

Investigations, Personnel Discipline and Agency Sanctions



Richard L. Alcorta, MD, FACEP
State EMS Medical Director
MIEMSS



Presentation Objectives

- Overview of Investigations and “Due Process”
- Discuss Regulations affecting EMS Providers & Services
- Discuss Personnel Discipline
- Discuss EMS Agency Sanctions
- Discuss Impact of regulations on
 - EMS Services
 - EMS Providers

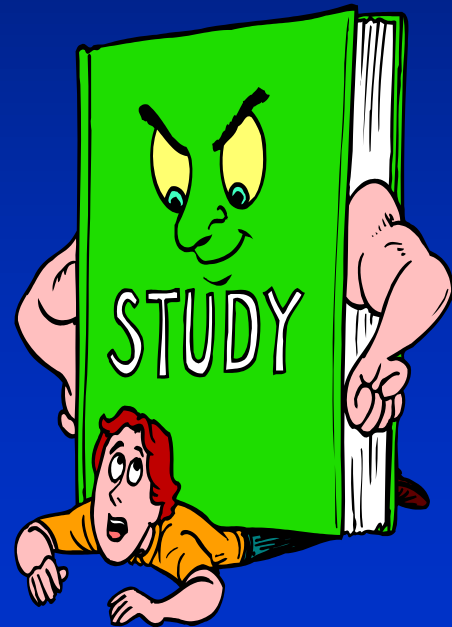


Investigations

- **Laws?**
- **Regulations?**
- **Policies?**
- **Procedures?**
- **Bylaws?**
- **Documents?**

Investigators

- Standard of Care
- Regulations
- Know Medical Protocols
- Understand Due Process
- Apply Procedures
- Process focused
- Ask questions



Fact Finding

Develop Regulations, Policies, SOPs to ensure

- **Due Process**
- **Confidentiality**
- **Consistent Investigations**
- **Consistent Investigator Training**

Dispositions

- **SUSTAINED**

All or part of the act occurred as alleged, based upon the existence of substantial fact.

- **NOT SUSTAINED**

Information insufficient to prove or disprove the allegation.

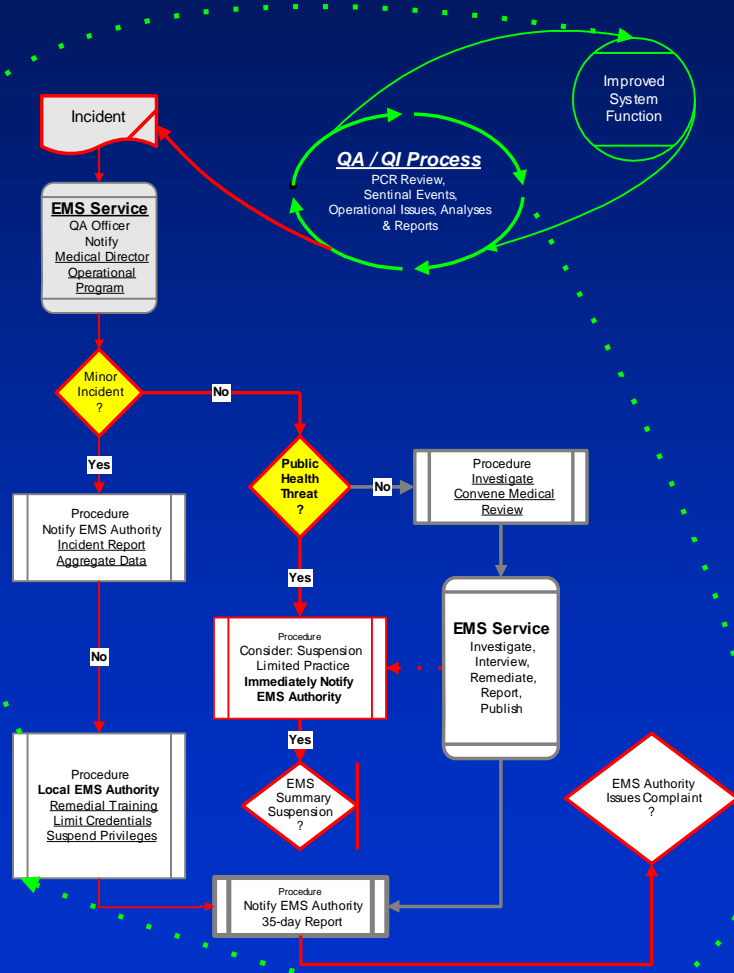
- **EXONERATED**

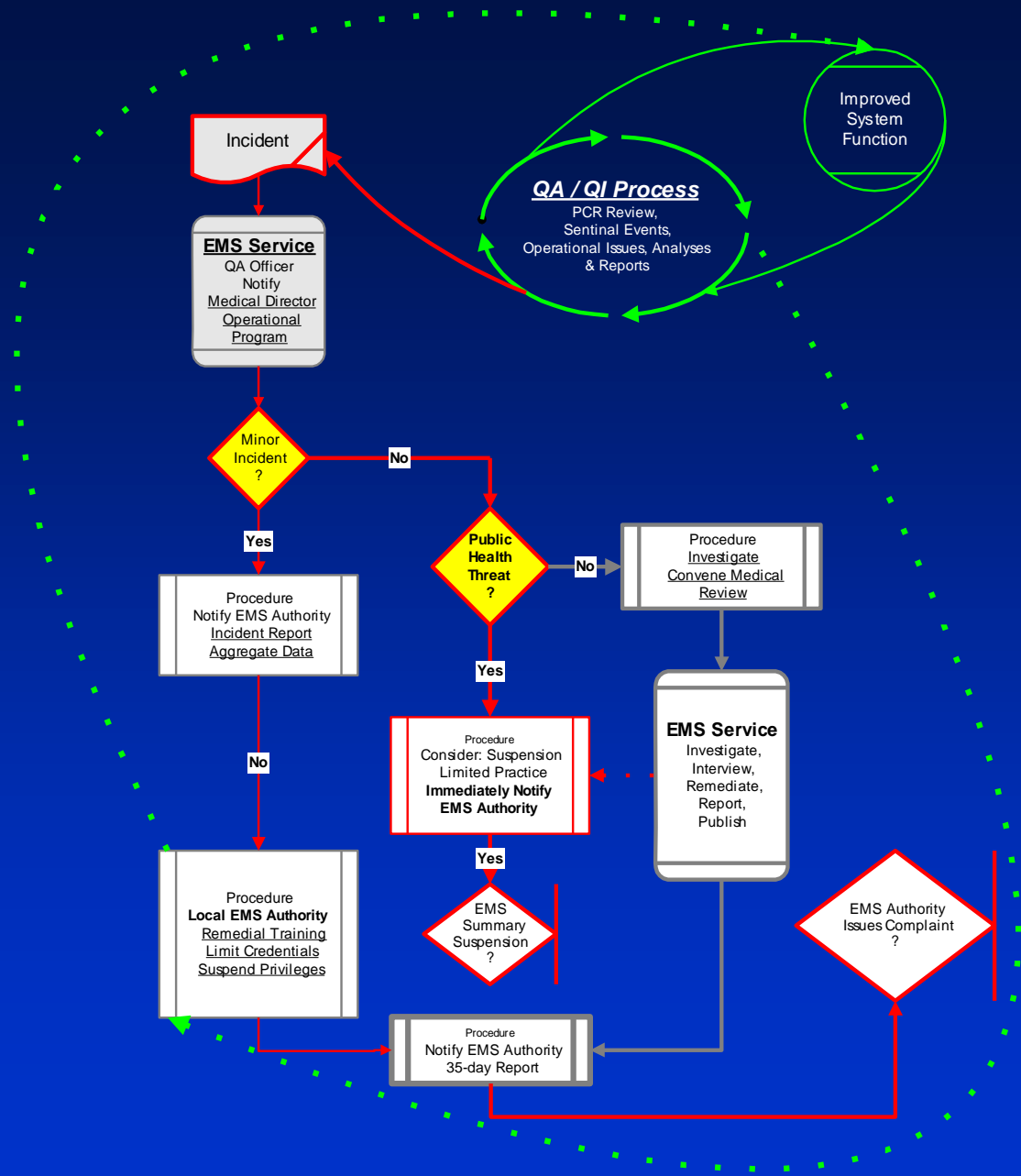
The act occurred but was justified, lawful and proper.

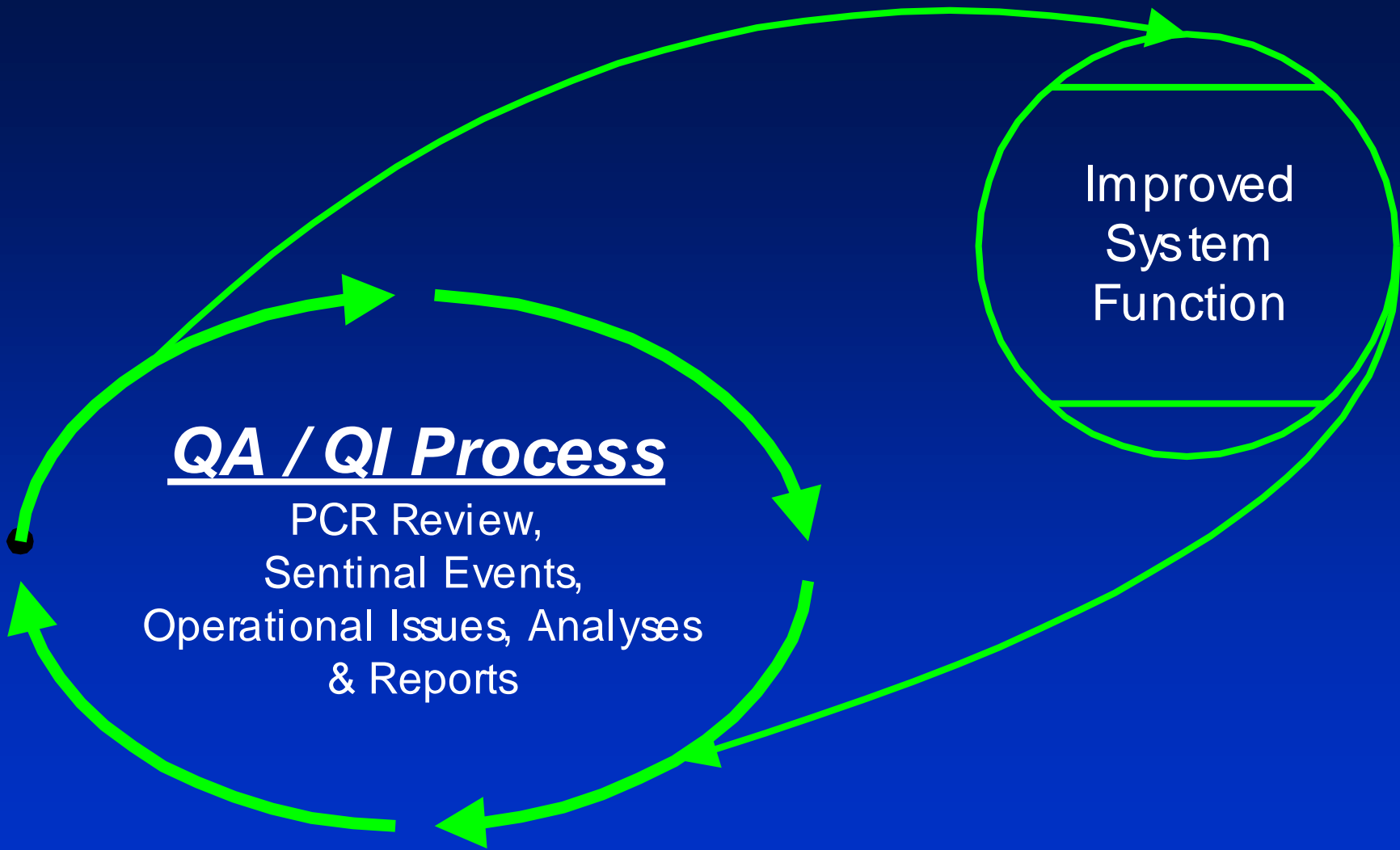
- **UNFOUNDED**

The alleged act did not occur.

Quality Assurance Process







Incident

QA / QI Process
PCR Review,
Sentinal Events,
Operational Issues, Analyses
& Reports





Overview QA Process

- Trigger - Identify Issue
- Initial Incident Report
- Initial Investigation
 - **Ensure Public Safety**
- Convene Medical Review
 - Consider Remediation
- Complete Investigation & Report
 - EMS Agency Discipline?
 - Case Closure?
 - Publish findings



Maryland Institute for Emergency Medical Services Systems
Confidential / Nondiscoverable Medical Case Review (MRC) Material

MRC – Patient Care Quality Assurance Incident Report (PCQA-IR)

5-Day Incident Report: _____ 35-Day Incident Report: _____

Request Case Closure _____ Request MIEMSS Review _____

Within 5 days of being made aware of an Incident the QA Officer must in writing document the Incident and identify EMS Provider(s) involved to MIEMSS' Compliance Office and State EMS Medical Director.

Within 35 days being made aware of an Incident the QA Officer must in writing submit documentation of the MRC's investigative findings and recommendations to MIEMSS' Compliance Office and State EMS Medical Director.

1. Incident Date: _____ EMSOP Incident #: _____ Report Date: _____

2. Date(s) EMSOP Medical Director(s) notified: _____

3. Name of EMS Operational Program Medical Director(s) notified: _____

4. Individuals / EMSOP Involved (additional space provided on page 2)

4a. EMSOP _____ Unit Number _____

4b. EMS Provider(s): 1. _____ ID# _____

Name & ID Number 2. _____ ID# _____

4c. Hospitals: 1. Sending _____ 2. Receiving _____ 3. Consulting _____

4d. Other Individuals: 1) _____ 2) _____

5. Type Of Incident (Check ONE)

a. Extraordinary Care Procedure (within 24 hours report to State EMS Medical Director 800-648-3001)

b. Protocol variation which may have resulted in harm to a patient or substandard patient care

c. Inability to carry out physician orders

d. May require disciplinary action by the State, or

e. Suggest need for change to Statewide EMS System by MIEMSS

d. Other (explain) _____

6. Describe incident - _____

7. Action by EMSOP. (Describe planned remediation on page #2)

EMS Provider privileges Suspended? NO _____ YES _____ **

(**Immediately Notify State EMS Medical Director, COMAR Title 30.03.03.06D)

EMSOP Medical Director Signature: _____ Date: _____

8. Report Submitted By:

Name _____

Official Title _____

Street _____

City _____ State _____ Zip code _____

Office Phone _____ Cell Phone _____

Fax _____ E-mail _____

Signature _____ Date _____

- Typical Incident Report
- Suspend Privileges? Contact State EMS Medical Director



Authority to Limit Privileges?

**Maryland Institute for Emergency Medical Services Systems
Confidential / Nondiscoverable Medical Case Review Material**

**Title 30
MARYLAND INSTITUTE FOR EMERGENCY MEDICAL
SERVICES SYSTEMS (MIEMSS)**

SUBTITLE 03 EMERGENCY MEDICAL SERVICES OPERATIONAL PROGRAMS

Chapter 03- Medical Direction

Authority: Education Article, §§ 13-509, 13-510 and 13-516, Annotated Code of Maryland.

- .06 Credentialling of EMS providers
- C. In association with or through the granted authority of an EMS operational program, an EMS operational program medical director may suspend or limit the privileges of an EMS provider within that EMS operational program if, in the opinion of the EMS operational program medical director, the EMS provider poses an imminent threat to the health or well-being of patients.
- D. If the EMS operational program medical director suspends or limits the privileges of an EMS provider under § C of this regulation, the EMS operational program medical director and the EMS operational program shall immediately notify the State EMS Medical Director of:
- (1) The circumstances and grounds for the action;
 - (2) Specific plans for remedial education; and
 - (3) The process, including reevaluation, by which the EMS provider may be able to regain privileges.

Overview QA Process

- **Convene Incident Review Committee**
 - EMS Investigator, Legal Counsel, Medical Director, etc.
- **Consider Summary Suspension**
- **Consider Peer Review**
 - EMT-B
 - EMT-I
 - EMT-P
 - EMS Medical Director
 - Public
 - EMS Authority

Peer Review

Recommendation/Action

- **Dismiss Complaint (if patient care related?)**
- **Deny Application**
- **Reprimand**
- **Remediation**
- **Probation**
- **Suspension**
- **Revocation**



State EMS Authority Process

- Dismiss Complaint
- Additional Investigation
- Propose Discipline
- Issue “Noncompliance” Notice
- Ensure “Due Process”



Due Process

*A principle of federal constitutional law that gives every person in USA the right to present reasons why Government should not deprive the person of **Life, Liberty** or **Property**.*

Due Process

Procedure that serves to

- Determine Facts
- Instill confidence
 - Providers
 - Observers

Due Process

When does Due Process Apply?

- **Due Process applies when government acts to deprive an individual of life, liberty or property.**

Procedural Due Process

- Due Process Procedures should provide the EMS provider notice and an opportunity to be heard.
 - **Notice** of the charges
 - **Opportunity** to rebut the charges against in a meaningful way and time

Where does Due Process Apply?

- **State and Local Government EMS/Fire**
- **Private Ambulance Companies**
- **Volunteer EMS/Fire Services**



Analysis to Determine Due Process Applies

- Private organization or Corporation?
- How much government \$ received?
- Who owned Property organization used?
- Government oversight?
- Performing Government function?
- Who was organization's staff employed by?
- What legal requirement for providing service?

Judicial Findings

- Courts frequently find that even volunteer ambulance companies are carrying out governmental actions and due process is required.

When does Due Process Apply?

- Employment terminations
- Disciplinary actions
- Medical Director withdrawal of EMS Provider's Credentials



State EMS Authority Process

- **IF - Applicant/Provider Accepts Noncompliance Notice**
 - EMSA Issues Final Action/Public Order
 - Reports Discipline
 - Healthcare Integrity & Protection Data Bank (HIPDB)
 - NREMT
 - EMS Service Medical Directors



State EMS Authority Disciplinary Process

- **IF - Applicant/Provider requests hearing**
- **EMSA schedules hearing**
- **EMSA considers Case Resolution Conference (CRC)**



Case Resolution Conference (CRC)

- **IF - CRC accepts resolution**
 - Results presented EMSA
- **EMSA accepts CRC resolution**
 - Hearing canceled
 - EMSA Final Action
 - Reports Discipline



Case Resolution Conference (CRC)

- IF - CRC panel rejects resolution
- EMSA Complaint to EMS Hearing
- Administrative Hearing Process
 - Decision non-binding on EMSA ?
- EMSA considers Administrative Hearing findings

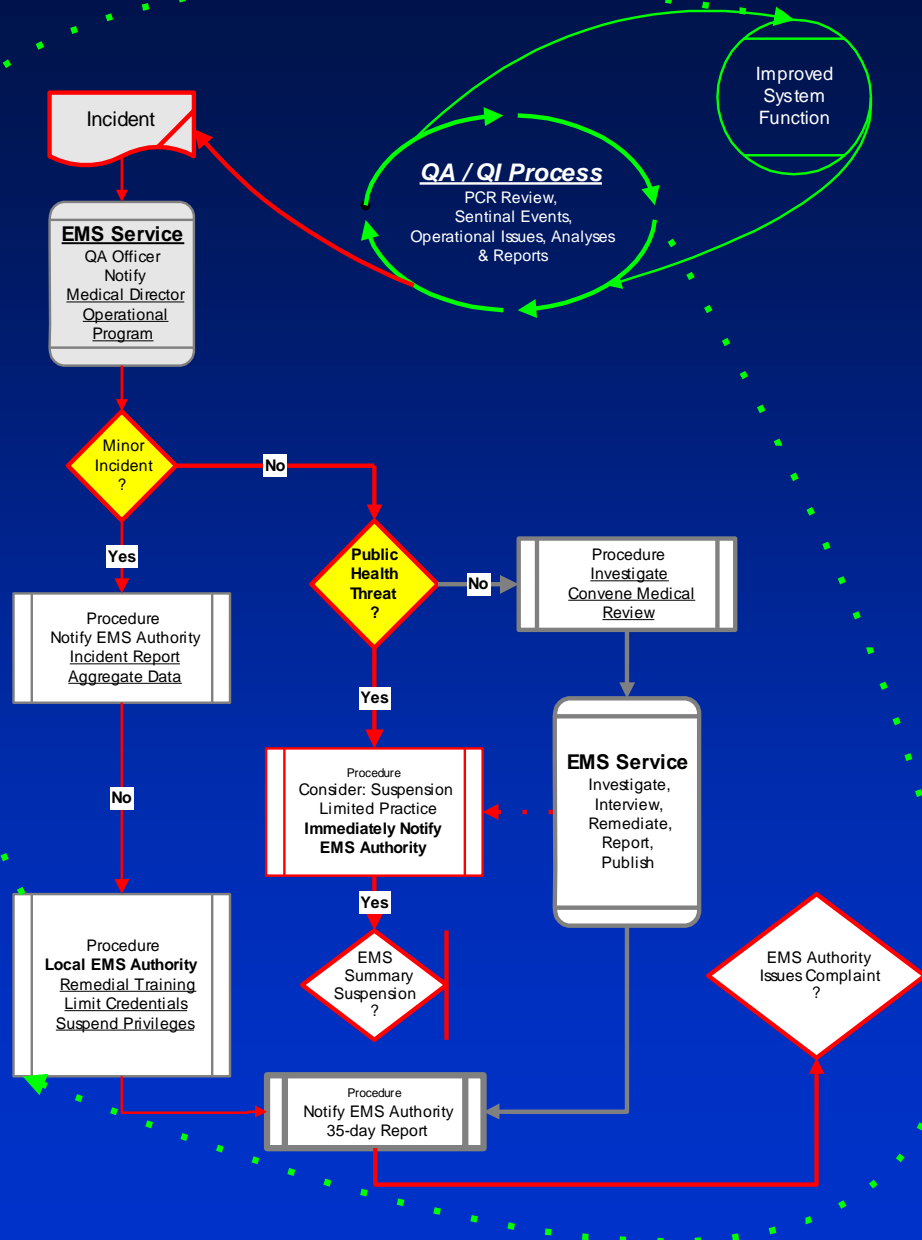


State EMS Authority Process

- EMSA issues **Final Action/Public Order**
- Report to Healthcare Integrity and Protection Data Bank (**HIPDB**)
- Applicant/Provider may **appeal** EMSA decision to the **Circuit Court (TORT)?**

State EMS Authority Due Process

- **EMS Provider may not surrender** certificate or license during an investigation of IRC Complaint unless EMS Board wishes to accept it
- **EMS Authority may not allow** certification or license to **lapse** during disciplinary process



Criminal Convictions

- **Self-reported criminal conviction**
- **Discovered criminal history**
 - Not reported to EMSA
 - Prohibited Conduct (fraudulent application)
- **Discovery/Report EMS Provider convicted new crime**

Criminal Convictions

- Self-reported criminal conviction

Email Address: _____

Legal Questions (EMS Courses Only)

1. Have you ever applied for licensure or certification in any state other than Maryland?
 Yes (*Attach copy of state certification or license*)
 No
2. Have you ever had any health care certification or license withheld, suspended, revoked, or denied, or have you surrendered, or allowed a license or certificate to expire or lapse as the result of an investigation or disciplinary action?
 Yes No
3. Have you ever been convicted of, or pled guilty to, pled nolo contendere to, or received probation before judgement with respect to any crime other than a minor traffic violation, the record of which has not been expunged?
 Yes No

For EMS Courses, if you responded yes to #2 or #3, you must submit documentation that fully describes the offense, copies of relevant court documents, disposition, and current status to the Compliance Office at 653 West Pratt Street, Baltimore, MD 21201-1536 (Telephone 410-706-2339). Failure to submit complete documentation will delay the processing of your application.

SCANTRON® EM-F14220-2:654321 ED01

© SCANTRON CORPORATION 2009
ALL RIGHTS RESERVED.

1



Criminal Convictions

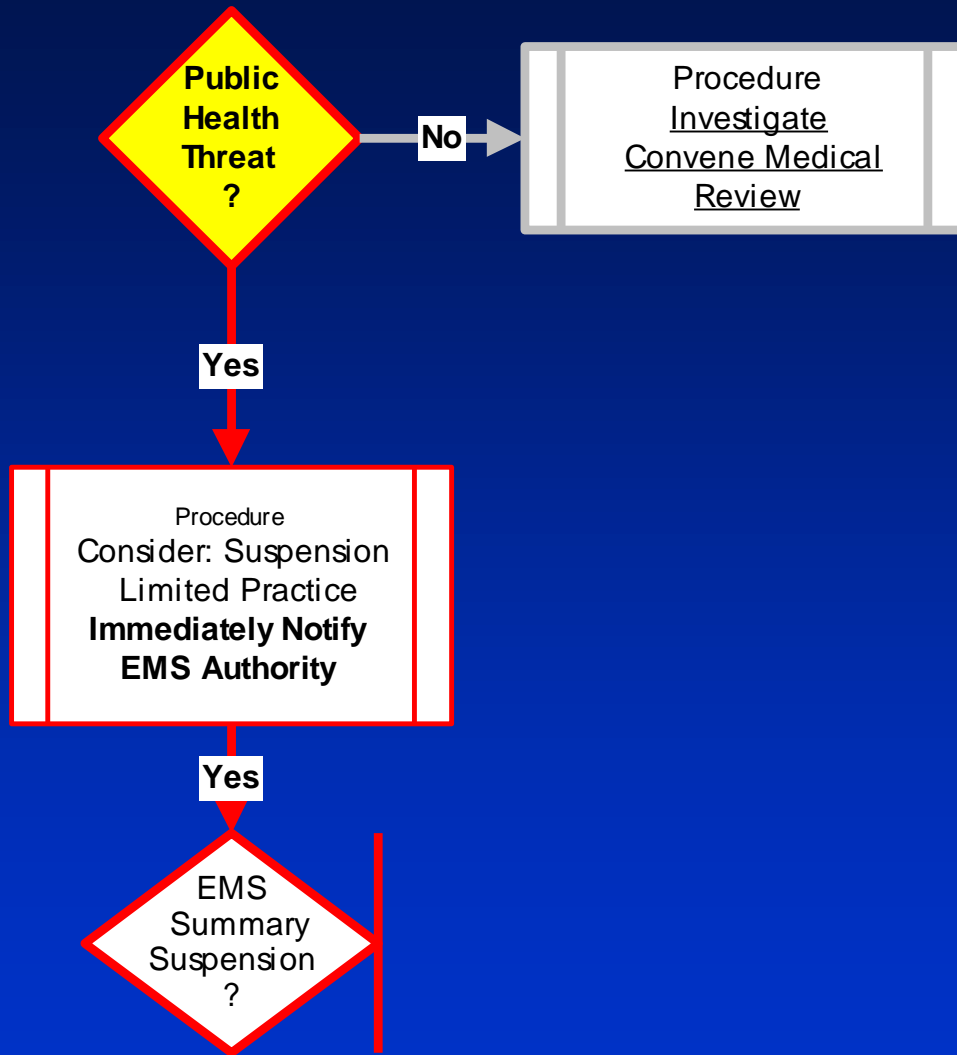
Important Considerations

- Mandatory background checks
- Identify and report criminal convictions
- Frequent Sex Offender Registry checks

EMS Provider Credentials

- **Medical Director Limits Provider credentials**
 - **Clinical competence**
 - **Medical decision making**





EMS Provider Suspended

- **Local**
 - **During investigation (EMSA considers public threat)**
- **Summary Suspension**
 - **Threat to Health and Welfare of the public (contact State EMSA Medical Director)**
 - **Opportunity for immediate hearing ?**
 - **Case Review**
 - **Consider Parallel Investigation**
- **Ensure “Due Process”**
- **NREMT notification**



Publish Disciplinary Actions

Maryland EMS News
For All Emergency Medical Care Providers

Disciplinary Actions

The following final disciplinary actions were issued:

B-2009-468 (EMT-B) (Applicant)—October 25, 2010. For inappropriate physical contact with a female while on duty and other instances of inappropriate conduct while on duty, in the presence of females. Provider was placed on probation for 1 year during which Provider was required to enroll in and successfully complete sexual harassment sensitivity training.

B-2009-484 (CRT)—(By Disposition Agreement) June 8, 2010. For failing to render appropriate CRT level care, Provider was placed on probation for six months and required to demonstrate Advanced Life Support skills proficiency to an emergency medical services director by July 1, 2010, with quarterly progress reports sent to MIEMSS Compliance Office.

B-2009-483 (CRT) (Applicant)—October 25, 2010. For pleading guilty to driving or attempting to drive a vehicle while under the influence, licensing process was allowed to proceed, and, if licensed, the Applicant will be placed on probation for 1 year and subject to random drug testing at Applicant's expense.

B-2009-485 (EMT-B) (Applicant)—October 25, 2010. For pleading guilty to driving or attempting to drive a vehicle while impaired by alcohol and receiving probation before judgment and 18 months of supervised probation, certification process was allowed to proceed, and, if certified, the Applicant will be placed on probation concurrent with court-ordered probation and subject to random alcohol and drug testing at Provider's expense.

B-2010-489 (EMT-B) (Applicant)—October 25, 2010. For functioning as an EMT-B for two weeks without a Maryland EMT-B certification, the Applicant was reprimanded.

Published Disciplinary Actions

B-2009-484 (CRT)—(by Disposition Agreement) June 8, 2010. For failing to render appropriate CRT level care, Provider was placed on probation for six months and required to demonstrate Advanced Life Support skills proficiency to an emergency medical services director by July 1, 2010, with quarterly progress reports sent to MIEMSS Compliance Office.

B-2009-495 (EMT-B) (Applicant)—October 25, 2010. For pleading guilty to driving or attempting to drive a vehicle while impaired by alcohol and receiving probation before judgment and 18 months of supervised probation, certification process was allowed to proceed, and, if certified, the Applicant will be placed on probation concurrent with court-ordered probation and subject to random alcohol and drug testing at Provider's expense.

Questions

- Ensure “**due process**”
 - Protects public and provider and EMSA