

COMMONWEALTH OF VIRGINIA
Department of Health
Office of Emergency Medical Services
Regulation & Compliance Division

Complaint and Investigation Processes:

The Virginia Department of Health, Office of Emergency Medical Services (OEMS) receives information about the conduct of a pre-hospital health care provider or EMS agencies or other designated entity from a variety of sources; including patients, family members, other health care providers, EMS agency officials, the media and other contacts. In some cases, routine EMS agency licensure inspections reveal evidence of licensee or certification holder misconduct.

Reports and complaints, regardless of the source, are referred to the Regulation and Compliance Division for review. An initial determination of whether OEMS has jurisdiction over the person or agency that is the subject of the complaint is made. If OEMS is determined to have jurisdiction for the case the alleged incident is reviewed to determine if a violation(s) of the EMS Regulations have occurred. If the matter is outside the jurisdiction or authority of OEMS, no further investigation is generally conducted, but the matter may be referred to another local, state or federal agency if appropriate.

If the matter falls within the authority of OEMS, a case is formally opened and assigned to an investigator. The investigator typically contacts the complainant for additional information and interviews the pre-hospital provider, EMS agency representative or entity who is the subject of the investigation. Although OEMS will accept complaints from sources who wish to remain anonymous, their anonymity cannot be guaranteed. The investigator may also interview witnesses or other persons that may have knowledge of the alleged incident and obtain relevant medical records and other documentation pertinent to the case.

After the field investigation is complete, the findings are summarized in an investigative report and a recommendation is made to the Division as to whether there is probable cause to believe a violation of the EMS regulations or of law have occurred; and to recommend corrective / enforcement action against the subject individual(s) EMS agency and/or entity. Both the source of the complaint and the subject of the investigation will be notified in writing of the decision of the Office of EMS.

Action by the Regulation & Compliance Division:

At the conclusion of a case, or when a determination is made indicating probable cause of a violation of law, or regulation, the Office of EMS may invoke one or more of the following actions (as defined within the *Virginia Emergency Medical Services Regulations* 12 VAC5-31):

CASE CLOSED – NO ACTION RECOMMENDED: OEMS finds no evidence or insufficient evidence to determine that a violation occurred. Case will be archived and no public record will be posted on the OEMS web page.

VERBAL WARNING: Upon determining there is sufficient evidence to believe a violation of the *Virginia Emergency Medical Services Regulations* has occurred, a verbal warning may be issued. The verbal warning is a written document that will remain on file in the archives; however, no public record will be posted to the OEMS web page. Verbal Warnings are public documents and are subject to disclosure. This action is limited to cases involving extremely minor misconduct (usually unintentional) or incidents that do not have immediate impact on patient care and do not pose a threat to the health, safety or welfare of the citizens of the Commonwealth.

CITATION: Upon determining there is sufficient evidence to believe a violation of the *Virginia Emergency Medical Services Regulations* has occurred, a citation may be issued. The citation is a written document that will remain on file in the archives and this action may be posted on the OEMS web page. Citations are public documents and are subject to disclosure. This action is usually taken when misconduct is determined, or a situation causes or has the potential to cause negative consequences for a patient and does not include situations involving a threat to the health, safety and welfare of the citizens of the Commonwealth. Citations may or may not impose restrictions and / or corrective actions in a specified time period. The misconduct may be intentional or non-intentional.

SUSPENSION: In cases of significant violations of the *Virginia Emergency Medical Services Regulations*, or immediate threats to the health, safety and welfare of the citizens of the Commonwealth, the Office of EMS, as designated by Health Commissioner may suspend a technician or instructor certification or endorsement; an EMS agency license; an EMS vehicle permit or an entity designation. This document is a written notification of the de-activation and/or removal of the authorization issued under said license, permit, endorsement, or certification. Suspension(s) may be temporary; or may be issued with the intent to revoke said certification, endorsement, permit or licensure. Suspension(s) are typically issued when major violations have occurred or multiple violations have been found. Many of these cases involve an immediate threat to the life of a patient, or a general threat to the health, safety and welfare of the citizens of the Commonwealth. Suspension(s) may also occur when requirements documented in previously issued enforcement actions have not been met; or corrective actions have not been taken as required in a previously issued consent order.

CIVIL PENALTY: Depending on the severity of the infraction, the Office of EMS may impose a “civil penalty” for repeated violations of the *Virginia Emergency Medical Services Regulations* to agencies and entities only. Civil penalties may be assessed up to \$1,000 per offense. Violations shall be single, different occurrences for each calendar day the violation occurs and remains uncorrected.

CRIMINAL PROSECUTION: The Health Commissioner may elect to have criminal sanctions imposed. Violations to any of the *Virginia Emergency Medical Services Regulations* constitute the commission of a misdemeanor in the Commonwealth of Virginia and may be turned over to the appropriate investigating authority for prosecution.

INFORMAL FACT FINDING CONFERENCE (IFFC): The *Virginia Administrative Process Act* provides that a regulant may file an appeal and request an IFFC whenever there is a dispute or disagreement concerning the factual or procedural basis for an adverse decision in any case. An adjudication officer is assigned and notice is sent to the person filing the appeal. This conference provides the recipient of enforcement action an opportunity to produce additional evidence, documents, statements or information that should be considered in the decision of their case. The adjudication officer will forward their recommendation based on the evidence presented to the Health Commissioner to uphold the action, modify the action, or dismiss the action required by OEMS. For more information on the *Virginia Administrative Process Act*, see §2.2-4019 of the *Code of Virginia*. The decision is a public record and is subject to disclosure. Additional IFFC’s may be granted by OEMS if requested.

FORMAL HEARING: In the event an IFFC does not resolve a disciplinary matter, the pre-hospital provider or EMS agency may request a formal hearing. A formal hearing is an administrative process similar to a trial. It is open to the public, and all parties may call witnesses and introduce evidence. An order will be issued by the hearing officer and is public record and subject to disclosure.

For additional information regarding the processes of the Regulation and Compliance Division, please contact the Regulation and Compliance Manager, Virginia Office of Emergency Medical Services, 1041 Technology Park Drive, Glen Allen Virginia 23059, or call 800-523-6019 (toll free, Virginia only).