

## **Emergency Medical Services Authority**

### **FINAL STATEMENT OF REASONS**

Hearing Date: January 18, 2022

Subject Matter of Proposed Regulations: Community Paramedicine and Triage to Alternate Destination

(13) Sections Affected: Adopt sections 100181, 100182, 100183, 100184, 100185, 100186, 100187, 100188, 100189, 100190, 100191, 100192, and 100193.

### **UPDATED INFORMATION**

The Initial Statement of Reasons and Updated Informative Digest are included in the file. The information contained in the Initial Statement of reasons is updated as follows:

The 45-Day public comment period began December 3, 2021, and ended January 17, 2022. The Emergency Medical Services Authority (EMSA or Authority) held a regulatory hearing on January 18, 2022, in Rancho Cordova, California via virtual Zoom meeting as the Sacramento County Public Health had issued an order prohibiting in person public meetings. EMSA received 30 comments during the 45-day comment period and 12 comments at the hearing. EMSA issued a 15-Day Notification of Modified Text on February 15, 2022, and received 16 comments. EMSA issued a second 15-Day Notification of Modified Text on March 25, 2022, with the comment period being open for 30 days. EMSA received 14 comments to the second modified text. EMSA issued a third 15-Day Notification of Modified Text on September 27, 2022, and received 6 comments. The purpose of the modifications was to improve the overall clarity, specificity, and consistency, and in response to comments (see comments) of the proposed regulations in the specific sections and in the manners listed below:

Section 100181 now contains definitions based on comments regarding a lack of clarity. The definitions are those in statute and have been added to the regulations as comments demonstrate confusion in the interaction of statutory and regulatory law. Additionally, three other definitions were included to provide clarity by avoiding confusion with similar terms. Throughout the process, there have been moments where "program" and "training program" were confused for one another. Separate definitions for "training program" were added to specify which phrase refers specifically to training programs as compared to the full programs which are already defined in statute. The definition of Public Agency was also added to provide a clear delineation of

what constitutes a public agency as the statute confers specific rights upon certain public agencies.

Section 100182 now contains general provisions which are both from the statute in response to comments and provisions from the original section 100181 regarding prohibitions. Additionally, the provisions which dealing with the accreditation of Out of State Paramedics were removed following comments during the Public Comment Period. Subsection (a) was later removed and the section renumbered as it served no regulatory purpose.

Section 100183 combines elements of the original section 100181.1 as well as various sections of article 2 of the original proposal and elements of the controlling statute to provide the requirements and standards for LEMSAs that elect to have one or both programs. The specific reasons for these proposals remain the same as those laid out in the Initial Statement of Reasons for the relevant portions of the original section 100181.1 and the portions of article 2. They were combined during modification to put like requirements together in an effort to make it easier for the public to locate all the requirements and standards in one place.

Section 100184 is renumbered from section 100182 of the original proposal. Additionally, changes were made to specify what is compliance (statutes, regulations, and/or additional LEMSA requirements) and that one is either in compliance or in noncompliance. Making this a binary (yes/no) removes potential questions for what constitutes noncompliance in the later subsections and sections. Furthermore, criteria are outlined for assessing which action to pursue in the event of noncompliance. This is particularly important that the focus is placed on public health, safety, and welfare which is what the programs are to promote. A program that endangers the public should be handled in a different manner than a technical or procedural issue.

Section 100185 combines elements from the original Article 3 and statutory language as it pertains to data, documentation, and its submission. All LEMSAs are required to have policies and procedures for EMS data collection and Quality Improvement program under 22 CRC § 100404 (a) submitted to EMSA. The current industry standard for collecting EMS data is the most current version of NEMSIS and CEMSIS database under HSC 1797.227. These elements are consistent with reporting current requirements for EMS data and clearly indicate that these requirements include Community Paramedicine and Triage to Alternate Destinations. The elements are not only necessary and consistent with current healthcare standards and requirements, but are also necessary for evaluation of these programs by all entities, but especially for the independent evaluator to provide their report as required by statute. Quarterly dates were added that were consistent with other reporting to lessen the burden by having

things handled at the same time rather than spreading deadlines throughout the quarter and the annual submission was moved from the quarterly to avoid errors from confusion.

Section 100186 is now the quality improvement section and has been changed to be included as part of the standard quality improvement as suggested by comments. All LEMSAs are required have a quality improvement program for their EMS system. Commenters recommended making quality improvement part of the existing requirement instead of separate for just these programs. EMSA agreed and accepted the recommendation as it will lessen the burden on the LEMSAs to have just a single quality improvement system.

Section 100187 is renumbered from section 100190 of the original proposal through subsection (h) of the original proposal. This section identifies the LEMSA as the approving authority for training programs in its area of operation, whether that area be a single county or multiple counties. The section also establishes the basic duties of a LEMSA, to inspect, investigate, and discipline a training program for any violations of this division, or failure to fulfill any additional requirements established by the LEMSA. This section also identifies the disciplinary actions a LEMSA may take against a training program: denial, probation, suspension, or revocation of program approval. LEMSA oversight of training programs ensures each program meets minimum requirements for operation. The authority to enforce disciplinary actions allows a LEMSA to take corrective action with a training program that fails to fulfill the requirements, which ensures public safety by preventing a non-compliant training program from continuing to educate paramedics.

Section 100188 draws from original proposal section 100190 beginning at subsection (i) through the end of the originally proposed section. This subsection presents the new subsections which identify requirements of the process LEMSAs must use to address non-compliant training programs. This is consistent with current business practices for EMS training programs. Consistent non-compliance processes ensure all training programs are afforded the same level of communication and equal opportunity to regain compliance with established standards for approval. Subsections (1) – (5) provide the specific requirements and actions to be taken to ensure due process, and that all programs throughout the state are provided the same opportunity and process in the event of noncompliance regardless of geographic location. Subsection (a) delegates oversight authority and responsibility to the LEMSAs and provides for them to be able to inspect, investigate and take action based on their findings. Training programs are approved at the local level by the LEMSAs so that they will meet the needs of the specific area. Likewise, the LEMSAs set additional requirements based on their area needs and challenges that are beyond the

minimum standards provided in this proposal. Therefore, the LEMSA is best equipped to take these actions and maintain oversight for training programs that they approve in the first place.

Section 100189 combines the primary elements of the remaining sections of Article 4 of the original proposal beginning at original proposal section 100191. Section 1000189(A) This subsection establishes that each training program must have a program medical director who is a physician currently licensed in the State of California. The program medical director must also have experience in emergency medicine and have education or experience in methods of instruction and LEMSA protocols and policies. This is consistent with program requirements for current paramedic training program medical directors (see 22 CCR § 100150) and ensures minimum standards of competency are met by individuals selected for the position. Subsection 100189 (B) describe the duties to ensure curriculum and curriculum objectives, as well as clinical and field instruction, meet the minimum requirements for training program approval. Additionally, the program medical director will ensure all approved instructors meet the minimum qualifications required to teach their assigned courses, meaning they are competent and capable of successfully training future CP personnel. Additionally, the language in this subsection establishes the subsections which specify the requirements of a program director. Clearly establishing these basic duties ensures that minimum requirements are met for all curriculum content, standards, and policies required of a training program and ensures the program has a director who understands minimum requirements of standards and curriculum for the program and can assure that the program is meeting the requirements.

Subsection (a)(5) strikes the balance between allowing guest lecturers/speakers with specific subject expertise with ensuring that the individuals are truly experts. The program medical director becomes the responsibility party for ensuring that the individual is an expert in the specific area, while allowing the use of these specialists given the expansive curricula requirements.

Subsection (b)(2) sets minimum requirement for a program director's credentials. This allows various professionals to be able to occupy the position i.e. physicians, RNs, paramedics, etc., while ensuring the person serving in the capacity has met one of the requirements to ensure a qualified individual is serving in this position.

Subsection (f)(1) provides the minimum requirements for triage paramedics. Specifically, (f)(1)(A) provides not only curricula but minimum qualifications for the person who is providing the instruction on this complex topic. Not only (A), but all requirements under (f)(1) are based on the public health, safety, and welfare. Specifically, these requirements all are necessary to ensure that a

patient is transported to the proper facility. Currently, EMS only transports to the emergency department. If a patient needs to be transported to a sobriety center or mental health facility, the determination is made by emergency department staff who then have the EMS transport the patient to the alternate facility. This program will allow trained paramedics to make the determination and transport a patient directly to an alternate destination. This is useful for getting the patient to the correct facility more quickly and by not going through the emergency department, less resources are being consumed at the emergency department. This is made more valuable by the reality that patients who could be taken directly to an alternate destination are generally low priority patients in the emergency department, which causes the longest waiting time or ambulance patient offload times (APOT). Long APOT leaves ambulances waiting at the emergency department rather than being available to take calls. However, if the paramedics aren't properly trained in identifying factors for where to transport a patient, it becomes a detriment to public health and safety rather than a benefit if a patient is transported to the wrong facility. The factors required under subsection (f)(1) are based on the knowledge and experience gained through use of these programs nationally and during the pilot projects in California.

Subsection (f)(2) is the natural follow up to subsection (f)(1). This is to verify that the paramedics have received the training as this is vital to protect public health and safety. Furthermore, as provided above, this is informed by the pilot project in California which has been extremely successful in ensuring that patients have been taken to the proper facility.

Section 100190 replaces sections 100183 and 100183.1 of the original proposal providing the requirements and prohibitions for a LEMSA to obtain approval from EMSA to operate one or both programs. This section provides what is to be submitted by a LEMSA to obtain an initial approval for a Community Paramedicine or Triage to Alternation Destination program or both. This is required to be in writing so that there can be a record if future review is needed.

Subsection (a)(5) is specifically necessary for determining if a plan should be approved as the collaboration regarding high utilizers of EMS is a key component to the Community Paramedicine program and the statute authorizing these programs.

Subsections (b), (c), and (d) outline EMSA's duties for reviewing requests from the LEMSAs to implement these programs in their jurisdiction. The review will be consistent with other reviews for EMS plans, whether a full approval or a probationary approval or other conditions will be listed in the letter of approval

to clearly state if any restrictions are placed on the approval and what those restrictions are, and it ensures that EMSA will review the proposals in a timely fashion so as not to leave a LEMSA waiting for an indeterminate period of time. These are consistent with both current procedures for other plans and programs, as well as the pilot projects.

Subsection (f) was removed as both awkward and repetitive. The requirement is in statute and removing it from regulations makes no change the requirement.

Section 100191 now provides statutory reference for a LEMSA to terminate program providers. A Local EMS Agency shall Immediately terminate from participation in the program any alternate destination facility, community paramedicine, or triage to alternate destination provider if it fails to operate in accordance with subdivision (b) of Section 1317.

Section 100192 combines the sections originally proposed as Article 5. Subsection (e)(1)(A)(i) requires proof of continuing education when renewing accreditation. Community paramedicine is an ever-evolving field and those practicing need to keep pace with the changes and new developments. Eight hours was chosen to balance of keeping current without being burdensome. As an accreditation must be renewed every two years, this amounts to four hours per year on average or one eight-hour workday every two years. To be consistent, the ability to deny a request for accreditation was included for all types (initial, renewal, etc.) as it had originally only been applied to certain application types and not others. This will serve to keep the options consistent regardless of type of request.

Likewise, subsection (i)(2)(B) is a requirement for paramedics seeking to reinstate their accreditation as a triage paramedic after it has lapsed more than twelve months. The specific requirement is that the paramedic prove successful completion of the triage to alternate destination training course within the last year. To receive initial accreditation, a paramedic must show proof of successful completion of the course. However, as this addresses paramedics whose accreditation has lapsed for a year or more, it is prudent for public health and safety to require the course be successfully retaken within a year to ensure that the paramedic is up to date on their training. In the future, it will be possible that the accreditation has been lapsed for years or even a decade. Requiring the training to be successful completed serves to protect the public and the patients that these paramedics will be aiding.

Subsection (j) requires the LEMSAs to quarterly provide a summary report of authorized personnel for these programs. While there is a requirement that the

accreditation be updated on the public look-up database, the reality in working with potential large amounts of data in a fluid setting is that mistakes can happen, whether a simple typo, or a missed name when adding or removing entries. It is prudent for EMSA to double check as the public look-up is for the public to ensure that the individual is properly qualified to engage in whatever activities they are practicing. Quarterly is a balance as monthly would certainly be burdensome, but annually could allow errors to go uncorrected for an extended period, up to a year in the worst-case scenario of what is only a two-year accreditation. As public information, a nominal effort to help maintain its accuracy is sensible.

Ostensibly, subsection (k) is to avoid any confusion about discipline in these programs and as the accreditation is concerned for the paramedic license. It is a proactive action to preempt any individuals from attempting to avoid disciplinary actions based on activities regarding the programs and accreditation. This subsection makes it clear that the accreditation and these programs are subject to the same disciplinary procedures and actions as any other accreditation or their license itself. These are not separate things and there isn't a separate disciplinary system for these particular programs and the required accreditation.

Section 100193 is renumbered from section 100181.2 of the original proposal.

As demonstrated above through public comment, there is duplication of Health and Safety Code, however without such duplication the proposed regulations lack clarity and create confusion.

#### BUSINESS REPORTING REQUIREMENT

EMSA finds that these reports are necessary to apply to businesses in order to protect the health, safety, and welfare of the people in the State of California. The reports detail the information to be provided by authorized providers that will be used by an independent evaluator as well as EMSA to determine the success of the programs as well as ascertaining any required modifications. Participation in these programs is voluntary and businesses choosing to participate must be authorized by the Local EMS Agency, including agreeing to providing these reports.

#### LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts. Participation in the proposed programs is optional. Local agencies choosing to participate must conform to the minimum standards and requirements set forth in the proposal.

## SUMMARY AND RESPONSE TO COMMENTS

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING INITIAL NOTICE PERIOD OF DECEMBER 3, 2021, THROUGH JANUARY 17, 2022, AND THOSE RECEIVED AT THE PUBLIC HEARING ON JANUARY 18, 2016.

See Addendums A and B

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE FIRST MODIFICATION NOTICE PERIOD OF FEBRUARY 16, 2022, THROUGH MARCH 3, 2022.

See Addendum C

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND MODIFICATION NOTICE PERIOD OF MARCH 25, 2022, THROUGH APRIL 24, 2022.

See Addendum D

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND MODIFICATION NOTICE PERIOD OF SEPTEMBER 27, 2022, THROUGH OCTOBER 12, 2022.

See Addendum E

## ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

No alternatives were proposed to EMSA that would lessen any adverse economic impact on small business. See, Summary and Response to Comments, *supra*.

## ALTERNATIVES DETERMINATION

EMSA has determined that no alternative it considered or that was otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The amendments adopted by EMSA are the only regulatory provisions identified by EMSA that accomplish the goal of implementing community paramedicine



and triage to alternate destination programs as outlined by AB 1544 (Statutes of 2020, Ch. 138). This proposal sets minimum standards and requirements for program approval, training, accreditation, and reporting to promote the health and welfare of everyone in the State of California. Except as set forth and discussed in summary and responses to comments, no other alternatives have been proposed or otherwise brought to the Bureau's attention.