

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§157.16. Emergency Suspension, Suspension, Probation, Revocation or Denial of a Provider License

(a) Emergency Suspension. The Texas Department of State Health Services (department) **[bureau chief, Bureau of Emergency Management (bureau)]**, may issue an emergency suspension order to any licensed emergency medical services (EMS) provider if the department **[bureau chief]** has reasonable cause to believe that the conduct of any licensed provider creates an imminent danger to public health or safety.

(1) An emergency suspension issued by the department **[bureau chief]** is effective immediately without a hearing or notice to the license holder. Notice to the license holder shall be presumed established on the date that a copy of the signed emergency suspension order is sent to the individual listed as the administrator of the service at the address shown in the current records of the department.

(2) A copy of the emergency suspension order shall be sent to the provider's listed medical director, to the EMS provider, and to **[any and]** all government entities, institutions or facilities with which the license holder is known to be associated to the addresses shown in the current records of the department.

(3) If a written request for a hearing is received from the suspended license holder **[within [15] days of the date of notice]**, the department shall conduct a hearing not earlier than the 10th day nor later than the thirtieth day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified or rescinded. The hearing and appeal from any disciplinary action related to the hearing shall be governed by the Administrative Procedure Act, Government Code, Chapter 2001.

(b) Administrative penalty. An administrative penalty may be assessed when an EMS provider is in violation of the Health and Safety Code, Chapter 773, 25 TAC Chapter 157, or the reasons outlined in subsections (c) and (d) of this section.

(c) Accountability. A provider retains ultimate responsibility for the operation of the service. A licensed EMS provider may not claim a defense when one or more staff members, acting with or without the consent and knowledge of the license holder, commit(s) multiple violations in this section, or perform(s) contrary to EMS standards while on EMS business for the provider. The department shall consider the EMS provider's current policies and procedures when staff violate rules or EMS standards.

(d) Nonemergency suspension or revocation. An EMS provider license may be suspended or revoked for, but not limited to, the following reasons:

- (1) failing to comply with any requirement of provider licensure as defined in §157.11 of this title (relating to Requirements for an EMS Provider License);
- (2) operating the service while the license is under suspension;
- (3) falsifying or altering a license issued by the department;
- (4) failing to correct deficiencies as instructed by the department;
- (5) obtaining or attempting to obtain or assisting another to obtain a provider license or personnel certification by fraud, forgery, deception, or misrepresentation;
- (6) providing false or misleading advertising and/or making false or misleading claims to clients or the public about the service;
- (7) failing to operate a subscription service/membership program according to provisions in §157.11 of this title;
- (8) failing to maintain patient confidentiality according to standards and department regulations;
- (9) discriminating in the provision of services based on national origin, race, color, creed, religion, gender, sexual orientation, age, physical or mental disability[, **or economic status**];
- (10) falsifying a patient care record or any other document or record resulting from or pertaining to EMS Provider responsibilities;
- (11) obtaining any fee or benefit by fraud, coercion, theft, deception, or misrepresentation;
- (12) failing to give the department true and complete information when asked, regarding any alleged or actual violation of the Health and Safety Code, Chapter 773; [, **or the rules adopted thereunder or failing to report such a violation**]
- (13) failing to pay an administrative penalty in full within established time frames;
- (14) failing to staff each vehicle deemed to be in service or response ready with appropriately and currently certified personnel;
- (15) operating, directing, or allowing staff to operate vehicle warning devices unnecessarily or inappropriately;

(16) operating, directing, or allowing any person to operate any vehicle on EMS business while under the influence of any substance that inhibits the mental or physical capacities of that person;

(17) having been found to have operated, directed, or allowed staff to operate any vehicle while on EMS business in a reckless or unsafe manner and/or in a manner that is dangerous to the health or safety of any person;

(18) operating, directing, or allowing staff to operate any vehicle that is not mechanically safe, clean and in good operating condition; and/or

(19) having been found in violation of any local, state, or national code or regulation pertaining to EMS operations or business practices; and/or violating any rule or standard that could jeopardize the health or safety of any person;.

(e) Denial of a license. A license may be denied for, but not limited to, the following reasons:

(1) failing to meet the licensing requirements outlined in §157.11 of this title;

(2) one of the owners having a history of a misdemeanor or felony which the department has determined may put the safety of any person; at risk;

(3) previous conduct while holding an EMS provider license which could put any person at risk;

(4) EMS provider has had disciplinary action in another state or by a federal agency;

(5) falsifying or misrepresenting any fact or requirement on or for an application or related document for a provider license or EMS personnel license/certificate; and/or

(6) issuing a check for application for a provider license which is returned to the department unpaid.

(f) Notification. If the department proposes to deny, suspend, revoke, or probate a license, the EMS provider license holder and the administrator of record shall be notified at the address shown in the current records of the department. The notice shall state the alleged facts or conduct to warrant the proposed action and state that the license holder may request a hearing.

(g) Hearing Request.

(1) A request for a hearing shall be in writing and submitted to the department [bureau chief] and postmarked no later than 30 [within15] days after the date of the notice. The hearing shall be conducted pursuant to the Administrative Procedure Act, Government Code, Chapter 2001.

(2) If the candidate, applicant or licensee does not request a hearing in writing within 30 [15] days after proper notice, the individual is deemed to have waived the opportunity for a hearing as outlined in the notice.

(h) Probation. The department may probate any penalty assessed under this section and may specify terms and conditions of any probation issued.

(i) Re-application.

(1) Two years after denial or revocation of a license, or the voluntary surrender of a license while disciplinary action is pending, an individual may petition the department in writing for re-application for licensure. Expiration of a certificate or license during the suspension period shall not affect the two-year waiting period required before a petition can be submitted.

(2) The petitioner bears the burden of proving fitness for licensure.

(3) The department may allow an application for licensure if there is proof that the health, safety, and confidence of the public will be protected.

(4) The department may deny any petitioner if, in the judgement of the department [bureau chief], the reason for the original action continues to exist or if the petitioner has failed to offer sufficient proof that there is no longer a threat to public health, safety, and/or confidence.

(5) If the application is allowed, the petitioner shall be required to meet the requirements as described in §157.11 of this title and in addition shall meet the terms of probation in subsection (h) of this section.

(j) Expiration of a license during suspension. A provider whose license expires during a suspension period shall not reapply for licensure until the end of the suspension period.

(k) Surrender of a license. Surrender of a license shall not deprive the department of jurisdiction in regard to disciplinary action against the license holder. A provider who wishes to surrender his or her license prior to the expiration of the license may do so by:

(1) completing a Surrender of License statement; and

(2) in the event that a disciplinary action is pending or reasonably imminent, the licensee shall acknowledge that the surrender constitutes a plea of "no contest" to the allegations upon which the disciplinary action is predicated, acknowledging that the surrender is a "no contest" plea in the event that a disciplinary action is pending or reasonably imminent.

(l) Notification of disposition. An order of final disposition of any disciplinary action shall be sent to the license holder at the address shown in the current records of the department.

A copy of the order shall also be sent to the provider's medical director and to any government entity, institution or facility with which the license holder is known to be associated at the address shown in the current records of the department.