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AB-2859 Emergency medical technicians: peer support. (2023-2024)

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Assembly Bill No. 2859

CHAPTER 744

An act to add Article 23 (commencing with Section 8669.8) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to emergency medical services.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2859, Jim Patterson. Emergency medical technicians: peer support.

Existing law establishes a statewide system for emergency medical services (EMS) and establishes the Emergency Medical Services Authority, which is responsible for establishing training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel.

Existing law authorizes a public fire agency or law enforcement agency to establish a peer support and crisis referral program, to provide a network of peer representatives who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues.

This bill would authorize an EMS provider to establish a peer support and crisis referral program to provide a network of peer representatives available to aid fellow employees on emotional or professional issues. The bill would provide that EMS personnel, whether or not a party to an action, have a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the EMS personnel and a peer support team member, crisis hotline, or crisis referral service, except under limited circumstances, including, among others, if disclosure is reasonably believed to be necessary to prevent death, substantial bodily harm, or commission of a crime, or in a civil or criminal proceeding. The bill would also provide that, except for an action for medical malpractice, a peer support team member and the EMS provider that employs them are not liable for damages, as specified, relating to an act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct. To be eligible for these confidentiality protections, the bill would require a peer support team member to complete a training course or courses on peer support approved by the EMS provider.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 23 (commencing with Section 8669.8) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 23. California Emergency Medical Services Peer Support and Crisis Referral Services

8669.8. (a) Emergency Medical Services (EMS) personnel, alongside and including firefighters, frequently respond to traumatic incidents and dangerous circumstances, including fires, accidents, natural disasters, and violent incidents. These situations expose them to harmful substances, such as blood and vomit, as well as witnessing severe injuries, death, and grief. EMS personnel are regularly placed in harm's way, facing significant risks of bodily harm or physical assault while performing their duties.

(b) The high-stress working environment inherent in EMS takes a toll on the mental, emotional, and physical well-being of EMS personnel. Chronic exposure to traumatic events increases the risk of post-traumatic stress and other stress-induced injuries.

(c) Despite surviving the traumas encountered on duty, many EMS personnel experience the impacts of occupational stressors even when off duty. The psychological and emotional stress of their professions can linger, causing detrimental effects long after their shifts end.

(d) Unfortunately, trauma-related injuries, including post-traumatic stress, can become overwhelming, leading to substance use disorders and, tragically, suicide. The risk of suicide is notably high in these professions, with statistics indicating that EMS personnel are at a significantly elevated risk compared to other occupational groups.

(e) EMS personnel face unique and dangerous risks while striving to ensure public safety. They rely on each other for support and survival, risking their lives daily to serve and protect their communities.

(f) The culture within EMS has historically discouraged personnel from seeking assistance for psychological stress due to fears of ridicule, shame, or adverse job actions.

(g) It is the intent of the Legislature that communications made by EMS personnel, peer support team members, or crisis referral service staff remain confidential, ensuring that individuals feel comfortable seeking help without fear of repercussion. The hope is that this safety to heal will decrease the rate of EMS personnel choosing substances or suicide to end their pain and promote a more resilient workforce protecting our communities.

8669.81. For purposes of this article:

(a) "Confidential communication" means any information, including written or oral communication, transmitted between an EMS personnel, a peer support team member, or a crisis hotline or crisis referral service staff member while the peer support team member provides peer support services or the crisis hotline or crisis referral service staff member provides crisis services, and in confidence by a means that, as far as the EMS personnel is aware, does not disclose the information to third parties other than those who are present to further the interests of the EMS personnel in the delivery of peer support services or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services. "Confidential communication" does not include a communication in which the EMS personnel discloses the commission of a crime or a communication in which the EMS personnel's intent to defraud or deceive an investigation into a critical incident is revealed.

(b) "Crisis referral services" include all public or private organizations that provide consultation and treatment resources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises.

(c) "Critical incident" means an event or situation that involves crisis, disaster, trauma, or emergency.

(d) "Critical incident stress" means the acute or cumulative psychological stress or trauma that EMS personnel may experience in providing emergency services in response to a critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning and could lead to post-traumatic stress injuries, including one or more of the following:

(1) Physical and emotional illness.

(2) Failure of usual coping mechanisms.

(3) Loss of interest in the job or normal life activities.

(4) Personality changes.

(5) Loss of ability to function.

(6) Psychological disruption of personal life, including the person's relationship with a spouse, child, or friend.

(e) "EMS" means emergency medical services.

(f) "EMS personnel" means currently licensed California health care professionals who provide emergency medical care or support providers of emergency medical care, including physicians, physician assistants, registered nurses, nurse practitioners, nurse-midwives, clinical nurse specialists, nurse anesthetists, mobile intensive care nurses, and currently licensed or certified California paramedics and advanced emergency medical technicians, emergency medical technicians, lifeguards, and emergency medical dispatchers who are not also described in Section 8669.15 or 8669.3.

(g) "EMS provider" means either of the following, subject to the exclusions in Section 8669.87:

(1) A local or regional department or agency, or any political subdivision thereof, that employs EMS personnel or uses volunteer EMS personnel.

(2) A private entity, including providers contracted with a local or regional department or agency, that employs EMS personnel or uses volunteer EMS personnel.

(h) "Peer support program" means a program administered by an EMS provider to deliver peer support services to EMS personnel.

(i) "Peer support services" means authorized peer support services provided by a peer support team member to EMS personnel and their immediate families affected by a critical incident or the cumulative effect of witnessing multiple critical incidents. Peer support services assist those affected by a critical incident in coping with critical incident stress and mitigating reactions to critical incident stress. Peer support services may include one or more of the following:

(1) Precrisis education.

(2) Critical incident stress defusings.

(3) Critical incident stress debriefings.

(4) On-scene support services.

(5) One-on-one support services.

(6) Consultation.

(7) Referral services.

(8) Confidentiality obligations.

(9) The impact of toxic stress on health and well-being.

(10) Grief support.

(11) Substance abuse awareness and approaches.

(12) Active listening skills.

(j) "Peer support team" means a response team composed of EMS peer support team members.

(k) "Peer support team member" means any EMS personnel who has completed a peer support training course or courses pursuant to Section 8669.86. EMS provider selection criteria for peer support team members shall be incorporated into EMS provider policies.

8669.82. (a) An EMS provider may establish a peer support and crisis referral program. The program shall be responsible for providing a network of peer representatives, reflective of the provider's workforce both in job positions and personal experiences, who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues.

(b) The peer support and crisis referral program may provide employee support and referral services for matters that include any of the following:

(1) Substance use and substance abuse.

(2) Critical incident stress.

(3) Family issues.

(4) Grief support.

- (5) Legal issues.
- (6) Line-of-duty deaths.
- (7) Serious injury or illness.
- (8) Suicide.
- (9) Victims of crime.
- (10) Workplace issues.

(c) A peer support program shall be implemented through a labor-management agreement negotiated separately and apart from a collective bargaining agreement covering affected emergency medical personnel, if any.

(d) Sessions provided by a peer support program shall not count toward the total number of mental health treatments per issue required by Section 884 of the Labor Code.

8669.84. (a) Other than in a criminal proceeding, an EMS personnel, whether or not a party to an action, has a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the EMS personnel and a peer support team member made while the peer support team member was providing peer support services, or a confidential communication made to a crisis hotline or crisis referral service.

(b) Notwithstanding subdivision (a), a confidential communication may be disclosed under the following circumstances:

- (1) To refer an EMS personnel to receive crisis referral services by a peer support team member.
- (2) During a consultation between two peer support team members.
- (3) If the peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime.
- (4) If the EMS personnel expressly agrees in writing that the confidential communication may be disclosed.
- (5) If the disclosure is made pursuant to a court order in a civil proceeding.
- (6) In a criminal proceeding.
- (7) If otherwise required by law.

(c) Notwithstanding subdivision (a), a crisis hotline or crisis referral service may disclose confidential information communicated by an EMS personnel to prevent reasonably certain death, substantial bodily harm, or commission of a crime.

(d) This section does not limit an obligation of a mandated reporter to report instances of abuse as required by law, including as required by Section 11166 of the Penal Code.

8669.85. (a) Except as otherwise provided in subdivision (b), a peer support team member who provides peer support services and has completed a training course described in Section 8669.86, and the EMS provider that employs them, shall not be liable for damages, including personal injury, wrongful death, property damage, or other loss related to an act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct.

(b) Subdivision (a) does not apply to an action for medical malpractice.

(c) A peer support team member shall not provide peer support services in any of the following circumstances:

- (1) If, when serving in a peer support role, the peer support team member's relationship with an EMS personnel receiving peer support services could be reasonably expected to impair objectivity, competence, or effectiveness in providing peer support, or would otherwise risk exploitation or harm to the EMS personnel.
- (2) If the peer support team member and the EMS personnel receiving peer support services were involved as participants or witnesses to the same specific incident.
- (3) If the peer support team member and the EMS personnel receiving peer support services are both involved in a shared active or ongoing investigation.

8669.86. (a) To be eligible for the confidentiality protections afforded by this article, a peer support team member shall complete a training course or courses on peer support approved by the EMS provider that may include the following topics:

- (1) Precrisis education.
- (2) Critical incident stress defusings.
- (3) Critical incident stress debriefings.
- (4) On-scene support services.
- (5) One-on-one support services.
- (6) Consultation.
- (7) Referral services.
- (8) Confidentiality obligations.
- (9) The impact of toxic stress on health and well-being.
- (10) Grief support.
- (11) Substance abuse awareness and approaches.
- (12) Active listening skills.
- (13) Stress management.
- (14) Psychological first aid.

(b) Notwithstanding any other law, an EMS provider may deny or rescind an EMS personnel's participation as a peer support team member consistent with EMS provider policy developed through a labor-management committee.

8669.87. (a) This article does not supersede, create requirements, or otherwise impact peer support programs established pursuant to Article 21 (commencing with Section 8669.05) or Article 22 (commencing with Section 8669.1).

(b) This article does not apply to any EMS system stakeholders included under Article 21 (commencing with Section 8669.05) or Article 22 (commencing with Section 8669.1).

(c) If a conflict arises regarding the application of this article and Article 21 (commencing with Section 8669.05), Article 21 shall control.

(d) If a conflict arises regarding the application of this article and Article 22 (commencing with Section 8669.1), Article 22 shall control.