



Paramedic Disciplinary Review Board Training

We have created a **Board Member Administrative Procedure Manual**.

The manual is available on the PDRB page of the EMSA website:
<https://emsa.ca.gov/paramedic-disciplinary-review-board/>

PDRB Established by AB 450

Paramedic Disciplinary Review Board (PDRB) was created by AB 450, Chapter 463 on October 4, 2021.

Sections 1797.125 to 1797.125.11 were added to the Health and Safety Codes, placing the PDRB “in the Emergency Medical Services Authority.”

PDRB Responsibilities

AB 450, conferred authority to the PDRB to perform 2 main tasks beginning January 1, 2023:

1. PDRB has the authority to make final determinations of appeals of EMT-P licensure discipline or licensure denials whereas the Director of EMSA previously held that authority.

AND

2. PDRB must develop criteria to aid it in making such final determinations.

(HSC 1798.200(b)(2), 1797.125(c), 1797.172(c)(5), and 1797.125.07(a))

PDRB Responsibilities – Developing Criteria

In developing criteria to aid in making final determinations, AB 450 imposes two responsibilities:

The Board shall consider the investment made by both the employer and the licenseholder in terms of:

- Education to secure the license, and
- Training and continuing education to maintain the license, and
- Equipment and appropriate adjuncts to perform the duties of the license.

HSC 1797.125.07(a)

Progressive Discipline Criteria with AB 450 Changes

The Board shall develop and implement progressive discipline to aid in considering appeals of licensure which shall include all of the following:

1. The nature and duties of a paramedic. **NEW**
2. The time that has elapsed since the licenseholder's offense. **No Change**
3. The nature and gravity of the offense. **PRE AB 450: nature, severity of the act(s), offense(s), or crime(s) under consideration.**
4. The employer-imposed discipline for the offense. **No Change**
5. The licenseholder's prior disciplinary record. **No Change**
6. Mitigating evidence. **No Change**

HSC 1797.125.07(b), see also [Recommended Guidelines for Disciplinary Orders and Conditions of Probation](#)

Progressive Discipline Criteria with AB 450 Changes

7. Prior warnings to the licenseholder on record or prior remediation. No Change
8. The actual harm to the patient and the actual harm to the public. PRE AB 450: Actual or potential harm to the public. Actual or potential harm to the patient
9. Evidence of the licenseholder's rehabilitation. No Change
10. Evidence of an expungement proceeding, if applicable. No Change
11. The licenseholder's compliance with the terms of their sentence or a court order, if criminally convicted. No Change
12. Aggravating evidence. No Change
13. The licenseholder's overall criminal record. No Change
14. PRE AB 450: Number and/or variety of current violations was a consideration. Not mentioned

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

Violations are codified in Health and Safety Code (HSC) section 1798.200(c) which defines 12 actions constituting evidence of a threat to the public health or safety:

- **HSC 1798.200(c)(1)**: Fraud in the procurement of any certificate or license under this division
- **HSC 1798.200(c)(2)**: Gross negligence
- **HSC 1798.200(c)(3)**: Repeated negligent acts

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

- HSC 1798.200(c)(4): Incompetence
- HSC 1798.200(c)(5): The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.
- HSC 1798.200(c)(6): Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel.

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

- **HSC 1798.200(c)(7)**: Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.
- **HSC 1798.200(c)(8)**: Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.
- **HSC 1798.200(c)(9)**: Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

- **HSC 1798.200(c)(10)**: Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.
- **HSC 1798.200(c)(11)**: Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

- **HSC 1798.200(c)(12)(a)**: Unprofessional conduct exhibited by the following:
 - (a) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of their duties would use if confronted with a similar circumstance.

Note: this section does not prohibit EMT's or EMT-P's from using reasonably necessary force to assist peace officers in detention or arrest.

Violations Subject to Investigation/Discipline Health and Safety Code 1798.200(c)

- **HSC 1798.200(c)(12)(b)** The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.
- **HSC 1798.200(c)(12)(c)** The commission of any sexually related offense specified under Section 290 of the Penal Code.

Disciplinary Cause Required

Health and Safety Code 1798.200(e)

Requires that for a violation to occur, there must be disciplinary cause which is defined as:

- An act that is substantially related to the qualifications, functions, and duties of an EMT-I, EMT-II, or EMT-P.

AND

- Is evidence of a threat to the public health and safety described in subdivision (c).

EMSA Investigates and Issues an Accusation

Violations come to the attention of EMSA from

- Licensure applications which are denied.
- DOJ arrest reports which EMSA Investigations receives from Licensure, LEMSA, or an employer.
- Quality of Care Compliant.

Investigative Findings Sent to EMSA Legal

The Authority may impose any of the following discipline on EMT-P:

- Deny, suspend, or revoke any EMT-P license; or
- Place any EMT-P license/licenseholder on probation.

The type and extent of discipline is set forth in the publication:
Recommended Guidelines for Disciplinary Orders and Conditions of Probation, dated July 26, 2008

HSC1798.200(c), CCP 100173

What are the Recommended Guidelines for Disciplinary Orders and Conditions of Probation, Dated July 26, 2008?

These guidelines are incorporated by reference in the California Code of Regulations (CCR) section 100173 which states:

In any proceedings by the Authority to:

- DENY, SUSPEND, or REVOKE the license of a paramedic, or
- Place any paramedic licenseholder on PROBATION pursuant to HSC1798.200, or
- Impose an ADMINISTRATIVE FINE pursuant to HSC 1798.210,

The EMS authority shall use the Recommended Guidelines for Disciplinary Orders and Conditions of Probation, Dated July 26, 2008, as the standard in setting disciplinary matters when a paramedic applicant or licenseholder is found to be in violation of HSC section 1798.200 or 1798.210.

Why is the publication, Recommended Guidelines for Disciplinary Orders and Conditions of Probation, Important?

These are the guidelines that the PDRB must review and revise per AB 450.

Specifically, per HSC 1797.185(b) :

The PDRB shall review and revise the criteria for the revocation or suspension of a paramedic license, the probation of a paramedic, and the appeal of licensure decision by the authority.

EMSA Legal Issues an Accusation

Once EMSA Legal issues an ACCUSATION to an EMT-P with recommended discipline, the EMT-P has the following options:

1. Do nothing and recommended discipline stands.
2. Engage in discussions to reach a stipulated agreement.
3. File a Notice of Defense.
4. Case is forwarded to an Administrative Law Judge (ALJ).

ALJ Hearing Process

This process is not a formal court hearing but an adjudicative process that takes place in the context of executive function of a governmental entity, such as the PDRB, the California Medical Board, and many licensing boards associated with California governmental agencies.

The California Administrative Procedure Act sets forth the rules for such proceedings.

Administrative Procedure Act:

https://oal.ca.gov/publications/administrative_procedure_act/

ALJ Hearing: Standard of Proof

“Clear and convincing evidence” to a reasonable certainty is the standard of proof in professional license cases and caselaw defines it as

“Requiring a finding of high probability”

The ALJ must find a high probability the alleged facts are true and support the alleged violation(s)

ALJ Hearing Process

The ALJ:

- Holds a hearing considering EMT-P testimony, lay witness testimony, expert witness testimony, reports, and other evidence including evidence of rehabilitation of the EMT-P referred to as the respondent
- Determines if clear and convincing evidence proves the facts alleged and supports the alleged violations, if so
- Determines whether and what discipline is appropriate using the Recommended Guidelines for Disciplinary Orders and Conditions of Probation

ALJ Issues a Proposed Decision

The ALJ issues a Proposed Decision which is served to the EMT-P and to EMSA Legal.

If the Paramedic appeals the ALJ proposed Decision, EMSA Legal serves PDRB with the Proposed Decision:

- The PDRB shall act within 100 days of receipt of the proposed decision.
- If the PDRB fails to act within 100 days, the proposed decision shall be deemed adopted by the board. OTW referred to as adopted by operation of law.

HSC 1797.125(a)

Making a Final Determination

The PDRB has the following decision-making options:

1. Adopt the ALJ Proposed Decision, or
2. Non-adopt the Decision.

Adoption of the Proposed Decision

The Board can:

- Adopt the proposed decision in its entirety; or
- Reduce the proposed penalty or otherwise mitigate it and adopt the balance of the proposed decision; or
- Make technical or other minor changes in the proposed decision and adopt it in its modified form.
 - Such changes are limited to clarifying changes not affecting the factual or legal basis of the proposed decision.

Non-Adoption of the Proposed Decision

The Board can reject the proposed decision and

1. Refer the case back to the ALJ to take additional evidence and prepare a revised proposed decision, or
2. Decide the case itself on the record.

Deciding the case on the Record

When the Board decides the case on the record, the board will:

1. Obtain a copy of the transcript from the ALJ Hearing.
2. The board may or may not take additional evidence.
3. **HOWEVER:** The board **MUST** afford the parties an opportunity to provide written or oral argument before the board.

Time to Act

If the Board elects to non-adopt the ALJ proposed decision:

The Board must issue a final decision no later than 100 days after rejection of the proposed decision.

HOWEVER: If the ALJ hearing transcript is ordered, the board must issue its decision no later than 100 days after receipt of the transcript.

PDRB's Highest Duty

In exercising its duties, the **PDRB's HIGHEST PRIORITY** shall be

PROTECTION OF THE PUBLIC

HSC 1797.125(b)

Public Protection is Paramount

NOTWITHSTANDING the progressive disciplinary guidelines,

If PROTECTION OF THE PUBLIC is inconsistent with other interests sought to be promoted,

PROTECTION OF THE PUBLIC shall be PARAMOUNT.

HSC 1797.125(b)

Questions and/or Comments

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