



# INLAND COUNTIES EMERGENCY MEDICAL AGENCY POLICY AND PROTOCOL MANUAL

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## EMT/AEMT INCIDENT INVESTIGATION, DETERMINATION OF ACTION, NOTIFICATION, AND ADMINISTRATIVE HEARING PROCESS

### I. PURPOSE

To establish a policy and procedure governing reportable situations and the evaluation and determination regarding whether or not disciplinary cause exists.

### II. POLICY

Any information received from any source, including discovery through medical audit or follow-up on complaints, which suggests a violation of, or deviation from, State or local EMS laws, regulations, policies, procedures or protocols will be evaluated pursuant to this policy and consistent with the California Code of Regulations, Title 22, Division 9, Chapter 6.

### III. PROCEDURE

#### **Responsibilities of Relevant Employer**

- Under the provisions of the California Code of Regulations and this policy, relevant employers:
  - May conduct investigations to determine disciplinary cause.
  - Upon determination of disciplinary cause, the relevant employer may develop and implement, a disciplinary plan, in accordance with the California Emergency Medical Services Authority (EMSA) Model Disciplinary Orders and Conditions of Probation for EMT and Advanced EMTs (EMSA Document No. 134).
- The relevant employer shall submit that disciplinary plan to ICEMA along with the relevant findings of the investigation related to disciplinary cause, within three (3) working days of adoption of the disciplinary plan.
- The employer's disciplinary plan may include a recommendation that the medical director consider taking action against the holder's certificate to include denial of certification, suspension of certification, revocation of certification, or placing a certificate on probation.
- The relevant employer shall notify the ICEMA Medical Director within three (3) working days after an allegation has been validated as potential for disciplinary cause.
- The relevant employer shall notify the ICEMA Medical Director within three (3) working days of the occurrence of any of following:
  - The employee is terminated or suspended for a disciplinary cause,
  - The employee resigns or retires following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or
  - The employee is removed from employment-related duties for a disciplinary cause after the completion of the employer's investigation.

### **Jurisdiction of the ICEMA Medical Director**

- The ICEMA Medical Director, or in the case where the certificate was issued by a non-local EMS agency (LEMSA) within the ICEMA region, shall conduct investigations to validate allegations for disciplinary cause when the EMT or AEMT is not an employee of a relevant employer or the relevant employer does not conduct an investigation. Upon determination of disciplinary cause, the ICEMA Medical Director may take certification action as necessary against a certificate holder.
- The ICEMA Medical Director may, upon determination of disciplinary cause and according to the provisions of this policy, take certification action against an EMT or AEMT to deny, suspend, revoke, or place a certificate holder on probation, upon the findings of any of the actions listed in the California Health and Safety Code, Section 1798.200 (c) and for which any of the following conditions are true:
  - The relevant employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the ICEMA Medical Director makes a determination that discipline imposed by the relevant employer was not in accordance with the Model Disciplinary Orders (MDOs) and the conduct of the certificate holder constitutes grounds for certification action.
  - The ICEMA Medical Director determines, following an investigation conducted in accordance with this policy, that the conduct requires certification action.
- The ICEMA Medical Director, after consultation with the relevant employer or without consultation when no relevant employer exists, may temporarily suspend, prior to a hearing, a certificate holder upon a determination of the following:
  - The EMT or AEMT has engaged in acts or omissions that constitute grounds for revocation of the certificate; and
  - Permitting the EMT or AEMT to continue to engage in certified activity without restriction poses an imminent threat to the public health and safety.
- If the ICEMA Medical Director takes any certification action, ICEMA shall notify the State EMS Authority of the findings, the certification action taken and enter the information into the State Registry.

### **Evaluation of Information**

- A relevant employer who receives an allegation of conduct listed in the California Health and Safety Code, Section 1798.200 (c) and the allegation is validated, shall notify the ICEMA Medical Director, within three (3) working days, of the certificate holder's name, certification number, and the allegation(s).
- When ICEMA receives a complaint against a certificate holder, ICEMA shall forward the original complaint and any supporting documentation to the relevant employer for investigation, if there is a relevant employer, within three (3) working days of receipt of the information. If there is no relevant employer or the relevant employer does not wish to investigate the complaint, the ICEMA Medical Director shall perform the investigation.
- The relevant employer or ICEMA Medical Director shall conduct an investigation of the allegations in accordance with the provisions of this policy, if warranted.

### **Investigations Involving Firefighters**

- The rights and protections described in Chapter 9.6 of the Government Code shall only apply to a firefighter during events and circumstances involving the performance of his or her official duties.
- All investigations involving certificate holders who are employed by a public safety agency as a firefighter shall be conducted in accordance with Chapter 9.6 of the Government Code, Section 3250 et. seq.

### **Due Process**

The certification action process shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

### **Determination of Action**

- Certification action shall be taken as a result of the findings of the investigation.
- Upon determining the disciplinary or certification action to be taken, the relevant employer or ICEMA Medical Director shall complete and place in the personnel file or any other file used for any personnel purposes by the relevant employer or ICEMA, a statement certifying the decision made and the date the decision was made. The decision must contain findings of fact and a determination of issues, together with the disciplinary plan and the date the disciplinary plan shall take effect.
- In the case of a temporary suspension order pursuant to the California Code of Regulations, Section 100209 (c), it shall take effect upon the date the notice required by the California Code of Regulations, Section 100213, is mailed to the certificate holder.
- For all other certification actions, the effective date shall be 30 days from the date the notice is mailed to the applicant for, or holder of, a certificate unless another time is specified or an appeal is made.

### **Temporary Suspension Order**

- The ICEMA Medical Director may temporarily suspend a certificate prior to hearing if, the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation according to Section 100216(c) of the California Code of Regulations and if in the opinion of the ICEMA Medical Director permitting the certificate holder to continue to engage in certified activity would pose an imminent threat to the public health and safety.
- Prior to, or concurrent with, initiation of a temporary suspension order of a certificate pending hearing, the ICEMA Medical Director shall consult with the relevant employer.
- The notice of temporary suspension pending hearing shall be served by registered mail or by personal service to the certificate holder immediately, but no longer than three (3) working days from making the decision to issue the temporary suspension. The notice shall include the allegations that allowing the certificate holder to continue to engage in certified activities would pose an imminent threat to the public health and safety. Within three (3) working days of the initiation of the temporary suspension by ICEMA, ICEMA and relevant employer shall jointly investigate the allegation in order for the ICEMA Medical Director to make a determination of the continuation of the temporary suspension.

- All investigatory information, not otherwise protected by the law, held by ICEMA and the relevant employer shall be shared between ICEMA, the relevant employer and the certificate holder via facsimile transmission or overnight mail relative to the decision to temporarily suspend.
- ICEMA shall serve within 15 calendar days an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (Administrative Procedures Act).
- The temporary suspension order shall be deemed vacated if ICEMA fails to serve an accusation within 15 calendar days or fails to make a final determination on the merits within 15 calendar days after the Administrative Law Judge (ALJ) renders a proposed decision.

#### **Final Determination of Certification Action**

Upon determination of certification action following an investigation, and appeal of certification action pursuant to the California Code of Regulations, Section 100211.1, if the respondent chooses, the ICEMA Medical Director may take the following final actions on an EMT or AEMT certificate:

- Place the certificate holder on probation
- Suspension
- Denial
- Revocation

#### **Placement of a Certificate Holder on Probation**

The ICEMA Medical Director may place a certificate holder on probation any time an infraction or performance deficiency occurs which indicates a need to monitor the certificate holder's conduct in the EMS system, in order to protect the public health and safety. The term of the probation and any conditions shall be in accordance with the MDOs. The ICEMA Medical Director may revoke the EMT or AEMT certificate if the certificate holder fails to successfully complete the terms of probation.

#### **Suspension of a Certificate**

- The Medical Director may suspend an individual's EMT or AEMT certificate for a specified period of time for disciplinary cause in order to protect the public health and safety.
- The term of the suspension and any conditions for reinstatement shall be in accordance with the MDOs.
- Upon the expiration of the term of suspension, the individual's certificate shall be reinstated only when all conditions for reinstatement have been met. The ICEMA Medical Director shall continue the suspension until all conditions for reinstatement have been met.
- If the suspension period will run past the expiration date of the certificate, the EMT or AEMT shall meet the recertification requirements for certificate renewal prior to the expiration date of the certificate.

**Denial or Revocation of a Certificate**

- The ICEMA Medical Director may deny or revoke any EMT or AEMT certificate for disciplinary cause that has been investigated and verified by application of this policy.
- The ICEMA Medical Director shall deny or revoke any EMT or AEMT certificate if any of the following apply to the applicant:
  - Has committed any sexually related offense specified under Section 290 of the Penal Code.
  - Has been convicted of murder, attempted murder, or murder for hire.
  - Has been convicted of two (2) or more felonies.
  - Is on parole or probation for any felony.
  - Has been convicted and released from incarceration for said offense during the preceding 15 years for the crime of manslaughter or involuntary manslaughter.
  - Has been convicted and released from incarceration for said offense during the preceding 10 years for any offense punishable as a felony.
  - Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.
  - Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to force, threat, violence, or intimidation.
  - Has been convicted within the preceding five (5) years of any theft related misdemeanor.

**NOTE:** "Felony" or "offense punishable as a felony" refers to an offense for which the law prescribes imprisonment in the state prison as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.

- The ICEMA Medical Director may deny any application for certification or revoke an EMT or AEMT certificate if any of the following apply to the applicant:
- Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven (7) years.
- Is required to register pursuant to the California Health and Safety Code, Section 11590.
- Sections 1 and 2 above shall not apply to convictions that have been pardoned by the Governor, and shall only apply to convictions where the applicant/certificate holder was prosecuted as an adult.
- Sections 1 and 2 shall not apply to those EMTs or AEMTs who obtain their EMT or AEMT certificate prior to July 1, 2010; unless:
  - The certificate holder is convicted of any misdemeanor or felony after July 1, 2010.

- The certificate holder committed any sexually related offense specified under Section 290 of the Penal Code.
- The certificate holder failed to disclose to the certifying entity any prior convictions when completing his/her application for initial EMT or AEMT certification or certification renewal. Nothing in this Section shall negate an individual's right to appeal a denial of an EMT certificate pursuant to this policy.
- Certification action by the ICEMA Medical Director shall be valid statewide and honored by all certifying entities for a period of at least 12 months from the effective date of the certification action. An EMT or AEMT whose application was denied, or an EMT or AEMT whose certification was revoked by a medical director shall not be eligible for EMT or AEMT application by any other certifying entity for a period of at least 12 months from the effective date of the certification action. EMT or AEMTs whose certification are placed on probation must complete their probationary requirements with the LEMSA that imposed the probation.

#### **Notification of Final Decision of Certification Action**

- For the final decision of certification action, the ICEMA Medical Director shall notify the applicant/certificate holder and his/her relevant employer(s) of the certification action within 10 working days after making the final determination.
- The notification of final decision shall be served by registered mail or personal service and shall include the following information:
  - The specific allegations or evidence which resulted in the certification action;
  - The certification action(s) to be taken, and the effective date(s) of the certification action(s), including the duration of the action(s);
  - Which certificate(s) the certification action applies to in cases of holders of multiple certificates;
  - A statement that the certificate holder must report the certification action within 10 working days to any other LEMSA and relevant employer in whose jurisdiction s/he uses the certificate.