



Health Services Department

Public Health Division

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EMERGENCY MEDICAL SERVICES

POLICY MEMORANDUM #2310

EFFECTIVE DATE: 06/01/92

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AUTHORITY:

CALIFORNIA HEALTH & SAFETY CODE, DIVISION 2.5, 1798.200;
CALIFORNIA ADMINISTRATIVE CODE, TITLE 22, DIVISION 9,
CHAPTER 6.

SUBJECT: CERTIFICATE REVIEW PROCESS FOR PREHOSPITAL PERSONNEL

PURPOSE/POLICY:

To establish a mechanism for, and the explanation of, the certification review process. The certification review process shall be consistent with Chapter 6 of the California Administrative Code.

I. DEFINITIONS

- A. Affected Personnel - are defined as any individual who is authorized/certified in Solano County to perform prehospital EMS services. To include, when applicable:
 - 1. EMD (Emergency Medical Dispatch)
 - 2. EMT-I (Emergency Medical Technician I)
 - 3. EMT-II (Emergency Medical Technician II)
 - 4. MICN (Mobile Intensive Care Nurse)
- B. "Investigative Review Panel" or "IRP" - means an impartial advisory body, the members of which are knowledgeable in the provision of prehospital emergency medical care and local EMS system policies and procedures, which may be convened to review allegations against the holder of an EMS prehospital emergency medical care certificate, assist in establishing the

care certificate, assist in establishing the facts of the matter, and provide its findings to the EMS Medical Director of a local EMS Agency.

- C. “Special Investigative Review Panel” – is an IRP that may be convened by the EMS Agency if requested by an affected EMS certificate holder. The EMS certificate holder must have had one or more EMS certificates “immediately suspended” by the EMS Medical Director or Assistant EMS Medical Director. The affected individual must, within fifteen (15) calendar days of the date of immediate suspension, request in writing a special IRP. A special IRP must adhere to the requirements established in Section 100220 of the California Code of Regulations. The use of a “Special Investigative Review Panel” is limited to cases when the holder of an EMS certificate is “immediately suspended.” Other negative certification actions allowed under 100215 shall follow the IRP process described under Section 100222.

II. SANCTIONS

The EMS Medical Director or Assistant EMS Medical Directory may institute the following formal proceedings against prehospital care medical personnel in Solano County when there exists an imminent threat to public health and safety:

- A. Placement of a certification authorization holder on probation.
- B. Suspension of certification/authorization.
- C. Revocation of certification/authorization.
- D. Denial of certification/authorization.
- E. Denial of renewal of certification/authorization.

III. DISCIPLINARY ACTION

Disciplinary action will be instituted based upon evidence of a threat to the public health and safety including any of the following:

- A. Fraud in the procurement of any certification/authorization.
- B. Gross negligence;
- C. Repeat of negligent acts;
- D. Incompetence;
- E. The commission of any fraudulent, dishonest, or corrupt act which is related to the qualifications, functions and duties of prehospital personnel.
- F. Conviction of any crime which is related to the qualifications, functions and duties of prehospital personnel. The record of conviction or certified copy thereof shall be conclusive evidence of such conviction.
- G. Violating or attempting to violate, any provision of the Health & Safety Code or of regulations promulgated by the authority pertaining to prehospital personnel;
- H. Violating or attempting to violate any federal or State statute or regulation which regulates narcotics, dangerous drugs or controlled substances as defined in California Health & Safety Code 11054 through 11058.

- I. Addiction to or abuse of alcoholic beverages, narcotics, dangerous drugs or controlled substances as defined in Section III, H, above.
- J. Functioning outside the scope of the held certificate/authorization or independent of medical control in the field care system operating at the local level, except as authorized by any other license or certification/authorization.
- K. Failure to pass a competency based examination or to meet any other requirements for certification/authorization or continuation of certification/authorization.

IV. ALLEGATION EVALUATION

Any allegation received from a credible source, including discovery through medical audit, of any action by the holder of, or applicant for, a prehospital EMS certificate/authorization, which, if found to be true would be evidence of a threat to the public health and safety will be evaluated by the EMS Medical Director. Any action taken by a local EMS Agency of another jurisdiction or State, may be accepted by the EMS Medical Director without further review.

V. IMMEDIATE SUSPENSION

The EMS Medical Director and/or the Assistant EMS Medical Director may immediately suspend a prehospital emergency medical care certificate/authorization at any point in the investigative or appeal process when substantial evidence exists which, in the expert opinion of the EMS Medical Director or the Assistant EMS Medical Director, indicates that a clear, present, immediate and continuing threat to the public health & safety would exist if the certificate/authorization were not suspended.

- A. If the subject's certificate/authorization is immediately suspended prior to the initiation or completion of a review of all allegations by an Investigative Review Panel (IRP) as described below, the subject may, within fifteen (15) calendar days of the date of suspension, request that a special IRP be convened to review the facts which necessitate an immediate suspension. Immediate suspension is not limited to a single action. The cumulative history of inappropriate actions may be considered a cause of immediate suspension.
- B. Upon receipt of a request for a special IRP, the EMS Medical Director may convene a special IRP, unless the circumstances under Section V, D apply, to review the facts which necessitate an immediate suspension of the individual's certificate/authorization prior to EMS Staff completion of the investigation and/or the IRP.
- C. The special IRP review of the facts necessitating the immediate suspension shall be completed and the subject notified of the IRP's recommendations and the EMS Medical Director's decision within twenty-one (21) calendar days of receipt of the request for the special IRP.
- D. The special IRP does not have to be convened if an IRP review of all the facts of the matter can be held and the subject notified of the IRP's recommendations and the EMS Medical Director's decision within twenty-one (21) calendar days of receipt of the request for the special IRP.

VI. INVESTIGATIVE PROCESS

The investigative process by the EMS Office shall include the following:

- A. The EMS Medical Director or his/her designee shall first evaluate the allegation(s) relative to the potential threat to the public health and safety and determine if further action is warranted.
- B. The EMS Medical Director or his/her designee shall review all available pertinent information pertaining to the allegation(s).
- C. The EMS Medical Director or his/her designee shall determine the seriousness of the allegation(s) relative to the potential threat to the public health and safety, determine the possible disciplinary action which could be taken if the allegations are found to be substantiated, and initiate a formal investigation.
- D. The subject of the investigation and the subject's employer(s) shall be notified in writing within fifteen (15) calendar days of the initiation of a formal investigation and shall be allowed to submit information in writing and to meet informally with the EMS Medical Director or his/her designee to review the allegations.
- E. The subject and his/her employer shall be allowed a maximum of fifteen (15) calendar days to respond to the request of the EMS Medical Director or his/her designee for information unless extenuating circumstances preclude response within that time, and the EMS Medical Director feels that an extension of the response time would not jeopardize the public health and safety.
- F. The written notice to the subject and his/her employer shall include:
 1. A statement of the allegations against the subject.
 2. A statement which explains that the allegations, if found to be true, constitute a threat to the public health and safety and necessitate that the EMS Medical Director take disciplinary action pursuant to Section 1798.200 of the Health & Safety Code.
 3. An explanation of the possible actions which may be taken if the allegations are found to be true.
 4. A brief explanation of the formal investigation process.
 5. A request for a written response to the allegations from the subject.
 6. A statement that the subject may submit in writing any information which she/he feels is pertinent to the investigation, including statements from other individuals, etc.
 7. A statement that if she/he so chooses, the subject may designate another person, including legal counsel or subject's employer, to represent him/her during the investigation.
 8. The date by which the information must be submitted.
 9. An explanation of the IRP process if suspension, revocation, denial or denial of renewal of a certificate occurs.

- G. The EMS Medical Director or his/her designee shall designate a person or persons to assure that any and all relevant information pertaining to the allegation(s) and to the performance of the subject in regard to the use of prehospital emergency medical care skills is gathered.
- H. The EMS Medical Director may determine that the infraction or performance deficiency is relative to the potential threat to the public health and safety and may institute disciplinary action without calling a review panel. The subject shall be informed that she/he may request an IRP review if the disciplinary action is suspension, revocation, denial or denial of renewal of a certificate/authorization.

VII. AN IRP SHALL BE CONVENED WHEN:

- A. The EMS Medical Director determines that an IRP is necessary to assist in the investigation of the allegations.
- B. The subject submits a written request to the EMS Medical Director within fifteen (15) calendar days of the notification of disciplinary action taken, when the disciplinary action is: suspension, revocation, denial or denial of renewal of a certificate/authorization.
- C. If a special IRP has been requested and the EMS Medical Director elects to convene an IRP within twenty-one (21) calendar days of receipt of the request for a special IRP.
- D. A special IRP review has occurred, unless the subject specifies in writing that she/he does not want a further IRP review of the facts of the case as required by Section 100222.

VIII. THE IRP:

- A. Shall be held within thirty (30) calendar days of receipt of request by the subject. The EMS Medical Director has the option to convene an IRP without request from the subject. Within five (5) calendar days of the selection of the IRP, the subject and the subject's employer shall be advised in writing of the purpose of the review panel, its composition, and the date and time that it will convene. Any change in the time or date of convening the IRP shall be mutually agreed upon in writing by both the subject and the EMS Medical Director or his/her designee.
- B. Shall consist of three (3) persons knowledgeable in the provision of prehospital emergency care and local EMS system policies and procedures. One member shall be mutually agreed upon by the subject and the EMS Medical Director.
- C. Shall not include anyone who submitted allegation(s) against the subject or who was directly involved in the incident(s).
- D. Shall assess all of the available information on the matter in order to establish the facts of the case. The subject shall be given the opportunity to be present during the presentation of any testimony before the IRP, and may choose to be represented either by legal counsel or another representative of his/her choosing.

- E. Shall make a written report of its findings and its recommendation for disciplinary action to the EMS Medical Director within fifteen (15) calendar days of the close of the IRP Hearing.
- F. Proceedings will be closed to the public and witnesses will be required to wait outside the hearing room except when testifying.
- G. Will ensure that the subject's due process rights are protected during the hearing process. The Chair of the IRP shall control the hearing. Members of the IRP will be able to obtain legal counsel during the hearing process if a question regarding due process is raised (see Attachment A).
 - 1. The EMS Medical Director or his/her designee shall present the case against the subject and explain the rationale for taking disciplinary action.
 - 2. The subject shall be given the opportunity to testify, cross-examine witnesses, or present additional evidence or witnesses at the hearing.
 - 3. The subject may be represented by legal counsel, or another representative of his/her choosing, at the hearing.
 - 4. During the hearing, an relevant evidence, including hearsay evidence, may be admitted if it is the sort of evidence which responsible persons are accustomed to relying on in conduct of serious affairs.
- H. All pertinent documentary evidence gathered in the investigation process shall be provided to the subject and/or his representative for his/her review at least five (5) calendar days before the scheduled hearing.
- I. The subject may request the presence at the hearing of any person from whom evidence or testimony was taken during the initial investigation in order to cross examine that person. If the requested person cannot attend the hearing, a written statement from that person may be given to the IRP panel and the subject. The subject shall have the right to review the written statement and to provide a written rebuttal. Both statements shall be admitted as evidence. The Panel shall review all evidence as presented. At the commencement of the hearing, the Chair shall determine the order of evidence to be presented.

IX. IRP ACTION

The EMS Medical Director will determine what action, if any, should be taken as a result of the findings of the investigative process. Actions which the EMS Medical Director may take include one or more of the following:

- A. No disciplinary action – If the allegation(s) are found to be untrue, unsubstantiated or unrelated to the ability of the subject to perform his/her duties as a prehospital care provider, the EMS Medical Director may choose to take no disciplinary action.
- B. Mandatory Audit – The subject will be informed that his/her conduct in the field will be monitored and actively reviewed by the EMS Medical Director and/or his/her designee for a specified period of time.

- C. Counseling and/or mandatory education – the EMS Medical Director may designate another qualified person, such as the person's employer or medical supervisor, to provide the specified counseling, and/or the EMS Medical Director may mandate further appropriate education. The counseling session(s) to occur within a time limit set by the EMS Medical Director or his/her designee shall include a review of the findings of the investigation, the specific issues of concern, the improvement of the subject, the manner(s) in which such improvement may be achieved, and the evaluation method which will be used to assess the subject's improvement. If further education is required, courses must be pre-approved by the EMS Medical Director.
- D. Mandated preceptorship – The EMS Medical Director or his/her designee may require the accredited/certified personnel to function with a designated preceptor appointed by the EMS Medical Director or his/her designee to assist and monitor performance. The EMS Medical Director or his/her designee and the individual employer shall agree as to how the preceptorship shall be completed.
- E. Written Reprimand – the EMS Medical Director or his/her designee may issue a written reprimand if the facts in the case indicate that the subject has committed a minor infraction which is unlikely to recur, is not representative of the subject's usual behavior, and is not likely to continue to jeopardize the public health and safety. A copy of the reprimand shall be placed in the subject's personnel file at the local EMS Agency and a copy shall be forwarded to his/her employer.
- F. Probation – If the seriousness of the infraction or performance deficiency indicates a need for further scrutiny of the subject's conduct, the EMS Medical director or the Assistant EMS Medical Director may place the subject on probation for a specific period of time not to exceed one year. Probation may be chosen in addition to specific remediation, counseling, education and/or reprimand, at the discretion of the EMS Medical Director or Assistant EMS Medical Director. The subject's performance shall be reviewed as prescribed in the probationary contract.
- G. Suspension – If the seriousness of the infraction of performance deficiency indicates a need to suspend the subject from the practice of prehospital emergency medical care, but the findings indicate that the subject need not be indefinitely prevented from that practice in order to protect public health and safety, the EMS Medical Director or the Assistant EMS Medical Director may suspend the subject's certification/ authorization by the usual process as allowed by the IRP process in this policy.
- H. Revocation, denial or denial of renewal – If the seriousness of the infraction or performance deficiency is of such a serious nature that it is likely that the holder of the certificate/authorization cannot practice without posing a significant or continuing risk to the public health and safety, the EMS Medical Director may revoke, deny, or deny the renewal of a certificate/authorization.

X. NOTIFICATION OF ACTION

The EMS Medical Director or his/her designee shall formally notify the subject and the subject's employer of the disciplinary action taken. The notification shall be in writing and shall include the following:

- A. The specific allegations which resulted in the investigation.

- B. A summary of the findings of the investigation, including the findings and recommendations of the IRP, if one was convened.
 - C. The disciplinary actions taken and the effective date of the action, including the duration, if the action includes counseling, further education, probation or suspension.
 - D. Which certificate/authorization(s) the action applies to if more than one certificate/authorization is held by the subject.
 - E. If no IRP was convened, and the action taken is suspension, revocation, denial or denial of renewal, the subject's right to request that an IRP, or a special IRP if immediate suspension has occurred, review both the allegations against him/her and the disciplinary action proposed.
 - F. If the action taken is probation, suspension, revocation, denial or denial of renewal, a statement that the subject must report these actions taken if she/he applies for any certification or authorization from another local agency.
 - G. Records of formal disciplinary proceedings and actions will be maintained by EMS for three (3) years following the completion of the proceedings.
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