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BILL TEXT

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INTRODUCED BY Assembly Member Torrico

FEBRUARY 22, 2008

An act to amend Sections 1797.101, 1797.170, 1797.172, 1797.216, and 1798.200 of, to add Sections 1797.61, 1797.117, 1797.118, 1797.184, 1797.211, 1797.217, and 1797.219 to, and to repeal and add Section 1797.62 of, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2917, Torrico. Emergency medical services personnel.

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 minimum standards and promulgating regulations for the training and scope of practice for emergency medical technicians-paramedic (EMT-P). Violation of the act is a misdemeanor. Under existing law, these standards and regulations would be applicable to local governments, agencies, and other organizations that provide this training.

The act also 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 the occurrence of any of specified events.

This bill would, among other things, require the authority to establish and maintain a centralized system for monitoring and tracing EMT-I and EMT-II certification status and EMT-P licensure status to be used by certifying entities, as defined, and would require specified fees to be collected and expended, upon appropriation, for related purposes. The bill would require the authority to adopt regulations regarding the submission of fingerprint images and related information to the Department of Justice.

This bill would require the authority to establish EMT-I and

SEC. 4. Section 1797.62 is added to the Health and Safety Code, to read:

1797.62. "Certifying entity" means a public safety agency or the office of the State Fire Marshal if the agency has a training program for EMT-I personnel that is approved pursuant to the standards developed pursuant to Section 1797.109, or the medical director of a local EMS agency.

SEC. 5. Section 1797.101 of the Health and Safety Code is amended to read:

1797.101. The Emergency Medical Services Authority shall be headed by the Director of the Emergency Medical Services Authority who shall be appointed by the Governor upon nomination by the Secretary of California Health and Human Services. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

SEC. 6. Section 1797.117 is added to the Health and Safety Code, to read:

1797.117. (a) The authority shall establish and maintain a centralized registry system for the monitoring and tracking of each EMT-I and EMT-II certificate status and each EMT-P license status. This centralized registry system shall be used by the certifying entities as part of the certification process for an EMT-I and EMT-II and by the authority as part of the licensure process for an EMT-P license. The authority shall, by regulation, specify the data elements to be included in the centralized registry system, the requirements for certifying entities to report the data elements for inclusion in the registry, including reporting deadlines, the penalties for failure of a certifying entity to report certification status changes within these deadlines, and requirements for submission to the Department of Justice fingerprint images and related information required by the Department of Justice of, except as otherwise provided in this division, EMT-I and EMT-II certificate candidates or holders and EMT-P license candidates or holders for the purposes described in subdivision (c). The data elements to be included in the centralized registry system shall include, but are not limited to, data elements that are to be made publicly available pursuant to subdivision (b).

(b) The information made available to the public through the centralized registry system shall include all of the following data elements: the full name of every individual who has been issued an EMT-I or EMT-II certificate or EMT-P license, the name of the entity that issued the certificate or license, the certificate or license number, the date of issuance of the license or certificate, and the license or certificate status.

(c) (1) As part of the centralized registry system, the authority shall electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all EMT-I and EMT-II certificate candidates or holders, and of all EMT-P license applicants, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the

1797.172. (a) The authority shall develop and, after approval by the commission pursuant to Section 1799.50, adopt minimum standards for the training and scope of practice for EMT-P.

(b) The approval of the director, in consultation with a committee of local EMS medical directors named by the EMS Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-Ps proposed by the medical director of a local EMS agency.

(c) Notwithstanding any other provision of law, the authority shall be the agency solely responsible for licensure and licensure renewal of EMT-Ps who meet the standards and are not precluded from licensure because of any of the reasons listed in subdivision (d) of Section 1798.200. Each application for licensure or licensure renewal shall require the applicant's social security number in order to establish the identity of the applicant. The information obtained as a result of a state and federal level criminal offender record information search shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure or licensure renewal pursuant to this division. Submission of fingerprint images to the Department of Justice may not be required for licensure renewal upon determination by the authority that fingerprint images have previously been submitted to the Department of Justice during initial licensure, or a previous licensure renewal, provided that the license has not lapsed and the applicant has resided continuously in the state since the initial licensure.

(d) The authority shall charge fees for the licensure and licensure renewal of EMT-Ps in an amount sufficient to support the authority's licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The basic fee for licensure or licensure renewal of an EMT-P shall not exceed one hundred twenty-five dollars (\$125) until the adoption of regulations that specify a different amount that does not exceed the authority's EMT-P licensure, license renewal, and enforcement programs. The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's licensure, licensure renewal, and enforcement programs. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of the authority's EMT-P licensure, licensure renewal, and enforcement programs, then the fees shall be adjusted accordingly through the rulemaking process described in the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal, including, but not limited to, any of the following services:

(1) Initial application for licensure as an EMT-P.

(2) Competency testing, the fee for which shall not exceed thirty dollars (\$30), except that an additional fee may be charged for the cost of any services that provide enhanced availability of the exam for the convenience of the EMT-P, such as on-demand electronic testing.

(3) Fingerprint and criminal record check. The applicant shall, if applicable according to subdivision (c), submit fingerprint images and related information for criminal offender record information searches with the Department of Justice and the Federal Bureau of

1797.217. (a) Every certifying entity shall submit to the authority certification data required by Section 1797.117.

(b) The authority shall collect fees from each certifying entity for the certification and certification renewal of each EMT-I and EMT-II in an amount sufficient to support the authority's central registry program and the local EMS agency administrative law judge reimbursement program. Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants.

(c) The authority's fees shall be established in regulations, and fees charged for individual services shall be set so that the total fees charged shall not exceed the authority's actual total cost for the authority's central registry program, state and federal criminal offender record information search response program, and the local EMS agency administrative law judge reimbursement program.

(d) In addition to any fees collected by EMT-I or EMT-II certifying entities to support their certification, recertification, or enforcement programs, EMT-I or EMT-II certifying entities shall collect fees to support the authority's central registry program, and the local EMS agency administrative law judge reimbursement program. In lieu of collecting fees from an individual, pursuant to an employer choice, a collective bargaining agreement, or other employment contract, the certifying entity shall provide the appropriate fees to the authority pursuant to this subdivision.

(e) All fees collected for or provided to the authority in a calendar month by an EMT-I or EMT-II certifying entity pursuant to this section shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the certifying entity, unless a contract between the certifying entity and the authority specifies a different timeframe.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the registry program, or the state and federal criminal offender record information search response program, or the local EMS agency administrative law judge reimbursement program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

(g) The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's central registry program, state and federal criminal offender record information search response program, and local EMS agency administrative law judge reimbursement program. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of these programs, then the fees will be adjusted accordingly through the rulemaking process as outlined in the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) The Emergency Medical Technician Certification Fund is hereby created in the State Treasury. All moneys deposited in the fund shall

disciplinary plan for the EMT-I or EMT-II. Upon adoption of the disciplinary plan, the employer shall submit that plan to the local EMS agency within three working days. The employer'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 an EMT-I or EMT-II is not employed by an ambulance service licensed by the Department of the California Highway Patrol or a public safety agency or if that ambulance service or public safety agency chooses not to conduct an investigation pursuant to paragraph (1) for conduct in violation of subdivision (c), the medical director of a local EMS agency shall conduct the investigations, and, upon a determination of disciplinary cause, take disciplinary action as necessary against this EMT-I or EMT-II. At the conclusion of these investigations, the medical director shall develop and implement, in accordance with the recommended guidelines for disciplinary orders, temporary orders, and conditions of probation adopted pursuant to Section 1797.184, a disciplinary plan for the EMT-I or EMT-II. The medical director's disciplinary plan may include action against the holder's certificate pursuant to paragraph (3).

(3) The medical director of the local EMS agency may, upon a determination of disciplinary cause and in accordance with regulations for disciplinary processes adopted pursuant to Section 1797.184, deny, suspend, or revoke any 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 the occurrence of one of the following:

(A) The EMT-I or EMT-II employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the medical director makes a determination that the discipline imposed was not according to the guidelines for disciplinary orders and conditions of probation and the conduct of the EMT-I or EMT-II certificate holder constitutes grounds for disciplinary action against the certificate.

(B) Either the employer of an EMT-I or EMT-II further determines, after an investigation conducted under paragraph (1), or the medical director determines after an investigation conducted under paragraph (2), that the conduct requires disciplinary action against the certificate.

(4) The medical director of the local EMS agency, after consultation with the employer of an EMT-I or EMT-II, may temporarily suspend, prior to a hearing, any EMT-I or EMT-II certificate or both EMT-I and EMT-II certificates upon a determination that both of the following conditions have been met:

(A) The certificate holder has engaged in acts or omissions that constitute grounds for revocation of the EMT-I or EMT-II certificate.

(B) Permitting the certificate holder to continue to engage in the certified activity without restriction would pose an imminent threat to the public health or safety.

(5) If the medical director of the local EMS agency temporarily suspends a certificate, the local EMS agency shall notify the certificate holder that his or her EMT-I or EMT-II certificate is suspended and shall identify the reasons therefor. Within three working days of the initiation of the suspension by the local EMS agency, the agency and employer shall jointly investigate the

by any other license or certification.

(11) Demonstration of irrational behavior or occurrence of a 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. 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) The information shared among EMT-I, EMT-II, and EMT-P employers, medical directors of local EMS agencies, the authority, and EMT-I and EMT-II certifying entities shall be deemed to be an investigative communication that is exempt from public disclosure as a public record pursuant to subdivision (f) of Section 6254 of the Government Code. A formal disciplinary action against an EMT-I, EMT-II, or EMT-P shall be considered a public record available to the public, unless otherwise protected from disclosure pursuant to state or federal law.

(e) For purposes of this section "disciplinary cause" means an act that is substantially related to the qualifications, functions, and duties of an EMT-I, EMT-II, or EMT-P and is evidence of a threat to the public health and safety described in subdivision (c).

SEC. 16. This act shall become operative only if Senate Bill 997 of the 2007-08 Regular Session is enacted and becomes effective on or before January 1, 2009.

SEC. 17. 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. 18. The Legislature finds and declares that Section 15 of this act, which amends Section 1798.200 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: emergency medical technicians serve a critical role in the state's emergency response network. The public safety is best protected when appropriate and consistent disciplinary standards are applied. When accusations have been made against a certified EMT-I or EMT-II, the individual must be given the investigatory and due process protection that is offered to other licensed and certified professionals such as paramedics, physicians, nurses, and other health care providers. The public shall have certification, licensure, disciplinary and other information readily available with