

Monterey County EMS System Policy



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EMT DISCIPLINARY ACTION--EMS AGENCY RESPONSIBILITIES

I. PURPOSE

- A. To specify the responsibilities of the EMS Agency when investigating and taking disciplinary action for EMT personnel that have or may have committed actions considered as evidence of a threat to public health and safety as specified in California Health and Safety Code, Section 1798.200 (c).

II. POLICY

- A. The EMS Agency shall investigate and take action as necessary to protect the public health and safety, when information that an EMT certified by the EMS Agency or while functioning as an EMT as part of the Monterey County EMS system has violated, or potentially violated, California Health and Safety Code Section 1798.200.
- B. The EMS Agency will conduct its investigation according to the principles and requirements found in California Government Code, Health and Safety Code, California regulations, and Monterey County EMS System Policies.
- C. All information received from any source, which purports a violation of or deviation from state or local EMS statutes, regulations, policies, procedures, protocols, or standards shall be evaluated pursuant to the requirements set forth in this policy.
- D. The EMS Medical Director may take any action they consider appropriate to include:
 - 1. Denial or revocation.
 - 2. Temporary Suspension Order (TSO).
 - 3. Placing the certificate holder on probation.
 - 4. No action.
- E. Disciplinary actions and terms of probation instituted by the EMS Medical Director shall be in accordance with the Model Disciplinary Orders established by the EMS Authority.
- F. The EMS Medical Director may revoke an EMT certificate should the EMT fail to comply with the terms of probation.

III. EVALUATION OF INFORMATION

- A. The Medical Director or designee shall evaluate information received from a credible source, including information obtained from an application, medical audit, or complaint,

alleging or indicating the possibility of a threat to the public health and safety by the action of an applicant for, or a holder of, an EMT certificate.

- B. If the Medical Director or designee determines that further inquiry into the situation is necessary or that disciplinary action may be warranted, the Medical Director shall conduct an investigation or refer the case to the relevant employer for investigation in accordance with the provisions of his policy. Referral to the relevant employer shall be made within 3 days from the receipt of the complaint.
- C. Information shared between local EMS agencies, employers, local EMS agency medical directors, the EMS Authority, and certifying entities is considered investigative communications and is not subject to public record disclosure.
- D. The EMS Medical Director or designee will, when determining certification action, consider factors such as:
 - 1. Rehabilitation of the respondent.
 - 2. Nature and severity of the acts, offenses, or crimes under consideration.
 - 3. Actual or potential harm to the public.
 - 4. Actual or potential harm to any patient.
 - 5. Prior disciplinary record.
 - 6. Prior warnings or prior remediation.
 - 7. Number and/or variety of current violations.
 - 8. Aggravating evidence.
 - 9. Evidence of rehabilitation.
 - 10. Compliance with probation or other terms, in the case of criminal conviction.
 - 11. Time elapsed since the act(s) or offense(s) occurred.
 - 12. Evidence of expungement of expungement proceedings.
- E. The EMS Medical Director may give credit for prior disciplinary actions imposed by respondent's employer.

IV. DUE PROCESS

- A. Investigation and disciplinary processes shall be in accordance with Section 11500 et. Seq. of Title 2 of the Government Code.
- B. The disciplinary action for on duty occurrences or violations involving firefighters shall be conducted in accordance with the Firefighter Procedural Bill of Rights.

V. JURISDICTION OF THE MEDICAL DIRECTOR

- A. The Medical Director or designee shall conduct investigations to validate allegations for disciplinary cause when either the applicant or certificate holder is not an employee of a relevant employer, the relevant employer does not conduct an investigation, or the

relevant employer requests that the EMS Agency conduct the investigation. Upon determination of disciplinary cause, the Medical Director may take certification action as necessary against an applicant or certificate holder.

- B. The Medical Director may upon determination of disciplinary cause take action against an applicant or certificate holder to deny, suspend, revoke, or place on probation upon finding the occurrence of any of the actions listed in California 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 in accordance with the Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT, EMSA #134, effective 4-1-2010.
 - 2. The Medical Director determines that the conduct requires disciplinary action against the applicant or certificate holder.
- C. If action is taken against an applicant or certificate holder the EMS Agency shall notify the EMS Authority of such action and enter the information into the EMT Central Registry.

VI. DETERMINATION OF ACTION:

A. Process

- 1. The Medical Director or designee, after determining cause for certification action exists, shall file an accusation upon the EMT or applicant. The accusation shall include a statement of charges in clear and concise language that shall allow the respondent to prepare their defense. The accusation shall be delivered to the respondent by registered mail and any other means deemed appropriate by EMS Agency staff to ensure delivery to the respondent.
- 2. The EMS Agency shall provide, along with the accusation, a Notice of Defense by which the respondent may appeal the decision. The Notice of Defense will be accompanied by a statement that the respondent may request a hearing by filing the Notice of Defense. The respondent will be given fifteen (15) days to return the Notice of Defense. The EMS Agency will continue with the proposed certificate action(s) if the responded does not submit a Notice of Defense within fifteen (15) days.
- 3. Upon determining the certification action to be taken, the Medical Director shall complete and place in the personnel file or any other file used for any personnel purposes by the EMS 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.
- 4. In the case of a temporary suspension order pursuant to California Code of Regulations, Title 22, Section 100209 (c), it shall take effect upon the date the notice required by California Code of Regulations, Title 22, Section 100213 is mailed to the certificate holder.

5. For all other certification actions, the effective date shall be thirty 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.

B. Temporary Suspension Order:

1. The Medical Director may temporarily suspend a certificate prior to hearing if the Medical Director has reasonable cause to believe the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation according to California Code of Regulations, Title 22, Section 100216(c) and if in the opinion of the 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 a certificate pending hearing, the Medical Director shall consult with the relevant employer of the certificate holder.
3. 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 (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. The TSO shall be in effect on the date the TSO was served on the respondent.
5. Within three (3) working days of the initiation of the temporary suspension by the Medical Director, the Medical Director and relevant employer shall jointly investigate the allegation in order for the Medical Director to make a determination of the continuation of the temporary suspension.
 - a. All investigatory information, not otherwise protected by the law, held by the EMS Agency and the relevant employer shall be shared between the parties via e-mail or overnight mail relative to the decision to temporarily suspend.
 - b. The EMS Agency shall decide within fifteen (15) calendar days of providing notice to the EMT of the TSO whether to serve an accusation pursuant to the California Administrative Procedures Act on the EMT.
 - c. If the certificate holder files a Notice of Defense, the administrative hearing shall be held within thirty (30) calendar days of the EMS Agency's receipt of the Notice of Defense.
 - d. The temporary suspension order shall be deemed vacated if the EMS 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 renders a proposed decision.

C. Stipulated Settlement

1. The EMS Agency may offer a stipulated settlement to include terms and conditions of probation when serving an accusation on the respondent.

VII. FINAL DETERMINATION OF CERTIFICATION ACTION BY THE MEDICAL DIRECTOR:

- A. Upon determination of certification action following an investigation, and appeal of certification action pursuant to California Code of Regulations, Title 22, Section 100211.1, if the respondent so chooses, the Medical Director may take the following final actions on an EMT certificate:

1. Probation:

- a. 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 Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT, EMSA #134, effective 4-1-2010. The Medical Director may revoke the EMT certificate if the certificate holder fails to successfully complete the terms of probation.

2. Suspension:

- a. The Medical Director may suspend an individual's EMT 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 Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT, EMSA #134, effective 4-1-2010. 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 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 must meet the recertification requirements for certificate renewal prior to the expiration date of the certificate to avoid routine issues related to having a lapsed certificate.

3. Denial or Revocation:

- a. The Medical Director may deny or revoke any applicant or certificate holder for disciplinary cause that has been investigated and verified by application of this policy.
- b. The Medical Director shall deny or revoke an applicant or certificate holder for any disqualifying offense listed in EMS System Policy No. 2110 Causes for the Denial or Revocation of a Prehospital Care Certificate.

- B. Disciplinary 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 whose application was denied or whose certification was revoked by the Medical Director shall not be eligible to apply for EMT certification with any other certifying entity for a period of at least twelve (12) months from the effective date of the certification action. An EMT placed on probation must complete their probationary requirements with the EMS Agency.

VIII. NOTIFICATION OF FINAL DECISION:

- A. The Medical Director shall notify the applicant or certificate holder and his/her relevant employer(s) of the final decision of disciplinary certification 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:
 - 1. The specific allegations or evidence which resulted in the certification action.
 - 2. The certification action(s) to be taken and the effective date(s) of the certification action(s) including the duration of the action(s).
 - 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 (10) working days to any other relevant employer in whose jurisdiction the certificate is used.

END OF POLICY