



NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE THAT on June 23, 2010, at 1:00 p.m., in the Board Room at the Department of Community Health, #2 Peachtree Street, 5th Floor, Atlanta, Georgia, a public hearing will be held for the presentation of proposed administrative rule changes.

The chapters affected by the proposed changes of administrative rules & regulations are listed below:

(Repeal) Ga. Admin. Comp. Ch. 290-5-30, Emergency Medical Services

290-5-30-.12 *Initial Licensing of Emergency Medical Services Personnel*
290-5-30-.18 *Administrative Action, Fines, Probation, Suspension, and/or Revocation of the License, Designation of EMS Providers, EMS Personnel, Ambulance Zones and/or Base Stations*

(Newly Adopt) Ga. Admin. Comp. Ch. 111-9-2, Emergency Medical Services

111-9-2-.12 *Initial Licensing of Emergency Medical Services Personnel*
111-9-2-.18 *Administrative Action, Fines, Probation, Suspension, Summary Suspension and/or Revocation of the License, Designation of EMS Providers, EMS Personnel, Ambulance Zones and/or Base Stations*

All interested persons are hereby given the opportunity to participate by submitting data, views or arguments (orally or in writing). Oral comments may be limited to 10 minutes per person. If you need auxiliary aids or services because of a disability, please contact the Office of General Counsel at (404) 657-7195 at least (3) three business days prior to the hearing.

Written comments must be submitted to the Department no later than the close of business at 5:00 p.m. on June 24, 2010. Comments may be faxed to (404) 656-0663, emailed to pjohnson@dch.ga.gov or mailed to the address above, attention Office of General Counsel.

Unless revision of the proposed rule changes is indicated as a result of the public comments, it is the intent of the Department of Community Health to ask the Board of Community Health to approve the rule(s) as promulgated herein for final adoption on July 8, 2010.

This 13th day of May, 2010.

Clyde L. Reese, III, Esq.
Commissioner

CLR:pmj

Attachments

SYNOPSIS OF PROPOSED RULE CHANGES

RULES OF DEPARTMENT OF COMMUNITY HEALTH PUBLIC HEALTH

CHAPTER 290-5-30 (REPEAL) AND CHAPTER 111-9-2 (NEWLY ADOPT)

EMERGENCY MEDICAL SERVICES

Rule 111-9-2-.12

INITIAL LICENSING OF EMERGENCY MEDICAL SERVICES PERSONNEL

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The Department of Community Health (DCH) proposes to repeal the Department of Human Resources' Rules and Regulations for Emergency Medical Services in Rule 290-5-30-.12 in its entirety. The Division of Public Health, DCH, proposes the adoption in a new chapter of the Rules and Regulations for Emergency Medical Services, Chapter 111-9-2. These rules are being proposed pursuant to the authority granted the DCH in O.C.G.A. §§ 31-11-5, to create and promulgate rules and regulations for the protection of the public health.

The purpose of this proposed amendment is to repeal existing regulations in Chapter 290-5-30 and adopt new regulations in Chapter 111-9-2 to further define the parameters around initial licensing of Emergency Medical Services. The main provisions address eligibility for licensure as it relates to criminal conduct, eligibility to reapply for licensure following a denial and the Department's authority to deny applications for licensure.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Rule 111-9-2-.12(5)(b)(5) is added to update the language and reflect that the final disposition of criminal matters are required, prior to applying for licensure.

Rule 111-9-2-.12(7) is added to further define the time frame in which applicants are eligible to reapply following denial of licensure.

Rule 111-9-2-.12(7)(a) is added to define the term "Final Disposition of a Criminal Matter."

Rule 111-9-2-.12(8) is added to reserve the Department's right to deny licensure when it is in the best interest of the public safety and welfare.

~~290-5-30-12 Initial Licensing of Emergency Medical Services Personnel.~~

~~(1) No person shall practice as an Emergency Medical Technician - Basic, Emergency Medical Technician - Intermediate, or Emergency Medical Technician - Paramedic without department approval.~~

~~(2) All applicants for licensure must provide information to the department on forms prescribed by the department;~~

~~(3) All applicants for licensure must also provide a current national criminal record history report generated no earlier than twelve (12) months prior to submitting an application for licensure in a manner and type as prescribed by the department.~~

~~(4) Fees.~~

~~(a) All applications for initial licensure must be accompanied by a fee payable to the department in an amount and form determined by the department.~~

~~(b) Fees are not refundable after being submitted.~~

~~(5) Licensing of Convicted Individuals.~~

~~(a) The OEMS may refuse to issue a license to an applicant if said applicant has been convicted in any court of any felony or other criminal offense.~~

~~(b) Each case will be judged in accordance with the seriousness of the conviction.~~

~~1. General denial - licensing of individuals convicted of certain crimes presents an unreasonable risk to public health or safety.~~

~~2. Presumptive denial - applications for licensure by individuals will be denied except in extraordinary circumstances, and then will be granted only if the applicant establishes by clear and convincing evidence that licensure will not present an unreasonable risk to public health or safety.~~

~~3. Discretionary denial - applications for licensure by individuals convicted of any crimes including driving under the influence (DUI), but not including minor traffic violations, may be denied after consideration of all the relevant factors involved.~~

~~4. Convicted Felons - applications for licensure by individuals convicted of a felony will be denied until at least five years have passed after successfully completing their sentence. Five years and 1 day after completion of the sentence, an individual may submit an application for consideration.~~

~~(6) Any currently licensed emergency medical services personnel may voluntarily surrender a license by notifying the OEMS in writing in a manner as prescribed by the department.~~

~~Authority O.C.G.A. Secs. 31-2-4, 31-7-2, 31-7-2.1, 31-11-1, 31-11-5, 31-11-51, 31-11-52, 31-11-56.~~

Note: Text that is highlighted in yellow is new language that did not appear in Rule 290-5-30-12.

111-9-2-.12 Initial Licensing of Emergency Medical Services Personnel.

(1) No person shall practice as an Emergency Medical Technician - Basic, Emergency Medical Technician - Intermediate, or Emergency Medical Technician - Paramedic without department approval.

(2) All applicants for licensure must provide information to the department on forms

prescribed by the department;

(3) All applicants for licensure must also provide a current national criminal record history report generated no earlier than twelve (12) months prior to submitting an application for licensure in a manner and type as prescribed by the department.

(4) Fees.

(a) All applications for initial licensure must be accompanied by a fee payable to the department in an amount and form determined by the department.

(b) Fees are not refundable after being submitted.

(5) Licensing of Convicted Individuals.

(a) The OEMS may refuse to issue a license to an applicant if said applicant has been convicted in any court of any felony or other criminal offense.

(b) Each case will be judged in accordance with the seriousness of the conviction.

1. General denial - licensing of individuals convicted of certain crimes presents an unreasonable risk to public health or safety.

2. Presumptive denial - applications for licensure by individuals will be denied except in extraordinary circumstances, and then will be granted only if the applicant establishes by clear and convincing evidence that licensure will not present an unreasonable risk to public health or safety.

3. Discretionary denial - applications for licensure by individuals convicted of any crimes including driving under the influence (DUI), but not including minor traffic violations, may be denied after consideration of all the relevant factors involved.

4. Convicted Felons – applications for licensure by individuals convicted of a felony will be denied until at least five years have passed after successfully completing their sentence. Five years and 1 day after completion of the sentence, an individual may submit an application for consideration.

5. Arrests – applicants for licensure by individuals with an unresolved felony arrest or indictment or charge are not eligible to apply for licensure until there has been a final disposition of the criminal matter.

(6) Any currently licensed emergency medical services personnel may voluntarily surrender a license by notifying the OEMS in writing in a manner as prescribed by the department.

(7) Except as provided herein or otherwise, the time period to reapply for licensure following a denial shall be determined by the Department based upon the circumstances surrounding the denial. Eligibility to reapply shall not exceed sixty (60) months, except where a pending criminal matter exceeds sixty (60) months; in which case the applicant will be eligible to reapply upon final disposition of the criminal matter.

(a) Final disposition of a criminal matter includes: the dismissal of the criminal matter, receipt of a pardon from the criminal matter, acquittal, and successful completion of all provisions of a court order and sentence, including, but not limited to fines, restitutions, community service, therapy, counseling, rehabilitative services, probation and confinement.

(8) The Department reserves the right to deny any application for licensure, if it determines that it is not in the best interest of the public safety and welfare to grant the application.

Authority O.C.G.A. §§ 31-2-4, 31-7-2, 31-7-2.1, 31-11-1, 31-11-5, 31-11-51, 31-11-52, 31-11-56.

SYNOPSIS OF PROPOSED RULE CHANGES

RULES OF DEPARTMENT OF COMMUNITY HEALTH PUBLIC HEALTH

CHAPTER 290-5-30 (REPEAL) AND CHAPTER 111-9-2 (NEWLY ADOPT)

EMERGENCY MEDICAL SERVICES

Rule 111-9-2-.18

Administrative Action, Fines, Probation, Suspension, Summary Suspension and/or Revocation of the License, Designation of EMS Providers, EMS Personnel, Ambulance Zones and/or Base Stations.

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The Department of Community Health (DCH) proposes to repeal the Department of Human Resources' Rules and Regulations for Emergency Medical Services in Rule 290-5-30-.18 in its entirety. The Division of Public Health, DCH, proposes the adoption in a new chapter of the Rules and Regulations for Emergency Medical Services, Chapter 111-9-2. These rules are being proposed pursuant to the authority granted the DCH in O.C.G.A. §§ 31-11-5, to create and promulgate rules and regulations for the protection of the public health.

The purpose of this proposed amendment is to repeal existing regulations in Chapter 290-5-30 and adopt new regulations in Chapter 111-9-2 with respect to adding summary suspension as an administrative measure for the protection of the public against potentially dangerous persons and conduct that meet the criteria in the proposed amended regulation.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Rule 111-9-2-.18(1) is amended to update the language to add summary suspension as an action that can be taken for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, ambulance zoning plans, and/or OEMS Policy. This rule is further amended to clarify the term "license" as it pertains to this rule and provides the method for forwarding notices to the licensee. Additionally, the amendment provides a ten (10) day period to appeal proposed disciplinary action, except where the licensee is not entitled to a hearing.

Rule 111-9-2-.18(1)(a) is added to update the language allowing the Commissioner or his/her designee to issue a summary suspension.

Rule 111-9-2-.18(4) is amended to provide the Department with discretion to shorten the time period an individual is eligible for licensure after revocation or application denial based on the merits of the subject matter. The current waiting period is at least sixty (60) months.

Rule 111-9-2-.18(7) is amended to update the language to add summary suspension to the types of actions that can be taken by the department.

Rule 111-9-2-.18(8)(a)(3) is amended to update the language to remove the mandatory five year waiting period before a licensee can reapply for licensure to limiting the wait period to no more than five years.

Rule 111-9-2-.18(8)(b) is amended to update the language to add summary suspension and to allow subsections under suspension.

Rule 111-9-2-.18(8)(b)(1)(a) is updated and renumbered to become subsection (8)(b)(1)(i)

Rule 111-9-2-.18(8)(b)(1)(ii) is added to update the language to explain the justifications for suspending a license.

Rule 111-9-2-.18(8)(b)(1)(iii) is added to allow the department to make a determination when to suspend a license based on unethical conduct or conduct which presents a danger to the public safety and welfare.

Rule 111-9-2-.18(8)(b)(2) is added to explain the application of summary suspension.

Rule 111-9-2-.18(8)(b)(2)(i) is added to provide when a license can be summarily suspended.

Rule 111-9-2-.18(8)(b)(2)(ii) is added to explain the duration of a summary suspension is valid.

Rule 111-9-2-.18(8)(b)(2)(iii) is added to provide that a holder of a license may not operate under that license while summarily suspended.

Rule 111-9-2-.18(8)(b)(3) is amended to renumber the text adjusting for previous revisions.

Rule 111-9-2-.18(8)(b)(4) is amended to renumber the text adjusting for previous revisions.

Rule 111-9-2-.18(8)(d)(4) is amended to update the language to change the Board of Human Resources to the Board of Community Health.

Rule 111-9-2-.18(8)(e) is amended to update the language to add summary suspension to the reasons the department may refuse to issue a license and/or designation.

Rule 111-9-2-.18(8)(e)(29) is amended to update the language to further delineate conduct which may warrant summary suspension against a license holder or designation.

Rule 111-9-2-.18(8)(e)(31) is amended to update the text to be grammatically correct.

Rule 111-9-2-.18(8)(e)(34) and (35) are added to update the language to include additional reasons the department may refuse to issue a license and/or designation.

~~290-5-30-18 Administrative Action, Fines, Probation, Suspension, and/or Revocation of the License, Designation of EMS Providers, EMS Personnel, Ambulance Zones and/or Base Stations.~~

~~(1) Any emergency medical service license, emergency medical services personnel license, emergency medical service instructor license, and base station may be fined, placed on probation, suspended or revoked for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, ambulance zoning plans, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13, as amended, if the department finds such applicant, licensee and/or designee is non-compliant. A provider is not entitled to a hearing when probation is not restrictive.~~

~~(2) The department and its agents are authorized to enforce compliance with O.C.G.A. Chapter 31-11 and DHR Rules and Regulations for Emergency Medical Services Chapter 290-5-30 as provided in O.C.G.A. Chapter 31-5, and in connection therewith to enter upon and inspect during reasonable business hours and in a reasonable manner the premises of persons providing licensed services. All inspections shall be in compliance with the provisions of O.C.G.A. Chapter 31-5. The department is also authorized to enforce compliance with this chapter, including but not limited to, compliance with the EMS Program and furnishing of emergency services within designated territories, by imposing fines as provided in paragraph (6) of subsection (c) of O.C.G.A. Section 31-2-6. Such enforcement action shall be conducted under the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.~~

~~(3) Any person who has exhausted all administrative remedies available within the department and who is aggrieved or adversely affected by a final order or final action of the license officer relating to the licensure of ambulance services is entitled to judicial review and an appeal to superior court pursuant to O.C.G.A. Section 31-11-36.~~

~~(4) Any emergency medical service personnel or provider whose license application is denied or whose license is revoked for failure to comply with or to maintain compliance with the applicable provisions of O.C.G.A. Chapter 31-11 and these Rules and Regulations, shall not be entitled to be licensed or be a party to a like service under any other license for a period of at least sixty (60) months. This provision shall also be applicable to officers, directors, and stockholders of corporate providers of emergency medical services. This provision does not apply to those EMS Personnel who have been revoked for failure to renew their license.~~

~~(5) Licenses issued to emergency medical services personnel and emergency medical service instructors pursuant to O.C.G.A. Chapter 31-11 and these Rules and Regulations may be revoked for good cause, as set forth in these Rules and Regulations, by the department after notice to the license holder of the charges and an opportunity for a hearing. Such proceedings shall be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.~~

~~(6) Designations issued to base stations and/or trauma centers or for ambulance zones pursuant to O.C.G.A. Chapter 31-11 and these rules may be revoked for good cause, as set forth in these Rules and Regulations, by the department after notice to the designee of the charges and an opportunity for hearing. Such proceedings shall be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.~~

~~(7) If the department proposes to revoke, suspend or probate a license or designation,~~

and/or levy a fine, the department shall notify the provider by registered or certified mail and it shall be sufficient if sent to the provider's last known address as shown in the department's records. The notice must state the alleged facts or conduct to warrant the action, and if applicable state that the provider has an opportunity to request a hearing in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13. A provider is not entitled to a hearing when a probation is not restrictive.

(8) Administrative action that may be taken by the department.

(a) Revocation of a license, or designation.

1. Any license or designation may be revoked for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

2. During the course of the investigation, the department has the right to change the penalty from a revocation to a suspension and/or probation, with or without fines and conditions.

3. Five years after the revocation of the EMS provider license, the provider may petition the department, in writing, for application of an EMS provider license. However, the department may deny the application if the reason for the revocation continues to exist or for any other failure to meet the requirements of O.C.G.A. Chapter 31-11 or these Rules and Regulations.

(b) Suspension of a license or designation.

1. Any license or designation may be suspended for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

2. During the course of the investigation, the department has the right to change the penalty from a suspension to a revocation and/or probation, with or without fines and conditions.

3. A provider whose license or designation expires during the period of suspension may apply for new reinstatement of the license or designation on the day following the expiration of the suspension.

(c) Probate of a license or designation.

1. Any license or designation may be placed on probation for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13. A provider is not entitled to a hearing when probation is not restrictive.

2. During the course of the investigation, the department has the right to change the penalty from probation to revocation and/or suspension, with or without fines and conditions.

3. For good cause presented by the provider, the department may probate a suspension and may specify the terms of the probation which may include but not be limited to:

(i) That if a provider violates Georgia Code, these Rules and Regulations, and/or Office

of EMS Policy during the probation period, revocation may result;

(ii) Any terms or conditions required for provider licensure and/or designation; or

(iii) The length of time of the probation.

(d) Fines.

1. Any license holder or designee may be fined for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and or OEMS Policy, as per O.C.G.A. Section 31-11-9, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

2. Fines may be levied by the OEMS.

3. During the course of the investigation, the department has the right to change the penalty from a simple fine to revocation, suspension and/or probation, with or without fines and conditions.

4. The schedule of fines shall be established by the OEMS and approved by the Board of Human Resources.

(e) The department may refuse to issue a license and/or designation to an applicant or may take disciplinary action against a license holder or designee, including, but not limited to fines, probation, suspension, and/or revocation for, but not limited to, any of the following reasons:

1. Failure to comply with any of the provisions of O.C.G.A. Chapter 31-11, DHR Chapter 290-5-30 of the Rules and Regulations for Emergency Medical Services, or policies established by the OEMS;

2. Obtaining or attempting to obtain a license, or designation by fraud, forgery, deception, misrepresentation, or subterfuge;

3. Issuing a check to the department or its agents that has been returned for insufficient funds;

4. Tampering with, alters, or changes any license issued by the department;

5. Fails to cooperate with the department and/or its authorized agents during the course of an inspection or an investigation, and/or fails to give the department and/or its authorized agents true information upon request, regarding an alleged or confirmed violation;

6. Disciplinary action imposed by another state or other lawful licensing or certifying authority;

7. Provides false or misleading advertising;

8. Provides an unauthorized level of service;

9. Provides any service while the license, or designation is under suspension;

10. Provider allows an employee, volunteer, and/or agent(s) of any service to perform the duties of any licensed emergency medical services personnel while such license is under suspension;

11. Continues to disregard violations noted by the department during inspections and/or has not corrected deficiencies noted on inspections as required in Chapter 290-5-30 of these Rules and Regulations, or fails to correct all deficiencies during a period of suspension;

12. Failure to maintain clean, functional equipment, including licensed emergency vehicles in proper operating condition, as required by department Rules and Regulations and OEMS Policies;

13. Intentionally falsifies a patient record, or any other document required by Georgia Code, these Rules and Regulations, and/or OEMS Policies;
14. Obtains any fee or reimbursement in the course of EMS business by intentional fraud or misrepresentation;
15. Failure to submit, on time and/or upon request, any and all records or documents to the department as required by OEMS policy, departmental Rules and Regulations, and/or Georgia Code;
16. Knowingly allowing EMS providers to operate impaired while under the influence of mind altering substances, intoxicants or illegal drugs while on duty;
17. Use of fewer than the requisite number of licensed individuals applicable to the licensed issued;
18. Gross disregard for the safety of patients or the public in the operation of a licensed emergency vehicle, including operating or allowing the operation of vehicle warning devices unnecessarily and/or in a manner that endangers the patient(s) or public safety;
19. Aiding and abetting the unlicensed practice of emergency medical care;
20. Intentional violation of a regional ambulance zoning plan by a licensed service or any person associated with a licensed service;
21. Violates any rule or standard that would jeopardize the health or safety of a patient or that has a potential negative affect on the health or safety of a patient, including mistreatment and/or abandonment of a patient;
22. Accepting remuneration in any form for patient referral;
23. Failure to pay an administrative penalty in full within the thirty (30) day time limit;
24. Failure to display proper identification, including Georgia level of licensure;
25. Breach of confidential patient information;
26. Failure of an EMS instructor to maintain student records in accordance with department Rules and Regulations and Policies established by the OEMS;
27. Failure of EMS instructor to meet license renewal requirements;
28. Failure of EMS instructor to receive a satisfactory evaluation after being monitored by the department on two occasions within a twelve (12) month period;
29. Any felony or other criminal offense resulting in conviction;
30. Discriminates in the provision of services based on national origin, race, color, creed, religion, sex, sexual preference, age, physical or mental disability, or economic status;
31. Violating any statute, Rules and Regulations, or Policy of the state of Georgia, any other state, the United States, or any other lawful licensing authority, which statute, rule or regulation, or policy relates to or in part relates to or regulates emergency medical services, when the license holder knows or should know that such action is in violation of such statute, Rule or Regulation, or Policy; or
32. Violating any lawful order of the department.
33. Performing, or attempting to perform the duties of a licensed medic while in an impaired state.

Authority O.C.G.A. Secs. 31-2-4, 31-2-6, 31-11-1, 31-11-5, 31-11-6, 31-11-9, 31-11-30, 31-11-36, 31-11-56, 31-11-57.

111-9-2-.18 Administrative Action, Fines, Probation, Suspension, Summary Suspension and/or Revocation of the License, Designation of EMS Providers, EMS Personnel, Ambulance Zones and/or Base Stations.

(1) Any emergency medical service license, emergency medical services personnel license, emergency medical service instructor license, and base station may be fined, placed on probation, suspended, summarily suspended, or revoked for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and regulations, ambulance zoning plans, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13, as amended, if the department finds such applicant, licensee and/or designee is non-compliant. A provider is not entitled to a hearing when probation is not restrictive or where the Commissioner or designee has issued a summary suspension. The term "license" as used herein also includes certificates issued to emergency medical services personnel or emergency services instructors in accordance with Article 3 of Chapter 31-5. All notices from the Georgia Department of Community Health ("Department") concerning proposed disciplinary action are to be served by registered mail with delivery confirmation, certified mail or statutory overnight delivery to the licensee's last known address unless the licensee provides a different address upon which notice is to be served. A licensee must give notice of his/her appeal of any proposed disciplinary action within ten (10) days of receipt of notice to the address designated by the Georgia Department of Community Health. The appeal does not apply to instances where the licensee is not entitled to a hearing.

(a) Notwithstanding, the above, an emergency medical service license, emergency medical services personnel license, emergency medical service instructor license or certificate may be summarily suspended without hearing upon a finding by the Commissioner or his/her designee that pursuant to O.C.G.A. § 50-13-18(c)(1), the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order in which case summary suspension of a license may be ordered pending proceedings for revocation or other action, which proceeding shall be promptly instituted and determined.

(2) The department and its agents are authorized to enforce compliance with O.C.G.A. Chapter 31-11 and DHR Rules and Regulations for Emergency Medical Services Chapter 290-5-30 as provided in O.C.G.A. Chapter 31-5, and in connection therewith to enter upon and inspect during reasonable business hours and in a reasonable manner the

premises of persons providing licensed services. All inspections shall be in compliance with the provisions of O.C.G.A. Chapter 31-5. The department is also authorized to enforce compliance with this chapter, including but not limited to, compliance with the EMS Program and furnishing of emergency services within designated territories, by imposing fines as provided in paragraph (6) of subsection (c) of O.C.G.A. Section 31-2-6. Such enforcement action shall be conducted under the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

(3) Any person who has exhausted all administrative remedies available within the department and who is aggrieved or adversely affected by a final order or final action of the license officer relating to the licensure of ambulance services is entitled to judicial review and an appeal to superior court pursuant to O.C.G.A. Section 31-11-36.

(4) Any emergency medical service personnel or provider whose license application is denied or whose license is revoked for failure to comply with or to maintain compliance with the applicable provisions of O.C.G.A. Chapter 31-11 and these Rules and Regulations, shall not be entitled to be licensed or be a party to a like service under any other license for a period of at least sixty (60) months unless the Department, in its discretion, determines a shorter time period is merited. This provision shall also be applicable to officers, directors, and stockholders of corporate providers of emergency medical services. This provision does not apply to those EMS Personnel who have been revoked for failure to renew their license.

(5) Licenses issued to emergency medical services personnel and emergency medical service instructors pursuant to O.C.G.A. Chapter 31-11 and these Rules and Regulations may be revoked for good cause, as set forth in these Rules and Regulations, by the department after notice to the license holder of the charges and an opportunity for a hearing. Such proceedings shall be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

(6) Designations issued to base stations and/or trauma centers or for ambulance zones pursuant to O.C.G.A. Chapter 31-11 and these rules may be revoked for good cause, as set forth in these Rules and Regulations, by the department after notice to the designee of the charges and an opportunity for hearing. Such proceedings shall be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

(7) If the department proposes to revoke, suspend, summarily suspend or probate a license or designation, and/or levy a fine, the department shall notify the provider by registered mail with delivery confirmation, or certified mail or statutory overnight delivery and it shall be sufficient if sent to the provider's last known address as shown in the department's records. The notice must state the alleged facts or conduct to warrant the action, and if applicable state that the provider has an opportunity to request a hearing in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13. A provider is not entitled to a hearing when a probation is not restrictive.

(8) Administrative action that may be taken by the department.

(a) Revocation of a license, or designation.

1. Any license or designation may be revoked for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and/or OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. § 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

2. During the course of the investigation, the department has the right to change the penalty from a revocation to a suspension and/or probation, with or without fines and conditions.

3. ~~Five years after~~ When issuing the revocation order, the Department shall specify the time period after which the EMS provider will be eligible to reapply for a provider license, said period not to exceed sixty (60) months. ~~of the EMS provider license~~ Upon expiration of the time period referenced herein, the provider may petition the department, in writing, for application of an EMS provider license. However, the department may deny the application if the Department finds that it is not in the best interest of the public safety and welfare to issue the license and/or the reason for the revocation continues to exist or for any other failure to meet the requirements of O.G.C.A Chapter 31-11 or these Rules and Regulations.

(b) Suspension and summary suspension of a license or designation.

1. Suspension

1-(i) Any license or designation may be suspended for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and or

OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

(ii) Any license or designation may be suspended where the licensee has been arrested, charged, indicted, or incarcerated for crimes with underlying conduct which the Department determines would present a potential danger to the public health, safety and welfare. However, in the event the charge(s) are dropped, if a nolle prosequi is entered, if the charge(s) are placed on a “dead docket”, or in the event that the licensee is acquitted on all counts, then, at such time, the licensee is eligible to apply for reinstatement and shall have all due process afforded under the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13 with regard to reinstatement.

(iii) Any license or designation may be suspended where the Department determines that the provider has engaged in unethical conduct or conduct which will present a danger to the public health, safety and welfare.

2. Summary Suspension.

(i) Licenses, certificates or designations, issued to emergency medical services, personnel and emergency medical service instructors pursuant to O.C.G.A. Chapter 31-11 and these Rules and Regulations may be summarily suspended without hearing upon a finding by the Commissioner or his/her designee that pursuant to O.C.G.A. § 50-13-18(a)(c)(1), the public health, safety and welfare imperatively requires emergency action and incorporates a finding to that effect in its order in which case summary suspension of a license, certificate or designation may be ordered pending proceedings for revocation or other action, which proceeding shall be promptly instituted and determined. A provider is not entitled to a hearing on the summary suspension.

(ii) If the Department orders summary suspension, the order remains in effect until final disposition of the revocation or other action instituted by the Department unless rescinded or modified by the Administrative Law Judge, the Department, or other Court as provided by law.

(iii) Any holder of a license that has been summarily suspended shall not operate under that license while the license is suspended.

2.3. During the course of the investigation, the department has the right to change the penalty from a suspension to a revocation and/or probation, with or without fines and conditions.

3-4. A provider whose license or designation expires during the period of suspension may apply for new reinstatement of the license or designation on the day following the expiration of the suspension.

(c) Probate of a license or designation.

1. Any license or designation may be placed on probation for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and or OEMS Policy, after notice and an opportunity for a hearing pursuant to O.C.G.A. Section 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13. A provider is not entitled to a hearing when probation is not Restrictive.

2. During the course of the investigation, the department has the right to change the penalty from probation to revocation and/or suspension, with or without fines and conditions.

3. For good cause presented by the provider, the department may probate a suspension and may specify the terms of the probation which may include but not be limited to:

(i) That if a provider violates Georgia Code, these Rules and Regulations, and/or Office of EMS Policy during the probation period, revocation may result;

(ii) Any terms or conditions required for provider licensure and/or designation; or

(iii) The length of time of the probation.

(d) Fines.

1. Any license holder or designee may be fined for failure to comply with and maintain compliance with O.C.G.A. Chapter 31-11, these Rules and Regulations, and or OEMS Policy, as per O.C.G.A. § 31-11-9, after notice and an opportunity for a hearing pursuant to O.C.G.A. § 31-11-36, O.C.G.A. 31-5, and/or the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13.

2. Fines may be levied by the OEMS.

3. During the course of the investigation, the department has the right to change the penalty from a simple fine to revocation, suspension and/or probation, with or without fines and conditions.

4. The schedule of fines shall be established by the OEMS and approved by the Board of Human Resources Community Health.

(e) The department may refuse to issue a license and/or designation to an applicant or may take disciplinary action against a license holder or designee, including, but not limited to fines, probation, suspension, summary suspension and/or revocation for, but not limited to, any of the following reasons:

1. Failure to comply with any of the provisions of O.C.G.A. Chapter 31-11, DHR Chapter 290-5-30 and DCH Chapter 111-9-2 of the Rules and Regulations for Emergency Medical Services, or policies established by the OEMS;

2. Obtaining or attempting to obtain a license, or designation by fraud, forgery, deception, misrepresentation, or subterfuge;

3. Issuing a check to the department or its agents that has been returned for insufficient funds;

4. Tampers with, alters, or changes any license issued by the department;

5. Fails to cooperate with the department and/or its authorized agents during the course of an inspection or an investigation, and/or fails to give the department and/or its authorized agents true information upon request, regarding an alleged or confirmed violation;

6. Disciplinary action imposed by another state or other lawful licensing or certifying authority;

7. Provides false or misleading advertising;

8. Provides an unauthorized level of service;

9. Provides any service while the license, or designation is under suspension;

10. Provider allows an employee, volunteer, and/or agent(s) of any service to perform the duties of any licensed emergency medical services personnel while such license is under suspension;

11. Continues to disregard violations noted by the department during inspections and/or has not corrected deficiencies noted on inspections as required in Chapter 290-5-30 of these Rules and Regulations, or fails to correct all deficiencies during a period of suspension;

12. Failure to maintain clean, functional equipment, including licensed emergency vehicles in proper operating condition, as required by department Rules and Regulations and OEMS Policies;

13. Intentionally falsifies a patient record, or any other document required by Georgia Code, these Rules and Regulations, and/or OEMS Policies;
14. Obtains any fee or reimbursement in the course of EMS business by intentional fraud or misrepresentation;
15. Failure to submit, on time and/or upon request, any and all records or documents to the department as required by OEMS policy, departmental Rules and Regulations, and/or Georgia Code;
16. Knowingly allowing EMS providers to operate impaired while under the influence of mind altering substances, intoxicants or illegal drugs while on duty;
17. Use of fewer than the requisite number of licensed individuals applicable to the licensed issued;
18. Gross disregard for the safety of patients or the public in the operation of a licensed emergency vehicle, including operating or allowing the operation of vehicle warning devices unnecessarily and/or in a manner that endangers the patient(s) or public safety;
19. Aiding and abetting the unlicensed practice of emergency medical care;
20. Intentional violation of a regional ambulance zoning plan by a licensed service or any person associated with a licensed service;
21. Violates any rule or standard that would jeopardize the health or safety of a patient or that has a potential negative affect on the health or safety of a patient, including mistreatment and/or abandonment of a patient;
22. Accepting remuneration in any form for patient referral;
23. Failure to pay an administrative penalty in full within the thirty (30) day time limit;
24. Failure to display proper identification, including Georgia level of licensure;
25. Breach of confidential patient information;
26. Failure of an EMS instructor to maintain student records in accordance with department Rules and Regulations and Policies established by the OEMS;
27. Failure of EMS instructor to meet license renewal requirements;
28. Failure of EMS instructor to receive a satisfactory evaluation after being monitored by the department on two occasions within a twelve (12) month period;
29. Any felony or other criminal offense resulting in conviction; conduct or attempted conduct which is criminal in nature and/or any conduct which is in violation of any criminal statute

including but not limited to homicide, assault, battery, stalking, terroristic threats, sexual offenses, offenses against or involving minors, child (minor) pornography, theft, fraud, controlled substances, and/or DUI/DWI;

30. Discriminates in the provision of services based on national origin, race, color, creed, religion, sex, sexual preference, age, physical or mental disability, or economic status;

31. Violating any statute, Rules and Regulations, or Policy of the state of Georgia, any other state, the United States, or any other lawful licensing authority, which statute, rule, or regulation, or policy relates to or in part relates to or regulates emergency medical services, when the license holder knows or should know that such action is in violation of such statute, Rule or Regulation, or Policy; or

32. Violating any lawful order of the department;

33. Performing, or attempting to perform the duties of a licensed medic while in an impaired state;

34. Any arrest, indictment or conduct wherein the Department determines that the circumstances surrounding the same are such that the public health, safety and welfare imperatively requires the suspension or revocation of the subject license; or

35. Any conviction, current indictment, information, or arrest for a felony or another crime involving moral turpitude, drugs, or gross immorality.

Authority O.C.G.A. §§ 31-2-4, 31-2-6, 31-11-1, 31-11-5, 31-11-6, 31-11-9, 31-11-30, 31-11-36, 31-11-56, 31-11-57, 50-13-18.