

Assembly Bill No. 1215

CHAPTER 549

An act to amend Sections 1797.172 and 1798.200 of the Health and Safety Code, relating to emergency medical services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed
with Secretary of State September 28, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1215, Thomson. Emergency medical services.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, requires the state Emergency Medical Services Authority to adopt, after approval of the commission, minimum standards for the training and scope of practice of an emergency medical technician-paramedic (EMT-P). Existing law requires that each application for licensure or licensure renewal of an EMT-P include the applicant's social security number to establish the applicant's identity and criminal convictions, if any.

This bill would require each application for licensure or licensure renewal to include one fingerprint card from all applicants and an additional fingerprint card from applicants who have not continuously resided in the state for the previous 7 years or when the authority has credible evidence that the applicant has a criminal history outside of California. The bill would require these latter fingerprints to be submitted to the Department of Justice to be forwarded to the Federal Bureau of Investigation. The bill would authorize the authority to charge a fee for services related to these fingerprinting and criminal record checks.

Under the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, each county may designate an emergency medical services agency (local EMS agency) for the establishment and administration of an emergency medical services program in the county, administered by the medical director. Existing law sets forth several grounds under which the medical director, in accordance with regulations adopted by the authority, may deny, suspend, or revoke a certificate, or for which the medical director may place a certificate holder on probation.

This bill would revise this provision to authorize the medical director to deny, suspend, or revoke a certificate, or place a certificate holder on probation, in accordance with specified regulations.

The Administrative Procedure Act contains provisions governing the conduct of administrative adjudication and rulemaking proceedings of state agencies.

This bill would require the authority to ensure that the local EMS agency's disciplinary policies and procedures are at least as effective in protecting the due process rights of any EMT-I or EMT-II certificate holder as those in the Administrative Procedure Act and would require that proceedings of the authority against any EMT-P license or licenseholder be in accordance with the Administrative Procedure Act. Because this bill would increase the duties of the local EMS authority with regard to disciplinary policies and procedures, this bill would impose a state-mandated local program.

Existing law sets forth certain actions that subject an EMT-P to administrative sanctions.

This bill would add unprofessional conduct as provided under the bill to the list of actions that would subject an EMT-P to administrative sanctions.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares as follows:

(a) Paramedics with out-of-state criminal records have been unknowingly licensed by the California Emergency Medical Services Authority because the authority does not access federal criminal background information.

(b) Paramedics continue to move here from out of state because the wages and weather conditions in California make it a desirable place to work.

(c) Cases of physical and sexual abuse by paramedics have been proven and admitted.

SEC. 2. Section 1797.172 of the Health and Safety Code is amended to read:



1797.172. (a) The authority shall develop, and after the approval of the commission pursuant to Section 1799.50, shall adopt, minimum standards for the training and scope of practice for EMT-P.

(b) The approval of the director, in consultation with a committee of local EMS medical directors named by the EMS Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-Ps proposed by the medical director of a local EMS agency.

(c) Notwithstanding any other provision of law, the authority shall be the agency solely responsible for licensure and licensure renewal of EMT-Ps who meet the standards and are not precluded from licensure because of any of the reasons listed in subdivision (d) of Section 1798.200. Each application for licensure or licensure renewal shall require the applicant's social security number in order to establish the identity of the applicant and a fingerprint card in order to determine whether the applicant has any criminal convictions in this state or any other jurisdiction, including foreign countries. The authority shall obtain a second fingerprint card for submission to the Department of Justice to be forwarded to the Federal Bureau of Investigation for processing from those applicants for licensure or licensure renewal who have not continuously resided in the state for the previous seven years, or when the authority has been presented with credible evidence that the applicant has a criminal history outside of California. The information obtained as a result of obtaining the applicant's social security number and fingerprint card or cards shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure or licensure renewal pursuant to this division. A fingerprint card may not be required for licensure renewal upon determination by the authority that a fingerprint card was already obtained during initial licensure, or a previous licensure renewal, provided that the license has not lapsed and the applicant has resided continuously in the state since the initial licensure.

(d) The authority shall charge fees for the licensure and licensure renewal of EMT-Ps in an amount sufficient to support the authority's licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The basic fee for licensure or licensure renewal of an EMT-P shall not exceed one hundred twenty-five dollars (\$125). Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal, including, but not limited to, any of the following services:

(1) Initial application for licensure as an EMT-P.

(2) Competency testing, the fee for which shall not exceed thirty dollars (\$30), except that an additional fee may be charged for the cost of any services that provide enhanced availability of the exam for the convenience of the EMT-P, such as on-demand electronic testing.



(3) Fingerprint and criminal record check. The applicant shall, if applicable according to subdivision (c), submit two fingerprint cards for criminal record checks with the Department of Justice and the Federal Bureau of Investigation.

(4) Out-of-state training equivalency determination.

(5) Verification of continuing education for a lapse in licensure.

(6) Replacement of a lost licensure card. The fees charged for individual services shall be set so that the total fees charged to EMT-Ps shall not exceed the authority's actual total cost for the EMT-P licensure program.

(e) The authority may provide nonconfidential, nonpersonal information relating to EMS programs to interested persons upon request, and may establish and assess fees for the provision of this information. These fees shall not exceed the costs of providing the information.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the EMT-P program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Services Personnel Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

SEC. 3. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. (a) The medical director of the local EMS agency may, in accordance with Chapter 6 (commencing with Section 100206) of Division 9 of Title 22 of the California Code of Regulations, 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). The authority shall ensure that the local EMS agency's disciplinary policies and procedures are, at a minimum, as effective in protecting the due process rights of any EMT-I or EMT-II certificate holder as those in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 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. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the California Emergency Medical Services Authority to implement a federal background check process as soon as possible to ensure the timely investigation of certain persons applying for licensure as a paramedic who have resided out of state or may have a criminal history outside of California.

