WEST VIRGINIA CODE: §16-4C-9

§16-4C-9. Complaints; investigations; due process procedure; grounds for disciplinary action; public notice of action.

(a) The commissioner may at any time, upon his or her own motion, and shall, upon the written complaint of any person, cause an investigation to be conducted to determine whether grounds exist for disciplinary action under this article or legislative rules promulgated pursuant to this article.

(b) An investigator or other person who, under the direction of the commissioner or the director, gathers or reports information in good faith to the commissioner or the director, is immune from civil liability.

(c) After reviewing any information obtained through an investigation, the commissioner or director shall determine if probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or certificate holder has violated any provision of this article or rules promulgated pursuant to this article, the commissioner or director shall provide a copy of the complaint and notice of hearing to the licensee or certificate holder. Upon a finding of probable cause that the conduct or continued service or practice of any individual certificate holder may create a danger to public health or safety, the commissioner may temporarily suspend the certification prior to a hearing or notice: *Provided*, That the commissioner may rely on information received from a physician who serves as a medical director in finding that probable cause exists to temporarily suspend the certification: *Provided, however*, That the commissioner shall simultaneously institute proceedings for a hearing in accordance with §16-4C-10 of this code.

(e) The commissioner or the director may enter into a consent decree or hold a hearing for the suspension or revocation of the license or certification or the imposition of sanctions against the licensee or certificate holder.

(f) The commissioner or the director may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person or agency regulated by this article.

(g) The commissioner or the director may sign a consent decree or other legal document related to the complaint.

(h) The commissioner shall suspend or revoke any certificate, temporary certificate, or license when he or she finds the holder has:

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(1) Obtained a certificate, temporary certificate, or license by means of fraud or deceit; or

(2) Been grossly incompetent or grossly negligent as defined by the commissioner in accordance with rules or by prevailing standards of emergency medical services care; or

(3) Failed or refused to comply with the provisions of this article or any legislative rule promulgated by the commissioner or any order or final decision of the commissioner; or

(4) Engaged in any act during the course of duty which has endangered or is likely to endanger the health, welfare, or safety of the public.

(i) The commissioner or the director may, after notice and opportunity for hearing, deny or refuse to renew, suspend, or revoke the license or certification of, impose probationary conditions upon, or take disciplinary action against, any licensee or certificate holder for any violation of this article or any rule promulgated pursuant to this article, once a violation has been proven by a preponderance of the evidence.

(j) Disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative penalties and fines;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the licensee or holder of a certificate to report to the commissioner or director for periodic interviews for a specified period of time;

(7) Other disciplinary action considered by the commissioner or director to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk; or

(8) Other sanctions as set forth by legislative rule promulgated pursuant to this article.

(k) The commissioner shall suspend or revoke any certificate, temporary certificate, or license if he or she finds the existence of any grounds which would justify the denial of an application for the certificate, temporary certificate, or license if application were then being made for it.

(l) The Office of Emergency Medical Services shall, after notice and opportunity for hearing, make available to the public electronically via the board's website, information regarding any suspension or revocation of the certification of EMS personnel for any violation of this

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article or any rule promulgated pursuant to this article. The information published shall be limited to the individual's name, certification number, whether the certification was revoked or suspended, and the date of action. This section does not require the Office of Emergency Medical Services to publish any information otherwise protected under this code.

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