

 <p><b>COUNTY OF SAN DIEGO</b> EMERGENCY MEDICAL SERVICES</p>	SYSTEMS		<b>S-011</b>
	<b>EMT/ADVANCED EMT/PARAMEDIC DISCIPLINARY PROCESS</b>		
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**I. PURPOSE**

To establish the requirements for “Disciplinary Cause” which refers to an act that is substantially related to the qualifications, functions, and duties of an Emergency Medical Technician (EMT) and/or Advanced EMT (AEMT) and to define an equitable process for discipline that allows the County of San Diego, Emergency Medical Services (CoSD EMS) to protect the public health and safety while ensuring the due process rights of the holder or applicant for an EMT and/or AEMT certification.

**II. AUTHORITY:** Health and Safety Code, Division 2.5, Sections 1797.61, 1797.62, 1797.107, 1797.118, 1797.176, 1797.184, 1797.202, 1797.210, 1797.216, 1798.201, and 1798.202.

**III. POLICY**

**EMT/AEMT**

- A.** The classification of prehospital emergency medical services personnel certified under provisions of the California Code of Regulations, Title 22, Division 9, Chapter 6 include:
  - 1. EMT
  - 2. EMT-II
  - 3. AEMT
  
- B.** The CoSD EMS Medical Director may take appropriate action according to these policies and procedures, against the certificate of any prehospital emergency care personnel certified, pursuant to Health and Safety Code, Division 2.5, for which any of the following conditions are true:
  - 1. The certificate was issued by the local EMS Medical Director.
  - 2. The certificate holder utilizes or has utilized the certificate or the skills authorized by the certificate within the County of San Diego.
  
- C.** The CoSD EMS, upon receiving any complaint against an EMT or AEMT, shall forward the original complaint and any supporting documentation to the relevant employer for investigation. A relevant employer is defined as an ambulance service permitted by the California Highway

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Patrol, a public safety agency, a fire department, law enforcement agency, or other public safety agency that employs EMT's.

- D.** The responsibilities of the relevant employer include:
1. Develop agency policy regarding disciplinary action and notification processes for EMT and/or AEMT staff.
  2. Within three days of validated allegation(s), the relevant employer shall notify the Local EMS Agency (LEMSA) that has jurisdiction in the county in which the alleged violation occurred, as well as the certifying entity.
  3. Relevant employers will have first right of refusal to conduct investigations of an allegation of misconduct.
  4. Relevant employers who conduct investigations shall create a disciplinary action plan that is consistent with the State of California Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT and AEMT. The disciplinary action plan shall be submitted to the CoSD EMS within three working days of adoption of the disciplinary plan. If the certification was issued outside the County of San Diego, the disciplinary plan shall be submitted to the issuing LEMSA. If the certification was issued by a non-LEMSA certifying entity, the disciplinary plan shall be submitted to the LEMSA that has jurisdiction where the headquarters of the certifying entity is located.
  5. The relevant employer is to notify, within three days, both the certifying entity and the LEMSA that has jurisdiction where the alleged action occurred of any of the following:
    - a. The EMT or AEMT is terminated or suspended for disciplinary cause.
    - b. The EMT or AEMT retires or resigns following the notification of impending investigation based on evidence that would indicate the existence of disciplinary cause.
    - c. The EMT or AEMT is removed from EMT or AEMT related duties for disciplinary cause after the completion of the employer's investigation.
  6. The relevant employer is to refer investigations that may lead to certification action to the LEMSA in the event the relevant employer does not wish to conduct the investigation.
  7. The CoSD EMS shall consult with the relevant employer regarding issuing a temporary suspension order prior to initiation.
- E.** An evaluation and determination by the relevant employer and/or the CoSD EMS that any of the following actions have occurred constitutes evidence of a threat to the public health and safety and is cause for initiating a formal investigation and possible disciplinary action:
1. Fraud in the procurement of any certification issued under Section 1798.200 of Division 2.5 of the Health and Safety Code.
  2. Gross negligence.
  3. Repeated negligent acts.
  4. Incompetence.

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5. The commission of any fraudulent, dishonest, or corrupt act, which is substantially related to the qualifications, functions, and duties of prehospital personnel.
6. Conviction of any crime, which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or certified copy of the record shall be conclusive evidence of the conviction.
7. Violating or attempting to violate directly or indirectly, assisting in, or abetting the violation of, or conspiring to violate, any provision of Section 1798.200 of Division 2.5 of the Health and Safety Code, or the regulations adopted by the authority pertaining to prehospital personnel.
8. Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.
9. Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.
10. Functioning outside of the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.
11. Demonstration of irrational behavior or occurrence of physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.
12. Unprofessional conduct exhibited by any of the following:
  - a. The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance.
  - b. The failure to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law in Sections 56 to 56.6, inclusive, of the Civil Code.
  - c. The commission of any sexually related offense specified under Section 290 of the Penal Code.

**F.** Certification actions relative to the individual's certificate shall be taken as a result of the findings of an investigation and will be consistent with State of California Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT and/or AEMT as noted in this policy.

**G.** The following factors shall be considered for determination of the certification action to be imposed on the respondent. Specifically, whether the certification action warranted is denial, probation, suspension, or revocation:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration
2. Actual or potential harm to the public
3. Actual or potential harm to any patient
4. Prior disciplinary record

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5. Prior warnings on record or prior remediation
6. Number and/or variety of current violations
7. Aggravating evidence
8. Mitigating evidence
9. Rehabilitation evidence
10. In case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation
11. Overall criminal record
12. Time elapsed since the act(s) or offense(s) occurred
13. If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4
14. In determining appropriate certification disciplinary action, the CoSD EMS Medical Director may give credit for prior disciplinary action imposed by the respondent's employer

The CoSD EMS Medical Director has the final determination as to the certification action and/or disciplinary action to be imposed.

**H. Certification Actions**

Actions taken shall be in accordance with Model Disciplinary Orders (MDOs) established by the State of California EMS Authority.

1. Probation: The CoSD EMS Medical Director may place an EMT or AEMT 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.
2. Suspension: The CoSD EMS Medical Director may suspend an EMT or AEMT certificate for a specified period of time for disciplinary cause in order to protect the public health and safety.
  - a. 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 CoSD EMS Medical Director shall continue the suspension until conditions for reinstatement have been met.
  - b. 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.
3. Denial and/or Revocation: The CoSD EMS Medical Director shall deny or revoke an EMT or AEMT certificate if any of the following apply to an applicant or certificate holder:
  - a. Has committed any sexually related offense specified under Section 290 of the Penal Code
  - b. Has been convicted of murder, attempted murder, or murder for hire
  - c. Has been convicted of two or more felonies

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- d. Is on parole or probation for any felony
- e. Has been convicted and released from incarceration for said offense during the preceding 15 years for the crime of manslaughter or involuntary manslaughter
- f. Has been convicted and released from incarceration for said offense during the preceding ten years for any offense punishable as a felony
- g. Has been convicted of two or more misdemeanors within the preceding five years for any offense relating to the use, sale, possession, or transportation of narcotics, additive, or dangerous drugs
- h. Has been convicted of two or more misdemeanors within the preceding five years for any offense relating to force, threat, violence, or intimidation
- i. Has been convicted within the preceding five years for any theft related misdemeanor

The CoSD EMS Medical Director may deny or revoke an EMT or AEMT certification if any of the following apply to the applicant:

- a. Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven years
- b. Is required to register pursuant to Section 11590 of Division 10 of the Health and Safety Code
- c. 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

4. Temporary Suspension Order:

- a. The CoSD EMS Medical Director may temporarily suspend a certificate prior to hearing if the certificate holder has engaged in omissions that constitute grounds for denial or revocation according to State of California regulations and if it is in the opinion of the CoSD EMS Medical Director that permitting the certificate holder to continue to engage in certified activity would pose an imminent threat to the public health and safety.
- b. Prior to, or concurrent with, initiation of temporary suspension order of a certificate pending hearing, the CoSD EMS Medical Director shall consult with the relevant employer of the certificate holder.
- c. 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 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.
- d. Within three working days of the initiation of the temporary suspension, the CoSD EMS Medical Director and the relevant employer shall jointly investigate the allegation in order for the CoSD EMS Medical Director to make a determination of the continuation of the temporary suspension.

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- 1) All investigatory information, not otherwise protected by the law, held by the CoSD EMS Medical Director and the relevant employer shall be shared between the parties via facsimile transmission or overnight mail relative to the decision to temporarily suspend.
- 2) If the certificate holder files a Notice of Defense, an administrative hearing shall be held within 30 calendar days of the CoSD EMS Medical Director's receipt of the Notice of Defense.

**I. Appeals Process**

If the CoSD EMS Medical Director makes a decision to place a certificate holder on probation, or deny, suspend, or revoke a certificate, the applicant for or holder of a certificate may request an appeal in writing, within 30 calendar days of the date that written notification of the decision to take disciplinary action is received via registered mail or personal service.

- J.** Certification action by the CoSD EMS 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 revoked by the CoSD EMS Medical Director shall not be eligible for re-application by any other certifying entity in the State of California for a period of at least 12 months from the effective date of the certification action.
- K.** The CoSD EMS Medical Director shall notify the applicant/certificate holder and his/her relevant employer(s) of the certification action within ten 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:
1. The specific allegations or evidence which resulted in the certification action(s)
  2. The certification action to be taken and the effective date of the certification action, including the duration of the action
  3. Which certificate(s) the certification action applies to in cases of holders of multiple certificates
  4. A statement that the certificate holder must report the certification action within ten working days to any other LEMSA and relevant employer in whose jurisdiction he/she uses the certificate
- L.** Investigations involving EMTs and AEMTs who are employed by a public safety agency as a firefighter shall be conducted in accordance with Section 3250 of Chapter 9.6 of the Government Code. The rights and protection described in Chapter 9.6 of the Government Code shall only apply to a firefighter during events and circumstances involving the performance of his/her official duties.

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- M.** The information shared among EMT and AEMT employers, CoSD EMS Medical Director, the EMS Authority, and certifying entities, other than the CoSD EMS, shall be deemed to be investigative communication that is exempt from public disclosure as a public record pursuant to subdivision (f) of Section 6254 of the Government Code.

**Paramedic**

- A.** When information comes to the attention of the CoSD EMS Medical Director that a Paramedic license holder has committed any act or omission that appears to constitute grounds for disciplinary action under above noted EMS Authority Health and Safety Codes, the CoSD EMS Medical Director may evaluate the information to determine if there is a reason to believe that disciplinary action may be necessary.
- B.** If the CoSD EMS Medical Director sends a recommendation to the EMS Authority for further investigation or discipline of the license holder, the recommendation shall include all documentary evidence collected by the CoSD EMS Medical Director in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature of an investigative communication and be protected by Section 6254 of the Government Code. In deciding what level of disciplinary action is appropriate in the case, the EMS Authority shall consult with the CoSD EMS Medical Director.
- C.** The Director of the EMS Authority or the CoSD EMS Medical Director, after consultation with the relevant employer, may temporarily suspend, prior to hearing, any Paramedic license upon a determination that:
  - 1. The licensee has engaged in acts or omissions that constitute grounds for revocation of the Paramedic license.
  - 2. Permitting the licensee to continue to engage in the licensed activity, or permitting the licensee to continue in the licensed activity without restriction, would present an imminent threat to the public health and safety.