


Sierra – Sacramento Valley EMS Agency Program Policy

EMT/AEMT Investigation, Discipline & Certification Action

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PURPOSE:

To specify the procedures for denial of an S-SV EMS issued California EMT or Advanced EMT (AEMT) certificate, the reportable situations regarding an individual who holds an EMT or AEMT certificate, and the evaluation/determination of whether cause for EMT or AEMT discipline or certification action exists.

AUTHORITY:

- A. California Health and Safety Code, Division 2.5, Chapters 4 and 5.
- B. California Code of Regulations, Title 22, Division 9, Chapters 2, 3 and 6.
- C. "Recommended Guidelines For Disciplinary Orders And Conditions Of Probation For EMT (Basic) And Advanced EMT' (MDO's) – California EMS Authority document #134, 12/2/09

POLICY:

- A. Information received from any source related to an individual who holds an EMT or AEMT certificate, including discovery through medical audit or routine follow-up on complaints, which purports a violation of, or deviation from, state or local EMS laws, regulations, policies, procedures or protocols will be evaluated pursuant to this policy and applicable California laws/regulations.
- B. S-SV EMS and the relevant employer shall adhere to the provisions of this policy and applicable California laws/regulations when investigating or implementing any actions for disciplinary cause against an individual who holds an EMT or AEMT certificate.
- C. In order to institute disciplinary action against an individual who holds an EMT or AEMT certificate, it must first be determined that a disciplinary cause has occurred by the applicant or certificate holder and there exists a threat to the public health and safety, as evidenced by the occurrence of any of the actions listed in § 1798.200(c) of the California Health and Safety Code by the applicant or certificate accreditation holder.

D. An initial/renewal application for EMT or AEMT certification shall be denied without prejudice and does not require an administrative hearing, when an applicant does not meet the requirements for certification, including but not limited to the following:

1. Failure to pass a required initial/renewal certification examination.
2. Lack of sufficient continuing education or documentation of a completed refresher course.
3. Failure to furnish additional information or documents requested by S-SV EMS.
4. Failure to pay any certification fees.

The denial shall be in effect until all requirements for initial/renewal certification are met. If a certificate expires before certification renewal requirements are met, the certificate shall be deemed lapsed and subject to the provisions pertaining to lapsed certificates.

E. Nothing in this policy or applicable California laws/regulations shall be construed to limit the authority of a base hospital medical director to provide supervision and medical control for prehospital emergency medical care personnel, as specified in S-SV EMS policies and protocols.

PROCEDURE:

A. Substantial Relationship Criteria for the Denial, Probation, Suspension, or Revocation of an EMT or AEMT certificate:

1. For the purposes of denial, probation, suspension, or revocation of an EMT or AEMT certificate, pursuant to § 1798.200(c) of the California Health and Safety Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of an applicant or certificate holder if to a substantial degree it evidences unfitness of a certificate holder to perform the functions authorized by the certificate in that it poses a threat to the public health and safety.
2. For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction.
 - "Crime" means any act in violation of the penal laws of this state, any other state, or federal laws. This also means violation(s) of any statute which impose criminal penalties for such violations.
 - "Conviction" means the final judgment on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere.

3. S-SV EMS, when determining the certification action to be imposed, or reviewing a petition for reinstatement or reduction of penalty under § 11522 of the California Government Code, shall evaluate the rehabilitation of the applicant or certificate holder and present eligibility for certification of the respondent. When the certification action warranted is probation, denial, suspension, or revocation the following factors may be considered:
 - Nature and severity of the act(s), offense(s), or crime(s) under consideration.
 - Actual or potential harm to the public.
 - Actual or potential harm to any patient.
 - Prior disciplinary record.
 - Prior warnings on record or prior remediation.
 - Number and/or variety of current violations.
 - Aggravating evidence.
 - Mitigating evidence.
 - Rehabilitation evidence.
 - In the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation.
 - Overall criminal record.
 - Time that has elapsed since the act(s) or offense(s) occurred.
 - If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4.
4. In determining appropriate certification action, the S-SV EMS Medical Director may give credit for disciplinary action imposed by the respondent's relevant employer.

B. Relevant Employer Responsibilities:

Under the provisions of this policy and applicable California laws/regulations, relevant employers:

1. May conduct investigations to determine disciplinary cause.
2. May, upon determination of disciplinary cause, develop and implement, a disciplinary plan, in accordance with the MDOs.
 - The relevant employer shall submit the disciplinary plan to S-SV EMS along with the relevant findings of the investigation related to disciplinary cause, within three (3) working days of adoption of the disciplinary plan. In the case where the certificate was issued by a non-LEMSA certifying entity, the disciplinary plan shall be submitted to the LEMSA that has jurisdiction in the county in which the headquarters of the certifying entity is located.

- The relevant employer's disciplinary plan may include a recommendation that the S-SV EMS Medical Director consider taking action against the holder's certificate to include probation, suspension, or revocation.
3. Shall notify the S-SV EMS Medical Director within three (3) working days after an allegation has been validated as potential for disciplinary cause.
 4. Shall notify the S-SV EMS Medical Director within three (3) working days of the occurrence of any of following:
 - The EMT or AEMT is terminated or suspended for a disciplinary cause; or,
 - The EMT or AEMT resigns or retires following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause; or,
 - The EMT or AEMT is removed from employment related duties for a disciplinary cause after the completion of the employer's investigation.

C. Jurisdiction of the S-SV EMS Medical Director:

1. The S-SV EMS Medical Director, or in the case where the certificate was issued by a non-LEMSA certifying entity, the LEMSA medical director that has jurisdiction in the county in which the headquarters of the certifying entity is located, shall conduct investigations to validate allegations for disciplinary cause when the certificate holder is not an employee of a relevant employer or the relevant employer does not conduct an investigation. Upon determination of disciplinary cause, the S-SV EMS Medical Director may take disciplinary action as necessary against an EMT or AEMT certificate.
2. The S-SV EMS Medical Director may, upon determination of disciplinary cause and according to the provisions of this policy and applicable California laws/regulations, take certification action against an applicant, EMT or AEMT to deny, suspend, or revoke a certificate or place a certificate holder on probation, upon the findings of occurrence of any of the actions listed in California Health and Safety Code, § 1798.200 (c) and for which either of the following conditions are true:
 - The relevant employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the S-SV EMS Medical Director makes a determination that the discipline imposed by the relevant employer was not in accordance with the MDOs and the conduct of the certificate holder constitutes grounds for certification action.
 - The S-SV EMS Medical Director determines, following an investigation conducted in accordance with this policy and applicable California laws/regulations, that the conduct requires certification action.

3. The S-SV EMS Medical Director, after consultation with the relevant employer or without consultation when no relevant employer exists, may temporarily suspend, prior to a hearing, an EMT or AEMT certificate upon determination of the following:
 - The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT or AEMT certificate; and,
 - Permitting the certificate holder to continue to engage in certified activity without restriction poses an imminent threat to the public health and safety.
4. If the S-SV EMS Medical Director takes any certification action, s/he shall notify the California EMS Authority of the findings of the investigation and the certification action taken by entering this information directly into the State Central Registry.

D. Evaluation of Information:

1. A relevant employer who receives an allegation of conduct listed in § 1798.200 (c) of the California Health and Safety Code against an EMT or AEMT and once the allegation is validated, shall notify the S-SV EMS medical director, within three (3) working days, of the certificate holder's name, certificate number, and the allegation(s).
2. When S-SV EMS receives a complaint against a certificate holder, S-SV EMS 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 S-SV EMS Medical Director shall evaluate the information received from a credible source, including but not limited to, information obtained from an application, medical audit, or public complaint, alleging or indicating the possibility of a threat to the public health and safety by the action of an applicant for, or holder of, a EMT or AEMT certificate.
3. The relevant employer or S-SV EMS Medical Director shall conduct an investigation of the allegations in accordance with the provisions of this policy and applicable California laws/regulations, if warranted.

E. Investigations Involving Firefighters:

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

F. Determination of Certification Action:

1. Disciplinary action relative to the individual's certificate(s) shall be taken as a result of the findings of the investigation.
2. Upon determining the disciplinary or certification action to be taken, the relevant employer or S-SV EMS Medical Director shall complete and place in the personnel file or any other file used for any personnel purposes by the relevant employer or S-SV EMS, 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.
3. In the case of a temporary suspension order as described in this policy, it shall take effect upon the date the required notice is mailed to the certificate holder.
4. 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.

G. Temporary Suspension Order:

1. The S-SV EMS Medical Director may temporarily suspend an EMT or AEMT certificate prior to a hearing if, the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation, and if in the opinion of the S-SV EMS Medical Director permitting the certificate holder to continue to engage in certified activity would pose an imminent threat to the public health and safety.
2. Prior to, or concurrent with, initiation of a temporary suspension order of an EMT or AEMT certificate pending hearing, the S-SV EMS Medical Director shall consult with the relevant employer of the certificate holder, if applicable.
3. The notice of temporary suspension pending hearing shall be served by certified 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.
4. Within three (3) working days of the initiation of the temporary suspension, S-SV EMS and the relevant employer shall jointly investigate the allegation in order for the S-SV EMS Medical Director to make a determination of the continuation of the temporary suspension.

- All investigatory information, not otherwise protected by law, held by S-SV EMS and the relevant employer shall be shared between the parties relative to the decision to temporarily suspend.
- S-SV EMS shall serve within 15 calendar days an accusation pursuant to Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the California Government Code (Administrative Procedures Act).
- If the certificate holder files a Notice of Defense, the administrative hearing shall be held within 30 calendar days of receipt of the Notice of Defense by S-SV EMS.
- The temporary suspension order shall be deemed vacated if S-SV EMS 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.

H. Due Process – Appeal of Certification Action:

1. The appeal of certification action process shall be in accordance with Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.
2. The applicant or certificate holder may appeal a certification action by providing a formal letter of appeal to S-SV EMS. This letter shall clearly state that the applicant or certificate holder wishes to appeal the certification action that has been determined by S-SV EMS.
3. Upon receipt of a certification action letter of appeal, S-SV EMS will be responsible for initiating the ALJ hearing process and will provide the applicant or certificate holder with all appropriate information regarding the ALJ hearing process.

I. Final Determination of Certification Action by the S-SV EMS Medical Director:

1. Upon determination of certification action following an investigation, and appeal of certification action described in this policy, if the respondent so chooses, the S-SV EMS Medical Director may take any of the following final EMT or AEMT certificate actions:
 - Place the certificate holder on probation.
 - The S-SV EMS 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 S-SV EMS Medical Director may subsequently revoke the EMT or AEMT certificate if the certificate holder fails to successfully complete the terms of probation.

- Suspension of a certificate.
 - The S-SV EMS 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 S-SV EMS 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 certification renewal requirements prior to the expiration date of the certificate.
- Denial or revocation of a certificate.
 - The S-SV EMS Medical Director may deny or revoke an EMT or AEMT certificate for disciplinary cause that has been investigated and verified by application of this policy.
 - The S-SV EMS Medical Director shall deny or revoke an EMT or AEMT certificate if any of the following apply to the applicant:
 - Has committed any sexually related offense specified under § 290 of the California 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 offence relating to force, threat, violence, or intimidation.
 - Has been convicted within the preceding five (5) years of any theft related misdemeanor
 - The S-SV EMS Medical Director may deny 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 Section 11590 of the Health and Safety Code.

- This section 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. Equivalent convictions from other states shall apply to the type of offenses listed in this section.
 - As used in this section, “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.
 - This section shall not apply to those EMT’s or EMT IIs who obtain their California 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 § 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/renewal EMT or AEMT certification.
2. Nothing in this section shall negate an individual’s right to appeal a denial of an EMT or AEMT certificate pursuant to this policy and applicable California laws/regulations.
3. Certification action by the S-SV EMS Medical Director shall be valid statewide and honored by all certifying entities for a period of at least twelve (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 any LEMSA medical director in California shall not be eligible for EMT or AEMT application by any other certifying entity for a period of at least twelve (12) months from the effective date of the certification action. EMT’s or AEMT’s whose certification is placed on probation must complete their probationary requirements with the LEMSA that imposed the probation.

J. Notification of Final Decision of Certification Action:

1. For the final decision of certification action, the S-SV EMS Medical Director shall notify the applicant or certificate holder and his/her relevant employer(s), if applicable, of the certification action within 10 working days after making the final determination.
2. The notification of final decision shall be served by certified 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 ten (10) working days to any other LEMSA and relevant employer's in whose jurisdiction s/he uses the certificate.

CROSS REFERENCES:

- A. EMT Initial And Renewal Certification Process (901).
- B. AEMT Certification And Recertification (902).