

AMENDED IN SENATE SEPTEMBER 7, 2007
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~~ *coauthors: Senators
Ashburn and Ridley-Thomas*)

(Coauthor: Assembly Member Aghazarian)

February 22, 2007

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 *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 941, as amended, Torrico. 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.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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.

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

25 1797.117. (a) The Emergency Medical Services Authority
26 shall maintain a centralized registry system for the monitoring and
27 tracking of EMT-I and EMT-II certification status and EMT-P
28 licensure status, to be used by the local emergency medical services
29 agencies and employers of EMT personnel as part of the
30 certification process. To the extent that additional funds are needed
31 for this purpose, implementation of this subdivision shall be
32 contingent upon a specific appropriation provided for this purpose
33 in the annual Budget Act.

34 (b) The centralized registry system shall contain the full name
35 of the EMT-I, EMT-II, or EMT-P, the agency that issued the

1 certificate or, in the case of an EMT-P the license number, the date
2 of issuance of the license or certificate, the licensure or certification
3 status, and ~~whether~~ *when* a background check was completed as
4 a condition of licensure, certification, or employment.

5 (c) The authority shall develop and, after approval of the
6 commission pursuant to Section 1799.50, adopt regulations to
7 implement this section to include, but not be limited to, penalty
8 provisions for failure of a local EMS agency to report certification
9 status changes according to the timelines established under this
10 section and failure of an EMS service provider to report
11 disciplinary actions to a local EMS agency according to the
12 timelines established under Section 1798.200.

13 (d) For the purposes of this section the following definitions
14 shall apply:

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

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

22 (e) Every authorized EMS provider shall verify that a
23 background check is completed on each EMT-I and EMT-II
24 certificate holder and shall submit the certification data as set forth
25 in this section.

26 (f) Each local EMS agency shall submit certification status
27 updates to the authority within three working days after a final
28 determination is made regarding a certification disciplinary action
29 taken by the medical director that results in a change in an EMT-I
30 or EMT-II certification status.

31 SEC. 3. Section 1797.170 of the Health and Safety Code is
32 amended to read:

33 1797.170. (a) The authority shall establish minimum standards
34 and shall adopt regulations for the training and scope of practice
35 for EMT-I.

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

38 (1) Recommended guidelines for disciplinary orders, *temporary*
39 *suspensions*, and conditions of probation for EMT-I certificate
40 holders.

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

3 (3) Recommended guidelines for the recertification of EMT-I
4 certificate holders, including, but not limited to, the requirement
5 that an applicant apply for recertification through one of the
6 following:

7 (A) If his or her employer is a certifying agency, through his or
8 her employer.

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

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

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

16 (A) Notifications, *including a notification by an EMS service*
17 *provider to the relevant local EMS agency when a disciplinary*
18 *investigation has been opened regarding conduct in violation of*
19 *subdivision (c) of Section 1798.200.*

20 (B) Written accusations.

21 (C) Requests for discovery.

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

23 (c) Any individual certified as an EMT-I pursuant to this act
24 shall be recognized as an EMT-I on a statewide basis, and
25 recertification shall be based on statewide standards. Effective
26 July 1, 1990, any individual certified as an EMT-I pursuant to this
27 act shall complete a course of training on the nature of sudden
28 infant death syndrome which is developed by the California SIDS
29 program in the State Department of Public Health in consultation
30 with experts in the field of sudden infant death syndrome.

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

33 1797.171. (a) The authority shall develop, and after approval
34 of the commission pursuant to Section 1799.50, shall adopt,
35 minimum standards for the training and scope of practice for
36 EMT-II.

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

1 (1) Recommended guidelines for disciplinary orders, *temporary*
2 *suspensions*, and conditions of probation for EMT-II certificate
3 holders.

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

6 (3) Recommended guidelines for the recertification of EMT-II
7 certificate holders, including, but not limited to, the requirement
8 that an applicant apply for recertification through one of the
9 following:

10 (A) If his or her employer is a certifying agency, through his or
11 her employer.

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

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

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

19 (A) Notifications, *including a notification by an EMS service*
20 *provider to the relevant local EMS agency when a disciplinary*
21 *investigation has been opened regarding conduct in violation of*
22 *subdivision (c) of Section 1798.200.*

23 (B) Written accusations.

24 (C) Requests for discovery.

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

26 (c) An EMT-II shall complete a course of training on the nature
27 of sudden infant death syndrome in accordance with subdivision
28 (c) of Section 1797.170.

29 (d) (1) In rural or remote areas of the state where patient
30 transport times are particularly long and where local resources are
31 inadequate to support an EMT-P program for EMS responses, the
32 director may approve additions to the scope of practice of EMT-IIs
33 serving the local system, if requested by the medical director of
34 the local EMS agency, and if the EMT-II has received training
35 equivalent to that of an EMT-P. The approval of the director, in
36 consultation with a committee of local EMS medical directors
37 named by the Emergency Medical Directors Association of
38 California, is required prior to implementation of any addition to
39 a local optional scope of practice for EMT-IIs proposed by the
40 medical director of a local EMS agency. No drug or procedure

1 that is not part of the basic EMT-P scope of practice, including,
2 but not limited to, any approved local options, shall be added to
3 any EMT-II scope of practice pursuant to this subdivision.

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

7 SEC. 5. Section 1798.200 of the Health and Safety Code is
8 amended to read:

9 1798.200. (a) (1) (A) Except as set forth in paragraph (2), an
10 authorized EMS provider shall conduct investigations, as necessary,
11 and take disciplinary action against an EMT-I or EMT-II who is
12 employed by the EMS provider for conduct in violation of
13 subdivision (c).

14 (B) At the conclusion of the investigation the EMS provider
15 may develop and implement, in accordance with the recommended
16 guidelines for disciplinary orders and conditions of probation
17 adopted pursuant to Sections 1797.170 and 1797.171, a disciplinary
18 plan for the EMT-I or EMT-II.

19 (C) Upon adoption of the disciplinary plan, the EMS provider
20 shall inform the local EMS agency within three working days of
21 its findings and the disciplinary action taken.

22 (D) The EMS provider's disciplinary plan may include a
23 recommendation that the medical director of the local EMS agency
24 consider taking action against the holder's certificate pursuant to
25 paragraph (3).

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

29 (3) (A) The medical director of the local EMS agency may, in
30 accordance with recommended guidelines for disciplinary hearings
31 adopted by the authority pursuant to Sections 1797.170 and
32 1797.171, deny, suspend, or revoke any the EMT-I or EMT-II
33 certificate issued under this division, or may place any EMT-I or
34 EMT-II certificate holder on probation, upon the finding by that
35 medical director of the occurrence of any of the actions listed in
36 subdivision (c) and one of the following:

37 (i) That the EMS service provider recommended certification
38 action pursuant to subparagraph (D) of paragraph (1).

39 (ii) That the EMS service provider failed to impose discipline
40 for the act or omission, or the medical director makes a

1 determination that the discipline imposed was not sufficient and
2 the act or omission engaged in by the EMT-I or EMT-II certificate
3 holder constitutes grounds for further disciplinary action against
4 the certification.

5 (iii) A determination pursuant to an investigation conducted
6 under paragraph (2) that the act or omission requires disciplinary
7 action against the certification.

8 (B) Any information reported or disclosed by an employer
9 pursuant to this subdivision shall be deemed to be an investigatory
10 communication and shall be exempt from disclosure pursuant to
11 the California Public Records Act (Chapter 3.5 (commencing with
12 Section 6250) of Division 7 of Title 1 of the Government Code).

13 (4) Notwithstanding any provision of law to the contrary, the
14 local EMS agency may elect to refer to the authority, the task of
15 performing the local EMS agency's duties under paragraph (3). If
16 the local EMS agency makes this election, it shall inform the
17 authority and the EMS providers in its area, and thereafter the
18 authority shall perform the duties of the local EMS agency pursuant
19 to paragraph (3) within the local EMS agency's area.

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

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

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

35 (2) Denial of licensure, revocation, suspension, or other
36 disciplinary action against an EMT license or certification by
37 another state or territory of the United States, by any other
38 government agency, or by another California licensing entity. A
39 certified copy of the decision or judgment shall be conclusive
40 evidence of that action.

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

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

6 (5) Making or giving any false statement or information in
7 connection with the application for issuance of a certificate or
8 license.

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

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

17 (8) Impersonating another certified or licensed practitioner, or
18 permitting or allowing another person to use his or her certificate
19 or license for the purpose of providing emergency medical services.

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

23 (10) Unprofessional conduct exhibited by any of the following:

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

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

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

38 (D) Obtaining or possessing in violation of the law, or, except
39 as directed by a licensed physician and surgeon, dentist, or
40 podiatrist, administer to himself or herself, or furnish or administer

1 to another, any controlled substance as defined in Division 10
2 (commencing with Section 11000) of this code or any dangerous
3 drug or dangerous device as defined in Section 4022 of the
4 Business and Professions Code.

5 (E) Use of any controlled substance as defined in Division 10
6 (commencing with Section 11000) of this code or any dangerous
7 drug or dangerous device as defined in Section 4022 of the
8 Business and Professions Code, or alcoholic beverages, to an extent
9 or manner dangerous or injurious to himself or herself, any other
10 person, or the public, or to the extent that the use impairs his or
11 her ability to conduct with safety to the public the practice
12 authorized by his or her certification.

13 (F) Conviction of a criminal offense involving the prescription,
14 consumption, or self-administration of any of the substances
15 described in subparagraphs (D) and (E), or the possession of, or
16 falsification of a prescription record pertaining to, the substances
17 described in subparagraph (D), in which event the record of the
18 conviction is conclusive evidence thereof.

19 (G) Being committed or confined by a court of competent
20 jurisdiction for intemperate use of or addiction to the use of any
21 of the substances described in subparagraphs (D) and (E), in which
22 event the court order of commitment or confinement is prima facie
23 evidence of that commitment or confinement.

24 (H) Falsifying, or making grossly incorrect, grossly inconsistent,
25 or unintelligible entries in any hospital, patient, or other record
26 pertaining to substances described in subparagraph (D).

27 SEC. 6. This act shall not be construed to limit or otherwise
28 impair the medical control of the medical director of a local EMS
29 agency granted pursuant to Section 1798 of the Health and Safety
30 Code.

31 SEC. 7. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within
38 the meaning of Section 6 of Article XIII B of the California
39 Constitution.

1 *SEC. 8. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to administer the Emergency Medical System in a*
6 *manner that more fully protects the public health, at the earliest*
7 *possible time, it is necessary for this act to take effect immediately.*

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10 **CORRECTIONS:**

11 **Text—Pages 4 and 11.**

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