

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

**[Bold, Print, and Brackets]** = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

#### §157.44. Emergency Medical Service Instructor Certification

(a) General.

(1) A certified emergency medical service (EMS) instructor is an individual who has received training approved by the Texas Department of State Health Services (department) to conduct the classroom or laboratory portion of an EMS training course.

(2) An instructor must be currently certified at the emergency medical technician (EMT) level or higher and may not instruct knowledge or skills above the current level of personnel certification.

(3) Instructor certification is dependent on the individual's EMS personnel certification and is subject to the same status as that personnel certification. If the department imposes disciplinary action in accordance with §157.16 of this title (relating to Emergency Suspension, Suspension, Probation, Revocation or Denial of a Provider License) or §157.36 of this title (relating to Criteria for Denial and Disciplinary Actions for EMS Personnel and Voluntary Surrender of a Certificate or License), the action shall also be imposed automatically and immediately on the individual's instructor certification.

(b) Certification. To obtain certification, a candidate shall:

(1) have a high school diploma or a general educational development (GED) certificate;

(2) have active Texas EMS personnel certification;

(3) complete a training program using an instructor training curriculum approved by the department; or

(4) successfully complete a methods of teaching course or other type of instructor training course approved by the department; the course completed shall be a minimum of 40 hours and all requirements shall be completed within one year of the completion date on the course certificate, and the department may exempt those applicants who are already certified in those courses; or

(5) an instructor candidate who has a degree in secondary or higher education, a secondary teaching certificate or is currently certified as an EMS Instructor in another state shall submit documentation to verify the degree, teaching certificate or out-of-state instructor certificate;

(6) submit an application to the department with a nonrefundable fee of \$30 to the department, except a fee shall not be required if compensation is not received for instructing training courses or programs; and a course completion document from a department-approved instructor course; and

(7) pass the instructor examination administered or approved by the department.

(8) The instructor candidate who does not pass the department-administered exam may have one opportunity to retest by submitting the retest application and \$30 retest fee, if applicable. The retest must be completed no later than one year after the course completion date. The candidate who fails the retest must complete another instructor course to become eligible for instructor certification.

(c) Currently certified instructors shall be considered to have met the qualifications in this section.

(d) Period of certification. After verification by the department of the information submitted by the candidate, the candidate who meets the requirements of subsection (b) of this section shall be certified as an instructor for two years commencing on the date of issuance of the certificate.

(e) Responsibilities. An instructor shall have the following responsibilities:

(1) conduct classroom and laboratory sessions in accordance with lesson objectives as assigned by the course coordinator;

(2) conduct skills proficiency verifications and other student evaluations as assigned by the course coordinator;

(3) assist the course coordinator in preparing and maintaining records and performing other duties necessary to insure the integrity, efficiency and effectiveness of the course;

(4) adhere to the curriculum standards as referenced in §157.32 of this title (relating to Emergency Medical Services Education Program and Course Approval);

(5) adhere to the standards outlined in the department's EMS Education and Training Manual;

(6) provide supervision and oversight for assigned courses;

(7) function as the liaison between the students, the course coordinator, the program, and the department;

(8) ensure that the facilities, including the classroom and lab areas, are conducive to a positive learning environment;

(9) ensure that equipment and supplies are clean, in working order, and of adequate quality and quantity to provide a positive learning environment;

(10) properly administer and maintain integrity of the skills proficiency verifications and other student evaluations during a course;

(11) properly and accurately inform students of the requirements, processes, and paperwork necessary for Texas EMS certification or licensure;

(12) properly and accurately inform students of the laws and rules regulating EMS, including requirements for staffing Texas EMS vehicles; and

(13) maintain the overall classroom setting and/or course presentation to ensure the integrity, efficiency, and/or effectiveness of the course.

(f) Recertification.

(1) Prior to the expiration of a certificate, the department shall send a notice of expiration to the certificant at the address shown in the current records of the department. It is the responsibility of EMS personnel to notify the department of any change of address.

(2) If a certificant has not received notice of expiration from the department 30 days prior to the expiration, the certificant shall request an application for recertification from the department or download an application from the Internet. Failure to apply for recertification shall result in expiration of the certificate.

(3) To be eligible for recertification, the instructor shall meet recertification requirements during the latest instructor certification period:

(A) maintain active status EMS certification; **[and]**

(B) submit documentation of observing or providing at least 8 hours of emergency medical care by or with a licensed EMS provider, first responder organization or clinical site.

(C) submit the application for recertification and a nonrefundable fee of \$30.

(4) After verification by the department of the information submitted, the candidate who meets the requirements of this section shall be recertified for two years commencing on the day following the expiration of the current certificate.

(g) Late recertification.

(1) An application for renewal of a certificate shall be considered late if:

(A) the application and nonrefundable fee are received after the most recent certificate has expired; or

(B) all requirements for recertification are not met prior to the end of the most recent certification period.

(2) An instructor who has not recertified prior to the end of his most recent certification period is not certified.

(h) Recertification. To be eligible for recertification, the candidate shall meet the following:

(1) A candidate whose certificate has been expired for 90 days or less may renew the certificate by submitting an application and paying a nonrefundable renewal fee that is equal to 1-1/2 times the normally required application renewal fee for that level as listed in subsection (b)(6) of this section;

(2) A candidate whose certificate has been expired for more than 90 days but less than one year may renew the certificate by submitting an application and paying a nonrefundable renewal fee that is equal to two times the normally required application renewal fee as listed in subsection (b)(6) of this section.

(3) A candidate must complete all the requirements for recertification no later than one year after the expiration of the most recent certificate.

(4) After verification by the department of the information submitted by the candidate, the candidate who meets the requirements of this subsection shall be recertified for two years commencing on the day of issuance of a certificate.

(5) A candidate whose certification is expired more than one year must meet the requirements of subsection (b) of this section **[including the completion of another initial course to be certified]**.

(i) Disciplinary action.

(1) Emergency suspension. The department may issue an emergency order to suspend an instructor certification if the department has reasonable cause to believe **[continued activity of the individual constitutes]** the conduct of the certified instructor creates an imminent danger to the public health or safety.

(A) An emergency suspension shall be effective immediately without a hearing or written notice to the certificate holder. Notice to the certificant shall be established on the date that a copy of the signed emergency suspension order is sent to the address shown in the

current records of the department, or by return receipt. Notice shall also be sent to any sponsoring entity.

(B) If a written request for a hearing is received from the certificate holder within 15 days of the date of notice, the department shall conduct a hearing not later than the 30th day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and appeal from a disciplinary action related to the hearing shall be in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.

(2) The department may suspend, revoke, or refuse to renew an instructor certification, or may reprimand an instructor for, but not limited to, the following reasons [Certification suspension or revocation, or application denial. The department may suspend or revoke a certification or deny an application for certification for, but not limited to, the following reasons]:

(A) failing to maintain a current and active Texas EMS personnel certification at the appropriate level;

(B) failing to comply with the responsibilities of an instructor as in subsection (e) of this section;

(C) falsifying or assisting another person in falsifying an application for EMS certification;

(D) falsifying or assisting another person in falsifying a program approval application, a self-study, a course approval application, or any supporting documentation;

(E) falsifying or assisting another person in falsifying a course completion certificate or any other document that records or verifies course activity and/or is a part of the course record;

(F) compromising department or program standards for verification of skills proficiency or falsifying proficiency verification records;

(G) obtaining, or attempting to obtain, or assisting another person in obtaining or attempting to obtain certification or recertification by fraud, deception, falsification, theft, misappropriation, coercion, forgery, or misrepresentation;

(H) failing to complete and submit student documents within the established time frames;

(I) compromising or failing to maintain the order, discipline and fairness of a department-approved course or program;

(J) delivering or allowing inadequate class presentations;

(K) compromising an examination or examination process administered or approved by the department;

(L) cheating or assisting another in cheating on an EMS examination, other evaluation or any other activity offered or conducted by the department, a training program approved by the department, or a provider licensed by the department;

(M) accepting any benefit to which there is no entitlement or benefits in any manner through fraud, deception, falsification, misrepresentation, theft, misappropriation or coercion;

(N) failing to maintain appropriate policies, procedures and safeguards to ensure the safety of students, fellow instructors or other class participants;

(O) allowing recurrent use of inadequate, inoperable, or malfunctioning equipment;

(P) issuing a check to the department which is returned unpaid;

(Q) failing to maintain education course records for initial or continuing education (CE) courses;

(R) demonstrating an unwillingness or inability to comply with the Health and Safety Code and rules adopted thereunder;

(S) failing to give the department true and complete information when asked regarding any alleged or actual violation of the Health and Safety Code, or the rules adopted thereunder, or failing to report a violation;

(T) committing any violation during a probationary period;

(U) functioning or attempting to function as an instructor during a period of suspension shall be cause for revocation of the instructor certification;

(V) failing to report a violation of the Health and Safety Code, Chapter 773, or the rules adopted thereunder;

(W) failure to notify the department when any current EMS student, student applicant, or certified or licensed program employee is arrested for, or received a [convicted] conviction, deferred adjudication or deferred prosecution, for any crime, upon the instructor's discovery of such;

(X) received a conviction, deferred adjudication, or deferred prosecution for a crime which directly relates to the person's ability to carry out the duties and

responsibilities of an EMS personnel or EMS instructor, per the guidelines and criteria outlined in 25 TAC 157.37;

**[(X) conviction of a crime which directly relates to the profession of EMS personnel or EMS educators as described in §157.37 of this title (relating to Certification or Licensure of Persons With Criminal Backgrounds);]**

**[(Y) received a deferred adjudication or deferred prosecution to resolve any criminal charge against the candidate or certificant, which relates to the candidate's or certificant's ability to carry out EMS duties and/or the responsibilities of an EMS Instructor;]**

(Y) unprofessional conduct such as, but not limited to the following:

(i) retaliation;

(ii) discrimination on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

(iii) verbal or physical abuse; or

(iv) inappropriate physical or sexual contact.

(AA) failing to maintain a substantial amount of skill, knowledge and/or academic acuity to timely and/or accurately carry out the duties of an EMS Instructor;

(BB) failing to meet standards as required in this section;

(CC) previous conduct on the part of the applicant during the performance of duties relating to the responsibilities of EMT personnel or an EMS Instructor that is contrary to accepted standards of conduct as described in Chapter 157 of this title;

(DD) disciplinary action relating to a certificate or license issued in another state; and/or

(EE) misrepresenting any requirements for certification or licensure.

(3) Notification. If the department proposes to take disciplinary action against an EMS instructor, the certificant shall be notified at the address shown in the current records of the department. The notice must state the alleged facts or conduct warranting the action and state that the certificant has an opportunity to request a hearing.

(A) The certificant may request a hearing within 15 days after the date of the notice. This request shall be in writing and submitted to the department [bureau chief]. The hearing shall be conducted pursuant to the Administrative Procedure Act, Government Code, Chapter 2001.

(B) If the certificant does not request a hearing, after being sent the notice of opportunity, the certificant waives the opportunity for a hearing and the department shall implement its proposal.

(4) Probation. The department may probate any penalty assessed under this section and may specify terms and conditions of any probation issued.

(5) Reapplication.

(A) Two years after the revocation, denial, or the voluntary surrender of an instructor certification while disciplinary action is pending, an individual may petition the department, in writing, for the opportunity to reapply for certification. Expiration of a certificate during the suspension period shall not affect the two-year waiting period required before a petition can be submitted.

(B) The department shall evaluate the petition and may allow or deny the opportunity to submit an application for recertification. The petitioner bears the burden of proving fitness for certification.

(C) In evaluating a petition for permission to reapply for certification the department shall consider, but is not limited to, the following issues:

(i) the likelihood of a repeat of the actions or inactions that led to revocation;

(ii) the petitioners overall record as an instructor;

(iii) letters of support or recommendation;

(iv) letters in protest or nonsupport of the petition; and

(v) the need for the services of an instructor in a given area.

(D) The petitioner shall be notified of the department's decision to allow or deny the submission of reapplication within 60 days of the request.

(j) Surrender of a certificate. Surrender of a certificate shall not deprive the department of jurisdiction in regard to disciplinary action against the certificant. An individual who wishes to surrender his or her certification prior to the expiration of the certificate may do so by:

(1) completing a Surrender of Certificate statement; and

(2) in the event that a disciplinary action is pending or reasonably imminent, the certificant must acknowledge that the surrender constitutes a pleas of "no contest" to the allegations upon which the disciplinary action is predicated.

(k) For all applications and renewal applications, the department is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.