

A Quick Guide to the MQA Disciplinary Process

Discretionary Emergency Orders – 3 Things to Know

- 1** The Emergency Action process is applicable to any licensed Florida health care professional who poses an immediate, serious danger to the public health, safety or welfare.
*456.073(8); 120.60(6), Florida Statutes

What that means:

- Immediacy is necessary. If an incident occurred too long ago to be considered immediate anymore, it will not qualify for Emergency Action. (Determination of “too long ago” is made on a case-by-case basis.)
- The allegation(s) need to rise to a sufficient level of seriousness to warrant the emergency order.

Emergency Restriction Orders (EROs) and Emergency Suspension Orders (ESOs) are exclusively issued by the State Surgeon General. As with Probable Cause Panels, the Surgeon General can either accept or disregard the preceding investigation-based recommendation made by Prosecution Services Unit attorneys.

- 2** In addition to immediacy, the DOH is only permitted to use the “least restrictive means” to stop the danger. *120.60(6)(b)

What that means:

The Emergency Action must be in line with what danger is posed to the public – whether it be just a portion, or, the public as a whole. (Example: If a male licensee accused of sexual misconduct against females will only be restricted to not treating females.)

The distinction between orders:

- ESOs – For licensees deemed to be a threat to the public at large
- EROs – For licensees considered a threat to a segment of the population

The Emergency Order process is carried out without a hearing. Restricting someone’s right to work without the benefit of a hearing, the balancing act dictated by appellate law calls for it be done by the least restrictive means.

- 3** An ESO or ERO is not considered final agency action.

What that means:

- Orders can be appealed within 30 days of issuance. The appeal can play out while the normal disciplinary process – toward administrative complaint and regular prosecution – runs its course. *120.60(6)(c)
- The accused health care practitioner is entitled to a hearing before final action is taken by a regulatory board or by the Department of Health. He or she can request an expedited full evidentiary hearing, which requires the presentation of evidence that is admissible in court and witnesses to testify to prove the alleged violation.

- Complaints have to be filed within 20 days of an ERO/ESO – *Rule 28-106.501(3), Florida Administrative Code.



The violation posing the public danger must be a viable charge listed under the Practice Acts or the rules regulating the Department of Health, including:

- commission of crimes
- violations of standards of care
- drug use / impairment
- drug diversion
- sexual misconduct
- student loan defaults