



Emergency Medical Services Agency Investigation and Disciplinary Process for EMS Personnel

2180 Johnson Ave., 2nd Floor
San Luis Obispo, CA 93401
805-788-2511 Phone
805-788-2517 Fax
www.sloemsa.org

INVESTIGATION AND DISCIPLINARY PROCESS FOR EMS PERSONNEL

Table of Contents

Table of Contents	1
Purpose of the Guide	2
Authority	2
Definitions	2
Role of EMS Agency	3
Role of EMS Medical Director	3
EMS Disciplinary Recommendations	3
Investigation Process for Allegation(S) Against EMT Certification	8
Role of Relevant Employer in EMT Certification Investigations	9
Investigation Process for Allegations(s) Against Paramedic Accreditation/License	19
Investigation Process for Allegations(s) Against MICN Authorization	22

INVESTIGATION AND DISCIPLINARY PROCESS FOR EMS PERSONNEL

PURPOSE OF THE GUIDE

The County of San Luis Obispo EMS Agency Investigation and Disciplinary Process for EMS Personnel Guide was developed to assist individuals with their understanding of the our Investigation and Disciplinary Process as required state regulations and local policies.

AUTHORITY

- A. California Health and Safety Code, Division 2.5, Section 1797.202 and 1798
- B. California Code of Regulations (“CCR”), Title 22, Division 9
- C. California Government Code Sections 11370 et seq. (Administrative Procedure Act), CCR Title 1, Sections 1000-1050
- D. County of San Luis Obispo EMS Agency Policies 101, 300, 320, 321, 341, 342, 350 and 351

DEFINITIONS

Accreditation: The document that attests that a Paramedic with a current California state license meets the local criteria to provide ALS patient care. This care is provided under the direction of the EMS Agency Medical Director in accordance with local scope of practice.

Emergency Medical Services Agency (EMS Agency or LEMSA): The agency having primary responsibility for administration of emergency medical services in the County of San Luis Obispo.

Emergency Medical Services Authority (EMS Authority): The California agency responsible for licensure and licensure renewal of Paramedics.

Emergency Medical Technician (EMT): An individual trained in prehospital and Basic Life Support (BLS) skills who possesses a valid Emergency Medical Technician (EMT) Certificate as prescribed by local and state regulations.

Emergency Medical Technician Paramedic (Paramedic): An individual who is educated and trained in all elements of prehospital advanced life support; whose scope of practice to provide advanced life support is in accordance with the standards prescribed by Title 22; and who has a valid California state Paramedic license.

Independent Review Panel (IRP): An impartial advisory body, the members of which are knowledgeable in the provision of prehospital emergency medical care and local EMS system policies and procedures, which may be convened to review allegations against an applicant for, or the holder of local accreditation, assist in establishing the facts of the case, and provide its findings and recommendation to the Medical Director of the EMS agency.

Mobile Intensive Care Nurse (MICN): A currently licensed Registered Nurse in the State of California who has completed both an EMS Agency approved MICN training or orientation program and the

authorization process as prescribed by County of San Luis Obispo Emergency Medical Services Agency Prehospital Policy #350 and #351.

Recommended Guidelines for Disciplinary Orders and Conditions of Probation (MDO): California Emergency Medical Services Authority's Recommended Guidelines for Disciplinary Orders and Conditions and Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT (EMT-II).

Relevant Employer: A public safety agency or an ambulance provider permitted by the California Highway Patrol.

Respondent: The individual for who allegations have been brought against.

ROLE OF EMS AGENCY

The EMS Agency investigates all allegations to determine:

- If the allegation is a violation,
- If the conduct represents an "imminent threat" to the public's health and safety,
- If, assuming the alleged facts are true, could this case be successfully prosecuted, and
- If the case could be prosecuted, should it be? Certain cases are best resolved through remediation by the employer and/or local EMS agency.

An additional non-refundable fee may be applied to all EMS personnel (EMT, Paramedic or MICN) for whom notification is received indicating criminal behavior that requires an investigation of the allegation(s).

ROLE OF THE EMS AGENCY MEDICAL DIRECTOR

Due to the possibility that the medical director of the EMS Agency may be involved in administrative enforcement proceedings as the trier of fact and/or final decision-maker, the medical director cannot be involved in the investigation or prosecution of a case.

Pursuant to the Government Code Section 11430.10 (Administrative Procedure Act), there shall not be any communication with the director by any party to the proceeding while the matter is pending. This is referred to as "ex-parte communication." A proceeding is pending once an accusation is issued or there has been an application for an agency decision, whichever is earlier. The only exception to the medical director having knowledge of a case prior to a hearing is when there has been a request for an immediate suspension of an EMT certification, Paramedic license or MICN Authorization.

EMS AGENCY DISCIPLINARY RECOMMENDATION

The EMS Agency will refer to Model Disciplinary Orders (MDO) for all discipline recommendations.

When certification action is warranted, the following factors may be considered:

- Rehabilitation and present eligibility for certification;
- Nature and severity of the act(s), offense(s), or crime(s) under consideration;
- Actual or potential harm to the public;
- Actual or potential harm to any patient;
- Prior disciplinary record;
- Prior warnings on record or prior remediation';

- Number and/or variety of current violations;
- Aggravating evidence;
- Mitigating evidence;
- Rehabilitation evidence;
- In the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation;
- Overall criminal record;
- Time that has elapsed since the act(s) or offense(s) occurred;

In determining appropriate certification disciplinary action, the EMS Agency Medical Director may give credit for prior disciplinary action imposed by the EMT certificate holder's relevant employer.

DISCIPLINARY ACTIONS

The EMS Agency may take the following actions against an EMT Certificate, Paramedic accreditation or MICN authorization. Effective date for all certification action, except for TSO, shall be thirty (30) days from the date the notice is mailed to the applicant or certificate holder unless another time is specified or an appeal is made.

No Action Taken

No action taken means there is insufficient evidence to substantiate the allegation.

Warning

Warning means the EMS Agency has completed the investigation and decided not to take any disciplinary action at this time. However, should future incidents occur which necessitate review, all facts and evidence, both past and present, will be considered.

Accept relevant employer disciplinary plan

The employer must present to the EMS Agency their disciplinary plan 3 working days after completion.

- A. The medical director may choose to accept the employer's disciplinary plan.
- B. The medical director may give credit to employer suspensions in disciplinary plan already served.
- C. If the discipline imposed by the relevant employer is not in accordance with the MDOs and the conduct of the certificate holder constitutes grounds for certification action, the medical director may choose not to accept the employer's disciplinary plan.

Probation

A voluntary conclusion may be reached at any time using a stipulated settlement agreement. See appropriate certificate section for specific details.

- A. Settlement can be on any terms that the parties agree upon that are not contrary to law.
- B. Can include sanctions that the EMS Agency otherwise lacks the power to impose.
- C. The settlement contains an agreed upon statement of facts and law, and provides specific disciplinary terms and conditions. In signing the settlement, the respondent is admitting that the

violations occurred as stated in the Accusation, and is agreeing to all the terms and conditions of the settlement.

- D. The medical director may revoke the EMT certificate, Paramedic accreditation or MICN authorization, if the certificate holder fails to successfully, complete the terms of probation.

Suspension

The medical director may suspend an individual's EMT certificate, Paramedic accreditation or MICN authorization for a specified period for disciplinary cause in order to protect the public's health and safety.

- A. The terms of the suspension and any conditions for reinstatement, shall be in accordance with the MDOs.
- B. Upon the expiration of the term of suspension, the individual's certificate, accreditation or authorization, 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.
- C. If the suspension period will run past the expiration date of the certificate, accreditation or authorization, **the individual shall meet the renewal requirements prior to the expiration date** of the certificate, accreditation or authorization.

Denial/Revocation

An application for EMT certification/ recertification, Paramedic accreditation/reaccreditation or MICN authorization/reauthorization, shall be denied without prejudice and does not require an administrative hearing, when an applicant does not meet the requirements for certification/ recertification, accreditation/reaccreditation or authorization/reauthorization. This may include but is not limited to, failure to pass required examination, lack of sufficient continuing education, failure to furnish additional information or documents requested by the EMS Agency, or failure to pay any required fees. The denial shall be in effect until all requirements are met. If a certificate, accreditation or authorization expires before requirements are met, the certificate, accreditation or authorization, shall be deemed lapsed and subject to the provisions pertaining to lapsed certificates.

- Does 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 as shall and may deny.
 - Does not apply to EMTs certified before 7/1/2010 unless convicted of any misdemeanor or felony after 7/1/2010; EMT commits any sexually related offense under section 290; or failed to disclose prior convictions.
- A. California Code of Regulations, Title 22, Division 9, Chapter 6, Section 100214.3 (c), (d) and (e) lists reason why the medical director **shall** deny or revoke an EMT or Advanced EMT certificate. See EMT section for specific details.

- B. The EMS Agency **may** deny, revoke, suspend, or place on probation an EMT certification, paramedic accreditation or MICN authorization; or temporarily suspend a paramedic's license for the following acts or omissions:
1. **Fraud in the procurement of any certificate or license under this division.** This would primarily concern the submission of fraudulent continuing education credits, and false or incomplete information on an EMT application at the local or state level.
 2. **Gross negligence.** This is an extreme departure from the standard of care, which, under similar circumstances, would have ordinarily been exercised by a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties if confronted with a similar circumstance.
 3. **Repeated negligent acts.** A repeated failure to use such care as 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.
 4. **Incompetence.** The lack of possession of that degree of knowledge, skill, and ability ordinarily possessed and exercised by a certified EMT or licensed and accredited paramedic.
 5. **The commission of any fraudulent, dishonest, or corrupt act, which is substantially related to the qualifications, functions, and duties of prehospital personnel.** This would include theft related offenses, violent acts, and sexual misconduct committed professionally or personally.
 6. **Conviction of any crime, which is substantially related to the qualifications, functions, and duties of prehospital personnel.** This would include theft related offenses, violent acts, and sexual misconduct committed professionally or personally.
 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.** This would include the failure to properly complete a patient care report.
 8. **Violating or attempting to violate any federal or state statute or regulation, which regulates narcotics, dangerous drugs, or controlled substances.** This section is used on paramedics who fail a random drug test.
 9. **Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.**
 10. **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.** Generally, this section is used when local protocols and procedures are not followed.
 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-1, EMT-II, 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.**

Temporary Suspension Order (TSO)

Appropriate when the conduct represents an “imminent threat” to the public’s health and safety or that constitute grounds for denial or revocation. See appropriate certification section for specific details.

APPEAL FOR HEARING

The respondent will be notified of their right to due process. If respondent wants to appeal, they must submit a written request to the EMS Agency. See the appropriate certification section for specific details.

AFTER THE ACTION IS FINAL

Respondent and the relevant employer will be notified within ten (10) days of the final decision. The notification of final decision will be sent to the respondent by certified mail or personal service and include the following information:

- A. The specific allegations or evidence which resulted in the certification action;
- B. The certification action(s) to be taken, and the effective date(s) of the certification action(s), including the duration of the action(s);
- C. Which certificate(s) 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 in whose jurisdiction he/she uses the certificate.
- E. The appropriate state authority will be notified of any disciplinary action taken against a certification, accreditation or authorization.

PUBLIC INFORMATION

The investigation files are not public record. Accusations, Statement of Issues and outcome letters are public record.

INVESTIGATION PROCESS FOR ALLEGATION(S) AGAINST EMT CERTIFICATION

VALIDATE ALLEGATION

The EMS Agency will determine if the allegation(s) is worthy of investigation. When reviewing a case, we will keep the following in mind:

- Assuming the alleged facts are true, could this case be successfully prosecuted?
- Even if the case could be prosecuted, should it be?
- Certain cases are best resolved through remediation by the employer and/or local EMS agency.
- Is the allegation a violation?
- Does the conduct represent an “imminent threat” to the public’s health and safety?
- If the allegation was received by a subsequent arrest notification, the investigation process can wait for a conviction depending on the type of violation. These allegations requires immediate action:
 - Theft
 - Patient abuse
 - On duty alcohol or drug use
 - Felony crimes
 - Penal Code 290 Sexual misconduct (does not have to be a conviction to take action)

If the respondent is a firefighter, we will follow the Firefighter’s Bill of Rights if the alleged event happened while on duty. The investigation must be completed within one year of discovery by either the employer or certifying agency.

A. Most initial application allegations will come from:

1. The applicant indicating prior convictions or current charges pending on their EMT application,
2. Live Scan fingerprinting report from the DOJ/FBI, or
3. The DMV pull of the individuals driving record during the initial application process.

B. Allegations or complaints regarding currently certified individuals may come from several different sources.

1. Notification from the DOJ/FBI of a subsequent arrest
If subsequent arrest notification, the investigation can wait for the court hearing outcome depending on the type of violation. The following will require immediate action:
 - Theft
 - Patient abuse
 - On duty alcohol or drug use
 - Felony crimes
 - Penal Code 290 Sexual misconduct (does not have to be a conviction to take action)
2. DMV driving record during the recertification process
3. Check of Megan’s Law database

4. Complaint from member of public
5. Notification from an employer
6. Television, internet and/or news articles
7. If the allegation(s) is worthy of investigation, an investigation file will be started for each allegation or complaint received.
8. The EMS Agency will determine if there is a Relevant Employer to notify and follow notification process below.

NOTIFICATIONS

The EMS Agency will determine if the alleged violation happened in our jurisdiction.

- A. If the alleged violation happened in our jurisdiction and the EMS Agency is notified first:
 1. EMS Agency will notify the relevant employer, if known, within three (3) working days of validating the allegation(s) as a potential for disciplinary cause. The EMS Agency CANNOT share DOJ or FBI information with the relevant employer.
 2. If the employer is a non-relevant employer or unknown, the EMS Agency proceeds with investigation.
- B. If the alleged violation happened outside of our jurisdiction and the EMS Agency is notified first:
 1. The EMS Agency will notify the relevant employer, if known, within three (3) working days of validating the allegation(s) as a potential for disciplinary cause. The EMS Agency CANNOT share DOJ or FBI information with the relevant employer.
 2. If the employer is a non-relevant employer or unknown, the EMS Agency will notify the LEMSA in the jurisdiction where alleged violation(s) occurred.
- C. If the relevant employer receives notification of the allegation(s) first, the relevant employer shall notify the medical director of the EMS Agency who certified the EMT and the EMS Agency that has jurisdiction in the county in which the alleged action(s) occurred within three (3) working days of validating the allegation as a potential for disciplinary cause, along with the EMT's name, certification number and date of the allegation(s).
- D. A Non-relevant employer shall notify the EMS Agency that has jurisdiction in the county in which the alleged action(s) occurred and the certifying EMS Agency shall proceed with investigation.

RELEVANT EMPLOYER'S ROLE

- A. The relevant employer shall notify the medical director of the EMS Agency who certified the EMT and the EMS Agency that has jurisdiction in the county in which the alleged action(s) occurred within three (3) working days of validating the allegation as a potential for disciplinary cause, along with the EMT's name, certification number and date of the allegation(s).

- B. A relevant employer may conduct the investigation to determine disciplinary cause or choose to defer the investigation to the certifying EMS Agency
- C. Upon determination of disciplinary cause, the relevant employer may develop and implement a disciplinary plan, in accordance with the MDOs.
- D. The relevant employer shall submit their disciplinary plan along with the relevant findings of the investigation related to disciplinary cause, to the EMS Agency that issued the EMT certification, within three (3) working days of adoption of the disciplinary plan. In the case where an EMT 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.
- E. The relevant employer's disciplinary plan may include a recommendation that the EMS Agency medical director consider taking action against the holder's certificate, to include probation, denial, suspension or revocation.
- F. The EMS Agency will continue to investigate at the same time as the relevant employer and the EMS Agency medical director may take further action if:
 - 1. The relevant employer fails to present a disciplinary plan, or
 - 2. 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 holder constitutes grounds for certification action.
- G. The relevant employer shall notify the medical director of the EMS Agency that certified the EMT and the EMS Agency that has jurisdiction in the county in which the alleged action(s) occurred within three (3) working days of the occurrence of any of the following:
 - 1. The EMT is terminated or suspended from work for a disciplinary cause,
 - 2. The EMT 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 is removed from EMT related duties for disciplinary cause after the completion of the employer's investigation.

INVESTIGATION

The EMS Agency will request appropriate documents via certified mail as needed:

- *Request From Respondent*
If respondent did not provide a statement, arrest records or court documents with application or when reporting incident to the EMS Agency
- *Request for Arrest Records*
From the arresting agency if not provided by respondent
- *Request for Court Documents*
From court where case was tried, if not provided by respondent

- *Request from District Attorney* if needed
 - Ask respondent to sign voluntary request for *Employment Information Waiver* if needed
- A. EMS Personnel (EMT, Paramedic or MICN) who do not provide supporting documentation as requested, requiring staff to request documents from appropriate agencies, will incur a non-refundable investigation fee.
 - B. The relevant employer may conduct investigations to determine disciplinary cause.
 - C. The EMS Agency will continue to investigate at the same time as relevant employer.
 - D. The Relevant employer can choose not to investigate and notify the certifying EMS Agency of this decision.
 - E. The Relevant employer shall notify the certifying EMS Agency and the EMS Agency that has jurisdiction in the county in which the alleged action(s) occurred within three (3) working days of validating the allegation(s) as a potential for disciplinary cause, along with the EMT's name, certification number and date of the allegation(s).

INTERVIEWS

Interviews are to obtain information and may be tape-recorded.

- A. The EMS Agency will notify the respondent of an investigatory interview by phone, email or letter.
- B. The EMS Agency can interview the same individuals more than once.
- C. The EMS Agency can interview witnesses.
- D. If respondent is a firefighter and the incident occurred while performing his/her duties the EMS Agency will give them a copy of the *Firefighters Bill of Rights Admonishment* to read and sign
- E. If the interview is conducted by telephone and recorded, the EMS Agency will communicate clearly to the individual that the conversation is being recorded.
- F. The respondent may bring his or her own tape recorder to an interview.
- G. The respondent should answer the questions, not the legal representative.
- H. Once the interview process is complete, the EMS Agency will write an interview summary for the investigation file.

STATEMENT OF DECISION

Upon completion of the investigation, a report shall be written:

- A. Documenting all facts, negative and positive
- B. If an investigation does not support a violation, then it will state either, "no evidence was discovered to support a violation", or simply that "no violation occurred"

- C. If at the completion of an investigation it is determined, that a violation of Section 1798.200 occurred and that disciplinary action is warranted, the investigator will make recommendation to the administrator of the EMS Agency.

RECOMMENDATION

The EMS Agency will refer to Model Disciplinary Orders (MDO) for all discipline recommendations. When determining the certification action to be imposed or reviewing a petition for reinstatement or reduction of penalty, the EMS Agency will evaluate the rehabilitation of the applicant and their present eligibility for certification. When the certification action warranted is probation, denial, suspension or revocation the following factors may be considered:

- Nature and severity of the act(s), offense(s), or crime(s) under consideration
- Actual or potential harm to the public;
- Actual or potential harm to any patient;
- Prior disciplinary record;
- Prior warnings on record or prior remediation’;
- Number and/or variety of current violations;
- Aggravating evidence;
- Mitigating evidence;
- Rehabilitation evidence;
- In the case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation;
- Overall criminal record;
- Time that has elapsed since the act(s) or offense(s) occurred;
- If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4

In determining appropriate certification disciplinary action, the EMS Agency medical director may give credit for prior disciplinary action imposed by the respondent’s employer.

The EMS Agency medical director must approve all recommendations by reviewing the Statement of Decision report only. The medical director is not allowed to see the investigation file.

NOTICE OF DISCIPLINARY ACTION

The EMS Agency may take the following actions against an applicant for or current holder of an EMT Certificate. Effective date for all certification action, except for TSO, shall be thirty (30) days from the date the notice is mailed to the applicant or certificate holder unless another time is specified or an appeal is made.

NO ACTION TAKEN

If after the investigation it is determined that there is insufficient evidence to substantiate the allegation:

- the EMS Agency will send a *No Action Letter* to the respondent, and
- Send a *No Action Taken Letter* to the individual who made the original complaint and/or employer.

WARNING

After the investigation, the EMS Agency medical director may decide not to take disciplinary action at this time due to the following:

- Lack of sufficient evidence, or
- The allegation was substantiated but does not require action

However, should future incidents occur which necessitate review, all facts and evidence, both past and present, will be considered.

The EMS Agency will send:

- Either an *Insufficient Evidence* or *Substantiated No Action* warning letter to respondent, and
- A *No Action Taken* letter to the individual who made original complaint and/or employer

ACCEPT RELEVANT EMPLOYER DISCIPLINARY PLAN

The employer must present to the EMS Agency their disciplinary plan 3 working days after completion.

- A. The EMS Agency medical director may choose to accept the employer's disciplinary plan.
- B. The EMS Agency medical director may give credit for employer suspensions in disciplinary plan already served.
- C. If the discipline imposed by the relevant employer was not in accordance with the MDOs and the conduct of the certificate holder constitutes grounds for certification action, the EMS Agency medical director may choose not to accept the employer's disciplinary plan.

PROBATION

A. For Initial EMT application

Once the investigation is complete and action is warranted against the EMT Certification:

1. The EMS Agency will send a letter to the individual outlining steps needed for a possible probation agreement.
2. If the individual does not respond within 30 days to the first letter, the EMS Agency will send statement of issue for denial along with the process for appeal.
3. The individual must return the appeal notice of defense/hearing within 15 days.
4. If the appeal notice of defense/hearing is returned within 15 days, the EMS Agency will set up a hearing with the Administrative Law Judge through the Office of Administration.
5. If the appeal notice of defense/hearing is not returned, the EMS Agency will deem the EMT certification revoked by default, and issue a decision and order that is binding on the respondent.

B. Currently certified EMT

Once the investigation is complete and action is warranted against the EMT Certification:

1. The EMS Agency will send a letter of Accusation to the individual outlining steps needed for a possible probation agreement along with the process for appeal.
2. If the individual does not agree with the EMS Agency decision, in order to receive a hearing on the merits, the respondent must file an appeal notice of defense, with the EMS Agency, within 15 days of receiving the Accusation.
3. If the appeal notice of defense/hearing is returned within 15 days, the EMS Agency will set up a hearing with the Administrative Law Judge through the Office of Administration.
4. If the appeal notice of defense/hearing is not returned, the EMS Agency will deem the EMT certification revoked by default and, issue a decision and order that is binding on the respondent.

C. Substance Abuse

If disciplinary action is warranted due to substance abuse, the following will apply:

1. The EMS Agency will request a fitness for duty evaluation with an addiction specialist before any discussion of possible probation agreement.
2. The respondent must notify the EMS Agency within 7 day of receipt of letter if they wish to participate in the fitness for duty evaluation.
3. Once respondent has notified the EMS Agency of the doctor they have chosen, the EMS Agency will send the physician a letter including *Relevant Case History Information* and *CSAM Recommendations*.
4. If a fitness for duty evaluation has not been received 45 days after scheduled appointment, the EMS Agency will send *an evaluation not received letter* to respondent.
5. If the respondent chooses not to participate in the evaluation or if they fail to respond within thirty days of original request, the EMS Agency will send a denial/revoke letter with information on the appeal process.
6. The EMS Agency will follow the appeal process or denial /revoke process as outlined in the probation sections A and B above.

D. The following probation agreement documents will be used as required:

1. *Probationary Terms and Conditions* - specific probation agreement with individual
2. *Employment Notification* – a form that must be completed by the employer of the individual whose EMT certification has been placed on probation.
3. *Quarterly Declaration* – Quarterly report form due each quarter from all individuals whose EMT certification is placed on probation for the duration of their probation.
4. *AA Attendance Form* - If attendance is required as part of the probation agreement.

5. *Monthly PAS Testing Log* – If drug or alcohol testing is required as part of the probation agreement.
 6. *Violation of probation letter*
- E. The EMS Agency medical director may revoke the EMT certificate if the certificate holder fails to complete the terms of probation.
 - F. An EMT whose certification has been placed on probation, meeting certain terms as outlined in the settlement agreement, must complete their probationary requirements with the LEMSA that imposed the probation.
 - G. If an EMT, whose certification has been placed on probation, leaves California or his certification expires before completion of probation, the probationary period resumes upon recertification and/or returning to California.
 - H. The MDO's must be used as a standard when negotiating settlement terms for EMT certification disciplinary action.

Denial/Revocation of EMT Certification

If after the investigation is complete it is determined that disciplinary action warrants denial or revocation of the respondents EMT Certification, the same steps will be followed as outlined in the probation section above except for no probationary agreement will be offered and the respondent cannot reapply statewide for 1 year after denial or revocation.

California Code of Regulations, Title 22, Division 9, Chapter 6, Section 100214.3 (a) - (e) lists reason why the medical director **shall** deny or revoke an EMT or Advanced EMT certificate.

(a) A certifying entity, that is not a LEMSA, shall advise a certification or recertification applicant whose conduct indicates a potential for disciplinary cause, based on an investigation by the certifying entity prompted by a DOJ and/or FBI CORI, pursuant to Section 100210(a) of this Chapter, to apply to a LEMSA for certification or recertification.

(b) The medical director may deny or revoke any EMT or Advanced EMT certificate for disciplinary cause that have been investigated and verified by application of this Chapter.

*(c) The medical director **shall** deny or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:*

- 1) *Has committed any sexually related offense specified under Section 290 of the Penal Code.*
- 2) *Has been convicted of murder, attempted murder, or murder for hire.*
- 3) *Has been convicted of two (2) or more felonies.*
- 4) *Is on parole or probation for any felony.*
- 5) *Has been convicted and released from incarceration for said offense during the preceding fifteen (15) years for the crime of manslaughter or involuntary manslaughter.*
- 6) *Has been convicted and released from incarceration for said offense during the preceding ten (10) years for any offense punishable as a felony.*

- 7) *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.*
- 8) *Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to force, threat, violence, or intimidation.*
- 9) *Has been convicted within the preceding five (5) years of any theft related misdemeanor.*

*(d) The medical director **may** deny or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:*

- 1) *Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven (7) years.*
- 2) *Is required to register pursuant to Section 11590 of the Health and Safety Code.*

(e) Subsection (a) and (b) 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 (c) and (d). 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.

Suspension of a Certificate

The EMS Agency medical director may suspend an individual's EMT certificate for a specified period for disciplinary cause in order to protect the public's health and safety.

- A. The terms of the suspension and any conditions for reinstatement, shall be in accordance with the MDOs.
- B. 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 EMS Agency medical director shall continue the suspension until all conditions for reinstatement have been met.
- C. If the suspension period will run past the expiration date of the EMT certificate, **the respondent shall meet the renewal requirements prior to the expiration date of the certificate.**

Temporary Suspension Order of EMT Certification (TSO)

A medical director may temporarily suspend a certificate prior to hearing if, the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation according to the Denial Section above 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.

- A. This case will be moved to the top of the list.
- B. Prior to, or concurrent with, initiation of a TSO of a certificate pending a hearing, the EMS Agency shall consult with the relevant employer of the certificate holder.
- C. A TSO takes effect upon the date the notice is mailed to the respondent.

- D. Notice of a TSO pending hearing shall be served by registered mail or in personal service to the certificate holder immediately, but no longer than three (3) working days from making the decision to issue the TSO. 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's health and safety.
- E. Within three (3) working days of the initiation of the TSO by the EMS Agency, the EMS Agency and relevant employer shall jointly investigate the allegation in order for the EMS Agency medical director to make a determination of the continuation of the temporary suspension. 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 facsimile transmission or overnight mail relative to the decision for temporarily suspension.
- F. The LEMSA 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).
- G. The respondent must return a request for an appeal hearing within 15 days of receipt of the notice.
- D. If the respondent returns the appeal notice for a hearing it must be scheduled and held within thirty (30) calendar days of the EMS Agency's receipt of the appeal notice for a hearing.
- E. The temporary suspension order shall be deemed vacated if the LEMSA 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.

EMT APPEAL FOR HEARING

If a case does not settle and the EMT applicant or certificate holder files an appeal, an administrative hearing will be conducted pursuant to the Administrative Procedure Act (Government Code Sections 11500 et seq.) The standard of proof in an administrative hearing to deny, revoke, suspend, or place a certificate on probation is "clear and convincing proof to a reasonable certainty."

An administrative hearing is usually not held locally and the EMS Agency medical director is not allowed to attend. Representatives from the EMS Agency and county counsel will attend. The respondent may seek legal counsel and is responsible for all of their own expenses.

The administrative law judge will issue a proposed decision within 30 days, which is provided to the EMS Agency. Thirty days after the receipt by the EMS Agency of the proposed decision, a copy of the proposed decision shall be filed with the EMS Agency as a public record and a copy shall be served by the EMS Agency on the respondent and his or her attorney.

The EMS Agency medical director can:

- adopt the decision in its entirety;
- reduce or otherwise mitigate the proposed discipline and adopt the balance of the proposed decision;
- make technical or other minor changes and adopt the decision;

- reject the proposed decision and refer the matter back to the administrative law judge to take additional evidence; or
- reject the proposed decision and decide the case upon the record

The medical director has 100 days from receipt of the proposed decision to make a final decision. If the medical director fails to make a decision within the 100 days, the proposed decision shall be deemed adopted by the EMS Agency. The final decision by the medical director becomes a public record immediately and is served on the respondent and his or her attorney. Generally, the final decision becomes effective 30 days after the final decision is delivered or mailed to the respondent.

INVESTIGATION PROCESS FOR ALLEGATIONS(S) AGAINST PARAMEDIC ACCREDITATION/LICENSE

INVESTIGATION AND DISCIPLINARY PROCEDURES

- A. The EMS Agency will follow the same investigation and disciplinary procedures as listed for EMT except for the following:
 - 1. The EMS Agency shall notify the Paramedic of the investigation and possible disciplinary action with the opportunity for the individual to provide a written statement within ten (10) days for consideration.
 - 2. The EMS Agency shall notify the Paramedic in writing of the Medical Directors final decision.
 - 3. Within 15 calendar days of receipt of the negative disposition letter from the EMS Agency, the Paramedic has the right to file with the EMS Agency, in writing and by certified mail, a response to this decision and request an IRP hearing.
- B. The employer shall notify the EMS Agency within three (3) working days of the occurrence of any of the following:
 - 1. The paramedic is terminated or suspended for a disciplinary cause.
 - 2. The paramedic resigns or retires following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or
 - 3. The paramedic is removed from paramedic related duties for a disciplinary cause after the completion of the employer's investigation

ACTION AGAINST LOCAL ACCREDITATION

- A. Accreditation may be denied or suspended by the local EMS Agency Medical Director if a Paramedic does not maintain current licensure or meet local accreditation requirements.
 - 1. The Paramedic should be given ample notification of any deadlines and requirements.
 - 2. The Paramedic has been granted due process in accordance with local policies and procedures.
 - 3. The local policies and procedures provide a process for appeal or reconsideration.
 - 4. Accreditation will not be denied based on a Paramedic's accreditation history with another county or their provider affiliation.
- B. The EMS Agency Medical Director may suspend or revoke accreditation of a paramedic as part of the quality improvement program when the following conditions are met:

1. It is determined by the employer or the EMS Medical Director that a paramedic needs additional training, observation or testing, and
 2. The employer and the EMS Medical Director create a specific and targeted program of remediation based upon the needs of the paramedic, and
 3. The paramedic fails to complete this targeted program or remediation.
 4. If at any time during the review or investigation, the Medical Director determines that the facts support revoking or suspending a paramedic's accreditation, the Medical director may convene an IRP in accordance with Section 100211 of Title 22 or the CCR. With respect to requests for discover, motions to compel discovery, evidence and affidavits the County of San Luis Obispo EMS Agency shall follow the procedures provided in sections 11507.6, 11507.7, 11513 and 11514 of the California Government Code with the exception of the portions of those Sections that refer to an administrative law judge. The responsibilities in these sections that are delegated to an ALJ shall be performed by the IRP.
 5. If the Medical Director does not convene an IRP prior to making a final decision to revoke or suspend a paramedic's accreditation, the paramedic may submit a written request for an IRP within 15 calendar days of written notification from the Medical Director's decision.
- C. Accreditation can be suspended until such time that the deficiencies are completed and documented to the local EMS Agency.
- D. Suspension of accreditation privileges means that the Paramedic cannot work in either the basic or the optional scope of practice in the local EMS Agency jurisdiction. However, during the suspension period a paramedic can work as an EMT.
- E. The Paramedic should be given ample notification of any deadlines and requirements.
- F. The Paramedic has been granted due process in accordance with local policies and procedures.
- G. The local policies and procedures provide a process for appeal or reconsideration.
- H. Accreditation will not be denied based on a Paramedic's accreditation history with another county or their provider affiliation.

ACTION AGAINST PARAMEDIC LICENSE

When information comes to the attention of the EMS Agency medical director that a Paramedic license holder has committed any act of omission that appears to constitute grounds for disciplinary action against their state license, the medical director may evaluate the information to determine if there is reason to believe that disciplinary action may be necessary.

VALIDATE ALLEGATION

EMS Agency will notify the state EMS Authority of allegation.

- A. EMS Authority may determine they should take over investigation, or
- B. EMS Authority may determine it is not worth investigating, or
- C. EMS Authority may suggest EMS Agency continue with preliminary investigation.

PROCEDURE FOR IMMEDIATE SUSPENSION

Pursuant to California Health and Safety Code Section 1798.202(a) the medical director of the EMS Agency may temporarily suspend prior to hearing a paramedic license upon a determination that:

- A. The paramedic has engaged in acts or omissions that constitute grounds for revocation; and
- B. The paramedic poses an **“imminent threat”** to the public’s health and safety if allowed to continue as a paramedic. If the EMS Agency medical director temporarily suspends a paramedic license, Section 1798.202(b) of the California Health and Safety Code requires that:
 - 1. The suspended paramedic license holder cannot work in either the basic or the optional scope of practice for either paramedic or EMT.
 - 2. Within three (3) working days, the EMS Agency shall transmit to the EMS Authority all relevant documentary evidence via facsimile or overnight mail.
 - 3. The EMS Authority has two (2) days after receipt of the evidence to determine whether the temporary suspension order should continue.
 - 4. If the director determines that the temporary suspension order should continue, the EMS Authority has fifteen (15) days after receipt of the evidence to serve a temporary suspension order and accusation on the affected paramedic.
 - 5. If the paramedic files a notice of defense, Section 1798.202(d) requires that a hearing be held within thirty (30) days of the filing of the notice of defense.
 - 6. The director of the EMS Authority has fifteen (15) days after receipt of the administrative law judge’s proposed decision to make a final decision.

INVESTIGATION PROCESS FOR ALLEGATIONS(S) AGAINST MICN AUTHORIZATION

Negative action against any MICN authorization may be instituted by the EMS Medical Director based upon the finding of an imminent threat to the public's health and safety as evidenced by the occurrence of any of the items listed in the Health and Safety Code, Division 2.5, Chapter 7, Section 1798.200(c)

- A. The EMS Agency will follow the same investigation and disciplinary procedures as listed for EMT except for the following:
 - 1. The EMS Agency shall notify the MICN of the investigation and possible disciplinary action with the opportunity for the individual to provide a written statement within ten (10) days for consideration.
 - 2. The EMS Agency shall notify the MICN in writing of the Medical Director's final decision.
 - 3. Within 15 days of receipt of the negative disposition letter from the EMS Agency, the MICN has the right to file with the EMS Agency, in writing and by certified mail, a response to this decision and request an IRP hearing
- B. The employer shall notify the EMS Agency within three (3) working days of the occurrence of any of the following:
 - 1. The MICN is terminated or suspended for a disciplinary cause.
 - 2. The MICN resigns or retires following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or
 - 3. The MICN is removed from MICN related duties for a disciplinary cause after the completion of the employer's investigation

ACTION AGAINST AUTHORIZATION

- A. Authorization may be denied or suspended by the local EMS Agency Medical Director if current RN licensure is not maintained or local authorization requirements are not met by the MICN.
 - 1. Ample notification of any deadlines and requirements will be provided to the MICN.
 - 2. The MICN has been granted due process in accordance with local policies and procedures.
 - 3. The local policies and procedures provide a process for appeal or reconsideration.
 - 4. Authorization will not be denied based on the MICN's history with another county or their provider affiliation.

- B. The EMS Agency Medical Director may suspend or revoke authorization of a MICN as part of the quality improvement program when the following conditions are met:
1. It is determined by the employer or the EMS Medical Director that a MICN needs additional training, observation or testing, and
 2. The employer and the EMS Medical Director create a specific and targeted program of remediation based upon the needs of the MICN, and
 3. The MICN fails to complete this targeted program or remediation.
 4. If at any time during the review or investigation, the Medical Director determines that the facts support revoking or suspending a MICN's authorization, the Medical director may convene an IRP in accordance with Section 100211 of Title 22 or the CCR. With respect to requests for discover, motions to compel discovery, evidence and affidavits the County of San Luis Obispo EMS Agency shall follow the procedures provided in sections 11507.6, 11507.7, 11513 and 11514 of the California Government Code with the exception of the portions of those Sections that refer to an administrative law judge. The responsibilities in these sections that are delegated to an ALJ shall be performed by the IRP.
 5. If the Medical Director does not convene an IRP prior to making a final decision to revoke or suspend a MICN's authorization, the MICN may submit a written request for an IRP within 15 calendar days of written notification from the Medical Director's decision.
- C. Authorization will be suspended until such time that the deficiencies are completed and documented to the local EMS Agency.
- D. Suspension of authorization privileges means and individual cannot work as a MICN in the local EMS Agency jurisdiction.
- E. The MICN will be given ample notification of any deadlines and requirements.
- F. The MICN has been granted due process in accordance with local policies and procedures.
- G. The local policies and procedures provide a process for appeal or reconsideration.
- H. Authorization will not be denied based on a MICN history with another county or their provider affiliation.