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IDAPA 16
TITLE 01
CHAPTER 12

16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 56-1023, Idaho Code, to adopt rules concerning the administration of the Idaho Emergency Medical Services Act. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. The EMS Bureau is authorized under Section 56-1022, Idaho Code, to manage complaints and investigations, and implement license actions against EMS personnel and agencies, that includes levying fines against an EMS agency. (3-29-12)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (3-29-12)

02. Scope. These rules provide for the management of complaints, investigations, enforcement, and disciplinary actions by the EMS Bureau for personnel and agency licensure and certification, and educational programs and instructor approval. (7-1-16)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (3-29-12)

003. ADMINISTRATIVE APPEALS.
Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-29-12)

004. INCORPORATION BY REFERENCE.
No documents are incorporated in this chapter of rule. (3-29-12)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-12)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, ID 83720-0036. (3-29-12)

03. Street Address. (3-29-12)

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, ID 83702. (3-29-12)

b. The Bureau of Emergency Medical Services and Preparedness is located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. (7-1-14)

04. Telephone. (3-29-12)

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-29-12)

b. The telephone number for the Bureau of Emergency Medical Services and Preparedness is (208)

334-4000. The toll-free, phone number is 1-877-554-3367. (7-1-14)

05. Internet Websites. (3-29-12)

a. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. (3-29-12)

b. The Bureau of Emergency Medical Services and Preparedness internet website is found at http://www.idahoems.org. (7-1-14)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. (3-29-12)

a. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-29-12)

b. Preliminary investigations and related documents are confidential until a notice of certificate or license action is issued by the EMS Bureau. (3-29-12)

02. Public Records Act. The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (3-29-12)

007. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions" apply. (7-1-14)

011. -- 074. (RESERVED)

075. PEER REVIEW TEAM.
The EMS Bureau may elect to conduct a peer review for an alleged statute or rule violation when it determines that a peer review is an appropriate action. The EMS Bureau will determine who serves on a peer review team. (3-29-12)

076. MEMBERS OF A PEER REVIEW TEAM.
The peer review team will consist of four (4) team members selected by the EMS Bureau as appropriate to the case being considered from the following: (3-29-12)

01. Licensed Personnel. EMS personnel licensed at, or above, the license level of the subject; or (3-29-12)

02. Agency Administrator. EMS agency administrator; or (3-29-12)

03. Training Officer. EMS agency training officer; or (3-29-12)

04. Course Coordinator. Course coordinator of an EMS Bureau-approved education program or course; or (3-29-12)

05. Instructor. EMS Bureau-certified EMS instructor; and (3-29-12)

06. Chairman of Peer Review Team. Each peer review team will be chaired by a licensed Idaho EMS physician as follows: (3-29-12)

a. An Idaho EMS Physician Commissioner for cases involving EMS personnel; or (3-29-12)

b. An Idaho EMS agency medical director for cases involving an EMS agency; or (3-29-12)

c. An Idaho EMS Bureau-approved education program or course sponsoring physician for cases involving educators who are not licensed EMS personnel. (3-29-12)

077. QUALIFICATIONS REQUIRED OF A PEER REVIEW TEAM MEMBER.
An individual, serving as a member of an EMS peer review team, must have successfully completed an orientation to EMS-related statute, rules and procedures and have signed confidentiality and conflict of interest agreements provided by the EMS Bureau. (3-29-12)

078. -- 099. (RESERVED)

REPORTING OF COMPLAINTS AND SUSPECTED VIOLATIONS
(Sections 100 - 199)

100. COMPLAINT SUBMITTED WHEN A VIOLATION IS SUSPECTED.
Complaints must be submitted in writing on a complaint intake form found online at: http://www.idahoems.org. (3-29-12)

101. -- 109. (RESERVED)

110. REPORTING SUSPECTED VIOLATION.

01. Suspected Violations. Any person may report a suspected violation of any law or rule governing EMS. (7-1-16)

02. Report Violation. To report a suspected violation, contact the EMS Bureau described in Section 005 of these rules. (7-1-14)

111. ANONYMOUS COMPLAINTS.
Anonymous complaints are accepted; however, the inability to collect further information from the complainant may hinder the progress of the investigation. (3-29-12)

112. -- 199. (RESERVED)

INVESTIGATION OF COMPLAINTS AND SUSPECTED VIOLATIONS
(Sections 200 - 299)

200. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.
An official investigation will be initiated when the any of the following occurs: (3-29-12)

01. Complaint with Allegations. A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS. (7-1-16)

02. Discovery of Potential Violation of Statute or Administrative Rule. EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS. (7-1-16)

201. -- 209. (RESERVED)

210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.
The EMS Bureau may impose administrative actions, including denial, revocation, suspension, or retention under conditions specified in Sections 300 through 399 of these rules. Administrative actions may be imposed on any of the following: the holder of, or an applicant or candidate for, an EMS license, certificate, education program approval, or recognition. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. (7-1-16)

211. -- 219. (RESERVED)

220. REFUSAL TO PARTICIPATE IN AN INVESTIGATION.
The refusal to participate by the subject will not prohibit full investigation or a peer review, nor prevent potential administrative license action. (3-29-12)

221. -- 229. (RESERVED)

230. SURRENDER OR LAPSE OF LICENSE.
Surrender or lapse of a license will not prohibit full investigation with the potential consequence of EMS Bureau imposing a formal administrative license action or fine. (3-29-12)

231. -- 239. (RESERVED)

240. INVESTIGATION CONFIDENTIALITY.

01. Informal Resolution. Informal resolution of complaints or non-compliance by guidance or negotiated resolution is not public information. (7-1-16)

02. Administrative License Action. Preliminary investigations and documents supplied or obtained in connection with them are confidential until a formal notice of administrative license action is issued. (3-29-12)

241. -- 249. (RESERVED)

250. NOTICE OF THE FINAL DISPOSITION OF AN INVESTIGATION.

01. Subject. The EMS Bureau will send notification to the last known address of the subject of the disposition of the investigation, including any pending or current administrative actions. (3-29-12)

02. Other Jurisdiction for EMS Personnel. A copy of administrative action imposed on EMS personnel will be sent to each agency of affiliation, agency medical director, the National Practitioners Data Base, and the National Registry of Emergency Medical Technicians. (3-29-12)

03. Other Jurisdictions for EMS Agencies. A copy of administrative action or nature of fines imposed on EMS agencies will be sent to the agency governing authorities and the agency medical director. (3-29-12)

04. Other Jurisdictions for Educational Programs or Instructors. A copy of any administrative action imposed on an EMS educational program or instructor may be sent to the state Board of Education, the sponsoring physician, the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP), and the National Registry of Emergency Medical Technicians (NREMT). (3-29-12)

251. -- 299. (RESERVED)

DISCIPLINARY AND CORRECTIVE ACTIONS
(Sections 300 - 399)

300. ACTIONS RESULTING FROM INVESTIGATIONS.
The following actions may be imposed upon the subject of an investigation by the EMS Bureau without peer review: (7-1-16)

01. Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the subject of the investigation to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public, profession, or EMS system occurred. The subject of the investigation must show a willingness to become compliant and correct the issue within thirty (30) days of

receipt of the personnel guidance letter. (7-1-16)

02. Warning Letter. The EMS Bureau may issue a warning letter for a first offense where an unlicensed individual is providing patient care in violation of Section 56-1020, Idaho Code. (7-1-16)

03. Negotiated Resolution. The EMS Bureau may negotiate a resolution with the subject of an investigation where allegations of misconduct or medical scope of practice non-compliance, if found to be true, did not cause, or is not likely to cause, injury or harm to the public, profession, or EMS system. The issue must be resolved and corrected within thirty (30) days of the negotiated resolution or settlement agreed to by both the subject of the investigation and the EMS Bureau. (7-1-16)

a. Negotiated resolution participants will include the subject of the investigation, EMS Bureau staff and other parties deemed appropriate by the EMS Bureau. (3-29-12)

b. During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon.(3-29-12)

c. When the remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. (3-29-12)

301. -- 319. (RESERVED)

320. PEER REVIEW.
The EMS Bureau may elect to conduct a peer review for alleged statute or rule violations when it determines that a peer review is an appropriate action, or a negotiated resolution or settlement agreement described in Section 300 of these rules, is not reached. The peer review is conducted as follows: (7-1-16)

01. Review of Case by Peer Review Team. The peer review team reviews the case details, subject's background, affiliation, licensure history, associated evidence, and documents, and then considers aggravating and mitigating circumstance as follows: (3-29-12)

a. Aggravating circumstances can include: prior or multiple offenses, vulnerability of victim, obstruction of the investigation, and dishonesty. (3-29-12)

b. Mitigating circumstances can include: absence of prior offenses, absence of dishonest or selfish motive, timely effort to rectify situation, interim successful rehabilitation, misdirection per agency protocol, or medical direction. (3-29-12)

02. Subject Given Opportunity to Respond. The subject of the investigation will be given the opportunity to respond in writing, by teleconference, or at the option of the EMS Bureau, in person to the alleged violation. (3-29-12)

03. Evaluation of Evidence. The peer review team will evaluate the evidence and make a majority decision of the finding for each alleged statute, rule, or standards violation, including any additional detected violations. (3-29-12)

04. Recommend Action. The peer review team will recommend actions to the EMS Bureau. If subject is found to have violated statutes, rules, or standards, the recommendations may include the following: (3-29-12)

a. Administrative license action, time frames, conditions, and fines, if imposed, on an EMS agency; (7-1-16)

b. Administrative license action, time frames, and conditions, if imposed, on EMS personnel; or (7-1-16)

c. Administrative action, time frames, conditions, and fines, if imposed, on an EMS approved

education program or instructor certificate. (7-1-16)

321. -- 329. (RESERVED)

330. ADMINISTRATIVE ACTIONS.
The EMS Bureau may impose the following administrative actions: (3-29-12)

01. Deny Application. The EMS Bureau may deny an application for an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or an EMS instructor certification: (7-1-16)

a. When the application is not complete or the applicant does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," or IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; or (7-1-16)

b. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

02. Refuse to Renew. The EMS Bureau may refuse to renew an EMS personnel license, EMS personnel certificate of eligibility, EMS agency license, EMS education program approval, or EMS instructor certification: (7-1-16)

a. When the renewal application is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," or IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or (7-1-16)

b. Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property; or (7-1-16)

c. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

03. Retain with Probationary Conditions. The EMS Bureau may allow the holder of an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification to retain a license, approval, or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. (7-1-16)

04. Suspend. The EMS Bureau may suspend an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification for: (7-1-16)

a. A period of time up to twelve (12) months, with or without conditions; or (3-29-12)

b. Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (7-1-16)

05. Revoke. The EMS Bureau may revoke an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification when: (7-1-16)

a. A peer review team recommends revocation; or (7-1-16)

b. The license or certificate holder is found to no longer be eligible for criminal history clearance per IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-16)

c. The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which an EMS agency provides emergency prehospital response upon revocation of an EMS agency license. (7-1-16)

06. Review of Administrative Actions by the EMS Physician Commission. The EMS Physician Commission must review, at their next available meeting, administrative actions taken by the Department as described in Subsections 330.01 through 330.05 of this rule. (7-1-16)

331. -- 339. (RESERVED)

340. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.
In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: (3-29-12)

01. Operating An Unlicensed EMS Agency. Operating without a license required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," including: (7-1-14)

a. Failure to obtain an initial license; (3-29-12)

b. Failure to obtain a license upon change in ownership; or (3-29-12)

c. Failure to renew a license and continues to operate as an EMS agency. (3-29-12)

02. Unlicensed Personnel Providing Patient Care. Allowing an unlicensed individual to provide patient care without first obtaining an EMS personnel license required in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," at the appropriate level for the EMS agency. (3-29-12)

03. Failure to Respond. Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, under licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: (7-1-14)

a. There are disaster conditions; (3-29-12)

b. Scene safety hazards are present or suspected; or (3-29-12)

c. Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. (3-29-12)

04. Unauthorized Response by EMS Agency. Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

05. Failure to Allow Inspections. Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-16)

06. Failure To Correct Unacceptable Conditions. Failure of the EMS agency to correct unacceptable conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: (3-29-12)

a. Failure to maintain an EMS vehicle in a safe and sanitary condition; (3-29-12)

b. Failure to have available minimum EMS Equipment; (3-29-12)

c. Failure to correct patient or personnel safety hazards; or (3-29-12)

d. Failure to retain an EMS agency medical director: (3-29-12)

07. Failure to Report Patient Care Data. Failure to submit patient care data as required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

341. FINES IMPOSED ON EMS AGENCY.
In addition to administrative license action allowed by statute and rule, a fine may be imposed by the EMS Bureau upon the recommendation of a peer review team. Fines are imposed on licensed EMS agency as a consequence of agency licensure violations. (3-29-12)

01. Maximum Amount of a Fine. A fine may not exceed one thousand dollars ($1000) for each specified violation. (3-29-12)

02. Fines Levied After Peer Review. The EMS Bureau may levy a fine against an EMS agency following a peer review that has a majority decision on finding and outcomes, and includes a fine be imposed as part of the recommended action. (3-29-12)

03. Table for Maximum Fine Amount. The maximum amount of a fine that may be imposed on an EMS agency for certain violations listed in Section 330 of these rules are provided in the table below:

EMS AGENCY FINE AMOUNT FOR VIOLATIONS Section 341.03		
Rule Violation Subsection	**TYPE OF VIOLATION**	**Maximum Fine (each violation)**
340.01.	**Operating an Unlicensed EMS Agency.** **a.** Failure to obtain an initial license: **b.** Failure to obtain a license upon change of ownership: **c.** Failure to successfully renew a license:	 $1000 $ 500 $ 500
340.02.	**Unlicensed EMS Personnel Providing Patient Care.**	$ 500
340.03.	**Failure to Respond.**	$ 750
340.04.	**Unauthorized Response by EMS Agency.** Licensed EMS agency responds to a request for service which deviates from or exceeds those authorized by the EMS agency license.	$ 500
340.05.	**Failure to Allow an Inspection of an EMS Agency.**	$ 500
340.06.	**Failure to Correct Unacceptable Conditions.** **a.** Failure to maintain an EMS vehicle in a safe and sanitary condition: **b.** Failure to have available minimum EMS equipment: **c.** Failure to correct patient or personnel safety hazards: **d.** Failure to retain an EMS agency medical director:	 $ 250 $ 250 $ 250 $ 500
340.07.	**Failure to Report Patient Care Data.**	$ 500

(3-29-12)

342. COLLECTED FINES.
Money collected from EMS agency fines will be deposited into the Emergency Medical Services Fund III provided

for in Section 56-1018B, Idaho Code, a dedicated fund account for the purpose of providing grants to acquire vehicles and equipment for use by emergency medical services personnel in the performance of their duties. (3-29-12)

343. -- 349. (RESERVED)

350. REINSTATEMENT FOLLOWING REVOCATION.
An application of any revoked license, certificate, or educational program approval, may be filed with the EMS Bureau no earlier than one (1) year from the date of the revocation. (7-1-16)

01. Peer Review for Reinstatement. The EMS Bureau will conduct a peer review to consider the reinstatement application. (3-29-12)

02. Recommendation of Peer Review Team. The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. (3-29-12)

03. Reinstatement Determination. The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. (3-29-12)

a. Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement requirements in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-29-12)

b. Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

351. -- 999. (RESERVED)

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