

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1931

Introduced by Assembly Member Rodriguez

February 12, 2016

An act to amend ~~Section 1798.200~~ of Sections 1797.184, 1798.200, 1798.201, and 1798.202 of, and to repeal Section 1799.112 of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1931, as amended, Rodriguez. Emergency medical services: ~~technicians~~; *paramedics: discipline.*

Under existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, the Emergency Medical Services Authority is responsible for establishing training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel, including Emergency Medical Technician-I (EMT-I), Emergency Medical Technician-II (EMT-II), and Emergency Medical Technician Paramedic (EMT-P) designations. The act authorizes an employer of an EMT-I or EMT-II to conduct investigations and take disciplinary action against an EMT-I or EMT-II who is employed by that employer for specified conduct, and authorizes the authority to, among other things, deny, suspend, or revoke any EMT-P license for the same specified conduct. *Existing law requires an EMT-P's employer to report in writing to the local EMS agency and the authority within 30 days of specified disciplinary action being taken with regard to an EMT-P.*

This bill would ~~make a technical, nonsubstantive change to that provision~~. *require the authority to develop and adopt guidelines for*

disciplinary orders, temporary suspensions, and conditions of probation for EMT-P licenseholders. The bill would also integrate and conform the procedures for investigating misconduct of EMT-P licenseholders with those of EMT-I and EMT-II certificate holders, including requiring notification of disciplinary action with regard to an EMT-P to be given to the local EMS agency and the authority within 3 days.

Existing law authorizes the medical director of the local EMS agency to evaluate information that comes to his or her attention that appears to constitute grounds for disciplinary action against an EMT-P and to make a recommendation to the authority for further investigation or discipline. Existing law also authorizes the temporary suspension, in specified circumstances, of an EMT-P license.

This bill would require the medical director of the local EMS agency, if he or she makes a recommendation to the authority for further investigation or discipline, to notify the EMT-P’s employer within 3 days. The bill would additionally require notification of the EMT-P’s employer when there is a temporary suspension of an EMT-P’s license.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 1797.184 of the Health and Safety Code
- 2 is amended to read:
- 3 1797.184. The authority shall develop and, after approval by
- 4 the commission pursuant to Section 1799.50, adopt all of the
- 5 following:
- 6 (a) Guidelines for disciplinary orders, temporary suspensions,
- 7 and conditions of probation for EMT-I and EMT-II certificate
- 8 holders *and EMT-P licenseholders that ~~protects~~ protect* the public
- 9 health and safety.
- 10 (b) Regulations for the issuance of EMT-I and EMT-II
- 11 certificates by a certifying entity that ~~protects~~ *protect* the public
- 12 health and safety.
- 13 (c) Regulations for the recertification of EMT-I and EMT-II
- 14 certificate holders that protect the public health and safety.
- 15 (d) Regulations for disciplinary processes for EMT-I and EMT-II
- 16 applicants and certificate holders that protect the public health and
- 17 safety. These disciplinary processes shall be in accordance with

1 Chapter 5 (commencing with Section 11500) of Part 1 of Division
2 3 of Title 2 of the Government Code.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 1798.200 of the Health and Safety Code is
5 amended to read:

6 1798.200. (a) (1) (A) Except as provided in paragraph (2),
7 an employer of an ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P*
8 may conduct investigations, as necessary, and take disciplinary
9 action against an ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P*
10 who is employed by that employer for conduct in violation of
11 subdivision (c). The employer shall notify the ~~medical director of~~
12 ~~the local EMS agency that has jurisdiction in the county in which~~
13 ~~the alleged violation occurred~~ *regulating entity* within three days
14 when an allegation has been validated as a potential violation of
15 subdivision (c).

16 (B) Each employer of an ~~EMT-I or EMT-H~~ employee *EMT-I,*
17 *EMT-II, or EMT-P* shall notify the ~~medical director of the local~~
18 ~~EMS agency that has jurisdiction in the county in which a violation~~
19 ~~related to subdivision (c) occurred~~ *regulating entity* within three
20 days after the ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P* is
21 terminated or suspended for a disciplinary cause, the ~~EMT-I or~~
22 ~~EMT-H~~ *EMT-I, EMT-II, or EMT-P* resigns following notification
23 of an impending investigation based upon evidence that would
24 indicate the existence of a disciplinary cause, or the ~~EMT-I or~~
25 ~~EMT-H~~ *EMT-I, EMT-II, or EMT-P* is removed from EMT-related
26 duties for a disciplinary cause after the completion of the
27 employer's investigation. *The employer of an EMT-P shall provide*
28 *the regulating entity with all supporting documentation at the time*
29 *of notification.*

30 (C) At the conclusion of an investigation, the employer of an
31 ~~EMT-I or EMT-H~~ may develop and implement, in accordance with
32 the guidelines for disciplinary orders, temporary suspensions, and
33 conditions of probation adopted pursuant to Section 1797.184, a
34 disciplinary plan for the ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or*
35 *EMT-P*. Upon adoption of the disciplinary plan, the employer shall
36 submit that plan to the ~~local EMS agency~~ *regulating entity* within
37 three working days. The employer's disciplinary plan may include
38 a recommendation that the ~~medical director of the local EMS~~
39 ~~agency~~ consider taking action against the holder's certificate *or*
40 *license* pursuant to paragraph (3).

1 (2) If an ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P* is not
 2 employed by an ambulance service licensed by the Department of
 3 the California Highway Patrol or a public safety ~~agency~~ *agency*,
 4 or if that ambulance service or public safety agency chooses not
 5 to conduct an investigation pursuant to paragraph (1) for conduct
 6 in violation of subdivision (c), the ~~medical director of a local EMS~~
 7 ~~agency~~ shall conduct the investigations, and, upon a determination
 8 of disciplinary cause, take disciplinary action as necessary against
 9 the ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P*. At the
 10 conclusion of these investigations, the ~~medical~~ director shall
 11 develop and implement, in accordance with the recommended
 12 guidelines for disciplinary orders, temporary orders, and conditions
 13 of probation adopted pursuant to Section 1797.184, a disciplinary
 14 plan for the ~~EMT-I or EMT-H~~ *EMT-I, EMT-II, or EMT-P*. The
 15 ~~medical~~ director's disciplinary plan may include action against the
 16 holder's certificate *or license* pursuant to paragraph (3).

17 (3) The ~~medical director of the local EMS agency~~ may, upon a
 18 determination of disciplinary cause and in accordance with
 19 regulations for disciplinary processes adopted pursuant to Section
 20 1797.184, deny, suspend, or revoke any EMT-I or EMT-II
 21 certificate *or EMT-P license* issued under this division, or may
 22 place ~~any~~ *an* EMT-I or EMT-II certificate holder *or EMT-P*
 23 *licenseholder* on probation, upon the finding by ~~that medical~~ *the*
 24 director of the occurrence of any of the actions listed in subdivision
 25 (c) and the occurrence of one of the following:

26 (A) The ~~EMT-I or EMT-H~~ employer, after conducting an
 27 investigation, failed to impose discipline for the conduct under
 28 investigation, or the ~~medical~~ director makes a determination that
 29 the discipline imposed was not according to the guidelines for
 30 disciplinary orders and conditions of probation and the conduct of
 31 the EMT-I or EMT-II certificate holder *or EMT-P licenseholder*
 32 constitutes grounds for disciplinary action against the ~~certificate~~
 33 *holder's certificate or license*.

34 (B) Either the employer ~~of an EMT-I or EMT-H~~ further
 35 determines, after an investigation conducted under paragraph (1),
 36 or the ~~medical~~ director determines after an investigation conducted
 37 under paragraph (2), that the conduct requires disciplinary action
 38 against the ~~certificate~~ *holder's certificate or license*.

39 (4) The ~~medical director of the local EMS agency, director,~~
 40 after consultation with the ~~employer of an EMT-I or EMT-H,~~

1 *employer*, may temporarily suspend, prior to a hearing, ~~any an~~
2 ~~EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates~~
3 ~~certificate, an EMT-P license, or a combination thereof~~ upon a
4 determination that both of the following conditions have been met:

5 (A) The certificate holder *or licenseholder* has engaged in acts
6 or omissions that constitute grounds for revocation of the EMT-I
7 or EMT-II ~~certificate, certificate or EMT-P license~~.

8 (B) Permitting the certificate holder *or licenseholder* to continue
9 to engage in the ~~certified~~ *regulated* activity without restriction
10 would pose an imminent threat to the public health or safety.

11 (5) If the ~~medical director of the local EMS agency~~ temporarily
12 suspends a ~~certificate, certificate or license~~, the ~~local EMS agency~~
13 ~~regulating entity~~ shall notify the certificate holder *or licenseholder*
14 that his or her ~~EMT-I or EMT-II certificate or license~~ is suspended
15 and shall identify the reasons therefor. Within three working days
16 of the initiation of the suspension by the ~~local EMS agency~~, the
17 ~~agency regulating entity, the regulating entity~~ and employer shall
18 jointly investigate the allegation in order for the ~~agency regulating~~
19 ~~entity~~ to make a determination of the continuation of the temporary
20 suspension. All investigatory information not otherwise protected
21 by law held by the ~~agency regulating entity~~ and employer shall be
22 shared between the parties via facsimile transmission or overnight
23 mail relative to the decision to temporarily suspend. The ~~local~~
24 ~~EMS agency regulating entity~~ shall decide, within 15 calendar
25 days, whether to serve the certificate holder *or licenseholder* with
26 an accusation pursuant to Chapter 5 (commencing with Section
27 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
28 If the certificate holder *or licenseholder* files a notice of defense,
29 the hearing shall be held within 30 days of the ~~local EMS agency's~~
30 ~~regulating entity's~~ receipt of the notice of defense. The temporary
31 suspension order shall be deemed vacated if the ~~local EMS agency~~
32 ~~regulating entity~~ fails to make a final determination on the merits
33 within 15 days after the administrative law judge renders the
34 proposed decision.

35 (6) The ~~medical director of the local EMS agency~~ shall refer,
36 for investigation and discipline, any complaint received on an
37 ~~EMT-I or EMT-II~~ *EMT-I, EMT-II, or EMT-P* to the relevant
38 employer within three days of receipt of the complaint, pursuant
39 to subparagraph (A) of paragraph (1) of subdivision (a).

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

9 *(b) For purposes of this section, the following definitions shall*
10 *apply:*

11 *(1) "Director" means either of the following:*

12 *(A) For purposes of EMT-I or EMT-II certificate holders, the*
13 *medical director of the local EMS agency that has jurisdiction in*
14 *the county in which the alleged violation occurred.*

15 *(B) For purposes of EMT-P licenseholders, the Director of the*
16 *Emergency Medical Services Authority.*

17 *(2) "Regulating entity" means either of the following:*

18 *(A) For purposes of EMT-I and EMT-II certificate holders, the*
19 *local EMS agency that has jurisdiction in the county in which the*
20 *alleged violation occurred.*

21 *(B) For purposes of EMT-P licenseholders, the EMS Authority.*
22 *When requiring a report or notification regarding an EMT-P,*
23 *"regulating entity" refers to both the local EMS agency that has*
24 *jurisdiction in the county in which the alleged violation occurred*
25 *and the EMS Authority.*

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

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

33 *(2) Gross negligence.*

34 *(3) Repeated negligent acts.*

35 *(4) Incompetence.*

36 *(5) The commission of any fraudulent, dishonest, or corrupt act*
37 *that is substantially related to the qualifications, functions, and*
38 *duties of prehospital personnel.*

39 *(6) Conviction of any crime that is substantially related to the*
40 *qualifications, functions, and duties of prehospital personnel. The*

1 record of conviction or a certified copy of the record shall be
2 conclusive evidence of the conviction.

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

7 (8) Violating or attempting to violate any federal or state statute
8 or regulation that regulates narcotics, dangerous drugs, or
9 controlled substances.

10 (9) Addiction to, the excessive use of, or the misuse of, alcoholic
11 beverages, narcotics, dangerous drugs, or controlled substances.

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

15 (11) Demonstration of irrational behavior or occurrence of a
16 physical disability to the extent that a reasonable and prudent
17 person would have reasonable cause to believe that the ability to
18 perform the duties normally expected may be impaired.

19 (12) Unprofessional conduct exhibited by any of the following:

20 (A) The mistreatment or physical abuse of any patient resulting
21 from force in excess of what a reasonable and prudent person
22 trained and acting in a similar capacity while engaged in the
23 performance of his or her duties would use if confronted with a
24 similar circumstance. Nothing in this section shall be deemed to
25 prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace
26 officer, or a peace officer who is acting in the dual capacity of
27 peace officer and EMT-I, EMT-II, or EMT-P, from using that force
28 that is reasonably necessary to effect a lawful arrest or detention.

29 (B) The failure to maintain confidentiality of patient medical
30 information, except as disclosure is otherwise permitted or required
31 by law in Part 2.6 (commencing with Section 56) of Division 1 of
32 the Civil Code.

33 (C) The commission of any sexually related offense specified
34 under Section 290 of the Penal Code.

35 (d) The information shared among EMT-I, EMT-II, and EMT-P
36 employers, medical directors of local EMS agencies, the authority,
37 and EMT-I and EMT-II certifying entities shall be deemed to be
38 an investigative communication that is exempt from public
39 disclosure as a public record pursuant to subdivision (f) of Section
40 6254 of the Government Code. A formal disciplinary action against

1 an EMT-I, EMT-II, or EMT-P shall be considered a public record
 2 available to the public, unless otherwise protected from disclosure
 3 pursuant to state or federal law.

4 (e) For purposes of this section, “disciplinary cause” means *only*
 5 an ~~act~~ *action* that is substantially related to the qualifications,
 6 functions, and duties of an EMT-I, EMT-II, or EMT-P and is
 7 evidence of a threat to the public health and safety described in
 8 subdivision (c).

9 (f) *The reporting requirements of subdivision (a) do not require*
 10 *or authorize the release of information or records of an EMT-P*
 11 *who is also a peace officer protected by Section 832.7 of the Penal*
 12 *Code.*

13 (g) *Proceedings against any EMT-P licenseholder shall be held*
 14 *in accordance with Chapter 5 (commencing with Section 11500)*
 15 *of Part 1 of Division 3 of Title 2 of the Government Code.*

16 (h) (1) *Pursuant to subdivision (i) of Section 1798.24 of the*
 17 *Civil Code, upon notification to the EMT-P, the EMS Authority*
 18 *may share the results of its investigation pursuant to subdivision*
 19 *(a) with the employer, a prospective employer when requested, in*
 20 *writing, as part of a preemployment background check, or the*
 21 *local EMS agency.*

22 (2) *An EMT-P licensee or applicant to whom the information*
 23 *pertains, as set forth in subdivision (a) of Section 1798.24 of the*
 24 *Civil Code, may view the contents of a closed investigation file*
 25 *upon request during the EMS Authority’s regular business hours.*

26 *SEC. 3. Section 1798.201 of the Health and Safety Code is*
 27 *amended to read:*

28 1798.201. (a) When information comes to the attention of the
 29 medical director of the local EMS agency that an EMT-P
 30 licenseholder has committed any act or omission that appears to
 31 constitute grounds for disciplinary action under this division, the
 32 medical director of the local EMS agency may evaluate the
 33 information to determine if there is reason to believe that
 34 disciplinary action may be necessary.

35 (b) If the medical director sends a recommendation to the
 36 authority for further investigation or discipline of the licenseholder,
 37 ~~the recommendation~~ *medical director shall also notify, within three*
 38 *days, the EMT-P’s employer. The recommendation to the authority*
 39 *and the notification sent to the employer shall include all*
 40 *documentary evidence collected by the medical director in*

1 evaluating whether or not to make that recommendation. The
2 recommendation and accompanying evidence shall be deemed in
3 the nature of an investigative communication and be protected by
4 Section 6254 of the Government Code. In deciding what level of
5 disciplinary action is appropriate in the case, the authority shall
6 consult with the medical director of the local EMS agency.

7 *SEC. 4. Section 1798.202 of the Health and Safety Code is*
8 *amended to read:*

9 1798.202. (a) The director of the authority or the medical
10 director of the local EMS agency, after consultation with the
11 relevant employer, may temporarily suspend, prior to hearing, ~~any~~
12 *an* EMT-P license upon a determination that: (1) the licensee has
13 engaged in acts or omissions that constitute grounds for revocation
14 of the EMT-P license; and (2) permitting the licensee to continue
15 to engage in the licensed activity, or permitting the licensee to
16 continue in the licensed activity without restriction, would present
17 an imminent threat to the public health or safety. When the
18 suspension is initiated by the local EMS agency, subdivision (b)
19 shall apply. When the suspension is initiated by the director of the
20 authority, subdivision (c) shall apply.

21 (b) The local EMS agency shall notify the licensee that his or
22 her EMT-P license is suspended and shall identify the reasons
23 therefor. Within three working days of the initiation of the
24 suspension by the local EMS agency, the agency shall transmit to
25 ~~the authority,~~ *authority and the EMT-P's employer,* via facsimile
26 transmission or overnight mail, all documentary evidence collected
27 by the local EMS agency relative to the decision to temporarily
28 suspend. Within two working days of receipt of the local EMS
29 agency's documentary evidence, the director of the authority shall
30 determine the need for the licensure action. Part of that
31 determination shall include an evaluation of the need for
32 continuance of the suspension during the licensure action review
33 process. If the director of the authority determines that the
34 temporary suspension order should not continue, the authority
35 shall immediately notify the licensee *and his or her employer* that
36 the temporary suspension is lifted. If the director of the authority
37 determines that the temporary suspension order should continue,
38 the authority shall immediately notify the licensee *and his or her*
39 *employer* of the decision to continue the temporary suspension
40 and shall, within 15 calendar days of receipt of the EMS agency's

1 documentary evidence, serve the licensee with a temporary
2 suspension order and accusation pursuant to Chapter 5
3 (commencing with Section 11500) of Part 1 of Division 3 of Title
4 2 of the Government Code.

5 (c) The director of the authority shall initiate a temporary
6 suspension with the filing of a temporary suspension order and
7 accusation pursuant to Chapter 5 (commencing with Section 11500)
8 of Part 1 of Division 3 of Title 2 of the Government Code and shall
9 notify the director of the local EMS agency, and the relevant
10 employer.

11 (d) If the licensee files a notice of defense, the hearing shall be
12 held within 30 days of the authority’s receipt of the notice of
13 defense. The temporary suspension order shall be deemed vacated
14 if the authority fails to make a final determination on the merits
15 within 15 days after the administrative law judge renders the
16 proposed decision.

17 *SEC. 5. Section 1799.112 of the Health and Safety Code is*
18 *repealed.*

19 ~~1799.112. (a) EMT-P employers shall report in writing to the~~
20 ~~local EMS agency medical director and the authority and provide~~
21 ~~all supporting documentation within 30 days of whenever any of~~
22 ~~the following actions are taken:~~

23 ~~(1) An EMT-P is terminated or suspended for disciplinary cause~~
24 ~~or reason.~~

25 ~~(2) An EMT-P resigns following notice of an impending~~
26 ~~investigation based upon evidence indicating disciplinary cause~~
27 ~~or reason.~~

28 ~~(3) An EMT-P is removed from paramedic duties for~~
29 ~~disciplinary cause or reason following the completion of an internal~~
30 ~~investigation.~~

31 ~~(b) The reporting requirements of subdivision (a) do not require~~
32 ~~or authorize the release of information or records of an EMT-P~~
33 ~~who is also a peace officer protected by Section 832.7 of the Penal~~
34 ~~Code.~~

35 ~~(c) For purposes of this section, “disciplinary cause or reason”~~
36 ~~means only an action that is substantially related to the~~
37 ~~qualifications, functions, and duties of a paramedic and is~~
38 ~~considered evidence of a threat to the public health and safety as~~
39 ~~identified in subdivision (c) of Section 1798.200.~~

1 ~~(d) Pursuant to subdivision (i) of Section 1798.24 of the Civil~~
2 ~~Code, upon notification to the paramedic, the authority may share~~
3 ~~the results of its investigation into a paramedic's misconduct with~~
4 ~~the paramedic's employer, prospective employer when requested~~
5 ~~in writing as part of a preemployment background check, and the~~
6 ~~local EMS agency.~~

7 ~~(e) The information reported or disclosed in this section shall~~
8 ~~be deemed in the nature of an investigative communication and is~~
9 ~~exempt from disclosure as a public record by subdivision (f) of~~
10 ~~Section 6254 of the Government Code.~~

11 ~~(f) A paramedic applicant or licensee to whom the information~~
12 ~~pertains may view the contents, as set forth in subdivision (a) of~~
13 ~~Section 1798.24 of the Civil Code, of a closed investigation file~~
14 ~~upon request during the regular business hours of the authority.~~