

**State of California
Office of Administrative Law**

**In re:
Emergency Medical Services
Authority**

Regulatory Action:

**Title 22, California Code of
Regulations**

**Adopt sections: 100135.01, 100135.02,
100135.03, 100135.04,
100135.05, 100135.06,
100135.07, 100136.01,
100136.02, 100136.03,
100136.04, 100136.05,
100136.06, 100136.07,
100136.08, 100136.09,
100136.10, 100136.11,
100136.12, 100136.13,
100136.14, 100136.15,
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100144.01, 100145.01,
100145.02, 100145.03,
100145.04, 100145.05,
100145.06, 100145.07,
100145.08, 100145.09,
100145.10, 100145.11,**

**DECISION OF DISAPPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

OAL Matter Number: 2026-0105-01

OAL Matter Type: Regular (S)

100145.12, 100145.13,
100145.14, 100145.15,
100146.01, 100146.02,
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Repeal sections:100135.01,
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100163.04, 100163.05,
100164.01, 100164.02**

SUMMARY OF REGULATORY ACTION

This regulatory action by the Emergency Medical Services Authority (Authority) proposes to amend regulations concerning the development, implementation, designation, and evaluation of critical and specialty care program regulation, including trauma care systems, ST-elevation myocardial infarction (STEMI) critical care systems, stroke critical care systems, and emergency medical services for children programs.

On January 5, 2026, the Authority submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On February 18, 2026, OAL notified the Authority that OAL disapproved the proposed regulatory action pursuant to the Administrative Procedure Act (APA). This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

DECISION

OAL disapproved the action because the proposed regulatory changes failed to comply with the clarity standard of Government Code section 11349.1, subdivision (a)(3), and for incorrect procedure.

DISCUSSION

The Authority's regulatory action must satisfy requirements established by the part of the APA that governs rulemaking by a state agency. Any regulation adopted, amended, or repealed by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, is subject to the APA unless a statute expressly exempts the regulation from APA coverage. (Gov. Code, sec. 11346.) No exemption applies to the present regulatory action under review.

Before any regulation subject to the APA may become effective, the regulation is reviewed by OAL for compliance with the procedural requirements of the APA

and the standards for administrative regulations in Government Code section 11349.1. Generally, to satisfy the APA standards, a regulation must be legally valid, supported by an adequate record, and easy to understand. In this review, OAL is limited to the rulemaking record and may not substitute its judgment for that of the rulemaking agency regarding the substantive content of the regulation. This review is an independent check on the exercise of rulemaking powers by executive branch agencies intended to improve the quality of regulations that implement, interpret, and make specific statutory law, and to ensure that the public is provided with a meaningful opportunity to comment on regulations before they become effective.

1. CLARITY STANDARD

In adopting the APA, the Legislature found that the language of many regulations was unclear and confusing to persons who must comply with the regulations. (Gov. Code, sec. 11340, subd. (b).) Government Code section 11349.1, subdivision (a)(3), requires that OAL review all regulations for compliance with the clarity standard. Government Code section 11349, subdivision (c), defines “clarity” to mean “written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.”

The “clarity” standard is further defined in section 16 of title 1 of the California Code of Regulations (CCR), which provides:

In examining a regulation for compliance with the “clarity” requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:

- (a) A regulation shall be presumed not to comply with the “clarity” standard if any of the following conditions exists:
 - (1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or
 - (2) ...
 - (3) ...
 - (4) ...
 - (5) the regulation presents information in a format that is not readily understandable by persons “directly affected;” or
 - (6) ...

- (b) Persons shall be presumed to be “directly affected” if they:
- (1) are legally required to comply with the regulation; or
 - (2) are legally required to enforce the regulation; or
 - (3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or
 - (4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

The following provisions in the Authority’s proposed regulatory action do not satisfy the clarity standard.

1.1 Proposed Subsection (e) of Section 100139.03, Proposed Subsection (e) of Section 100146.03, Proposed Subsection (e) of Section 100151.03, and Proposed Subsection (e) of Section 100157.03

Proposed subsection (e) of section 100139.03 reads:

Rescinding Approval. A LEMSA's failure to implement its trauma care system in accordance with the approved trauma care system plan may result in approval of the local EMS plan being rescinded, subject to a right of appeal in accordance with Section 1797.105 of the Health and Safety Code and the provisions of Section 100000.01 of this Division.

Proposed subsection (e) of section 100146.03 reads:

Rescinding Approval. A LEMSA's failure to implement its STEMI critical care system in accordance with the approved STEMI critical care system plan may result in approval of the local EMS plan being rescinded, subject to a right of appeal in accordance with Section 1797.105 of the Health and Safety Code and the provisions of Section 100000.01 of this Division.

Proposed subsection (e) of section 100151.03 reads:

Rescinding Approval. A LEMSA's failure to implement its stroke critical care system in accordance with the approved stroke critical care system plan may result in approval of the local EMS plan being

rescinded, subject to a right of appeal in accordance with Section 1797.105 of the Health and Safety Code and the provisions of Section 100000.01 of this Division.

Proposed subsection (e) of section 100157.03 reads:

Rescinding Approval. A LEMSA's failure to implement its EMSC program in accordance with the approved EMSC program plan may result in approval of the local EMS plan being rescinded, subject to a right of appeal in accordance with Section 1797.105 of the Health and Safety Code and the provisions of Section 100000.01 of this Division.

These proposed subsections are unclear for two reasons.

First, the phrase "failure to implement" can be reasonably and logically interpreted to have more than one meaning and presents information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, subs. (a)(1) and (a)(5).) As written, it is unclear to the regulated public what constitutes a local emergency medical systems agency's "failure to implement" their critical care system or program. It is also unclear how such a determination is made by the Authority.

Second, the phrase "may result in approval of the local EMS plan being rescinded" presents information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) The use of "may" without enumerated factors, conditions, or criteria makes it unclear to the regulated public when and how a "failure to implement" would actually result in the Authority rescinding a local emergency medical services agency's approved local EMS plan.

1.2 Proposed Subsection (b) of Section 100139.04, Proposed Subsection (b) of Section 100146.04, Proposed Subsection (b) of Section 100151.04, and Proposed Subsection (b) of Section 100157.04

Proposed subsection (b) of section 100139.04 reads:

EMSA Review of the Trauma System Status Report. EMSA will review the trauma system status report as part of its review and determination of the LEMSA's annual EMS plan update, in accordance with Section 1797.105 of the Health and Safety Code and Section 100000.01 of this division.

Proposed subsection (b) of section 100146.04 reads:

EMSA Review of the STEMI Critical Care System Plan Update. EMSA will review the STEMI critical care system plan update as part of its review and determination of the LEMSA's annual EMS plan update, in accordance with Section 1797.105 of the Health and Safety Code and Section 100000.01 of this division.

Proposed subsection (b) of section 100151.04 reads:

EMSA Review of the Stroke Critical Care System Plan Update. EMSA will review the stroke critical care system plan update as part of its review and determination of the LEMSA's annual EMS plan update, in accordance with Section 1797.105 of the Health and Safety Code and Section 100000.01 of this division.

Proposed subsection (b) of section 100157.04 reads:

EMSA Review of the EMSC Program Plan Update. EMSA will review the EMSC program plan update as part of its review and determination of the LEMSA's annual EMS plan update, in accordance with Section 1797.105 of the Health and Safety Code and Section 100000.01 of this division.

These proposed subsections are unclear because they present information in a format that is not readily understandable by persons "directly affected." (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) As written, it is unclear to the regulated public how these status reports and plan updates factor into a local emergency medical services agency's "annual EMS plan update." It is also unclear how and when the status reports and plan updates are to occur. Additionally, it is unclear what "review and determination" is being made by the Authority.

1.3 Proposed Subsections (b)(8)(B) and (c) of Section 100141.03

Proposed subsection (c) of section 100141.03 reads:

Level IV Trauma Centers Designated Prior to Effective Date of Regulations. A level IV trauma center designated by the LEMSA pursuant to regulations in effect prior to the effective date of these regulations, as set forth in section 100135.04 of this chapter, may continue to operate as a level IV trauma center; however, any such trauma center shall meet the requirements of this chapter within twelve (12) months of a program review described in subdivision (b)(8)(B) of this section.

The referenced “program review” in subsection (b)(8)(B) reads:

Program Review.

(i) Trauma Program Medical Director Review. An annual review by the trauma program medical director to determine whether the trauma program is demonstrating the appropriate orientation, credentialing processes, and skill maintenance for advanced practitioners.

(ii) Trauma Peer Review Committee. A multidisciplinary trauma peer review committee that meets at least twice a year and includes medical staff who are actively involved in trauma resuscitation. The committee shall review systemic and care provider issues and propose improvements to the care of injured patients.

Proposed subsection (c) is unclear because it can be reasonably and logically interpreted to have more than one meaning and presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, subs. (a)(1) and (a)(5).) As written, it is unclear when the affected trauma center must meet the requirements of these regulations. The phrase “within twelve (12) months of a program review” could be interpreted to mean “within twelve (12) months before a program review,” or it could also be interpreted to mean “within twelve (12) months after a program review.” It is also unclear whether trauma centers previously designated under existing regulations would need to meet the requirements of these new

regulations twelve (12) months before the annual program review described in subsection (b)(8)(B), or twelve (12) months after.

Proposed subsection (b)(8)(B) is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) As written, it is unclear what these annual reviews consist of and how they are to be conducted.

1.4 Proposed Subsections (b)(6) and (c) of Section 100147.02

Proposed subsection (c) of section 100147.02 reads:

STEMI Receiving Centers Designated Prior to Effective Date of Regulations. A STEMI receiving center designated by the LEMSA pursuant to regulations in effect prior to the effective date of these regulations, as set forth in section 100135.04 of this chapter, may continue to operate as a STEMI receiving center; however, any such STEMI receiving center shall meet the requirements of these regulations within twelve (12) months of a STEMI program review described in subdivision (b)(6) of this section.

The referenced “STEMI program review” in subsection (b)(6) reads:

Data Collection, QI, and Evaluation. STEMI receiving centers designated under this section are subject to the requirements of Article 5 of this subchapter. In addition, STEMI receiving centers shall have:

(A) A review of its STEMI program conducted by the LEMSA, or LEMSA-designated STEMI certifying entity or entities, at least every three years.

(B) A review of its STEMI program conducted by the LEMSA or through a nationally recognized STEMI program, depending on the certification level, at least every three (3) years.

Proposed subsection (c) contains similarly unclear timing requirements discussed and analyzed in Issue 1.3.

Proposed subsection (b)(6) contains similarly unclear program review requirements discussed and analyzed in Issue 1.3.

1.5 Proposed Subsection (c) of Section 100153.01, Proposed Subsection (c) of Section 100153.02, Proposed Subsection (c) of Section 100153.03, and Proposed Subsection (a) of Section 100154.03

Proposed subsection (c) of section 100153.01 reads:

Acute Stroke Ready Hospitals Designated Prior to Effective Date of Regulations. An acute stroke ready hospital designated by the LEMSA prior to the effective date of these regulations, as set forth in section 100135.04 of this chapter, may continue to operate as an acute stroke ready hospital; however, any such acute stroke ready hospital shall meet the requirements of these regulations within twelve (12) months of a program review described in Article 5, Section 100154.03(a) of this subchapter.

Proposed subsection (c) of section 100153.02 reads:

Primary Stroke Centers Designated Prior to Effective Date of Regulations. A primary stroke center designated by the LEMSA prior to the effective date of these regulations, as set forth in Section 100135.04 of this chapter, may continue to operate as a primary stroke center; however, any such primary stroke center shall meet the requirements of these regulations within twelve (12) months of a program review described in Article 5, Section 100154.03(a) of this subchapter.

Proposed subsection (c) of section 100153.03 reads:

Thrombectomy-Capable Stroke Centers Designated Prior to Effective Date of Regulations. A thrombectomy-capable stroke center designated by the LEMSA prior to the effective date of these regulations, as set forth in section 100135.04 of this chapter, may continue to operate as a thrombectomy-capable stroke center; however, any such thrombectomy-capable stroke center shall meet the requirements of these regulations within twelve (12)

months of a program review described in Article 5, Section 100157.03(a) [sic] of this subchapter.

The referenced “program review” in proposed subsection (a) of section 100154.03 reads:

At least once every three (3) years, all stroke centers designated under Article 4 of this subchapter shall have:

(a) A stroke program review by the stroke medical director and, if necessary, revision of the policies and procedures for emergency department stroke service.

Proposed subsection (c) of section 100153.01, proposed subsection (c) of section 100153.02, and proposed subsection (c) of section 100153.03, contain similarly unclear timing requirements discussed and analyzed in Issue 1.3.

Proposed subsection (a) of section 100154.03 contains similarly unclear program review requirements discussed and analyzed in Issue 1.3.

1.6 Proposed Section 100135.04

Proposed section 100135.04 states:

This [chapter] shall become effective on January 1, 2026, following the regulation filing with the Secretary of State.

This proposed section is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) It is unclear how the regulated public would be expected to comply with these regulations from January 1, 2026, when the regulations have yet to be approved by OAL and filed with the Secretary of State.

In addition, regulations may not have a retroactive effect unless specifically provided for by statute. (*People ex rel. Deukmejian v. CHE, Inc.* (1983) 150 Cal.App.3d 123, 135.) Regulations adopted pursuant to the APA are effective on a quarterly basis pursuant to Government Code section 11343.4, unless the effective date is specifically provided by the statute pursuant to which the

regulation was adopted, an agency requests an earlier effective date that is not retroactive, or an agency requests a later effective date.

1.7 Proposed Section 100135.06

Proposed section 100135.04, in its entirety, states:

§ 100135.06. Authority & Reference

Note: Authority: Sections 1797.103, and 1797.105, Health and Safety Code. Reference: Division 2.5 (commencing with Section 1797), Health and Safety Code.

This proposed section is unclear because it presents information in a format that is not readily understandable by persons “directly affected.” (Cal. Code Regs., tit. 1, sec. 16, sub. (a)(5).) The absence of regulation text makes it unclear what this proposed section accomplishes.

2. INCORRECT PROCEDURE

OAL also notes the following issues that must be addressed prior to any resubmission of this regulatory action.

2.1 15-Day Comment Period for Substantial Changes to Regulation Text

Government Code section 11346.8, subdivision (c), provides in relevant part:

No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5, unless the change is (1) nonsubstantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. If a sufficiently related change is made, the full text of the resulting adoption, amendment, or repeal, with the change clearly indicated, shall be made available to the public for at least 15 days before the agency adopts, amends, or repeals the resulting regulation.

Following a notice period conducted November 12, 2025, through November 26, 2025, the Authority made substantive changes to the regulation text, including revisions to the definition of “Trauma Center” in proposed section 100138.06. The Commission on Emergency Medical Services approved the substantive changes to the text at their meeting held on December 10, 2025. However, the Authority did not subsequently make this version of the regulation text available to the public for review and comment pursuant to Government Code section 11346.8, subdivision (c), prior to submitting the regulatory action to OAL for review on January 5, 2026.

2.2 Notice of Modifications to Text of Proposed Regulations

CCR, title 1, section 44, sets forth the requirements for public availability of regulatory changes pursuant to Government Code section 11346.8, subdivision (c). CCR, title 1, section 44, subsection (b), reads:

The rulemaking record shall contain a statement confirming that the agency complied with the requirements of this section and stating the date upon which the notice and text were mailed and the beginning and ending dates for this public availability period.

In this regulatory action, the Authority issued two notices of public availability pursuant to Government Code section 11346.8, subdivision (c). The statements provided in the Authority’s rulemaking record regarding these notices do not comply with CCR, title 1, section 44, subsection (b).

2.3 Final Statement of Reasons

2.3.1 Summary and Response to Comments

Government Code section 11346.9, subdivision (a)(3), requires the final statement of reasons to include:

A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been

changed to accommodate each objection or recommendation, or the reasons for making no change.

The Authority's final statement of reasons does not contain a compliant summary of and response to all relevant objections and recommendations received during the comment periods as required by subdivision (a)(3) of Government Code section 11346.9. For example, three timely and relevant comments from James P. Marcin, MD, MPH (UC Davis Health – Children's Hospital), Tamera Freehling, RN (Pomona Valley Hospital Medical Center), and Shanna Kissel, MSN, RN (Riverside County EMS Agency) that were submitted during the comment period held from July 3, 2025, through August 17, 2025, are not summarized or responded to by the Authority in the final statement of reasons. In another example, a commenter suggested that the definition of "cardiac catheterization laboratory" specify the catheter-based procedures performed in such a laboratory. This recommended revision was both timely and relevant. In response, the Authority stated, "thanks but no." The Authority must summarize and respond to all comments, in compliance with subdivision (a)(3) of Government Code section 11346.9, before resubmitting the rulemaking action to OAL for review.

2.3.2 Determination Regarding Mandate On Local Agencies or School Districts

Government Code section 11346.9, subdivision (a)(2), requires the final statement of reasons to include:

A determination as to whether adoption, amendment, or repeal of the regulation imposes a mandate on local agencies or school districts. If the determination is that adoption, amendment, or repeal of the regulation would impose a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 (commencing with Section 17500) of Division 4 [of the Government Code]. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding.

This determination is not included in the Authority's final statement of reasons.

2.3.3 Incorporation By Reference Demonstrations

CCR, title 1, section 20, subsection (c), in relevant part, provides:

An agency may “incorporate by reference” only if the following conditions are met:

- (1) The agency demonstrates in the final statement of reasons that it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of Regulations.
- (2) The agency demonstrates in the final statement of reasons that the document was made available upon request directly from the agency, or was reasonably available to the affected public from a commonly known or specified source. In cases where the document was not available from a commonly known source and could not be obtained from the agency, the regulation shall specify how a copy of the document may be obtained.

These demonstrations are not included in the Authority's final statement of reasons, despite the proposed regulations incorporating by reference eleven (11) documents.

2.4 Document Incorporated by Reference Not Attached to the Form 400

CCR, title 1, section 20, subsection (e), provides:

Where a regulation which incorporates a document by reference is approved by OAL and filed with the Secretary of State, the document so incorporated shall be deemed to be a regulation subject to all provisions of the APA.

CCR, title 1, section 6.5, subsection (a), in relevant part, requires:

For all regulatory actions submitted electronically to OAL for publication in the California Code of Regulations and/or transmittal to the Secretary of State for filing, the agency must include:

- (1) One electronic file containing the following documents:
 - (A) One electronic copy of the certified regulation text...

The proposed regulations incorporate by reference eleven (11) documents, including a document identified in the regulation text as “American College of Surgeons Resource for Optimal Care of the Injured Patient 2022 Standards, ISBN 978-1-7369212-9-6, released in March 2022.” The Form 400 and final regulation text submitted to OAL did not include the aforementioned document incorporated by reference.

2.5 Final Regulation Text

The final regulation text, including authority and reference citations, requires nonsubstantive revisions pursuant to CCR, title 1, section 40. These revisions will be discussed with the Authority.

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CONCLUSION

For the foregoing reasons, OAL disapproved the above-referenced regulatory action. Pursuant to Government Code section 11349.4, subdivision (a), the Authority may resubmit revised regulations within 120 days of its receipt of this Decision of Disapproval of Regulatory Action. A copy of this Decision will be emailed to the Authority on the date indicated below.

The Authority must make any substantive regulatory text changes, which are sufficiently related to the originally noticed text, available for public comment for at least 15 days pursuant to subdivision (c) of Government Code section 11346.8 and CCR, title ,1 section 44. Any comments containing objections or recommendations must be summarized and responded to in the final statement of reasons, and where appropriate, the Authority must also revise the existing responses to comments to reflect the changes to the regulation text. The Authority must resolve all other issues raised in this Decision of Disapproval of Regulatory Action prior to the resubmittal of this regulatory action.

Date: February 25, 2026

/s/

Stephen P. Mehlert
Senior Attorney

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