

§1232.2. Louisiana Emergency Medical Services Certification Commission; creation; membership; qualifications; terms; vacancies; meetings; officers; compensation; domicile

A. The Louisiana Emergency Medical Services Certification Commission is hereby created within the Department of Health and Hospitals.

B.(1) The commission shall be composed of eleven voting members appointed by the governor as follows:

(a) Two emergency medical services administrators, including one representing the private sector and one representing the public sector.

(b) Two certified emergency medical technician-paramedics and one emergency medical technician-basic who are certified as emergency medical services instructors by the bureau. Until November 6, 2011, or the member's resignation from the commission, whichever is earlier, at least one of the members as provided in this Subparagraph shall be a full-time employee of a fire department. After November 6, 2011, or the member's resignation from the commission, at least one of the members as provided in this Subparagraph shall be appointed by the Louisiana Fire Chiefs Association.

(c) Four physicians, one from each of the following organizations:

(i) The American College of Emergency Physicians.

(ii) The American College of Surgeons.

(iii) The Louisiana State Medical Society.

(iv) The American Academy of Pediatrics.

(d) One member who is, at a minimum, a state-certified emergency medical technician-basic nominated by the Louisiana Municipal Association.

(e) One member nominated by the Professional Firefighters Association of Louisiana.

(2) The commission shall also have one nonvoting member appointed by the governor who is a registered nurse and who is a state-certified paramedic to be nominated by the Louisiana State Nurses Association from a list of two names submitted by the Louisiana Emergency Nurses Association.

C. Each member of the commission shall be a resident of Louisiana for at least one year, have had three years experience in his respective field of practice, and be actively engaged in the practice of emergency medical services at the time of his appointment.

D.(1) The initial voting members of the commission shall be appointed no later than October 1, 1997, from a list of two nominees for each appointment submitted by the task force. If the task force fails to submit a list of nominees to the governor by September 1, 1997, the governor shall appoint the respective members of the commission without the nomination list required by this Section.

(2) The nonvoting member shall be appointed to serve terms of three years. The initial member shall be appointed by the governor to an initial term of three years by October 1, 1997 or within thirty days of receipt of the list from the Louisiana State Nurses Association, whichever is later.

E. Each appointment by the governor shall be submitted to the Senate for confirmation.

F.(1) The voting members appointed to the commission shall serve as follows: three members shall be appointed to serve an initial term of one year; three members shall be appointed to serve an initial term of two years; and three members shall be appointed to serve an initial term of three years. Thereafter, each member shall be appointed to serve a term of three years.

(2) No individual shall serve more than two consecutive terms.

G.(1) Subsequent to the appointment of the initial members, the voting members shall be appointed from a list of two nominees for each appointment submitted by the task force. No later than thirty days prior to the termination date of a member's term, the task force or, for the nonvoting member, the Louisiana State Nurses Association, shall submit a list of nominees to the governor. If the Louisiana State Nurses Association or the task force fails to submit the required list of nominees to the governor within thirty days, the governor shall appoint the respective member to fill the vacancy without the nomination list required.

(2) A vacancy on the commission prior to the expiration of a term shall be filled for the remainder of the term. No later than thirty days after the occurrence of a vacancy prior to the expiration of a term, the task force or, for the nonvoting member, the Louisiana State Nurses Association, shall submit a list of nominees to the governor. If the Louisiana State Nurses Association or the task force fails to submit the required list of nominees to the governor within thirty days, the governor shall appoint the respective member to fill the vacancy without the nomination list required.

H. The governor shall call the first meeting of the commission no later than November 30, 1997. At a minimum, the commission shall meet on a quarterly basis and, in addition, shall meet when called by the chairman or upon the written request of at least four voting members of the commission.

I. The commission shall annually elect a chairman, vice chairman, and secretary from among its voting membership and shall maintain a record of the attendance of its members at commission meetings.

J. For each day while performing his official duties, a member of the commission may be reimbursed for expenses and mileage at the same rate set by the division of administration for state employees under the provisions of R.S. 39:231.

K. The commission shall be domiciled in Baton Rouge.

L. The governor shall remove a member of the commission after a hearing by the commission during which charges for removal have been established and provided that a majority of the members have recommended removal.

Acts 1997, No. 913, §2; Acts 2010, No. 329, §1.

§1232.3. Powers and duties of the commission; exceptions

A. The commission shall:

(1) Recommend to the bureau requirements and standards of practice for individuals seeking to be certified under this Subpart.

(2) Approve requirements and standards of practice submitted by the bureau for emergency medical personnel consistent with this Subpart.

(3) Recommend continuing education requirements and standards to the bureau in accordance with criteria established by the National Registry of Emergency Medical Technicians for individuals seeking to renew a certificate.

(4) Conduct disciplinary hearings for emergency medical personnel.

(5) Request that the bureau conduct investigations as necessary.

(6) Cause the prosecution of any individual who violates any provision of this Subpart.

(7) Maintain a record of all commission proceedings.

(8) Adopt rules and regulations to implement the provisions of this Subpart in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

B. Except as they relate to scope of practice or patient care issues, Paragraphs (A)(4), (5), and (6) of this Section shall not apply to anyone who is a volunteer of or employed by the state of Louisiana or another public entity, a municipal fire department, a fire protection district, or a volunteer fire department who has successfully completed an emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, or first responder training program developed and promulgated by the United States Department of Transportation and who possesses a current national and state certification, until the commission has forwarded the nonmedical practice complaint to the local governing body and received a response with investigative results and any disciplinary disposition. In the event that the local governing body does not send a response or request for extension to the commission within sixty days after receipt of the complaint, the commission may proceed with the powers and duties as defined in Subsection A of this Section. Notwithstanding any law to the contrary, in the event the commission determines by a two-thirds vote of the membership of the commission that public health and safety would be jeopardized by waiting for a response from the local governing authority, the commission shall have the right to exercise its powers and duties as provided in Subsection A of this Section without receipt of an investigative report from the local governing authority or the expiration of the sixty-day period as provided in this Subsection.

Acts 1997, No. 913, §2; Acts 2003, No. 208, §1; Acts 2010, No. 935, §1.

§1232.4. Powers and duties of the bureau

The bureau shall:

(1) Issue a certificate and renew a certificate to any duly qualified applicant for certification or for certification renewal as a certified first responder or certified emergency medical technician.

(2) Prescribe application forms for certification and certification renewal.

(3) Adopt requirements and standards of practice approved by the commission for emergency medical personnel.

(4) Conduct investigations as requested by the commission.

(5) Deny, withhold, revoke, restrict, probate, or suspend a certificate as directed by the commission under the provisions of R.S. 40:1232.6.

(6) Prepare, publish, and update a roster of all emergency medical personnel, including the name and address of each individual.

(7) Adopt continuing education requirements and standards for individuals seeking to renew a certificate.

(8) Prepare an annual report detailing the activities of the commission during the past fiscal year including the number and nature of the hearings conducted under the provisions of R.S. 40:1232.7.

(9) Adopt rules and regulations to implement the provisions of this Subpart in accordance with the Administrative Procedure Act.

Acts 1997, No. 913, §2.

§1232.5. Certification; requirements; renewal

A. Applicants for initial certification as emergency medical personnel shall submit the following evidence to the bureau:

(1) Completion of the required approved educational program.

(2) Documentation that the applicant meets the qualifications and requirements as established by the bureau.

B. In lieu of the evidence required by Subsection A of this Section, an applicant may submit evidence that he has been duly licensed or certified in another state, territory, or country or has received military training and certification as emergency medical personnel as defined in R.S. 40:1231, and meets the qualifications and requirements established by the bureau.

C.(1) The certificate shall be renewed every two years provided the applicant seeking renewal completes the application and meets the requirements for renewal established by the bureau prior to the expiration date on his current certificate.

(2) An individual whose certificate expires by his failure to renew as provided may be reinstated provided the applicant submits a completed application and meets any additional requirements established by the bureau for an individual who has failed to timely renew his certificate.

Acts 1997, No. 913, §2.

§1232.6. Grounds for disciplinary proceedings

The commission may discipline emergency medical services professionals by directing the bureau to deny, withhold, revoke, restrict, probate, or suspend a certificate to practice as a certified emergency medical technician or certified first responder, impose fines and assess costs, or otherwise discipline an EMS professional, and the commission may direct the bureau to limit, restrict, or deny a student EMS professional from entering or continuing the clinical phase of EMS education for the following causes:

(1) Conviction of selling or attempting to sell, falsely obtaining, or furnishing to a person a certified emergency medical technician or certified first responder certification document.

(2) Conviction of a crime or offense which reflects the inability of a certified emergency medical technician or certified first responder to provide emergency medical services with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding, including but not limited to expungement or nonadjudication.

(3) Is unfit or incompetent by reason of negligence, habit, or other cause.

(4) Is habitually intemperate in the use of or abuses alcohol or habit-forming drugs.

(5) Is guilty of aiding or abetting another person in the violation of this Subpart.

(6) Is mentally incompetent.

(7) Endeavors to deceive or defraud the public.

(8) Professional or medical incompetency.

(9) Unprofessional conduct.

(10) Continuing or recurring practices which fail to meet the standards of EMS care in this state.

(11) Abandonment of a patient.

(12) Has had a certification or license to practice as an EMS professional or to practice as another health care provider denied, revoked, suspended, or otherwise restricted.

(13) Is guilty of moral turpitude.

(14) Has violated any rules and regulations of the commission or the bureau or any provision of this Subpart.

Acts 1997, No. 913, §2; Acts 2003, No. 208, §1; Acts 2004, No. 797, §1, eff. July 8, 2004.

§1232.7. Hearings of the commission; appeal of decision

A. If the commission determines there are grounds for a disciplinary proceeding against an individual based upon an investigation by the bureau, the chairman of the commission shall set a time and place for a hearing. No later than ten days prior to the date set for the hearing, the commission shall send notice of the time and place for the hearing and an explanation of the grounds for the disciplinary proceedings to the individual by registered mail, return receipt requested, at his last known address as it appears on the records of the bureau.

B. The commission may compel or subpoena the attendance of witnesses, the production of books, papers, and documents, and administer oaths at the hearing. Subpoenas shall be issued in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The commission shall not be bound by strict rules of procedure or other laws of evidence in the conduct of its proceedings. The individual under investigation may appear personally, by counsel, or personally and by counsel, produce witnesses and evidence on his own behalf, and cross-examine witnesses. Such proceedings shall be closed to the general public and the records of the proceeding shall be confidential.

C. Notwithstanding any privilege of confidentiality recognized by law, a physician or health care agency with which the individual under investigation is associated shall not assert such privilege by failing or refusing to respond to a lawfully issued subpoena of the commission for any medical information, testimony, records, data, reports, or other documents, tangible items, or information relative to any patient cared for or assigned to the individual under investigation. Any such items obtained pursuant to a subpoena shall be confidential. Furthermore, the transcript of testimony from the hearing shall be altered to prevent the disclosure of the identity of the patient to whom such records relate.

D. Notice of the commission's decision to revoke, restrict, suspend, or deny a certificate shall be sent to the individual under investigation by registered mail, return receipt requested, at his last known address as it appears on the records of the bureau.

E. An individual whose certification has been revoked, restricted, suspended, placed in probation, or denied may have the proceedings of the commission reviewed by a court of competent jurisdiction, provided that an appeal is made no later than thirty days after the date indicated on the registered mail receipt of the notice required by Subsection D of this Section. The decision of the commission shall remain in force until an appeal is granted unless the court orders a stay. If an appeal is granted, the decision of the commission shall be suspended until a final disposition of the matter is ultimately rendered by the court affirming the decision of the commission.

F. The commission may maintain the confidentiality of an individual under investigation whenever the commission determines the public interest will be best served by alternatives to the disciplinary hearing process.

Acts 1997, No. 913, §2; Acts 2003, No. 208, §1.

§1232.8. Injunction

The commission, through the bureau, may obtain an injunction without bond forbidding any person from violating or continuing to violate any of the provisions of this Subpart. This injunction shall not be subject to release upon bond.

Acts 1997, No. 913, §2.

§1232.9. Violations

No person or individual shall engage in any of the following activities:

(1) Sell, or attempt to sell, falsely obtain, or furnish to any person any emergency medical personnel diploma, certification document, or record, or aid or abet therein.

(2) Practice as a certified emergency medical technician or certified first responder under any diploma or certificate illegally obtained or signed or issued unlawfully.

(3) Practice as a certified emergency medical technician or certified first responder unless certified to do so under the provisions of this Subpart.

(4) Use in connection with his name any designation tending to imply that he is a certified emergency medical technician or certified first responder unless duly authorized to practice under the provisions of this Subpart.

(5) Practice as a certified emergency medical technician or certified first responder during the time the certification issued under the provisions of this Subpart is suspended or revoked.

(6) Practice as a certified emergency medical technician or certified first responder during the time his certification has lapsed by reason of his intentional failure to renew the certification.

(7) Conduct or serve as an assistant instructor in conducting any course claiming to prepare students for certification as emergency medical personnel under the provisions of this Subpart, unless both the course and the instructor have been approved by the bureau.

(8) Knowingly aid or abet another person in the violation of this Subpart.

Acts 1997, No. 913, §2.

§1232.10. Prosecution

A. Any person who violates the provisions of R.S. 40:1232.9 shall be subject to prosecution. This prosecution shall be brought in the name of the state, provided the provisions of this Subpart shall not prevent or interfere with a prosecution brought by the district attorney of a parish when a prosecution or a pre-prosecution proceeding has been initiated by the district attorney.

B. Whoever is found guilty of violating any provision of R.S. 40:1232.9 shall, upon a first conviction, be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Upon a second or subsequent conviction, the offender shall be imprisoned with or without hard labor for not more than two years and fined not more than five thousand dollars.

Acts 1997, No. 913, §2.

§1232.11. Exceptions

This Subpart shall not apply to the practice of emergency medical services by a legally qualified emergency medical technician who is employed by the United States government, or by any bureau, division, or agency thereof, while in the discharge of his official duties.

Acts 1997, No. 913, §2.