

Assembly Bill No. 2554

Passed the Assembly August 21, 2006

Chief Clerk of the Assembly

Passed the Senate August 17, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1798.200 of, and to add Section 1798.203 to, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL’S DIGEST

AB 2554, Ridley-Thomas. Emergency medical technicians: certificates: discipline.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, provides for the certification of emergency medical technicians through the issuance of certificates, including EMT-I and EMT-II certificates, by local entities, known as local EMS agencies, which are designated by counties. Existing law also permits public safety agencies, for public safety personnel, and the State Board of Fire Services, for fire safety personnel, to issue EMT-I certificates. Existing law provides that the medical director of a local EMS agency or the Emergency Medical Services Authority may deny, suspend, or revoke certificates issued under these provisions, or may place a certificate holder on probation, upon finding the occurrence of any of specified events.

This bill would prohibit a medical director of the local EMS agency from suspending or revoking any EMT-I certificate issued by a public safety agency or from placing on probation an EMT-I certificate holder in which the public safety agency has issued the certificate until certain policies and procedures are developed by the medical director and approved by the authority. The bill would authorize the medical director to temporarily suspend an EMT-I or EMT-II certificate upon specified determinations.

By changing the policies and procedures requirements of local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The health and safety of Californians often depends on the timely response and competent care of emergency medical service personnel.

(b) Whether it is an automobile accident, heart attack, near drowning, unscheduled childbirth, gunshot wound, or other life critical incident, emergency medical technicians (EMTs) provide vital, lifesaving, prehospital attention to the public, and assist in transporting the sick or injured to an appropriate medical facility.

(c) Agencies charged with certifying EMTs as critical health care providers have a duty to protect the integrity of the certificates they issue.

(d) Effective monitoring and supervision of an EMT's activity performed under the authority of the certificate is an integral component of assuring the safe and efficient delivery of lifesaving services to the public.

(e) While many different agencies are authorized to issue EMT certificates under current law, local emergency medical services agencies are granted explicit authority to discipline all EMTs without regard to any appropriately administered discipline imposed by agencies that hold direct supervisory and disciplinary authority over the EMT certificate holders.

(f) Through required due process procedures defined by statute and case law, our state's fire departments also have the authority to discipline their EMT-I and EMT-II personnel.

(g) The public is best served when policies and procedures are enforced in a consistent and equitable manner. As such, the agency charged with issuing or renewing certificates for those who perform critical prehospital emergency care should also be the agency responsible for disciplining these certificate holders.

SEC. 2. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. (a) (1) The medical director of the local EMS agency may, in accordance with Chapter 5 (commencing with

Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, deny, suspend, or revoke any EMT-I or EMT-II certificate issued under this division, or may place any EMT-I or EMT-II certificate holder on probation, upon the finding by that medical director of the occurrence of any of the actions listed in subdivision (c).

(2) Notwithstanding paragraph (1), a medical director of the local EMS agency shall not suspend or revoke any EMT-I certificate issued by a public safety agency or place the holder of this certificate on probation, unless both of the following conditions are met:

(A) The local EMS agency develops policies and procedures for these disciplinary proceedings that are in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and these policies and procedures are submitted to, and approved by, the authority on a biennial basis.

(B) The policies and procedures described in subparagraph (A) shall require the medical director of a local EMS agency to consult with the relevant employer of the EMT-I certificate holder only after the medical director of the local EMS agency finds, after a completed investigation, the occurrence of any of the actions described in subdivision (c), but before the imposition of any discipline. The policies and procedures shall require, during this consultation, the medical director of the local EMS agency to determine whether the employer has terminated the EMT-I certificate holder strictly for any action described in subdivision (c) or has otherwise disciplined the EMT-I certificate holder for the same action that was the subject of the completed investigation. Unless the employer has terminated the employment of the EMT-I certificate holder strictly for an action described in subdivision (c), the policies and procedures shall prohibit the medical director of a local EMS agency from imposing discipline upon an EMT-I certificate holder who has already been disciplined by the employer for the same occurrence of an action that was the subject of the completed investigation by the medical director. The policies and procedures shall require the local EMS agency to give credit for any discipline imposed by the employer for any other charge related to the action.

(3) The authority shall review, modify, if necessary, and approve the policies and procedures submitted by the local EMS agency in accordance with paragraph (2), to ensure that they, at a minimum, meet the requirements set forth in that paragraph.

(4) Any information reported or disclosed by an employer pursuant to paragraph (2) shall be deemed to be an investigatory communication and shall be exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) pursuant to subdivision (f) of Section 6254 of the Government Code.

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

(2) Gross negligence.

(3) Repeated negligent acts.

(4) Incompetence.

(5) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(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.

(8) Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.

(9) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(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.

(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.

(12) Unprofessional conduct exhibited by any of 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 his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

(B) The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 to 56.6, inclusive, of the Civil Code.

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

SEC. 3. Section 1798.203 is added to the Health and Safety Code, to read:

1798.203. (a) The medical director of the local EMS agency may, after consultation with the relevant employer, temporarily suspend, prior to hearing, any EMT-I or EMT-II certificate upon a determination that both of the following conditions have been met:

(1) The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT-I or EMT-II certificate.

(2) Permitting the certificate holder to continue to engage in the certified activity, or permitting the certificate holder to continue to engage in the certified activity without restriction, would present an imminent threat to the public health or safety.

(b) Upon a temporary suspension pursuant to subdivision (a), the local EMS agency shall notify the certificate holder that his or her EMT-I or EMT-II certificate is suspended and shall identify the reasons therefor. Within three days of notification, the medical director of the local EMS agency shall determine the need for the certification action. If the medical director of the local EMS agency determines that the temporary suspension order should not continue, the local EMS agency shall immediately notify the certificate holder that the temporary suspension is lifted. If the medical director of the local EMS agency determines that the temporary suspension order should continue, the local EMS agency shall immediately notify the certificate holder of the decision to continue the temporary suspension and shall, within 15 calendar days, serve the certificate holder with a temporary suspension order and accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) If the certificate holder files a notice of defense, the hearing shall be held within 30 days of the local EMS agency's receipt of the notice of defense. The temporary suspension order shall be deemed vacated if the local EMS agency fails to make a final determination on the merits within 15 days after the administrative law judge renders the proposed decision.

SEC. 4. This act shall not be construed to limit or otherwise impair the medical control of the medical director of a local EMS agency granted pursuant to Section 1798 of the Health and Safety Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or

level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Approved _____, 2006

Governor