



State of Maryland
Maryland Institute for Emergency Medical Services Systems

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To: Highest Jurisdictional Officials
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From: Lisa Chervon, MA, NRP
Chief Integrity Officer
MIEMSS Office of Integrity

Date: June 30, 2023

Re: **EMSOP Prohibited Conduct Reporting Guidance**

An EMS operational program recently asked for clarification on when incidents or items involving individual clinicians should be reported to MIEMSS.

EMS operational programs are required to notify MIEMSS of any incidents, protocol variations, or trends, which in the opinion of the medical director, may have resulted in harm to a patient, may require disciplinary action by MIEMSS, or suggest the need for changes to the Statewide EMS system by MIEMSS. COMAR 30.03.04.02 & 30.03.03.06. Reporting is also required when an EMSOP suspends or limits privileges of a clinician. *Id.*

With regard to disciplinary action, MIEMSS regulations contain an extensive list of prohibited conduct that may lead to disciplinary action in COMAR 30.02.04.01, which is attached. MIEMSS cannot provide a comprehensive list of every reportable incident or event. It would be difficult to include every possible reporting scenario in a list. Rather, EMSOPs, Medical Directors, and QA personnel are encouraged to use judgment and reference the list provided in COMAR in determining what might constitute a reportable event.

In an effort to provide some guidance, below are a few points of clarification regarding disciplinary action reporting, based upon recent trends:

- EMSOPs should report all criminal charges to MIEMSS, except for minor traffic violations. A charge of driving while intoxicated or driving under the influence of drugs or alcohol is not considered a minor traffic violation and should be reported.
- Unprofessional conduct may include threats of violence, sexual harassment, or theft that occurs in the course of a clinician's work, even if the act does not lead to criminal charges.
- All protocol variations should be reported. This includes inappropriate BLS downgrades, especially those that do not follow the Transition of Care: ALS to BLS (Protocol 2.1, Section J), and failure to complete patient care reports.
- With regard to positive marijuana tests or other evidence of marijuana use, EMSOPs should report cases with positive tests and documented signs of impairment, such as a narrative that describes the reason for the test or other concern about the clinician being at work while under the influence.

COMAR 30.02.04.01

.01. Prohibited Conduct.

The following conduct is prohibited:

- A. Fraudulently or deceptively obtaining or attempting to obtain a certificate or license for oneself or for another;
- B. Fraudulently or deceptively using a certificate or license;
- C. Engaging in unprofessional or immoral conduct while providing emergency medical services;
- D. Being adjudicated incompetent;
- E. Abandoning a patient;
- F. Habitual intoxication;
- G. Addiction to or abuse of any narcotic or controlled dangerous substance as defined in Criminal Law Article, Annotated Code of Maryland, or abusing any other drug or substance in a manner that is harmful;
- H. Providing emergency medical services while:
 - (1) Under the influence of alcohol, or
 - (2) Using any narcotic or controlled dangerous substance, as defined in Criminal Law Article, Annotated Code of Maryland, that is in excess of therapeutic amounts or without valid medical indication;
- I. Willfully making or filing a false report or record related to the provision of emergency medical services;
- J. Willfully failing to file or record, willfully impeding or obstructing the filing or recording, or willfully destroying a report required to be filed by statute or regulation;
- K. Knowingly providing emergency medical services with an unauthorized individual, or knowingly aiding an unauthorized individual in providing emergency medical services;
- L. Being disciplined by a licensing or disciplinary authority, or convicted or disciplined by a court of any state or country, or disciplined by any branch of the United States Government for an act that would be grounds for disciplinary action under this regulation;
- M. Failing to meet or violating appropriate protocols or standards of care for the delivery of quality emergency medical services;
- N. Willfully submitting false statements to collect fees;
- O. As a result of an investigation or disciplinary action by a certifying, licensing, or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this regulation:
 - (1) Surrendering the certificate or license issued by the state or country, or
 - (2) Allowing the certificate or license issued by the state or country to expire or lapse;
- P. Knowingly failing to report suspected child abuse or neglect in violation of Family Law Article, §5-704, Annotated Code of Maryland, or abuse or neglect of a vulnerable adult under Family Law Article, §14-302, Annotated Code of Maryland;
- Q. Selling, prescribing, giving away, or administering drugs for illegal purposes;
- R. Breaching patient confidentiality in violation of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland;
- S. Providing emergency medical services beyond the individual's authorized scope of practice;
- T. Being convicted of or pleading guilty or nolo contendere to or receiving probation before judgment with respect to a felony, a serious crime of violence against a person, a crime involving controlled dangerous substances, a serious crime against property, a crime involving sexual misconduct, a crime in which the victim is a patient or other individual entrusted to the care or protection of the applicant or EMS provider, or a crime involving moral turpitude, whether any appeal or other proceeding is pending to have the conviction or plea set aside, except that the individual may apply for reinstatement upon any successful appeal or upon the conviction being set aside;

- U. Providing or attempting to provide any medical procedure without having received the required education, internship, or experience in the use of the procedure, except as authorized in COMAR 30.02.03;
- V. Refusing, withholding from, denying, or discriminating against an individual in need of emergency medical services, with regard to the provision of services which the licensee or certificate holder is licensed or certified and qualified to render because the individual is HIV positive;
- W. Except in a situation when it is not feasible or practicable, failing to comply with the MIEMSS' guidelines on standard precautions;
- X. Intentionally misrepresenting the level of emergency medical services licensure or certification held by the individual;
- Y. Failing to comply with terms of probation, suspension, or a disposition agreement;
- Z. Failing to comply with any regulations in this subtitle; or
- AA. For incidents occurring before January 1, 1999, any act prohibited under the applicable regulations of the Board of Physician Quality Assurance in effect at that time.

