

ASSEMBLY BILL

No. 1931

Introduced by Assembly Member Rodriguez

February 12, 2016

An act to amend Section 1798.200 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1931, as introduced, Rodriguez. Emergency medical services: technicians.

Under existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, the Emergency Medical Services Authority is responsible for establishing training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel, including Emergency Medical Technician-I (EMT-I), Emergency Medical Technician-II (EMT-II), and Emergency Medical Technician Paramedic (EMT-P) designations. The act authorizes an employer of an EMT-I or EMT-II to conduct investigations and take disciplinary action against an EMT-I or EMT-II who is employed by that employer for specified conduct, and authorizes the authority to, among other things, deny, suspend, or revoke any EMT-P license for the same specified conduct.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 1798.200 of the Health and Safety Code
2 is amended to read:

3 1798.200. (a) (1) (A) Except as provided in paragraph (2),
4 an employer of an EMT-I or EMT-II may conduct investigations,
5 as necessary, and take disciplinary action against an EMT-I or
6 EMT-II who is employed by that employer for conduct in violation
7 of subdivision (c). The employer shall notify the medical director
8 of the local EMS agency that has jurisdiction in the county in which
9 the alleged violation occurred within three days when an allegation
10 has been validated as a potential violation of subdivision (c).

11 (B) Each employer of an EMT-I or EMT-II employee shall
12 notify the medical director of the local EMS agency that has
13 jurisdiction in the county in which a violation related to subdivision
14 (c) occurred within three days after the EMT-I or EMT-II is
15 terminated or suspended for a disciplinary cause, the EMT-I or
16 EMT-II resigns following notification of an impending
17 investigation based upon evidence that would indicate the existence
18 of a disciplinary cause, or the EMT-I or EMT-II is removed from
19 EMT-related duties for a disciplinary cause after the completion
20 of the employer’s investigation.

21 (C) At the conclusion of an investigation, the employer of an
22 EMT-I or EMT-II may develop and implement, in accordance with
23 the guidelines for disciplinary orders, temporary suspensions, and
24 conditions of probation adopted pursuant to Section 1797.184, a
25 disciplinary plan for the EMT-I or EMT-II. Upon adoption of the
26 disciplinary plan, the employer shall submit that plan to the local
27 EMS agency within three working days. The employer’s
28 disciplinary plan may include a recommendation that the medical
29 director of the local EMS agency consider taking action against
30 the holder’s certificate pursuant to paragraph (3).

31 (2) If an EMT-I or EMT-II is not employed by an ambulance
32 service licensed by the Department of the California Highway
33 Patrol or a public safety agency or if that ambulance service or
34 public safety agency chooses not to conduct an investigation
35 pursuant to paragraph (1) for conduct in violation of subdivision
36 (c), the medical director of a local EMS agency shall conduct the
37 investigations, and, upon a determination of disciplinary cause,
38 take disciplinary action as necessary against the EMT-I or EMT-II.

1 At the conclusion of these investigations, the medical director shall
2 develop and implement, in accordance with the recommended
3 guidelines for disciplinary orders, temporary orders, and conditions
4 of probation adopted pursuant to Section 1797.184, a disciplinary
5 plan for the EMT-I or EMT-II. The medical director's disciplinary
6 plan may include action against the holder's certificate pursuant
7 to paragraph (3).

8 (3) The medical director of the local EMS agency may, upon a
9 determination of disciplinary cause and in accordance with
10 regulations for disciplinary processes adopted pursuant to Section
11 1797.184, deny, suspend, or revoke any EMT-I or EMT-II
12 certificate issued under this division, or may place any EMT-I or
13 EMT-II certificate holder on probation, upon the finding by that
14 medical director of the occurrence of any of the actions listed in
15 subdivision (c) and the occurrence of one of the following:

16 (A) The EMT-I or EMT-II employer, after conducting an
17 investigation, failed to impose discipline for the conduct under
18 investigation, or the medical director makes a determination that
19 the discipline imposed was not according to the guidelines for
20 disciplinary orders and conditions of probation and the conduct of
21 the EMT-I or EMT-II certificate holder constitutes grounds for
22 disciplinary action against the certificate.

23 (B) Either the employer of an EMT-I or EMT-II further
24 determines, after an investigation conducted under paragraph (1),
25 or the medical director determines after an investigation conducted
26 under paragraph (2), that the conduct requires disciplinary action
27 against the certificate.

28 (4) The medical director of the local EMS agency, after
29 consultation with the employer of an EMT-I or EMT-II, may
30 temporarily suspend, prior to a hearing, any EMT-I or EMT-II
31 certificate or both EMT-I and EMT-II certificates upon a
32 determination that both of the following conditions have been met:

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

36 (B) Permitting the certificate holder to continue to engage in
37 the certified activity without restriction would pose an imminent
38 threat to the public health or safety.

39 (5) If the medical director of the local EMS agency temporarily
40 suspends a certificate, the local EMS agency shall notify the

1 certificate holder that his or her EMT-I or EMT-II certificate is
2 suspended and shall identify the reasons therefor. Within three
3 working days of the initiation of the suspension by the local EMS
4 agency, the agency and employer shall jointly investigate the
5 allegation in order for the agency to make a determination of the
6 continuation of the temporary suspension. All investigatory
7 information not otherwise protected by law held by the agency
8 and employer shall be shared between the parties via facsimile
9 transmission or overnight mail relative to the decision to
10 temporarily suspend. The local EMS agency shall decide, within
11 15 calendar days, whether to serve the certificate holder with an
12 accusation pursuant to Chapter 5 (commencing with Section 11500)
13 of Part 1 of Division 3 of Title 2 of the Government Code. If the
14 certificate holder files a notice of defense, the hearing shall be held
15 within 30 days of the local EMS agency's receipt of the notice of
16 defense. The temporary suspension order shall be deemed vacated
17 if the local EMS agency fails to make a final determination on the
18 merits within 15 days after the administrative law judge renders
19 the proposed decision.

20 (6) The medical director of the local EMS agency shall refer,
21 for investigation and discipline, any complaint received on an
22 EMT-I or EMT-II to the relevant employer within three days of
23 receipt of the complaint, pursuant to subparagraph (A) of paragraph
24 (1) of subdivision (a).

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

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

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

40 (2) Gross negligence.

1 (3) Repeated negligent acts.

2 (4) Incompetence.

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

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

10 (7) Violating or attempting to violate directly or indirectly, or
11 assisting in or abetting the violation of, or conspiring to violate,
12 any provision of this division or the regulations adopted by the
13 authority pertaining to prehospital personnel.

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

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

19 (10) Functioning outside the supervision of medical control in
20 the field care system operating at the local level, except as
21 authorized by any other license or certification.

22 (11) Demonstration of irrational behavior or occurrence of a
23 physical disability to the extent that a reasonable and prudent
24 person would have reasonable cause to believe that the ability to
25 perform the duties normally expected may be impaired.

26 (12) Unprofessional conduct exhibited by any of the following:

27 (A) The mistreatment or physical abuse of any patient resulting
28 from force in excess of what a reasonable and prudent person
29 trained and acting in a similar capacity while engaged in the
30 performance of his or her duties would use if confronted with a
31 similar circumstance. Nothing in this section shall be deemed to
32 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace
33 officer, or a peace officer who is acting in the dual capacity of
34 peace officer and EMT-I, EMT-II, or EMT-P, from using that force
35 that is reasonably necessary to effect a lawful arrest or detention.

36 (B) The failure to maintain confidentiality of patient medical
37 information, except as disclosure is otherwise permitted or required
38 by law in Part 2.6 (commencing with Section 56) of Division 1 of
39 the Civil Code.

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

3 (d) The information shared among EMT-I, EMT-II, and EMT-P
4 employers, medical directors of local EMS agencies, the authority,
5 and EMT-I and EMT-II certifying entities shall be deemed to be
6 an investigative communication that is exempt from public
7 disclosure as a public record pursuant to subdivision (f) of Section
8 6254 of the Government Code. A formal disciplinary action against
9 an EMT-I, EMT-II, or EMT-P shall be considered a public record
10 available to the public, unless otherwise protected from disclosure
11 pursuant to state or federal law.

12 (e) For purposes of this section, “disciplinary cause” means an
13 act that is substantially related to the qualifications, functions, and
14 duties of an EMT-I, EMT-II, or EMT-P and is evidence of a threat
15 to the public health and safety described in subdivision (c).