

**DALA WEB DECISION INDEX BY SUBJECT,  
WITH KEYWORD AND PHRASE DIGEST**

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**ORGANIZATION**

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**AGRICULTURAL RESOURCES**

**Animal Shelter, Rescue and Adoption Operations**

—Unapproved or Unregistered Operations

*Enforcement and Civil Penalties*

—Animal Quarantine Violations

*Enforcement and Civil Penalties*

**Pesticide Program**

—Herbicide Application—Right of Way Management

*Vegetation Management Plan Approval*

**WIC Farmers' Market Nutrition Program**

—Farmers' Market Coupon Program Violations

*Enforcement and Civil Penalties*

CERTIFIED NURSE AIDE / HOME HEALTH AIDE DISCIPLINE

*Abuse*

*Neglect*

*Property Misappropriation*

EDUCATOR LICENSE REVOCATION

*Dismissal of Appeal*

EMERGENCY MEDICAL TECHNICIAN CERTIFICATION

*Revocation and Suspension of EMT Certification*

EXPEDITED PERMITTING - M.G.L. c. 43D

*Constructively-Granted Permit*

FAMILY CHILD CARE LICENSING

*Family Child Care Provider License Denial*

—Denial of Original License Application

*History of Child Neglect*

—Denial of License Renewal

*Disqualifying Background of Family Member*

**Family Child Care Provider License Revocation**

- Generally
- Insufficient Basis for Revoking License
- Sufficient Basis for Revoking License

**Family Child Care Provider License Suspension**

- Generally
- Insufficient Basis for Suspending License
- Sufficient Basis for Suspending License

**LEAD INSPECTOR LICENSING**

**Denial of License Renewal**

- Dismissal of Appeal

**MEDICAL MARIJUANA**

**Medical Marijuana Certification**

- Authority to Issue, and Delegation of Authority

**Dispensary Agent Registration**

- Temporary Revocation

PHYSICIAN DISCIPLINE

*Conduct Placing Into Question Competence to Practice Medicine*

*Conduct Undermining Public Confidence in Integrity of Medical Profession*

*Failure to Meet Standard of Care*

*Gross Misconduct in Practice of Medicine*

*Malpractice*

—Order of Default

*Misconduct in Practice of Medicine*

*Practicing Medicine While Ability to Practice is Impaired by Alcohol or Drugs*

—Order of Default

*Sexual Misconduct*

—Insufficient Evidence

*Summary Suspension of Physician as Immediate and Serious Threat to  
Public Health, Safety or Welfare*

—Generally

—Insufficient Evidence

## PRACTICE AND PROCEDURE

### Decision Upon Written Submissions

#### Directed Decision

—Granted as “Summary Decision” Following Hearing

*Physician Discipline Appeals*

*Retirement Appeals - Accidental Disability Retirement*

*Retirement Appeals - Group Classification for Retirement Purposes*

#### Discovery

—Document Requests

*Motion to Compel Production of Documents*

*Motion to Serve Record-Keeper Subpoena*

—Interrogatories

*Generally*

*Retirement Appeals*

#### Dismissal

—Lack of Jurisdiction Dismissal

*Failure to State a Claim for Relief*

*Lack of Standing*

*Mootness*

*Untimeliness*

—Lack of Prosecution Dismissal

*Family Child Care Licensing Appeals*

*Physician Discipline Appeals*

*Retirement Appeals*

*Educator License Revocation Appeals*

*Veterans' Benefits Appeals*

*Wage and Hour Laws Appeals*

**Reconsideration of Final Decisions**

*Generally*

*EMT Certification Revocation Proceedings*

*Physician Discipline Proceedings*

*Retirement Appeals*

*Veterans' Benefits Appeals*

**Reopening the Record**

*Generally*

*Retirement Appeals*

**Subpoenas**

—Records-Only Subpoena

—Subpoena Duces Tecum

*Record-Keeper Subpoena*

## **Summary Decision**

- Availability and Grounds, Generally
- EMT Certification Revocation Proceedings
- Family Child Care Provider License Denial Appeals
- Expedited Permit Appeals (M.G.L. c. 43D)
- Retirement Appeals

### *Accidental Disability Retirement Benefits*

- Veterans' Benefits Appeals
- Wage and Hour Laws Appeals

## **RETIREMENT**

### **Accidental Death Benefits**

### **Accidental Disability Retirement Benefits**

- Eligibility to Claim Benefits
- Grounds to be Proved

*Causation (Causal Nexus Between Work-Related Injury and Disability), Generally*

*Causation - Insufficient Proof*

*Causation - Sufficient Proof*

*Disability (Disabling Injury Sustained During Employment)*

*Permanence (Totality and Permanence of Disabling Injury Sustained During Employment))*

—Medical Panel Review

*Entitlement to Initial Panel Review*

*Entitlement to Review by New Medical Panel*

—Panel Affirmative as to Disability, Permanence, or Work-Related Causation

*Majority Affirmative Panel*

*Unanimous Affirmative Panel*

—Panel Negative as to Disability, Permanence, or Work-Related Causation

*Generally*

*Majority Negative Panel*

*Unanimous Negative Panel*

—Procedural Requirements

*Notice of Injury to Retirement Board Within 90 Days Following Injury or Hazard Undergone (M.G.L. c. 32, § 7(a)1)*

*Occurrence of Injury or Hazard Undergone More Than Two Years Prior to Accidental Disability Retirement Application*

—Psychological or Emotional Injury

*Generally*

*Insufficient Proof; Accidental Disability Retirement Benefits Denial Affirmed*

*Sufficient Proof; Accidental Disability Retirement Benefits Denial Reversed*

—Statutory Presumptions

*Cancer Presumption*

*Heart Law Presumption*



## **Beneficiaries of Retirement Contributions**

### **—Benefits**

*Limitations, Overpayments, and Discretionary Waiver of Recoupment or Repayment*

### **—Designation of Beneficiaries**

*Former Spouse*

## **Buyback of Previously-Refunded Retirement Contributions**

## **Computation of Retirement Benefits**

### **—Benefits to Former Spouse Under Domestic Relations Order (DRO) or Qualified Domestic Relations Order (QDRO)**

### **—Retirement Allowance Computation**

*Superannuation Retirement Allowance*

### **—Regular Compensation - Service or Amounts Included**

### **—Regular Compensation - Service or Amounts Not Included**

## **Creditable Service**

### **—Discovery Related to Creditable Service Purchase Denial Appeal**

*Document Requests*

*Interrogatories*

*Record-keeper Subpoenas*

### **—Interest on Purchase (Buyback) of Creditable Service**

### **—Prior Service Eligible for Creditable Service Purchase**

—**Prior Service Ineligible for Creditable Service Purchase**

*Application to Purchase Prior Service by Inactive Retirement System Member*

*Employer Funded by Federal Job-Training Programs*

*Full-Time Prior Contract Service (M.G.L. c. 32, § 4(1)(s))*

*Part-Time Prior Contract Service*

*Prior Non-Teaching Service in Charter School (M.G.L. c. 71, § 89(y) and M.G.L. c. 32, § 3(5) ).*

*Prior Service in Non-Public School, But Not Engaged in Teaching Pupils (M.G.L. c. 32, § 4(1)(p))*

*Unpaid Leave*

**Early Retirement Incentive Program (ERIP)**

—**Eligibility for ERIP, Generally**

—**Eligible to Participate in ERIP**

—**Ineligible to Participate in ERIP**

**Group Classification for Retirement Purposes**

—**Pro-Rating Group Classification**

—**Reclassification from Group 1 to Group 2**

*Generally*

*Reclassification Denied - Group 1 to Group 2*

*Reclassification Granted - Group 1 to Group 2*

—**Reclassification from Group 1 to Group 4**

*Generally*

*Reclassification Denied - Group 1 to Group 4*

*Reclassification Granted - Group 1 to Group 4*

**Pension Forfeiture**

**Post-Retirement Earnings Limitations**

—Exceptions

**Retirement Plus (Enhanced Alternative Superannuation Retirement) Program**

—Eligibility

—Ineligibility

—Teachers Hired Before July 1, 2001

*Failure to Elect Retirement Plus before Statutory Deadline*

**Retirement Systems**

—Membership

*Local Retirement System*

*Massachusetts Teachers' Retirement System*

—Rescission, Revocation or Termination of Membership

—Retirement Board Regulations

**Termination Retirement Benefits**

—Ineligibility

## VETERANS' BENEFITS

### Benefits Under M.G.L. c. 115 and DVS Regulations, Generally

#### Determination of Benefits

—Calculating an Applicant's Needs-Based "Budget"

*Applicant's Financial Need, Generally*

*Applicant Living Alone*

*Applicant and Spouse*

*Institutional and Transitional Housing Residents*

*"Medical Only" Benefits*

#### Dismissal of Appeals

—Lack of Prosecution

### Eligibility for Veterans' Benefits

—"Medical Only" Benefits

—"Ordinary" Benefits

### Overpayment of Benefits - "Refund Status"

#### Termination of Benefits

## WAGE AND HOUR LAWS

### Civil Penalties

—Intentional Violations

—Non-intentional Violations

### Failure to Pay Wages Timely

### Overtime Wages

### Payroll Records Maintenance and Production