

AMENDED IN SENATE SEPTEMBER 5, 2007

AMENDED IN SENATE AUGUST 23, 2007

AMENDED IN SENATE JULY 3, 2007

AMENDED IN SENATE JUNE 11, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 941

Introduced by Assembly Member Torrico
(Principal coauthor: Senator Ridley-Thomas)
(Coauthor: Assembly Member Aghazarian)

February 22, 2007

~~An act relating to lending. An act to amend Sections 1797.170, 1797.171, and 1798.200 of, and to add Section 1797.117 to, the Health and Safety Code, relating to emergency medical services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 941, as amended, Torrico. ~~Real property loans: disclosures. 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, if certain conditions are met, would require the authority to maintain a centralized system for monitoring and tracing EMT-I and EMT-II certification status and EMT-P licensure status to be used by employers and local EMS agencies as part of the background check process. The bill would require EMS providers to verify that a background check is completed on all EMT-I and EMT-II holders and to submit certification data.

This bill would require the authority to establish EMT-I and EMT-II certification and disciplinary guidelines. This bill would require an EMS provider who employs an EMT-I or EMT-II to investigate and, as necessary, discipline those EMT-I and EMT-II employees who commit specified acts. The bill would also revise the grounds for which the local EMS agency may impose additional discipline against an EMT-I or EMT-II certificate holder.

This bill would also revise the grounds for which the authority may discipline EMT-P licensees to include, but not be limited to, denial of licensure by any other government entity, impersonating an applicant or acting as proxy for an applicant, and making a false statement in connection with an application.

By changing these enforcement 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.

~~Existing law, the Real Estate Law, requires a real estate broker, who negotiates a loan to be secured by a lien on real property, to deliver to the borrower a statement in writing containing specified information relating to the loan transaction. Existing law requires a lender to provide~~

a borrower with specified information prior to execution by the borrower of a mortgage payment instrument.

This bill would require the Department of Real Estate to review the real property transaction disclosure process and, by July 1, 2008, complete a draft report and post it on its Internet Web site for public review. The bill would require the Department of Real Estate to consult with other departments as necessary to assist in the preparation of the report, and would require any department so consulted to comply with the request. The bill would require the Department of Real Estate to accept written comments on its draft report and to submit a final report to the Legislature by January 1, 2009, with recommendations on how that process can be improved, as specified.

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *The health and safety of Californians often depends on the*
- 4 *timely response and competent care of emergency medical service*
- 5 *(EMS) personnel.*
- 6 (b) *Whether it is an automobile accident, heart attack, near*
- 7 *drowning, unscheduled childbirth, gunshot wound, or other life*
- 8 *critical incident, emergency medical technicians (EMTs) provide*
- 9 *vital, lifesaving, prehospital attention to the public, and assist in*
- 10 *transporting the sick or injured to an appropriate medical facility.*
- 11 (c) *Maintaining consistent and accountable supervision of EMT*
- 12 *certificate holders requires that pertinent information about*
- 13 *certification be available to all EMS providers prior to the*
- 14 *employment of an EMT.*
- 15 (d) *Ensuring the safety of the public as well as that of first*
- 16 *responders requires that any entity that employs EMTs have access*
- 17 *to pertinent information concerning any applicant's background*
- 18 *and criminal history as a condition of his or her employment.*
- 19 (e) *Local EMS agencies have a role to play in maintaining the*
- 20 *consistency of department policies and their conformance with the*
- 21 *legal requirements necessary to provide appropriate medical*
- 22 *oversight and protect the public safety.*

1 *SEC. 2. Section 1797.117 is added to the Health and Safety*
2 *Code, to read:*

3 *1797.117. (a) The Emergency Medical Services Authority shall*
4 *maintain a centralized registry system for the monitoring and*
5 *tracking of EMT-I and EMT-II certification status and EMT-P*
6 *licensure status, to be used by the local emergency medical services*
7 *agencies and employers of EMT personnel as part of the*
8 *certification process. To the extent that additional funds are needed*
9 *for this purpose, implementation of this subdivision shall be*
10 *contingent upon a specific appropriation provided for this purpose*
11 *in the annual Budget Act.*

12 *(b) The centralized registry system shall contain the full name*
13 *of the EMT-I, EMT-II, or EMT-P, the agency that issued the*
14 *certificate or, in the case of an EMT-P the license number, the*
15 *date of issuance of the license or certificate, the licensure or*
16 *certification status, and whether a background check was*
17 *completed as a condition of licensure, certification, or employment.*

18 *(c) The authority shall develop and, after approval of the*
19 *commission pursuant to Section 1799.50, adopt regulations to*
20 *implement this section to include, but not be limited to, penalty*
21 *provisions for failure of a local EMS agency to report certification*
22 *status changes according to the timelines established under this*
23 *section and failure of an EMS service provider to report*
24 *disciplinary actions to a local EMS agency according to the*
25 *timelines established under Section 1798.200.*

26 *(d) For the purposes of this section the following definitions*
27 *shall apply:*

28 *(1) "Certification status" means the current status of an EMT-I*
29 *or EMT-II certificate or EMT-P license as active, inactive (not*
30 *renewed), suspended, or revoked.*

31 *(2) "Background check" means a standard procedure developed*
32 *by the authority and, after approval by the commission pursuant*
33 *to Section 1799.50, adopted that shall a Federal Bureau of*
34 *Investigation and Department of Justice criminal history.*

35 *(e) Every authorized EMS provider shall verify that a*
36 *background check is completed on each EMT-I and EMT-II*
37 *certificate holder and shall submit the certification data as set*
38 *forth in this section.*

39 *(f) Each local EMS agency shall submit certification status*
40 *updates to the authority within three working days after a final*

1 *determination is made regarding a certification disciplinary action*
2 *taken by the medical director that results in a change in an EMT-I*
3 *or EMT-II certification status.*

4 *SEC. 3. Section 1797.170 of the Health and Safety Code is*
5 *amended to read:*

6 1797.170. (a) The authority shall establish minimum standards
7 and ~~promulgate~~ *shall adopt* regulations for the training and scope
8 of practice for EMT-I.

9 (b) *The authority shall develop and, after the approval of the*
10 *commission pursuant to Section 1799.50, adopt all of the following:*

11 (1) *Recommended guidelines for disciplinary orders and*
12 *conditions of probation for EMT-I certificate holders.*

13 (2) *Recommended guidelines for the issuance of EMT-I*
14 *certificates by a local EMS agency or other certifying authority.*

15 (3) *Recommended guidelines for the recertification of EMT-I*
16 *certificate holders, including, but not limited to, the requirement*
17 *that an applicant apply for recertification through one of the*
18 *following:*

19 (A) *If his or her employer is a certifying agency, through his or*
20 *her employer.*

21 (B) *If his or her employer is not a certifying agency, through a*
22 *certifying agency within the county of employment.*

23 (C) *If not currently employed, through a certifying agency within*
24 *his or her county of residence.*

25 ~~(b)~~

26 (4) *Recommended guidelines for disciplinary hearings for EMT-I*
27 *certificate holders which shall include, but not be limited to,*
28 *procedures and time restrictions for all of the following:*

29 (A) *Notifications.*

30 (B) *Written accusations.*

31 (C) *Requests for discovery.*

32 (D) *Hearings conducted by an independent, impartial panel.*

33 (c) *Any individual certified as an EMT-I pursuant to this act*
34 *shall be recognized as an EMT-I on a statewide basis, and*
35 *recertification shall be based on statewide standards. Effective*
36 *July 1, 1990, any individual certified as an EMT-I pursuant to this*
37 *act shall complete a course of training on the nature of sudden*
38 *infant death syndrome which is developed by the California SIDS*
39 *program in the State Department of ~~Health Services~~ Public Health*

1 in consultation with experts in the field of sudden infant death
2 syndrome.

3 *SEC. 4. Section 1797.171 of the Health and Safety Code is*
4 *amended to read:*

5 1797.171. (a) The authority shall develop, and after approval
6 of the commission pursuant to Section 1799.50, shall adopt,
7 minimum standards for the training and scope of practice for
8 EMT-II.

9 (b) *The authority shall develop and, after the approval of the*
10 *commission pursuant to Section 1799.50, adopt all of the following:*

11 (1) *Recommended guidelines for disciplinary orders and*
12 *conditions of probation for EMT-II certificate holders.*

13 (2) *Recommended guidelines for the issuance of EMT-II*
14 *certificates by a local EMS agency or other certifying authority.*

15 (3) *Recommended guidelines for the recertification of EMT-II*
16 *certificate holders, including, but not limited to, the requirement*
17 *that an applicant apply for recertification through one of the*
18 *following:*

19 (A) *If his or her employer is a certifying agency, through his or*
20 *her employer.*

21 (B) *If his or her employer is not a certifying agency, through a*
22 *certifying agency within the county of employment.*

23 (C) *If not currently employed, through a certifying agency within*
24 *his or her county of residence.*

25 ~~(b)~~

26 (4) *Recommended guidelines for disciplinary hearings for*
27 *EMT-II certificate holders which shall include, but not be limited*
28 *to, procedures and time restrictions for all of the following:*

29 (A) *Notifications.*

30 (B) *Written accusations.*

31 (C) *Requests for discovery.*

32 (D) *Hearings conducted by an independent, impartial panel.*

33 (c) *An EMT-II shall complete a course of training on the nature*
34 *of sudden infant death syndrome in accordance with subdivision*

35 ~~(b)~~ *(c) of Section 1797.170.*

36 ~~(e)~~

37 (d) (1) *In rural or remote areas of the state where patient*
38 *transport times are particularly long and where local resources are*
39 *inadequate to support an EMT-P program for EMS responses, the*
40 *director may approve additions to the scope of practice of EMT-IIs*

1 serving the local system, if requested by the medical director of
 2 the local EMS agency, and if the EMT-II has received training
 3 equivalent to that of an EMT-P. The approval of the director, in
 4 consultation with a committee of local EMS medical directors
 5 named by the Emergency Medical Directors Association of
 6 California, is required prior to implementation of any addition to
 7 a local optional scope of practice for EMT-IIs proposed by the
 8 medical director of a local EMS agency. No drug or procedure
 9 that is not part of the basic EMT-P scope of practice, including,
 10 but not limited to, any approved local options, shall be added to
 11 any EMT-II scope of practice pursuant to this subdivision.

12 ~~Approval~~

13 (2) *Approval* of additions to the scope of practices pursuant to
 14 this subdivision may be given only for EMT-II programs in effect
 15 on January 1, 1994.

16 *SEC. 5. Section 1798.200 of the Health and Safety Code is*
 17 *amended to read:*

18 1798.200. (a) (1) (A) *Except as set forth in paragraph (2),*
 19 *an authorized EMS provider shall conduct investigations, as*
 20 *necessary, and take disciplinary action against an EMT-I or*
 21 *EMT-II who is employed by the EMS provider for conduct in*
 22 *violation of subdivision (c).*

23 (B) *At the conclusion of the investigation the EMS provider may*
 24 *develop and implement, in accordance with the recommended*
 25 *guidelines for disciplinary orders and conditions of probation*
 26 *adopted pursuant to Sections 1797.170 and 1797.171, a*
 27 *disciplinary plan for the EMT-I or EMT-II.*

28 (C) *Upon adoption of the disciplinary plan, the EMS provider*
 29 *shall inform the local EMS agency within three working days of*
 30 *its findings and the disciplinary action taken.*

31 (D) *The EMS provider's disciplinary plan may include a*
 32 *recommendation that the medical director of the local EMS agency*
 33 *consider taking action against the holder's certificate pursuant to*
 34 *paragraph (3).*

35 (2) *If the EMT-I or EMT-II is not employed by an authorized*
 36 *EMS provider, any investigation or disciplinary action shall be*
 37 *conducted by the medical director of the local EMS agency.*

38 (3) (A) *The medical director of the local EMS agency may, in*
 39 *accordance with Chapter 6 (commencing with Section 100206) of*
 40 *Division 9 of Title 22 of the California Code of Regulations*

1 *recommended guidelines for disciplinary hearings adopted by the*
2 *authority pursuant to Sections 1797.170 and 1797.171, deny,*
3 *suspend, or revoke any the EMT-I or EMT-II certificate issued*
4 *under this division, or may place any EMT-I or EMT-II certificate*
5 *holder on probation, upon the finding by that medical director of*
6 *the occurrence of any of the actions listed in subdivision (c). The*
7 *authority shall ensure that the local EMS agency's disciplinary*
8 *policies and procedures are, at a minimum, as effective in*
9 *protecting the due process rights of any EMT-I or EMT-II*
10 *certificate holder as those in Chapter 5 (commencing with Section*
11 *11500) of Part 1 of Division 3 of Title 2 of the Government Code.*
12 *and one of the following:*

13 *(i) That the EMS service provider recommended certification*
14 *action pursuant to subparagraph (D) of paragraph (1).*

15 *(ii) That the EMS service provider failed to impose discipline*
16 *for the act or omission, or the medical director makes a*
17 *determination that the discipline imposed was not sufficient and*
18 *the act or omission engaged in by the EMT-I or EMT-II certificate*
19 *holder constitutes grounds for further disciplinary action against*
20 *the certification.*

21 *(iii) A determination pursuant to an investigation conducted*
22 *under paragraph (2) that the act or omission requires disciplinary*
23 *action against the certification.*

24 *(B) Any information reported or disclosed by an employer*
25 *pursuant to this subdivision shall be deemed to be an investigatory*
26 *communication and shall be exempt from disclosure pursuant to*
27 *the California Public Records Act (Chapter 3.5 (commencing with*
28 *Section 6250) of Division 7 of Title 1 of the Government Code).*

29 *(4) Notwithstanding any provision of law to the contrary, the*
30 *local EMS agency may elect to refer to the authority, the task of*
31 *performing the local EMS agency's duties under paragraph (3).*
32 *If the local EMS agency makes this election, it shall inform the*
33 *authority and the EMS providers in its area, and thereafter the*
34 *authority shall perform the duties of the local EMS agency pursuant*
35 *to paragraph (3) within the local EMS agency's area.*

36 *(b) The authority may deny, suspend, or revoke any EMT-P*
37 *license issued under this division, or may place any EMT-P license*
38 *issued under this division, or may place any EMT-P licenseholder*
39 *on probation upon the finding by the director of the occurrence of*
40 *any of the actions listed in subdivision (c). Proceedings against*

1 any EMT-P license or licenseholder shall be held in accordance
2 with Chapter 5 (commencing with Section 11500) of Part 1 of
3 Division 3 of Title 2 of the Government Code.

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

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

11 ~~(2) Gross negligence~~

12 (2) *Denial of licensure, revocation, suspension, or other*
13 *disciplinary action against an EMT license or certification by*
14 *another state or territory of the United States, by any other*
15 *government agency, or by another California licensing entity. A*
16 *certified copy of the decision or judgment shall be conclusive*
17 *evidence of that action.*

18 ~~(3) Repeated negligent acts~~

19 (3) *Impersonating an applicant or acting as proxy for an*
20 *applicant in any examination or continuing education required*
21 *under this division for the issuance of a certificate or license.*

22 (4) *Incompetence or gross negligence in carrying out usual*
23 *certified or licensed EMT functions.*

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

27 (5) *Making or giving any false statement or information in*
28 *connection with the application for issuance of a certificate or*
29 *license.*

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

34 (7) Violating or attempting to violate directly or indirectly, or
35 assisting in or abetting the violation of, or conspiring to violate,
36 any provision of this division or the regulations adopted by the
37 authority pertaining to prehospital personnel.

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

- 1 ~~(9) Addiction to the excessive use of, or the misuse of, alcoholic~~
- 2 ~~beverages, narcotics, dangerous drugs, or controlled substances.~~
- 3 (8) *Impersonating another certified or licensed practitioner, or*
- 4 *permitting or allowing another person to use his or her certificate*
- 5 *or license for the purpose of providing emergency medical services.*
- 6 ~~(10)~~
- 7 (9) Functioning outside the supervision of medical control in
- 8 the field care system operating at the local level, except as
- 9 authorized by any other license or certification.
- 10 ~~(11) Demonstration of irrational behavior or occurrence of a~~
- 11 ~~physical disability to the extent that a reasonable and prudent~~
- 12 ~~person would have reasonable cause to believe that the ability to~~
- 13 ~~perform the duties normally expected may be impaired.~~
- 14 ~~(12)~~
- 15 (10) Unprofessional conduct exhibited by any of the following:
- 16 (A) The mistreatment or physical abuse of any patient resulting
- 17 from force in excess of what a reasonable and prudent person
- 18 trained and acting in a similar capacity while engaged in the
- 19 performance of his or her duties would use if confronted with a
- 20 similar circumstance. Nothing in this section shall be deemed to
- 21 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace
- 22 officer, or a peace officer who is acting in the dual capacity of
- 23 peace officer and EMT-I, EMT-II, or EMT-P, from using that force
- 24 that is reasonably necessary to effect a lawful arrest or detention.
- 25 (B) The failure to maintain confidentiality of patient medical
- 26 information, except as disclosure is otherwise permitted or required
- 27 by law in Sections 56 to 56.6, inclusive, of the Civil Code.
- 28 (C) The commission of any sexually related offense specified
- 29 under Section 290 of the Penal Code.
- 30 (D) *Obtaining or possessing in violation of the law, or, except*
- 31 *as directed by a licensed physician and surgeon, dentist, or*
- 32 *podiatrist, administer to himself or herself, or furnish or administer*
- 33 *to another, any controlled substance as defined in Division 10*
- 34 *(commencing with Section 11000) of this code or any dangerous*
- 35 *drug or dangerous device as defined in Section 4022 of the*
- 36 *Business and Professions Code.*
- 37 (E) *Use of any controlled substance as defined in Division 10*
- 38 *(commencing with Section 11000) of this code or any dangerous*
- 39 *drug or dangerous device as defined in Section 4022 of the*
- 40 *Business and Professions Code, or alcoholic beverages, to an*

1 *extent or manner dangerous or injurious to himself or herself, any*
2 *other person, or the public, or to the extent that the use impairs*
3 *his or her ability to conduct with safety to the public the practice*
4 *authorized by his or her certification.*

5 *(F) Conviction of a criminal offense involving the prescription,*
6 *consumption, or self-administration of any of the substances*
7 *described in subparagraphs (D) and (E), or the possession of, or*
8 *falsification of a prescription record pertaining to, the substances*
9 *described in subparagraph (D), in which event the record of the*
10 *conviction is conclusive evidence thereof.*

11 *(G) Being committed or confined by a court of competent*
12 *jurisdiction for intemperate use of or addiction to the use of any*
13 *of the substances described in subparagraphs (D) and (E), in which*
14 *event the court order of commitment or confinement is prima facie*
15 *evidence of that commitment or confinement.*

16 *(H) Falsifying, or making grossly incorrect, grossly inconsistent,*
17 *or unintelligible entries in any hospital, patient, or other record*
18 *pertaining to substances described in subparagraph (D).*

19 *SEC. 6. This act shall not be construed to limit or otherwise*
20 *impair the medical control of the medical director of a local EMS*
21 *agency granted pursuant to Section 1798 of the Health and Safety*
22 *Code.*

23 *SEC. 7. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*

32 ~~SECTION 1. (a) The Department of Real Estate shall review~~
33 ~~the real property transaction disclosure process and report to the~~
34 ~~Legislature with recommendations on how that process can be~~
35 ~~improved to ensure a consumer's ability to better understand the~~
36 ~~terms of the transaction, including the terms of his or her mortgage~~
37 ~~loan. This report shall include, but not be limited to,~~
38 ~~recommendations on which state-required real property transfer~~
39 ~~documents should be added, amended, consolidated, made optional,~~
40 ~~or eliminated.~~

1 ~~(b) The department shall consult with other departments as~~
2 ~~necessary to assist in the preparation of the report. Any department~~
3 ~~so consulted shall comply with the request.~~

4 ~~(c) The department shall complete a draft report by July 1, 2008,~~
5 ~~which shall be posted on its Internet Web site and made available~~
6 ~~free of charge to members of the public for review. The department~~
7 ~~shall accept written comments on the draft report through October~~
8 ~~31, 2008, and shall submit a final report to the Legislature by~~
9 ~~January 1, 2009.~~