

Assembly Bill No. 941

Passed the Assembly September 12, 2007

Chief Clerk of the Assembly

Passed the Senate September 11, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The health and safety of Californians often depends on the timely response and competent care of emergency medical service (EMS) personnel.

(b) Whether it is an automobile accident, heart attack, near drowning, unscheduled childbirth, gunshot wound, or other life critical incident, emergency medical technicians (EMTs) provide vital, lifesaving, prehospital attention to the public, and assist in transporting the sick or injured to an appropriate medical facility.

(c) Maintaining consistent and accountable supervision of EMT certificate holders requires that pertinent information about certification be available to all EMS providers prior to the employment of an EMT.

(d) Ensuring the safety of the public as well as that of first responders requires that any entity that employs EMTs have access to pertinent information concerning any applicant's background and criminal history as a condition of his or her employment.

(e) Local EMS agencies have a role to play in maintaining the consistency of department policies and their conformance with the legal requirements necessary to provide appropriate medical oversight and protect the public safety.

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

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

(b) The centralized registry system shall contain the full name of the EMT-I, EMT-II, or EMT-P, the agency that issued the certificate or, in the case of an EMT-P the license number, the date of issuance of the license or certificate, the licensure or certification status, and when a background check was completed as a condition of licensure, certification, or employment.

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

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

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

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

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

(f) Each local EMS agency shall submit certification status updates to the authority within three working days after a final

determination is made regarding a certification disciplinary action taken by the medical director that results in a change in an EMT-I or EMT-II certification status.

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

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

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

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

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

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

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

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

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

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

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

(B) Written accusations.

(C) Requests for discovery.

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

(c) Any individual certified as an EMT-I pursuant to this act shall be recognized as an EMT-I on a statewide basis, and recertification shall be based on statewide standards. Effective July 1, 1990, any individual certified as an EMT-I pursuant to this act shall complete a course of training on the nature of sudden

infant death syndrome which is developed by the California SIDS program in the State Department of Public Health in consultation with experts in the field of sudden infant death syndrome.

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

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

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

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

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

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

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

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

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

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

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

(B) Written accusations.

(C) Requests for discovery.

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

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

(d) (1) In rural or remote areas of the state where patient transport times are particularly long and where local resources are inadequate to support an EMT-P program for EMS responses, the director may approve additions to the scope of practice of EMT-IIs serving the local system, if requested by the medical director of the local EMS agency, and if the EMT-II has received training equivalent to that of an EMT-P. The approval of the director, in consultation with a committee of local EMS medical directors named by the Emergency Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-IIs proposed by the medical director of a local EMS agency. No drug or procedure that is not part of the basic EMT-P scope of practice, including, but not limited to, any approved local options, shall be added to any EMT-II scope of practice pursuant to this subdivision.

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

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

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

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

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

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

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

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

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

(ii) That the EMS service provider failed to impose discipline for the act or omission, or the medical director makes a determination that the discipline imposed was not sufficient and the act or omission engaged in by the EMT-I or EMT-II certificate holder constitutes grounds for further disciplinary action against the certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) 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. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace officer, or a peace officer who is acting in the dual capacity of peace officer and EMT-I, EMT-II, or EMT-P, from using that force that is reasonably necessary to effect a lawful arrest or detention.

(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.

(D) Obtaining or possessing in violation of the law, or, except as directed by a licensed physician and surgeon, dentist, or podiatrist, administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of this code or any dangerous drug or dangerous device as defined in Section 4022 of the Business and Professions Code.

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

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

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

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

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

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

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

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

Approved _____, 2007

Governor