

PURPOSE: The purpose of this policy is to establish procedures for the use and conduct of Investigative Review Panels.

AUTHORITY: Health and Safety Code, Division 2.5, Section 1797.220

DEFINITIONS:

- A. "EMS Agency" means the San Joaquin County Emergency Medical Services (EMS) Agency.
- B. "Investigative Review Panel or IRP" means an impartial advisory body composed of members who are knowledgeable in the provision of prehospital emergency medical care and local EMS system policies and procedures convened to review allegations against the holder of an EMS prehospital emergency medical care certificate, assist in establishing the facts of the matter, and provide findings to the medical director of the local EMS agency.
- C. "Multiple Certificate Holder" means a person who holds more than one valid prehospital emergency medical care certificate issued pursuant to Division 2.5 of the State of California Health and Safety Code.
- D. "Prehospital Emergency Medical Care Certificate" or "Certificate" means any valid certificate to provide prehospital emergency medical care issued pursuant to Division 2.5 of the State of California Health and Safety.
- E. "Prehospital Emergency Medical Care Personnel" means those persons who have been certified as qualified to provide prehospital emergency medical care pursuant to Division 2.5 of the State of California Health and Safety Code.

POLICY:

- I. IRP proceedings apply to all holders of certifications, accreditations, and authorizations issued by the EMS Agency except for holders of an EMT and Advanced EMT certification.
- II. Role of the IRP:
 - A. An Investigative Review Panel is an impartial advisory body whose members are knowledgeable in the provision of prehospital emergency medical care and EMS system policies and procedures. IRP hearings are used to: review allegations against the holder of or applicant for an EMS prehospital emergency medical care certificate; review the suspension, revocation or denial of certification and the denial of re-certification. An IRP is responsible for assisting in establishing the facts of the matter before them and to provide its findings and recommendation to the EMS agency medical director.

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Medical Director

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- B. An IRP may be convened as follows: 1) By the medical director to assist in establishing the facts of the matter and report findings to the medical director prior to action being taken against a certificate holder or applicant; 2) At the request of the certificate holder or applicant after action has been taken if an IRP has not previously reviewed the case and; 3) At the request of a certificate holder to review the necessity of an immediate suspension of a certificate.

III. IRP Members:

- A. The IRP shall consist of at least three persons. One member of the IRP shall be mutually agreed upon by the certificate holder and the medical director, if the certificate holder so requests. The IRP shall not include the EMS Agency medical director, any staff of the EMS Agency, or anyone who submitted allegations against the certificate holder or was directly involved in any incident, which is included in the investigation.
- B. An IRP member shall voluntarily disqualify her/himself and withdraw from any case in which s/he cannot accord a fair and impartial view. A certificate holder may request in writing within seven days of receipt of notice of the date of the IRP, the disqualification of any IRP member. The request must state the reasons upon which it is claimed that a fair and impartial review cannot be accorded. The EMS Agency medical director shall determine within three days of receipt of the request whether evidence warrants approval of the request to disqualify the specified IRP member and notify the certificate holder of the decision prior to the date of the IRP.
- C. A person under investigation and all representatives of the person under investigation are prohibited from contacting any member the IRP. Conversely, IRP members are prohibited from contacting the person under investigation or any representative of the person under investigation.

IV. Burden of Proof:

- A. IRP hearings are ruled by a preponderance of the evidence standard. The burden of proof in an IRP hearing rests with the applicant for or the holder of an EMS certificate.
- B. IRP hearings need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence, including hearsay, may be admitted as long as the evidence is the type that a reasonable person would rely on in conducting serious affairs.

V. IRP Hearing Administration:

- A. IRP members will meet prior to the hearing to review the hearing guidelines and select a chairperson to preside over the hearing.
- B. The IRP chairperson shall preside over the hearing and rule on the admission and exclusion of evidence. The hearing secretary shall administer oaths and affirmations to witnesses.
 1. Oral evidence is only admitted under oath or affirmation;
 2. Each party has the right to call and examine witnesses;
 3. Each party has the right to cross-examine witnesses;
 4. Each party has the right to impeach any witness regardless of which party first called the witness to testify;
 5. Each party has the right to rebut evidence; and
 6. Each party has the right to introduce exhibits.
- C. County counsel shall be available in person or by telephone to assist the chairperson with conducting the IRP hearing or answering "legal" and administrative questions.
- D. The IRP shall be closed to the public unless the certificate holder requests the hearing to be open to the public. A member of the IRP may order the closure of all or any part of the proceedings for any of the following reasons:
 1. To satisfy any federal or state Constitution, statute or other law including but not limited to laws protecting privileged, confidential or other protected information;
 2. To conduct the proceedings, including the manner for examining witnesses, in a way that is appropriate to protect a minor witness or a witness with a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code, from intimidation or other harm, taking into account the rights of all persons.
- E. IRP hearings shall be electronically recorded by a hearing secretary assigned by the EMS Agency.
- F. The IRP shall issue its findings and recommendation to the EMS Agency medical director within 3 days of the last hearing date.
- G. All findings and recommendations reported to the EMS Agency medical director must have the concurrence of a majority of the panel members. In the event that a majority of panel members cannot reach agreement on a recommendation then the IRP shall issue a report to the medical director stating that the IRP is unable to reach a recommendation in the matter.

VI. Administrations of Oaths and Affirmations:

- A. Pursuant to Code of Civil Procedure § 2093, 2094, 2095, 2096, 2097 and Government Code § 1181 and 11528 the San Joaquin County EMS Agency has

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the authority to administer oaths and affirmations by virtue of the power vested in the San Joaquin County EMS Agency to take testimony and make evidentiary decisions in administrative proceedings and hearings.

- B. Oaths and Affirmations should be administered prior to the commencement of any formal proceedings regarding the probation, suspension, revocation or denial of an EMS certificate or denial of a renewal of an EMS certificate.
- C. The IRP Chairperson shall administer oaths to all witnesses before they testify using one of the following methods contained in § 2094 of the Code of Civil Procedure:

1. **Primary Form of Oath or Affirmation:**

“Do you solemnly swear or affirm that the evidence you shall give in this issue or matter shall be the truth, the whole truth, and nothing but the truth, so help you God.”

2. **Option of Witness to Declare rather than Swear:**

“Do you solemnly state, under penalty of perjury, that the evidence you shall give in this issue or matter shall be the truth, the whole truth, and nothing but the truth?”

3. **Alternate Oath or Affirmation to suit witness’ belief:**

“The IRP Chairperson may administer an oath, affirmation, or declaration in a manner that is calculated to awaken the person’s conscience and impress the person’s mind with the duty to tell the truth. The IRP shall satisfy itself that the person testifying understands that his or her testimony is being given under penalty of perjury.”

VII. IRP Hearing Procedures:

- A. Hearing called to order by Chairperson
- B. Opening statement of the Medical Director or designee
 - 1. Purpose of the IRP Hearing
 - 2. Charge of the Panel
- C. Opportunity for opening remarks by certificate holder or applicant
- D. Presentation of evidence and testimony by the medical director or designee.
- E. Opportunity for the presentation of evidence and testimony by the certificate holder or applicant.
- F. Final comments by the medical director or designee.
- G. Opportunity for final comments by the certificate holder or applicant.
- H. IRP panel enters closed session to consider evidence and testimony.
- I. Report of findings and recommendation by the IRP to the medical director.