

Complaint, Investigation and Hearing Procedure Rules

(effective November 15, 2012)

Pursuant to section 14(5) of the Emergency and Health Services Act (the "Act"), the Emergency Medical Assistants Licensing Board (the "Board") adopts the following rules:

1. Any complaint against an emergency medical assistant will be received by the Board either orally or in writing. However, any complainant will be encouraged to put the complaint in written form.
2. On receipt of a complaint, the Board
 - (a) must review the complaint, and
 - (b) may
 - (i) dismiss the complaint where it considers that it raises issues outside the Board's jurisdiction as set out in section 7(1) of the Act, or where in its opinion the complaint is trivial, frivolous, vexatious or made in bad faith;
 - (ii) provide particulars of the complaint to the emergency medical assistant with the request that the person complained of provide a written response or;
 - (c) direct the Investigation Committee to conduct an investigation into the complaint as set out in section 4.
3. On receipt of the written response from the emergency medical assistant or, where the emergency medical assistant fails to provide a response within 30 days after the request, on the expiration of that period, the Board may,
 - (a) where it considers that the complaint is not justified, dismiss the complaint,
 - (b) resolve the matter with the agreement of the emergency medical assistant; or
 - (c) direct the Investigation Committee to conduct an investigation into the complaint as set out in section 4.
4. Pursuant to section 6(5)(d) of the Act, the Board must appoint an Investigation Committee (the "Committee") to be composed of at least three (3) people, one of whom must be a physician, and one of whom must be a person who will represent the paramedic community. The members of the Committee hold office at the pleasure of the Board and the Board may make appointments to fill a vacancy on the committee.

When the Board refers a complaint to the Committee for investigation, the Committee:

- (a) may appoint an investigator from the list of names provided by the Board, instruct the investigator on the investigation to be conducted, and receive and consider the investigator's report prior to making a recommendation pursuant to paragraph (b); and
 - (b) after reviewing the materials provided to it by the Board and, where an investigator is appointed, the investigator's report, and the results of its own investigation of facts and circumstances, if any, the Committee must recommend to the Board whether a hearing should be directed under section 7 of the Act. If the Committee is not unanimous in its decision, then the decision of the majority of the Committee prevails. If an even number of Committee members participates in the investigation and recommendation and if the Committee is not unanimous in its recommendation, then it must recommend to the Board that a hearing be directed. In no event will the Committee express an opinion to the Board on whether the complaint is proven.
5. Despite a recommendation by the Committee pursuant to Rule 4(b) that a hearing should be directed, the Board may resolve the complaint through an Alternative Dispute Resolution process.
 6. If, subsequent to a recommendation by the Committee pursuant to Rule 4(b), new information not considered by the Committee concerning a complaint is received by the Registrar or the Board will be forwarded to the Committee for consideration.
 7. The physician member of the Committee referred to in section 4 must be the chair of the Committee.
 8. A hearing under section 7 of the Act must be commenced by a Notice that:
 - (a) Names the emergency medical assistant who is the subject of the hearing
 - (b) Sets out the particulars of the complaint, and
 - (c) Specifies the date, time and place of hearing.
 9. The Notice must be served on the emergency medical assistant at least 21 days before the date of the hearing and copies must be sent to the complainant (if any), and the emergency medical assistant's employer.
 10. The Notice must be posted on the Board's website no later than 14 days prior to the hearing.

11. Upon receipt of a demand for disclosure made by the emergency medical assistant who is subject of the Notice, counsel for the Board must, by a reasonable time prior to the commencement of the hearing provide to the emergency medical assistant a copy of every document intended to be introduced into evidence, names of all witnesses to be called at the hearing and a brief summary of their evidence.
12. At the hearing, the Board and the emergency medical assistant have the right to:
 - (a) be represented by counsel,
 - (b) submit evidence,
 - (c) cross-examine witnesses.
13. A hearing must be in public unless:
 - (a) The complainant or the respondent requests the Board to hold the hearing in private, or the Board of its own motion direction a private hearing, and;
 - (b) the Board is satisfied that a private hearing, in whole or in part, would be appropriate in the circumstances.
14. The Board may, where it considers appropriate, allow a witness to be identified by a pseudonym as long as the witness's proper name is given to all parties.
15. Prior to the commencement of a hearing, a person who may be aggrieved or adversely affected by the outcome of a decision of the Board, may apply to the Board, and the Board, in its discretion, may allow such person to participate in one or more of the following respects:
 - (a) be present during the hearing;
 - (b) be represented by counsel;
 - (c) present evidence;
 - (d) ask questions of witnesses;
 - (e) make submission to facts, law and evidence.
16. If the emergency medical assistant does not attend the hearing, the Board may, on proof of service of the Notice on the emergency medical assistant, proceed with the hearing in the absence of the emergency medical assistant and, without further notice, take any action it is authorized to take under section 7(3) of the Act.
17. The evidence of witnesses called to give evidence at the hearing must be taken under oath administered by the Chair of the Board.

18. The Board must cause oral evidence given before it to be taken down in shorthand or mechanically recorded and transcribed. The Chair must administer the oath to the stenographer or recorder.
19. The oath to be administered to a witness must be:
 - (a) Do you solemnly swear that the evidence you are about to give on this hearing will be the truth, the whole truth and nothing but the truth, so help you God?"
 - (b) If any witness objects to taking an oath, they must instead make the following affirmations:
 - (c) The oath to be administered to the stenographer or recorder must be:

"Do you solemnly swear that you will truthfully and faithfully record the evidence given at this hearing to the best of your ability, so help you God?"
20. The Board may direct exclusion of witnesses or a witness from the hearing or part of the hearing or may permit an expert or other witness to hear the whole or part of the proceedings.
21. One hearing can be held into a Notice against two or more emergency medical assistants if it is just and expedient to do so.
22. All decisions of the Board must be determined by a majority of its members. In the event that one member of the Board is unable to continue to participate in the hearing (due to sickness or otherwise) then the remaining members of the Board may continue the hearing and in the event that the two remaining Board members do not agree on the disposition of the complainant, the Chair has the deciding vote.
23. Until the Board has made one or more of the determinations allowed to it pursuant to section 7(3) of the Act, it may postpone, adjourn or re-open the hearing at such times and for such periods and on such terms and conditions as it sees fit.
24. The Board may at any stage of the hearing direct that a Notice be amended on such terms as it deems just.
25. If the emergency medical assistant whose conduct is the subject of the complaint admits such complaint, the Board may proceed with the hearing in a summary way or otherwise in order to apprise itself of the facts.
26. The hearing by the Board may be held at any place in British Columbia.
27. The Board, in its discretion, may hold separate hearings to decide the matters under section 7(1) and sections 7(3) of the Act.

28. The decision of the Board will be distributed to the emergency medical assistant, the complainant, the emergency medical assistant's employer and counsel (if any).
29. The decision of the Board will be available to any member of the public upon request. Agreements arrived at with an emergency medical assistant who is the subject of charges through an alternative Dispute Resolution process will not be made public. However, a summary of the admissions made by the emergency medical assistant and the punishment agreed upon by the Board, may be made public.