviewed by the Case Review Team which consists of the following: Division of EMS Executive Director or designee, Division of EMS Office of Investigative Services Designees, Division of EMS Assistant Attorney General, and the appointed EMS Board Members. When applicable, the State Medical Director may be consulted. The Case Review Team will make recommendations to the Investigative Staff in regard to how each case will be presented to the full Board. Those Board members serving on the Case Review Team shall not participate in any deliberation of said cases.

Upon completion of the investigation, the Case Review Team will review the investigation and determine when the case should be brought before the EMS Board. The identity of person(s) subject of the investigation shall not be disclosed when brought before the Board. Only the facts and circumstances surrounding the allegation(s) and alleged rule violation(s) shall be presented to the Board. Possible courses of action the EMS Board can take include, but are not limited to the following:

1. Order the case investigation to be closed;
2. Initiate the disciplinary process by ordering a Notice of Opportunity for Hearing;
3. Refer a case to the local medical director/agency for investigation and disposition;
4. Order a case to be suspended;
5. Accept a Consent Agreement.

Cases which are found to be non-violations of the ORC and OAC will be closed by the Division of EMS at the direction of the Board. The Board will be presented with a listing of these cases by case number for ratification purposes. These cases will be closed and no further action will be taken by the Board.

If the Board orders the issuance of a Notice of Opportunity for hearing, the EMS Board shall afford each individual or organization their ORC Chapter 119. Due Process Rights.

Administrative hearings shall be conducted in accordance with Chapter 119, Chapter 4765 of the ORC and OAC.

In the event an administrative investigation uncovers criminal conduct, the case will be presented to the EMS Board for referral. ORC § 4765.48 provides for the attorney general, the prosecuting attorney of the county, or the city director of law upon complaint of the Board, to prosecute to termination or to bring an action for injunction against any person violating this chapter or the rules adopted under it.

VI. Record Retention

Cases will be kept at the Division of EMS and disposed of in accordance with the Department of Public Safety and Division of EMS record retention schedule.

Closed cases will be reopened only when there is reason to believe new evidence or information substantiates a violation of the Ohio Revised or Administrative Code. In any event, the Case Review Team will review the case and determine appropriate action on closed cases. If a closed administrative investigation is reopened, then appropriate notification will be made in accordance with this policy.

VII. Release of Case Information

The release of any documents or information from case investigation reports will be in accordance with ORC § 4765.102 and § 149.43. EMS staff will consult with the Division of EMS Assistant Attorney General or the Division of EMS In-house Legal Counsel and in accordance with Ohio Department of Public Safety Policy in regard to release of case information.

In accordance with ORC § 149.43, the Division will not release information provided by an information source or witness to whom confidentiality has been reasonably promised, when the release of information would reasonably tend to disclose the source's or witness's identity.

Adjudicated cases may be published in summary form utilizing the Division of EMS newsletter, the Division's website or other means as approved by the Board or Executive Director. The purpose of this publication is to inform emergency medical service providers and interested parties about case dispositions, current trends, and potential training deficiencies. The Division of EMS will classify and tabulate administrative investigations for use in statistical management reports.

VIII. Miscellaneous Provisions

EMS Board Members, who serve as part of the investigation or are involved with the administrative investigation, shall not participate in any EMS Board action or adjudication of the specific case investigations for which they were involved, pursuant to Chapter 4765-10 of the OAC.

Administrative investigations are by nature extremely sensitive, therefore, Division of EMS employees who process the documents or conduct investigations are expected to exercise appropriate confidentiality under all applicable laws and Division of EMS policies.