

SIERRA-SACRAMENTO VALLEY EMS AGENCY PROGRAM POLICY

REFERENCE NO. 903

**SUBJECT: EMT / AEMT DENIAL OF CERTIFICATION / ACCREDITATION,
INCIDENT INVESTIGATION, DETERMINATION OF ACTION,
NOTIFICATION AND ADMINISTRATIVE HEARING PROCESS**

PURPOSE:

To establish a policy and procedure governing denial of an EMT or Advanced EMT certificate or EMT optional skill accreditation, reportable situations regarding an EMT or AEMT certificate or EMT optional skill accreditation holder, and the evaluation and determination regarding whether or not disciplinary cause exists.

AUTHORITY:

California Health and Safety Code, Division 2.5, Chapter 4 and 5.

California Code of Regulations, Title 22, Chapter 6.

POLICY:

Any information received from any source, 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 consistent with the California Code of Regulations, Title 22, Division 9, Chapter 6.

DEFINITIONS:

Accreditation – as used in this policy means S-SV EMS Agency EMT optional skill accreditation.

AGENCY – as used in this policy means the Sierra-Sacramento Valley EMS Agency.

Certificate – means a valid Emergency Medical Technician (EMT) or Advanced EMT (AEMT) certificate issued pursuant to Division 2.5 of the California Health and Safety Code.

Certifying Entity – means a public safety agency or the office of the State Fire Marshal if the agency has a training program for EMT personnel that is approved pursuant to the standards developed pursuant to Section 1797.109 of the Health and Safety Code, or the medical director of the local EMS Agency (LEMSA).

Effective Date: 07/01/2010

Date last Reviewed / Revised: 06/10

Next Review Date: 06/2013

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Approved:

SIGNATURE ON FILE
S-SV EMS Medical Director

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S-SV EMS Regional Executive Director

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Certification / Accreditation Action – means those actions that may be taken by the medical director that include denial, suspension, revocation of a certificate / accreditation, or placing a certificate / accreditation holder on probation.

Certificate / Accreditation Holder – as used in this policy, shall mean the holder of a certificate / accreditation, as those terms are described above.

Discipline – means either a disciplinary plan taken by a relevant employer as described under the definition of ‘Disciplinary Plan’ in this section, or certification / accreditation action taken by the medical director as described under the definition of ‘Medical Director’ in this section, or both a disciplinary plan and certification / accreditation action.

Disciplinary Cause – means an act that is substantially related to the qualifications, functions, and duties of an EMT or AEMT and is evidence of a threat to the public health and safety, per Health and Safety Code Section 1798.200.

Disciplinary Plan – means a written plan of action that can be taken by a relevant employer as a consequence of any action listed in Section 1798.200 (c) of the California Health and Safety Code.

Medical Director – as used in this policy means the S-SV EMS Agency Medical Director.

Model Disciplinary Orders (MDO) – means the “RECOMMENDED GUIDELINES FOR DISCIPLINARY ORDERS AND CONDITIONS OF PROBATION FOR EMT (BASIC) AND ADVANCED EMT” (EMSA document #134, 12/2/09) which were developed to provide consistent and equitable discipline in cases dealing with disciplinary cause.

Multiple Certificate Holder – means a person who holds an EMT and an AEMT certificate.

Relevant employer(s) – means those ambulance services permitted by the Department of the California Highway Patrol or a public safety agency that the certificate holder works for or was working for at the time of the incident under review, as an EMT or AEMT either as a paid employee or a volunteer.

PROCEDURE

I. APPLICATION OF THIS POLICY

- A. The certifying entity, relevant employer, or AGENCY shall adhere to the provisions of this policy, in applicable situations, when investigating or implementing any actions for disciplinary cause.

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- B. In order to take disciplinary or certification / accreditation action on an EMT or AEMT, it must first be determined that a disciplinary cause has occurred by the applicant or certificate / accreditation holder and there exists a threat to the public health and safety, as evidenced by the occurrence of any of the actions listed in Section 1798.200(c) of the California Health and Safety Code by the applicant or certificate / accreditation holder.

- C. An application for certification / accreditation or recertification / reaccreditation shall be denied without prejudice and does not require an administrative hearing, when an applicant does not meet the requirements for certification / accreditation or recertification / reaccreditation, including but not limited to, failure to pass a certification / accreditation or recertification / reaccreditation examination, lack of sufficient continuing education or documentation of a completed refresher course, failure to furnish additional information or documents requested by the certifying entity, or failure to pay any required fees. The denial shall be in effect until all requirements for certification / accreditation or recertification / reaccreditation are met. If a certificate expires before recertification requirements are met, the certificate shall be deemed a lapsed certificate and subject to the provisions pertaining to lapsed certificates.

- D. Nothing in this policy 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 medical control policies and procedures, developed pursuant to requirements of Division 2.5 of the California Health and Safety Code and of Chapters 3 and 4 of the California Code of Regulations for medical control and supervision.

**II. SUBSTANTIAL RELATIONSHIP CRITERIA FOR THE DENIAL,
PLACEMENT ON PROBATION, SUSPENSION, OR REVOCATION OF A
CERTIFICATE / ACCREDITATION.**

- A. For the purposes of denial, placement on probation, suspension, or revocation of a certificate / accreditation, pursuant to Section 1798.200(c) of the Health and Safety Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a certificate / accreditation holder if to a substantial degree it evidences unfitness of a certificate / accreditation holder to perform the functions authorized by the certificate / accreditation in that it poses a threat to the public health and safety.

- B. For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction.
 - 1. "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.

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2. "Conviction" means the final judgment on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere.
- C. The AGENCY, when determining the certification / accreditation action to be imposed or reviewing a petition for reinstatement or reduction of penalty under Section 11522 of the Government Code, shall evaluate the rehabilitation of the applicant and present eligibility for certification / accreditation of the respondent. When the certification / accreditation action warranted is probation, denial, suspension, or revocation the following factors may be considered:
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;
 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 the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation;
 11. Overall criminal record;
 12. Time that has 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 / accreditation disciplinary action, the AGENCY medical director may give credit for prior disciplinary action imposed by the respondent's employer.

III. RESPONSIBILITIES OF RELEVANT EMPLOYER

Under the provisions of this policy, relevant employers:

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- A. May conduct investigations to determine disciplinary cause.
- B. Upon determination of disciplinary cause, the relevant employer may develop and implement, a disciplinary plan, in accordance with the MDOs.
 - 1. The relevant employer shall submit that disciplinary plan to the AGENCY 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.
 - 2. The employer's disciplinary plan may include a recommendation that the medical director consider taking action against the holder's certificate / accreditation to include denial of certification / accreditation, suspension of certification / accreditation, revocation of certification / accreditation, or placing a certificate / accreditation on probation.
- C. Shall notify the medical director within three (3) working days after an allegation has been validated as potential for disciplinary cause.
- D. Shall notify the medical director within three (3) working days of the occurrence of any of following:
 - 1. The EMT or AEMT is terminated or suspended for a disciplinary cause; or,
 - 2. 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,
 - 3. The EMT or AEMT is removed from employment-related duties for a disciplinary cause after the completion of the employer's investigation.

IV. JURISDICTION OF THE MEDICAL DIRECTOR

- A. The medical director who issued the certificate / accreditation, 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 / accreditation holder is not an employee of a relevant employer or the relevant employer does not conduct an investigation. Upon determination of disciplinary cause, the medical director may take certification / accreditation action as necessary against an EMT or AEMT certificate / accreditation.

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- B. The medical director may, upon determination of disciplinary cause and according to the provisions of this policy, take certification / accreditation action against an EMT or AEMT to deny, suspend, or revoke, or place a certificate / accreditation holder on probation, upon the findings by the medical director of the occurrence of any of the actions listed in Health and Safety Code, Section 1798.200 (c) and for which any of the following conditions are true:
 - 1. The relevant employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the medical director makes a determination that discipline imposed by the relevant employer was not in accordance with the MDOs and the conduct of the certificate / accreditation holder constitutes grounds for certification / accreditation action.
 - 2. The medical director determines, following an investigation conducted in accordance with this policy, that the conduct requires certification / accreditation action.
- C. The 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 / accreditation upon a determination of the following:
 - 1. The certificate / accreditation holder has engaged in acts or omissions that constitute grounds for revocation of the EMT or AEMT certificate / accreditation; and,
 - 2. Permitting the certificate / accreditation holder to continue to engage in certified / accredited activity without restriction poses an imminent threat to the public health and safety.
- D. If the medical director takes any certification action, s/he shall notify the State EMS Authority of the findings of the investigation and the certification action taken by entering this information directly into the State Central Registry. Any accreditation action will be documented and maintained by the S-SV EMS Agency.

V. EVALUATION OF INFORMATION

- A. A relevant employer who receives an allegation of conduct listed in Section 1798.200 (c) of the Health and Safety Code against an EMT or AEMT and once the allegation is validated, shall notify the medical director, within three (3) working days, of the certificate / accreditation holder's name, certification / accreditation number, and the allegation(s).
- B. When the AGENCY receives a complaint against a certificate / accreditation holder, the AGENCY shall forward the original complaint and any supporting

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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 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 certificate / accreditation issued by the AGENCY or pursuant to Division 2.5 of the California Health and Safety Code.

- C. The relevant employer or medical director shall conduct an investigation of the allegations in accordance with the provisions of this policy, if warranted.

VI. INVESTIGATIONS INVOLVING FIREFIGHTERS

- A. 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.
- B. All investigations involving EMT's and AEMT's 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.

VII. DUE PROCESS

The certification / accreditation 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.

VIII. DETERMINATION OF CERTIFICATION / ACCREDITATION ACTION

- A. Certification / accreditation action relative to the individual's certificate(s) / accreditation (s) shall be taken as a result of the findings of the investigation.
- B. Upon determining the disciplinary or certification / accreditation action to be taken, the relevant employer or medical director shall complete and place in the personnel file or any other file used for any personnel purposes by the relevant employer or the AGENCY, 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.
- C. In the case of a temporary suspension order pursuant to section IV, subsection C of this policy, it shall take effect upon the date the notice required by Section IX, subsection C of this policy is mailed to the certificate / accreditation holder.

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- D. For all other certification / accreditation actions, the effective date shall be thirty days from the date the notice is mailed to the applicant for, or holder of, a certificate / accreditation unless another time is specified or an appeal is made.

IX. TEMPORARY SUSPENSION ORDER

- A. The medical director may temporarily suspend a certificate prior to a hearing if, the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation according to Section X, subsection C, items 2 and 3, and if in the opinion of the medical director permitting the certificate / accreditation holder to continue to engage in certified / accredited activity would pose an imminent threat to the public health and safety.
- B. The medical director may temporarily suspend an accreditation prior to a hearing if, the accreditation holder has engaged in acts or omissions that constitute grounds for denial or revocation, and if in the opinion of the medical director permitting the accreditation holder to continue to engage in accredited activity would pose an imminent threat to the public health and safety.
- C. Prior to, or concurrent with, initiation of a temporary suspension order of a certificate / accreditation pending hearing, the medical director shall consult with the relevant employer of the certificate / accreditation holder.
- D. The notice of temporary suspension pending hearing shall be served by registered mail or by personal service to the certificate / accreditation 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 / accreditation holder to continue to engage in certified / accredited activities would pose an imminent threat to the public health and safety.
- E. Within three (3) working days of the initiation of the temporary suspension by the AGENCY, the AGENCY and relevant employer shall jointly investigate the allegation in order for the AGENCY to make a determination of the continuation of the temporary suspension.
1. All investigatory information, not otherwise protected by the law, held by the AGENCY and the relevant employer shall be shared between the parties via facsimile transmission or overnight mail relative to the decision to temporarily suspend.
 2. The AGENCY shall serve within fifteen (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).

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3. If the certificate / accreditation holder files a Notice of Defense, the administrative hearing shall be held within thirty (30) calendar days of the AGENCY's receipt of the Notice of Defense.
4. The temporary suspension order shall be deemed vacated if the AGENCY fails to serve an accusation within fifteen (15) calendar days or fails to make a final determination on the merits within fifteen (15) calendar days after the Administrative Law Judge (ALJ) renders a proposed decision.

**X. FINAL DETERMINATION OF CERTIFICATION / ACCREDITATION
ACTION BY THE MEDICAL DIRECTOR**

Upon determination of certification / accreditation action following an investigation, and appeal of certification / accreditation action pursuant to Section VII of this policy, if the respondent so chooses, the medical director may take the following final actions on an EMT or AEMT certificate / accreditation:

A. Place the Certificate / Accreditation Holder on Probation.

Pursuant to section I of this policy, the medical director may place a certificate / accreditation holder on probation any time an infraction or performance deficiency occurs which indicates a need to monitor the certificate / accreditation 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 medical director may revoke the EMT or AEMT certificate / accreditation if the certificate / accreditation holder fails to successfully complete the terms of probation.

B. Suspension of a Certificate / Accreditation.

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

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C. Denial or Revocation of a Certificate / Accreditation.

1. The medical director may deny or revoke any EMT or AEMT certificate / accreditation for disciplinary cause that has been investigated and verified by application of this policy.
2. The medical director shall deny or revoke an EMT or AEMT certificate / accreditation if any of the following apply to the applicant:
 - 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 (2) or more felonies.
 - d. Is on parole or probation for any felony.
 - e. Has been convicted and released from incarceration for said offense during the preceding fifteen (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 (10) years for any offense punishable as a felony.
 - g. 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.
 - h. 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.
 - i. Has been convicted within the preceding five (5) years of any theft related misdemeanor
3. The medical director may deny or revoke an EMT or AEMT certificate 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 (7) years.
 - b. Is required to register pursuant to Section 11590 of the Health and Safety Code.
4. Subsection C, item 1 of 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 subsection C, items 2 and 3 of 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.

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5. This Section shall not apply to those EMT's or EMT IIs who obtain their California certificate / S-SV EMS accreditation prior to July 1, 2010; unless:
 - a. The certificate / accreditation holder is convicted of any misdemeanor or felony after July 1, 2010.
 - b. The certificate / accreditation holder committed any sexually related offense specified under Section 290 of the Penal Code.
 - c. The certificate / accreditation holder failed to disclose to the certifying entity any prior convictions when completing his/her application for initial EMT or AEMT certification / accreditation or certification / accreditation renewal.
6. Nothing in this Section shall negate an individual's right to appeal a denial of an EMT or AEMT certificate / accreditation pursuant to this policy.
7. Certification action by the 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.

**XI. NOTIFICATION OF FINAL DECISION OF CERTIFICATION /
ACCREDITATION ACTION**

- A. For the final decision of certification / accreditation action, the medical director shall notify the applicant or certificate / accreditation holder and his/her relevant employer(s) of the certification / accreditation action within ten (10) working days after making the final determination.
- B. The notification of final decision shall be served by registered mail or personal service and shall include the following information:
 - a. The specific allegations or evidence which resulted in the certification / accreditation action;
 - b. The certification / accreditation action(s) to be taken, and the effective date(s) of the certification / accreditation action(s), including the duration of the action(s);
 - c. Which certificate(s) / accreditation the certification action applies to in cases of holders of multiple certificates;
 - d. 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.

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- e. A statement that the accreditation holder must report the accreditation action within ten (10) working days to any other relevant employer in the S-SV EMS region who is approved as an EMT optional skills provider.

CROSS REFERENCES:

Policy and Procedure Manual

EMT Certification & Recertification, Reference No. 901

Advanced EMT Certification & Recertification, Reference No. 902

EMT Optional Skill: Requirements for Accreditation, Reference No. 977