



THE PREHOSPITAL STANDARDS PROCESS

A Handbook for:

- ***Applicants for Certification***
- ***Certified First Responders***
- ***Emergency Medical Technicians***
- ***EMS Administrators***
- ***EMS Educators***
- ***EMS Medical Directors***

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NOTE:

The information contained within this handbook provides general information about the Prehospital Standards Process and options available to the Department. This handbook is not intended to be, or to replace, competent legal advice or counsel.

For examples of Frequently Asked Questions and to help certificate holders understand the process, see the Department website at <http://egov.oregon.gov/hds/ph/ems>, click on Prehospital Standards and go to the FAQ tab.

“TRUTH FEARS NO QUESTIONS”

- Anonymous

INTRODUCTION

This handbook describes the procedures and rationale that guide the Prehospital Standards process and in some cases the discipline of applicants for certification, First Responders¹ and Emergency Medical Technicians (EMTs).

By providing this information to the Emergency Medical Services (EMS) community, the Department of Human Services (the Department) hopes to foster an atmosphere of open communication and discussion of Prehospital Standards issues. Many people, including applicants, First Responders, and EMTs express confusion about the Prehospital Standards process utilized by the Department of Human Services, Emergency Medical Services & Trauma Systems Section in carrying out its statutory duties. The confusion is, in large part, based on a lack of information and understanding about the process and the safeguards built in for the protection of all parties involved in the process.

Consumers of prehospital care, by virtue of their urgent need for care, are placed in an extremely disadvantageous position. They are ill, injured, or perhaps incapable of caring for themselves. Citizens call 9-1-1, or other emergency number, confident that those who come to their aid will be medically competent, physically and mentally capable of carrying out their duties, and worthy of the trust placed in them.

In many cases prehospital care providers are afforded nearly unlimited access to a patient's person, possessions, home, office, and vehicle, as well as answers to very personal and intimate questions. In these vulnerable moments, the public is entitled to assurance that the EMS responder is entrusted is trustworthy, ethical and competent. In addition, a consumer of Emergency Medical Services should have confidence a prehospital care provider is not subject to potential disqualifiers.

¹ Throughout this handbook, the term “First Responder” applies to an individual **certified** under provisions set forth by the Department of Human Services. It does not apply to a non-certified individual regardless of the setting in which the first responder works or functions.

LEGAL AUTHORITY

The Legislature has provided certain protections to the public. Baseline level competence is the goal of the certification testing and recertification processes, while quality of care provided by a First Responder or EMT is the responsibility of an authorized or Medical Director. The Legislature has also granted the Department the authority to deny certification to applicants or to discipline certified individuals under a variety of circumstances set forth in Oregon Revised Statute (ORS) 682.220. These circumstances may include: a record of criminal conviction(s), habitual or excessive use of alcohol or drugs, failure to meet or to continue to meet the physical and mental qualifications required for initial certification (i.e., uncontrolled epilepsy or diabetes, or a mental disorder which demonstrably affects the EMS responder's ability to perform), the use of fraud or deception in obtaining or retaining First Responder or EMT certification, practice beyond the scope of certification, suspension or revocation of a First Responder or EMT certificate in another state, gross or repeated negligence, rendering care without written authorization and standing orders from a Medical Director, or refusal of an Investigative Interview as provided by the statutes. These potential disqualifiers are designed to prevent individuals with these factors from being placed in a position of trust as a First Responder or EMT.

The Department is authorized and, under ORS 682.185, has a duty to deny certification to an applicant, or discipline a certificate holder or service. The penalties may include suspension or revocation of a certificate or license, assessing monetary penalties up to \$5,000, and/or placing an individual or service on probation.

SOURCES OF INFORMATION

The process of investigation and potential discipline is initiated when the Department receives a complaint or information that suggests an applicant, First Responder, EMT, or service may have violated the law (including the Oregon Administrative Rules governing EMS) or is subject to one of the statutory potential disqualifications.

Complaints and Allegations

Citizens may choose to contact the Department of Human Services directly to report allegations or concerns. Information can be received by telephone, in person, in writing, or electronically.

ORS 682.220 (4) requires any health care facility, any medical or osteopathic physician, any owner of an ambulance licensed under this chapter or any certified EMT, to report any information that appears to show an EMT is or may be medically incompetent, guilty of unprofessional

or dishonorable conduct or mentally or physically unable to safely function as an EMT. The types of allegations reported to the Department are varied. As examples, complaints have alleged a certificate holder has falsified continuing education documents, rendered negligent care, or has a problem with use of alcohol or drugs.

ORS 682.220 (6) provides protection to individuals reporting actual or suspected First Responder or EMT misconduct, so long as the report is made without malice. The person making a malicious report may be liable for civil damages to the individual accused. A certificate holder who knowingly makes a false or malicious report to the Department may be subject to discipline for Unprofessional Conduct.

The Department is diligent in its efforts to distinguish legitimate complaints from those based on a personal vendetta or other improper reason. Although a number of unfounded complaints have been received, the Department's Prehospital Standards Unit makes every effort to screen and resolve complaints of this nature as quickly as possible.

The investigative process begins when information is received by the Department of Human Services, which if true would be evidence that:

1. A real and present threat to the public health and safety exists, and/or,
2. An individual has violated EMS statutes or administrative rules, and/or,
3. An individual is potentially disqualified from holding a certificate at one or all levels.

The Department investigates allegations of wrongdoing, regardless of the source. However, if the credibility of the information is suspect, investigative staff will conduct a preliminary investigation to determine if further investigation is necessary.

A complaint, an allegation of wrongdoing, or other information need not be in writing for the Department to take action; the Department exercises discretion in choosing to review or investigate circumstances originating through anonymous verbal complaints. The Department ***strongly encourages*** complainants to make their statements in writing, in order to establish a firm starting point for an investigation.

The Department will use every means to protect a confidential report, however, the Department must comply fully with court orders and will cooperate with a criminal investigation.

Certification and Recertification Documents

Certification and recertification applications contain questions about potential statutory disqualifiers. First Responders and EMTs are obligated, under the penalty of perjury, and potential loss of certification, to provide truthful answers to the questions asked. The fact an applicant, First Responder, or EMT answers, "YES" to a question about potential

disqualifiers does not mean the applicant, First Responder or EMT will not be certified or recertified. It means further communication between the Department and individual will take place to determine if further investigation is needed.

*It is essential the applicant, First Responder, or EMT make a **full and complete disclosure** of information to the Department.* The giving of false or misleading information is independent grounds for denial or revocation of a certificate..

Continuing Education Documentation

First Responders and EMTs are responsible for documenting Continuing Education activities. These documents may be subject to audits. The submission of false or altered Continuing Education documentation is a very serious matter and the Department will discipline a certificate holder who falsifies Continuing Education documentation.

Any instructor or agency representative (certified as a First Responder or EMT), responsible for the administration of an agency continuing education program or for the administration of Continuing Education record keeping that knowingly submits false documentation on behalf of another certificate holder may be subject to discipline.

INVESTIGATIONS

When appropriate, a Department investigation will be referred to the law enforcement personnel.

ORS 682.220 (3) authorizes the Department to conduct an investigation of the fitness of individuals to hold First Responder or EMT certification and allegations of wrongdoing (e.g., incompetence, violation of statutes or regulations, etc.) by certificate holders and services.

ORS 682.220 (8) gives the Department statutory authority to take evidence; take depositions of witnesses, including the person under investigation; compel the appearance of witnesses; require answers to interrogatories; and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation. The Department may issue subpoenas to compel compliance.

Staff members of the Prehospital Standards Unit are trained and certified to carry out these duties and conduct investigations. Department investigators are trained to conduct non-criminal investigations, either as a result of prior law enforcement training or through civil investigator training and certification programs conducted by national or state organizations. EMS investigators report to the Emergency Medical Services & Trauma Systems Section Director.

Pre-certification Investigations

The Department conducts a criminal history check, and may require a fingerprint based out-of-state background check, on applicants seeking certification and reciprocity. This inquiry is designed to identify those individuals who have potentially disqualifying criminal records or frequent interactions with law enforcement that suggest other potential disqualifiers may exist.

If an individual answers “YES” to one or more questions dealing with disqualifying factors, or if information about potential disqualifying issues is discovered, the Department will conduct a preliminary investigation into the matter. The Department will evaluate information to determine that, if true:

1. Would it constitute a threat to public health and safety?
2. Has an EMS statute or administrative rule been violated?
3. Is the individual potentially disqualified from holding a certificate?

If the answer to **any** of these questions is “YES,” Department staff will conduct an investigation of the allegations. The decision to further investigate does not mean the Department believes an applicant is “guilty” of a violation. The investigation will determine whether the allegation is true.

If the answer to **all** of these questions is “NO,” the applicant will receive written notification that the investigation has been concluded and no further action by the Department of Human Services is contemplated. If contacted during the investigation an applicant will be notified of the decision to close the case.

If further investigation is warranted, the Department will conduct an investigation. Any other violations discovered in the course of the investigation will be pursued and included in the final determination of action to be taken.

Other Investigations

If Department staff receives a report from any source, or in the ordinary course of business discovers wrongdoing, the Department may initiate an investigation. The Department is not limited to investigating complaints made by outside sources.

The Department will evaluate information to determine that, if true:

1. Would it constitute a threat to public health and safety?
2. Has an EMS statute or administrative rule been violated?
3. Is the individual potentially disqualified from holding a certificate?

If the answer to **any** of these questions is “YES,” Department staff will conduct an investigation of the allegations. The decision to further investigate does not mean the Department believes the First Responder or EMT is "guilty" of a violation. The investigation will determine whether the allegation is true.

If the answer to **all** of these questions is “NO,” the certificate holder will receive written notification that the investigation has been concluded and no further action by the Department of Human Services is contemplated. If contacted during the investigation the First Responder or EMT will be notified of the decision to close the case.

If further investigation is warranted, the Department will conduct an investigation. Any other violations discovered in the course of the investigation will be pursued and included in the final determination of action to be taken. An investigation may include interviews of the subject of the investigation, the complainant, witnesses to the alleged violation, and others having information that may assist the Department in resolving the matter. Investigators may also interview employers, coworkers, Medical Director, and receiving hospital personnel. Patient care report forms, continuing education documents, and other medical documentation may be reviewed, including radio, telephone, computer, and other dispatch and system records. The Department may observe on duty, any certificate holder who is the subject of an investigation.

INTERVIEW WITH THE DEPARTMENT

An applicant, First Responder, EMT, or others, may be requested to participate in an interview to gather information about a complaint or an allegation. The Department issues a request to participate in an interview by mailing both a regular and certified letter. The recipient is given 14 days from the date of service to contact the Department to schedule the interview. Department representatives will attempt to work with an individual to schedule the interview to the extent possible.

At the time the Department requests an interview, the applicant, First Responder or EMT shall be provided with a general statement of the issue or issues of concern to the Department. The request shall include a statement of the procedural safeguards available to the individual including; the right to end the interview upon request; the right to have legal counsel present (at the individuals expense); and the following statement: “Any disciplinary action proposed by the Department of Human Services shall provide for a contested case hearing.”

No persons other than the individual, legal counsel, and Department representatives, are permitted in the interview setting.

Failure to respond or refusal to participate is independent grounds for disciplinary action or denial of an application. The statutory authority (ORS 682.220 (2) (q) is quoted in the letter of request.

ACTIONS BY THE DEPARTMENT

At the conclusion of an investigation, a report is made to the Director of the Emergency Medical Services & Trauma Systems Section, detailing the findings, conclusions, and recommendations. The Director is responsible for the remainder of the disciplinary process.

Unfounded or Unsubstantiated Allegations

If the investigation fails to sustain the complaint, the Prehospital Standards Officer will close the investigation file. The complainant will receive written notification that the investigation has been concluded and no further action by the Department of Human Services is contemplated. If contacted during the investigation an applicant, First Responder, or EMT will be notified of the decision to close the case.

Substantiated Allegations

If the investigation substantiates the allegation of wrongdoing or identifies other instances of wrongdoing, the Department will determine the action to be taken.

Disciplinary Sanctions

The Department may, under ORS 682.185, deny an applicant, suspend judgment; issue a Letter of Reprimand or Letter of Instruction; place a certificate holder on probation; place limitations on the certificate of an First Responder or EMT to practice emergency or nonemergency care in this state. The Department may also suspend or revoke the certificate of the involved individual; take such other disciplinary action as the department in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty, or assessment of a civil penalty not to exceed \$5,000, or any combination of penalties.

If the penalty is denial, suspension, assessment of a civil penalty, or revocation of certification, the individual is notified by both a regular and certified mailing of the '**Notice of Proposed [Specific Action]**'. This notice will specify the facts and circumstances of the violations, and specify the proposed penalty. The Proposed Notice will also advise the individual that the proposed sanction will become final on a specific date if the applicant, First Responder or EMT takes no action. A statement of the individual's right of appeal will be included.

Penalties may vary from individual to individual based on the facts and circumstances of the case. A prior EMS disciplinary history is relevant to determining the penalty to be imposed.

RIGHT TO A CONTESTED CASE HEARING

No Hearing Requested

If an **applicant** has not requested a formal hearing within the prescribed time following the date of service, the action proposed in the notice becomes final in a “**Final Order of Default**,” and the proposed penalties or other action(s) take effect. By taking no action, the applicant waives the right to a hearing.

If a **certified** First Responder or EMT has not requested a formal hearing within the prescribed time following the date of service, the action proposed in the notice becomes final in a “**Final Order of Default**,” and the proposed penalties or other action(s) take effect. By taking no action, the certificate-holder waives the right to a hearing.

Formal Hearing Requested

If an individual decides to challenge the action proposed by the Department, a WRITTEN request for a formal hearing, as provided for in ORS 183.415 (2), must be received within the prescribed time. At the hearing, an individual may, at their expense, be represented counsel; the Office of the Attorney General will represent the Department. The Department will present evidence, and may call witnesses in support of the action.

The individual, or his/her attorney, may cross-examine the Department's witnesses and present witnesses on their behalf. These witnesses are also subject to cross-examination by Department representatives.

When the hearing is concluded, the Hearings Officer renders a decision in the form of Findings of Fact, Conclusions of Law, Proposed Order and Assessment of Costs. The applicant, First Responder or EMT is notified, in writing, of the findings, conclusions, proposed order and assessment of costs by the Hearing Officer.

NOTE: A formal hearing is not like traffic court *An applicant, First Responder or EMT will not have the penalty or other sanction reduced by simply appearing. If the Hearing Officer finds the alleged violation in fact occurred and the violation warrants discipline under the statutes and rules, the sanction proposed by the Department will be upheld.*

APPEAL

Appeal to the Department of Human Services

If an applicant, First Responder or EMT wishes to contest the proposed order of the Hearing Officer the individual must file a written appeal with the Administrator of the Department of Human Services within the prescribed time following the date of service of the Departments final order. The individual or his/her attorney will submit the appeal, along with written arguments, to the Administrator. After review, the Administrator will either adopt the proposed order as a final order or direct a new final order be prepared.

Judicial Review

If an applicant, First Responder or EMT wishes to appeal the final order of the Department; appeal is made to the Oregon Court of Appeals by filing a petition. The petition must be filed within the prescribed time following the date of service of the Department's Final Order.

Although not a requirement, an applicant, First Responder or EMT is urged to obtain the assistance of legal counsel in a preparing and submitting a request for judicial review of a Department order.

PROBATIONARY CERTIFICATION AGREEMENT

ORS gives the Department broad discretion to act in the public interest. The Department exercises this responsibility with a high degree of compassion for the individual. There are circumstances when the public interest may be best served by certifying a First Responder or EMT even though there are existing factors that might allow revocation or denial. Probation may be a penalty for violation of a statute or regulations. Failure of a First Responder or EMT to comply with the terms of probation will result in further disciplinary action(s).

The Department may offer a Probationary Certification Agreement in lieu of, or in conjunction with, other discipline. If a Probationary Certification Agreement is offered in lieu of or in addition to another penalty, the certificate holder will have a twenty-one day period in which to accept the Probationary Certification Agreement or request a hearing.

Not all probation agreements are identical because these documents are crafted to address specific behaviors, problems, or issues.

The Department establishes the terms and length, generally two years, of probation in order to:

- A. Monitor the probationary First Responder or EMT, and/or,
- B. Assure the individual does not constitute a threat to the public health and safety, and/or,
- C. Monitor specific behavior(s).

Monitoring Terms of Probation

The Prehospital Standards Unit is responsible for conducting follow-up monitoring to ascertain the First Responder or EMT's compliance with the terms of probation.

Probationary Certification Agreements drafted by the Department contain provisions that may require unannounced urinalysis (in cases of either court ordered random analysis requirements or a recent history of involvement with alcohol or unlawful drugs), appearances before the Subcommittee on EMT Certification and Discipline, clinical evaluation by the Medical Director, or other appropriate measures. All investigative tools and methods used in the investigative process are used in monitoring a Probationary Certification Agreement.

Violation of or non-compliance with the terms of a Probationary Certification Agreement may lead to reinstatement of the original proposed penalty or subject the First Responder or EMT to further disciplinary action(s). If the Department chooses to reinstate the original proposed penalty the certificate holder will have 21 days in which to request a hearing, refer to, **RIGHT TO A CONTESTED CASE HEARING**.

PENALTY GUIDELINES

Cases are evaluated for mitigating or aggravating circumstances. Penalties are based on the situation or circumstance of each case.

- **Presumptive – the “standard” penalty**
- **Aggravating – increase penalty**
- **Mitigating – lessen penalty**

The Department shall consider any completed discipline or other corrective action by an employer in deciding whether additional discipline or corrective action by the Department is appropriate.

False Statements

ORS 682.220 (2) (d), (f), (g), (i), or (j), Making False Statements, Fraud, Impersonation, or Use Of An Assumed Name, or Obtaining A Fee By Fraud, or ORS 682.255 (1) (a) and (b), Making A Misrepresentation In Seeking To Obtain Or Retain A Certificate

Presumption: The certificate or license may be denied or revoked. A certificate holder may be suspended for not less than 90 days, and/or pay a fine of between \$250 and \$1000. If revocation is imposed, re-application for certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

Aggravating circumstances: Particularly egregious cases will be referred to the appropriate District Attorney for prosecution.

Mitigating circumstances: Mitigating circumstances are rarely recognized for this violation.

Special Note: False Documentation of Continuing Education

- If, during an audit, the Department finds a First Responder or EMT has not completed all necessary continuing education hours, contrary to the sworn statement in the application for recertification, the First Responder or EMT certificate will be suspended for the longer of 60 days or until continuing education deficiencies are corrected. Fines will be assessed in accordance with OAR 333-265-0150.
- Additionally, the First Responder or EMT will be placed on probation through the next recertification period. (This penalty is **not** applicable if forged, altered, or otherwise falsified documents are knowingly submitted to the Department. If this is the case, the penalties will be as stated above under **False Statements**.)
- A First Responder or EMT who creates, provides, or submits false documentation on behalf of another will be subject to the general fraud provisions set forth above.

Practice Beyond Scope or Authorization

ORS 682.220(2) (e), (p), or (o), *Practice Beyond the Scope of Certification or Authorization of Medical Director, or Rendering Emergency or Nonemergency Care Without Being Certified, Except as Provided by ORS 30.800 (the “Good Samaritan” statute)*. This violation pertains to:

A. Any individual, First Responder or EMT, who while on duty in an ambulance, first responder, rescue, or other prehospital care unit, as a component of an EMS system, whether paid or volunteer, performs procedures or administers medications, etc., without certification, beyond, or outside the Scope of Practice established by the Board of Medical Examiners or not permitted by protocols established for the level of certification by the Medical Director of the certificate holder.

B. Any individual, First Responder or EMT who, while on duty in an ambulance, first responder, rescue, or other prehospital care provider unit, as a component of an EMS system, whether paid or volunteer, causes another individual to perform procedures or administer medications, etc., without certification, beyond, or outside the Scope of Practice by the Board of Medical Examiners or not permitted by protocols established for the level of certification by the First Responders or EMT’s Medical Director.

C. Any individual, First Responder or EMT providing Advanced Life Support services outside the confines of an EMS system (e.g., off duty, or on friends, family, etc., that have not requested an appropriate EMS response). This violation may be referred to the appropriate District Attorney for prosecution under the Medical Practice Act.

Presumption: The certificate or license may be denied or revoked. The First Responder or EMT may be suspended for not less than 90 days, and/or pay a fine of between \$250 and \$1000. Probation may be offered.

Aggravating circumstances: In cases of repeated or particularly egregious violations, including collusion, the certificate may be suspended for not less than 180 days, and/or be fined between \$1000 and the maximum amount allowable, or be revoked. If revocation is imposed, re-application for certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

Probation will not be permitted in lieu of suspension or a fine but may follow other penalty.

Mitigating circumstances: Where a violation is minor, incidental in nature; occurs inadvertently, or as a result of direction from a licensed MD or DO, lesser penalties may be imposed.

Unprofessional Conduct

ORS 682.220 (2) (h), or 682.025 (19), Violation of this section encompasses many forms of misconduct (conduct which violates the norms of acceptable conduct for a First Responder or EMT). This violation encompasses impermissible behavior and may be applied in conjunction with other violations specifically addressed by other rules.

Examples of unprofessional conduct² include, but are not limited to:

A. Violation of patient privacy; failure to adhere to or impermissibly loose interpretation of standing orders or protocols; participation in pranks utilizing invasive medical procedures; endangering the welfare or safety of the general public, other EMS providers, or patients, (i.e., arrest for Domestic Violence, anger management issues, or dangerous operation of emergency medical vehicles);

B. Causing, aiding, abetting, concealing (including intentional omission), or contributing to the violation of any statutory or regulatory provision by any other individual, including but not limited to, the abuse of supervisory authority;

C. Participation in the issuance of false continuing education documents or collaboration therein, including issuing continuing education verification for a First Responder or EMT who did not legitimately attend an educational event or signing into an educational event a person not actually present;

D. Cheating on any examination used to measure EMS related knowledge or skills.

NOTE: Conduct listed in “C” and “D” may, in some circumstances, constitute fraud.

Presumption: The certificate or license may be denied or revoked. A certificate holder will be suspended for not less than 90 days and/or pay a fine of between \$250 and \$1000. Probation may be offered.

Aggravating circumstances: In particularly egregious cases, the certificate holder may be suspended for not less than 180 days, and/or be fined between \$1000 and the maximum amount allowable, or be revoked. If revocation is imposed, re-application for certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

Probation will not be permitted in lieu of suspension or a fine but may follow other penalty.

² See OAR 333-265-0000 (32) (a) and (b) for examples

The matter may be referred to the appropriate District Attorney or to federal authorities if unnecessary care is willfully provided and a bill is submitted.

Mitigating circumstances: When a violation is minor, incidental, or occurs inadvertently or because of improper direction from a licensed physician, as determined by the Department, lesser penalties may be imposed.

Habitual or Excessive Use of Intoxicants or Drugs

ORS 682.220 (2) (j), Arrest or conviction for driving under the influence of intoxicants or drugs (DUII, including alcohol, prescription medications, and illegal substances); court mandated admission to a DUII or drug diversion program; arrest or conviction for domestic violence while under the influence of intoxicants or drugs; arrest or conviction for public intoxication

Presumption: A certificate holder may be suspended for not less than 90 days and/or pay a fine of between \$250 and \$1000; the certificate holder must present satisfactory evidence of rehabilitation. The Department may require a comprehensive evaluation by a physician specializing in addiction assessment, approved by the Department, at the expense of the individual. Probation may be offered in lieu of other sanctions.

An applicant may be denied certification, or may be granted a probationary certification agreement with terms and conditions designed to detect the recurrence of the problem, after documentation of being clean and sober for a minimum of one year.

Aggravating circumstances: A First Responder or EMT that has repeat violation(s) during a ten-year period or any repeat violation while on a Probationary Certification Agreement, will be suspended for not less than 180 days, and/or be fined between \$1000 and the maximum amount allowable, or be revoked. If revocation is imposed, re-application for certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

The Department will require a comprehensive evaluation by a physician specializing in addiction assessment, approved by the Department, at the expense of the individual. Additionally, the certificate holder will be placed on a probationary certification agreement.

A First Responder or EMT determined to be under the influence of intoxicants or drugs while on duty (e.g., engaged in response or rendering emergency services, care, or transportation, whether employed or serving as a volunteer) will have the certificate revoked. If revocation is imposed, re-application for certification may be made not less than two years from

the date of the revocation and following completion of all initial application requirements.

Mitigating circumstances: A First Responder or EMT with drug, alcohol, or anger management related problems while under the influence of intoxicants or drugs, that voluntarily enters and successfully completes a Department approved rehabilitation program, will be placed on probation for the duration of the program plus at least two years. The terms of the probationary certification agreement will be tailored to the facts and circumstances of the First Responders or EMTs particular problem.

If a First Responder or EMT enters into a diversion or treatment program as a result of abuse of substances used in EMS (e.g., opiates, diazepam, midazolam, Nitrous Oxide, etc.) the individual will be precluded from having custody and unsupervised access to those substances for the term of the Probationary Certification Agreement.

Conviction of a Criminal Offense

ORS 682.220 (2) (L), Conviction of a criminal offense; particularly any offense of a violent or sexual nature, child abuse, domestic violence, or certain property crimes including but not limited to theft or burglary.

Presumption: Conviction of a criminal offense will constitute grounds for denial of an application. A certificate holder may be suspended for not less than 90 days and/or assessed a fine of between \$250 and \$1000, or revoked. If denial or revocation is imposed, re-application for certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

Aggravating circumstances: Conviction of a crime of a violent or sexual nature, child abuse, domestic violence, or certain property crimes, including theft or burglary.

A. Theft or burglary **not reported to the Department**, which occurred ten or less years prior to the date of application will constitute grounds for denial or revocation of certification. If denial or revocation is imposed, re-application for certification may be made not less than two years from the date of the denial or revocation and following completion of all initial application requirements.

B. Conviction of a crime of a violent or sexual nature, child abuse, domestic violence, **not reported to the Department**, which occurred ten or less years prior to the date of application; involving multiple offenses of a violent or sexual nature, child abuse, domestic violence, or certain property crimes will constitute grounds for denial or revocation of certification. If denial or revocation is imposed, re-application for certification may be

made not less than two years from the date of the denial or revocation and following completion of all initial application requirements.

Mitigating circumstances:

A. Where the conviction of a crime was not involving offenses of a violent or sexual nature, child abuse, domestic violence, or certain property crimes including, but not limited to theft or burglary, **reported to the Department**, and occurred five or less years prior to the date of application and/or was of a misdemeanor or minor technical nature; and in appropriate cases where the applicant, First Responder or EMT presents the Department with a psychiatric or psychological evaluation, acceptable to the Department, which unequivocally indicates the applicant, First Responder or EMT does not pose a danger to the public the individual may be certified and may be placed on probation.

B. Where the conviction of a crime was **reported to the Department**, which occurred more than five and less than ten years prior to the date of application, and was of a misdemeanor or minor technical nature and in appropriate cases where the applicant, First Responder or EMT presents the Department with a psychiatric or psychological evaluation acceptable to the Department which indicates the applicant, First Responder or EMT does not pose a danger to the public the individual may be certified and may be placed on probation.

C. Where the conviction of a crime was **reported to the Department**, and which occurred more than ten years prior to the date of application or during extreme youth (less than age 16), or is of a technical or minor nature, determined by the Department; the Department may fully certify an applicant or elect not to proceed against a certificate holder.

Negligence

ORS 682.220 (2) (n), Gross or Repeated Negligence:

Presumption: The certificate will be suspended for not less than 90 days and/or pay a fine of between \$250 and \$1000, and/or be placed on probation, including completion of a tailored program of remedial education. The individual may be reduced in level of certification and be required to complete a probationary certification agreement tailored to remedial education.

If the level of certification is reduced, the individual may be authorized to sit for written and practical examinations for the higher level of certification following completion of all of the probation agreement requirements.

Aggravating circumstances: The certificate may be suspended for up to two years, or revoked. If revocation is imposed re-application for

certification may be made not less than two years from the date of the revocation and following completion of all initial application requirements.

Fines of between \$1000 and the maximum amount allowable may also be imposed for negligence that is willful, particularly egregious, or is based upon violation of the civil rights of an individual.

A history of ongoing instances of negligence or improper patient care will be considered as aggravating circumstances.

Mitigating circumstances: Where the negligence is found to be the result of inadvertence, the period of probation may be reduced or omitted after discussion with the Medical Director(s).

Refusal to Participate in an Interview

ORS 682.220 (2) (q): When requested by an authorized representative of the Department, failing to respond or refusing to participate in an interview is independent grounds for disciplinary action.

Presumption: The certificate will be suspended for not less than 90 days and/or assessed a fine of between \$250 and \$1000. Probation will not be offered.

Aggravating circumstances: Following two written requests by the Department, the certification may be denied, suspended for at least 180 days, and/or a fine between \$1000 and the maximum amount allowable assessed, or be revoked. If denial or revocation is imposed, re-application for certification may be made not less than two years from the date of the denial or revocation and following completion of all initial application requirements.

Mitigating circumstances: Mitigating circumstances are rarely recognized for this violation.

INTENTIONALLY BLANK



**Oregon Department of Human Services
Emergency Medical Services & Trauma Systems Section
Agency Reportable Actions**



In accordance with ORS 682.220 (4) and/or OAR 333-250-0043
This Section to be completed by the Employer
(Please Print or Type)

NAME _____
(Last) (First) (MI)

CERTIFICATE # _____

REPORTING AGENCY INFORMATION

Reporting Agency: _____

Reporting Officer: _____
(Full Name) (Title) (Phone #)

NEW EMPLOYEE or MEMBER

REPORT WITHIN 30 DAYS

Date of Hire: _____ Position/Title: _____

Status: Paid Full-time? Paid Part-time Volunteer

EMPLOYMENT STATUS CHANGE

Effective date: _____

Reason: Resignation Layoff Deceased Leave of absence

Other: _____

PHYSICAL or MENTAL CHANGES (Attach full and complete explanation.)

- Development of any physical disability **lasting more than 30 days** that interferes with the ability to perform all of the duties of the level of certification
- Any changes in mental health which may affect the ability to perform as an EMS provider

ACTION by EMS AGENCY or SUPERVISING PHYSICIAN

REPORT WITHIN 14 DAYS

(Attach full and complete explanation)

Effective Date: _____ Ending Date: _____

Reason: Discharge Suspended Administrative Action
 Standing Orders Revoked Disciplinary Scope of Practice Restriction

Other: _____

I certify that the information of this form has been verified and is substantiated by records maintained by this agency.

(Signature)

(Title)

(Date)

Return completed and signed form to: EMS Section, PO Box 14450, Portland, OR 97293-0450
or Fax to: 503-731-4077 Attn: EMS Section



**Oregon Department of Human Services
Emergency Medical Services & Trauma Systems Section
First Responder/EMT Reportable Actions**



Required by OAR 333-265-0160

This Section to be completed by the Certificate Holder
(Please Print or Type)

NAME _____
(Last) (First) (MI)

CERTIFICATE # _____

CHANGE THE FOLLOWING

REPORT WITHIN 30 DAYS

- Name - Attach copy of court order or certificate of marriage
- Mailing address: _____
City _____ State _____ Zip _____ County _____
- Telephone numbers: work (____) _____ home (____) _____

AGENCY: _____ Add Delete
Status: Paid Full-time Paid Part-time Volunteer

AGENCY: _____ Add Delete
Status: Paid Full-time Paid Part-time Volunteer

AGENCY: _____ Add Delete
Status: Paid Full-time Paid Part-time Volunteer

- Not employed in the state of Oregon as a First Responder or EMT

PHYSICAL or MENTAL CHANGES (Attach full and complete explanation.)

- Development of any physical disability **lasting more than 30 days** that interferes with the ability to perform all of the duties of the level of certification
- Any changes in mental health which may affect the ability to perform as an EMS provider

UNAFFILIATED

REPORT WITHIN 14 DAYS

My Supervising Physician is: _____

DISCIPLINARY ACTIONS (Attach full and complete explanation)

- Disciplinary restriction or revocation of Scope of Practice
- Defendant in lawsuit alleging medical malpractice or misconduct
- Citation, arrest, or conviction for DUIL, or admission to DUIL Diversion Program
- Arrest or conviction for drug related offense
- Arrest or conviction for any sexual, violent, personal, or property crime
- Restriction or loss of driving privileges
- Admission to a drug or alcohol treatment program, other than DUIL issue

I certify that the information of this form is true and correct to the best of my knowledge. I understand that I may be subject to discipline, including suspension, revocation, probation or civil monetary penalty for making false statements in connection with my certification.

Signature _____ Date _____

Return completed and signed form to: EMS Section, PO Box 14450, Portland, OR 97293-0450
or Fax to: 503-731-4077 Attn: EMS Section

APPENDIX

OREGON REVISED STATUTES

682.135 Emergency medical technicians required to be certified; defense to charge of activity by uncertified person; exemptions from certificate requirement. (1) On and after September 13, 1975, it shall be unlawful:

(a) For any person to act as an emergency medical technician without being certified under this chapter.

(b) For any person or governmental unit which operates an ambulance to authorize a person to act for it as an emergency medical technician without being certified under this chapter.

(c) For any person or governmental unit to operate or allow to be operated in this state any ambulance unless it is operated with at least one certified emergency medical technician.

(2) It is a defense to any charge under this section that there was a reasonable basis for believing that the performance of services contrary to this section was necessary to preserve human life, that diligent effort was made to obtain the services of a certified emergency medical technician and that the services of a certified emergency medical technician were not available or were not available in time as under the circumstances appeared necessary to preserve such human life.

(3) Subsection (1) of this section is not applicable to any individual, group of individuals, partnership, entity, association or other organization otherwise subject thereto providing a service to the public exclusively by volunteer unpaid workers, nor to any person who acts as an ambulance attendant therefor, provided that in the particular county in which the service is rendered, the county court or board of county commissioners has by order, after public hearing, granted exemption from such subsection to the individual, group, partnership, entity, association or organization. When exemption is granted under this section, any person who attends an ill, injured or disabled person in an ambulance may not purport to be an emergency medical technician or use the designation "EMT."

682.220 Denial, suspension or revocation of license and emergency medical technician certificate; investigation; confidentiality of information. (1) The Department of Human Services may deny, suspend or revoke licenses for ambulances and ambulance services in accordance with the provisions of ORS 183.310 to 183.550 for a failure to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted thereunder.

(2) The certification of an emergency medical technician may be denied, suspended or revoked in accordance with the provisions of ORS 183.310 to 183.550 for any of the following reasons:

(a) A failure to have completed successfully a department approved course.

(b) In the case of provisional certifications, failure to have completed successfully a department approved course.

(c) Failure to meet or continue to meet the physical and mental qualifications required to be certified under ORS 682.145.

(d) The use of fraud or deception in receiving a certificate.

(e) Practicing skills beyond the scope of practice established by the Board of Medical Examiners for the State of Oregon under ORS 682.245.

(f) Rendering emergency or nonemergency care under an assumed name.

(g) The impersonation of another EMT.

(h) Unprofessional conduct.

(i) Obtaining a fee by fraud or misrepresentation.

(j) Habitual or excessive use of intoxicants or drugs.

(k) The presence of a mental disorder that demonstrably affects an EMT's performance, as certified by two psychiatrists retained by the department.

(L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions about the ability of the EMT to perform the duties of an EMT in accordance with the standards established by this chapter. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.

(m) Suspension or revocation of an emergency medical technician certificate issued by another state:

(A) For a reason that would permit the department to suspend or revoke a certificate issued under this chapter; and

(B) Evidenced by a certified copy of the order of suspension or revocation.

(n) Gross negligence or repeated negligence in rendering emergency medical assistance.

(o) Rendering emergency or nonemergency care without being certified except as provided in ORS 30.800.

(p) Rendering emergency or nonemergency care as an EMT without written authorization and standing orders from a supervising physician who has been approved by the board in accordance with ORS 682.245.

(q) Refusing an invitation for an interview with the department as specified in this section.

(3) The department may investigate any evidence that appears to show that an EMT certified by the department is or may be medically

incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an EMT. The department may investigate the off-duty conduct of an EMT to the extent that such conduct may reasonably raise questions about the ability of the EMT to perform the duties of an EMT in accordance with the standards established by this chapter. Upon receipt of a complaint about an EMT or applicant, the department shall conduct an investigation as described under ORS 676.165. An investigation shall be conducted in accordance with ORS 676.175.

(4) Any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any medical or osteopathic physician licensed under ORS chapter 677, any owner of an ambulance licensed under this chapter or any EMT certified under this chapter shall report to the department any information the person may have that appears to show that an EMT is or may be medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an EMT.

(5) If, in the opinion of the department, it appears that the information provided to it under provisions of this section is or may be true, the department may request an interview with the EMT. At the time the department requests an interview, the EMT shall be provided with a general statement of the issue or issues of concern to the department. The request shall include a statement of the procedural safeguards available to the EMT, including the right to end the interview on request, the right to have counsel present and the following statement: "Any action proposed by the Department of Human Services shall provide for a contested case hearing."

(6) Information regarding an ambulance service provided to the department pursuant to this section is confidential and shall not be subject to public disclosure, nor shall it be admissible as evidence in any judicial proceeding. Information that the department obtains as part of an investigation into emergency medical technician or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving emergency medical technician or applicant conduct is confidential as provided under ORS 676.175. Information regarding an ambulance service does not become confidential due to its use in a disciplinary proceeding against an emergency medical technician.

(7) Any person who reports or provides information to the department under this section and who provides information in good faith shall not be subject to an action for civil damage as a result thereof.

(8) In conducting an investigation under subsection (3) of this section, the department may:

(a) Take evidence;

(b) Take depositions of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner provided by law in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation.

(9) The department may issue subpoenas to compel compliance with the provisions of subsection (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or refuses to testify on matters on which the person may lawfully be interrogated, a court may compel obedience as provided in ORS 183.440.

682.185 Discipline; purpose; civil penalty. (1) The Department of Human Services may discipline, as provided in this section, an ambulance service or any person certified as an emergency medical technician or first responder in this state who has:

(a) Admitted the facts of a complaint which alleges facts which establish that such person is guilty of violation of one or more of the grounds for suspension or revocation of a certificate as set forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the rules adopted thereunder.

(b) Been found guilty in accordance with ORS 183.310 to 183.550 of violation of one or more of the grounds for suspension or revocation of certification as set forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the rules adopted thereunder.

(2) The purpose of disciplining an EMT under this section is to ensure that the EMT will provide services that are consistent with the obligations of this chapter. Prior to taking final disciplinary action, the department shall determine if the EMT has been disciplined for the questioned conduct by the EMT's employer or supervising physician. The department shall consider any such discipline or any other corrective action in deciding whether additional discipline or corrective action by the department is appropriate.

(3) In disciplining an EMT or ambulance service as authorized by subsection (1) of this section, the department may use any or all of the following methods:

(a) Suspend judgment.

(b) Issue a letter of reprimand.

(c) Issue a letter of instruction.

(d) Place the EMT or ambulance service on probation.

(e) Suspend the EMT certificate or ambulance service license.

(f) Revoke the EMT certificate or ambulance service license.

(g) Place limitations on the certificate of the EMT to practice emergency or nonemergency care in this state or place limitations on the license of the ambulance service.

(h) Take such other disciplinary action as the department in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$5,000, or both.

(4) In addition to the action authorized by subsection (3) of this section, the department may temporarily suspend a certificate or license without a hearing, simultaneously with the commencement of proceedings under ORS 183.310 to 183.550 if the department finds that evidence in its possession indicates that a continuation in practice of the EMT or operation of the ambulance service constitutes an immediate danger to the public.

(5) If the department places any EMT or ambulance service on probation as set forth in subsection (3)(d) of this section, the department may determine, and may at any time modify, the conditions of the probation and may include among them any reasonable condition for the purpose of protection of the public and for the purpose of the rehabilitation of the EMT or ambulance service, or both. Upon expiration of the term of probation, further proceedings shall be abated if the EMT or ambulance service has complied with the terms of the probation.

(6) If an EMT certified in this state is suspended, the holder of the certificate may not practice during the term of suspension.

(7) If an ambulance service licensed in this state is suspended, the ambulance service may not operate in this state during the term of the suspension, provided that the department shall condition such suspension upon such arrangements as may be necessary to assure the continued availability of ambulance service in the area served by that ambulance service. Upon expiration of the term of suspension, the certificate or license shall be reinstated by the department if the conditions for which the certificate or license was suspended no longer exist.

(8) Whenever an EMT certificate or ambulance service license is denied or revoked for any cause, the department may, in its discretion, after the lapse of two years from the date of such revocation, upon written application by the person formerly certified or licensed and after a hearing, issue or restore the EMT certificate or ambulance service license.

(9) Civil penalties under this section shall be imposed as provided in ORS 183.090.

OREGON ADMINISTRATIVE RULE

333-265-0000

(32) "Unprofessional Conduct" means conduct unbecoming a person certified in prehospital emergency, and non-emergency care, or detrimental to the best interest of the public and includes conduct as defined in ORS 682.025(19).

(a) Unprofessional conduct includes, but is not limited to:

(A) knowing or willful violation of patient privacy or confidentiality by releasing information to persons not directly involved in the care or treatment of the patient;

(B) use of illegal drugs on or off duty;

(C) use of alcohol within eight hours of going on duty or while on duty or in an on-call status;

(D) violation of direct verbal orders from a physician who is responsible for the care of a patient;

(E) violation of orders given by an on-line medical resource physician, whether delivered by radio or telephone;

(F) violation of standing orders (the written detailed procedures for medical or trauma emergency to be performed by an EMT issued by the medical director commensurate with the scope of practice and level of certification or licensure of the EMT, registered nurse or physician assistant) without direction of a medical director;

(G) utilizing invasive medical procedures in violation of generally accepted standards of the medical community;

(H) any action that constitutes a violation of any statute, municipal code, or administrative rule that endangers the public, or other public safety officials, or other EMTs, patients, or the general public (including improper operation of an emergency medical vehicle);

(I) instructing, causing or contributing to another individual violating a statute or administrative rule, including an EMT acting in a supervisory capacity;

- (J) participation in the issuance of false continuing education documents or collaboration therein, including issuing continuing education verification to one who did not legitimately attend an educational event;
- (K) signing into an educational event of a person not actually present;
- (L) assisting or permitting another EMT to exceed his or her lawful scope of practice;
- (M) unlawful use of emergency vehicle lights and sirens;
- (N) providing false or misleading information to the Division, to the State EMS Committee, to the Subcommittee on EMT Certification and Discipline, to an EMS teaching institution or clinical/field internship agency;
- (O) responding on calls to which the EMT is not properly dispatched ("call-jumping"), whether in a private auto, ambulance, or other vehicle, in contravention of local protocols, procedures, or ordinances, or interfering with the safe and effective operation of an EMS system;
- (P) cheating on any examination used to measure EMS related knowledge or skills;
- (Q) assisting another person in obtaining an unfair advantage on EMT examinations;
- (R) defrauding the Division;
- (S) knowingly providing emergency medical care aboard an unlicensed ambulance;
- (T) violation of the terms of a written agreement with the Division;
- (U) engaging in sexual activity constituting a crime in Oregon or engaging in on-the-job sexual harassment which may endanger the public or a person providing emergency medical care;
- (V) arriving for duty in a condition whereby the EMT is likely to become impaired through fatigue, illness, or any other cause, as to make it unsafe for the employee to begin to operate an ambulance or provide patient care;

and
(W) any violation of these rules or any law, administrative rule, or regulation governing ambulances, or EMTs, or emergency medical service systems.

(b) This section does not create any new substantive violations. It is included solely to inform EMS agencies and EMTs as to conduct that the Division regards as already proscribed by the statutory definition of unprofessional conduct.

Stat. Auth.: ORS 682.025 & ORS 682.215 Stats. Implemented: ORS 682.025, ORS 682.145, ORS 682.157, ORS 682.220, ORS 682.185 & ORS 682.215

Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01

333-265-0160

EMT Responsibility to Notify the Division

(1) A certified EMT must notify the Division, using the Division's EMS Personnel Action Report Form within:

(a) 14-days of occurrence, if any of the following occurs:

(A) Disciplinary restriction placed upon scope of practice by the medical director;

(B) Being named as a defendant in a lawsuit which alleges medical malpractice or misconduct;

(C) Issued a citation, arrested or convicted for driving under the influence or being admitted to a diversion program;

(D) Arrested or convicted for any drug related offense;

(E) Arrested or convicted for any sexual, violent, personal or property crime;

(F) Restriction or loss of driving privileges;

(H) Admission to a drug/alcohol treatment program; or

(G) A change in medical director. This notification is not necessary when the EMT is affiliated with an EMS agency that is on file with the Division.

(b) 30-days of occurrence, if any of the following occurs:

(A) A change in legal name;

(B) A change in home address;

(C) A change in EMS affiliation;

(D) Develops any physical disability lasting more than 30-days which significantly interferes with the ability of the EMT to perform all of the duties of the level of certification held by the EMT; or

(E) Any change in mental health which affects the ability to perform as an EMT.

(2) Failure to notify the Division of any items specified in this rule, may lead to suspension or revocation of an EMT certificate or the EMT being placed on probation.

(3) The Division may, in its discretion, initiate an investigation based upon being notified of any of the items specified in this rule.

Stat. Auth.: ORS 682.145, ORS 682.220, ORS 682.185 & ORS 682.215

Stats. Implemented: ORS 682.145, ORS 682.220, ORS 682.185 & ORS 682.215

Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01

**Oregon Department of Human Services
Emergency Medical Services & Trauma Systems Section**

ACKNOWLEDGEMENT AND RECEIPT

NOTE: The educational institution or agency must maintain this record in accordance with the applicable Oregon Records Retention laws

I, _____, acknowledge that I have received of a copy of **THE PREHOSPITAL STANDARDS PROCESS** handbook. This handbook outlines the investigative and disciplinary process of the Department of Human Services, Emergency Medical Services & Trauma Systems Section.

I am responsible for the information contained in the handbook. I understand that this handbook is provided as a requirement of my course of instruction or employment.

NAME: _____
(PRINT)

SIGNED: _____
(SIGNATURE)

DATE: _____, 200__

=====

By my signature, I affirm I have provided a copy of **THE PREHOSPITAL STANDARDS PROCESS** handbook to the above named individual.

INSTRUCTOR or
AGENCY REPRESENTATIVE: _____
(PRINT)

NAME: _____
(PRINT)

SIGNED: _____
(SIGNATURE)

INSTITUTION
or AGENCY: _____

DATE: _____, 200__