



June 21, 2022

The Honorable Jim Wood
Member, California State Assembly
1020 N Street, Suite 390
Sacramento, CA 95814

**Re: SB 443 (Hertzberg): Emergency medical services (EMS): prehospital EMS
As Amended June 16, 2022 – OPPOSE
Set for Hearing on June 28, 2022 – Assembly Health Committee**

Dear Assembly Member Wood:

On behalf of the California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), the County Health Executives Association of California (CHEAC), and the Health Officer's Association of California (HOAC), we write in OPPOSITION to SB 443, authored by Senator Robert Hertzberg.

The author and the sponsors assert this measure will clarify the intent of SB 438 (Chapter 389, Statutes of 2019), which allows fire departments more dispatching control in the operation of public safety answering points (PSAPs), including 9-1-1 Emergency Medical Services (EMS) dispatch centers. Our organizations were assured by Senator Hertzberg during negotiations on SB 438 that the measure was not intended to undermine local emergency medical services agency (LEMSA) medical control. Based on this promise of preserving equitable patient safety via county medical control, our organizations eventually adopted a neutral position on SB 438.

With the passage of the Emergency Medical Services Act in 1980, California created a framework for a two-tiered system of EMS governance through both the state Emergency Medical Services Authority (EMSA) and LEMSAs. Counties are required by the EMS Act to create a local EMS system that is timely, safe, and equitable for all residents. To do so, counties honor .201 rights and contract with both public and private agencies to ensure coverage of underserved areas regardless of the challenges inherent in providing uniform services throughout geographically diverse areas.

Additionally, each LEMSA is required by law to have a licensed physician as their designated EMS medical director "to provide medical control and to assure medical accountability throughout the planning, implementation and evaluation of the EMS system" [§ Health & Safety Code 1797.202].

SB 443 as amended and referred to the Assembly Health Committee seeks to overturn an extensive statutory and case law record that has repeatedly affirmed county responsibility for medical control as the means to ensure an equitable and transparent local emergency medical service system.

Medical Control

First, SB 443 proposes to abrogate county medical control over EMS systems. The California Supreme Court, in the case of *County of San Bernardino v. City of San Bernardino* (1997 15.Cal. 4th 909) explained that “the Legislature conceived of ‘medical control’ in fairly expansive terms, encompassing matters directly related to regulating the quality of emergency medical services, including policies and procedures governing dispatch and patient care.” Other subjects of medical control include those policies designed to improve the “speed and effectiveness” of emergency response as well as “how the various providers will interact at the emergency scene.”

SB 443 would remove longstanding county and state medical oversight of local fire departments and other emergency medical services. The measure risks patient safety and care by creating a fragmented and inequitable “wild west” where EMS providers may operate without the accountability and safety of local medical oversight and state accountability. This bill will impact all patients and EMS systems across the state, whether they live in rural, urban or suburban counties in California.

.201 Rights to Provide EMS

SB 443 also seeks to abrogate recent unsuccessful legal action that attempts to argue an agency’s .201 rights – that is, the regulation that allows agencies which have continuously served a defined area since the 1980 EMS Act to continue serving that area as the sole provider – also include the right to oversee medical control of the services provided.

These cases – *City of Oxnard v. County of Ventura* and *S. San Joaquin County Fire Authority, et.al, v. San Joaquin EMS Agency, et.al.* – do not clarify the intent of SB 438 and the dispatch of EMS services, but rather seek to go beyond SB 438 by asserting that control over dispatching services by .201 agencies also includes medical control. In both cases, the courts have ruled against the cities and/or fire districts and affirmed the county’s authority to ensure timely, safe, and equitable medical services via medical control. The specific language from SB 438 as chaptered outlines the limited scope of the measure to dispatch services only:

HSC §1798.8. (a) Notwithstanding any provision of this division, medical control by a local EMS agency medical director, or medical direction and management of an emergency medical services system, as described in this chapter, shall not be construed to do any of the following:

(1) Limit, supplant, prohibit, or otherwise alter a public safety agency’s authority to directly receive and process requests for assistance originating within the public safety agency’s territorial jurisdiction through the emergency “911” system.

Our members were opposed to any move to erode county medical control in 2019 and continue to strongly oppose efforts to eliminate county oversight of patient safety today. Medical control, overseen by a medical doctor within a transparent local and state process, is the patient safety glue that holds disparate EMS providers to the same medical and response standards. SB 443 would dismantle this necessary oversight and impact emergency medical services in all 58 counties.

Our respective members are deeply alarmed by the new amendments to SB 443 and the effort by the bill’s sponsors to dismember the state’s statute, regulations, and extensive body of case law regarding medical control and the local oversight of emergency medical services. This bill would allow any agency that provides .201 EMS services to determine their own patient safety standards and create a fragmented, inequitable patchwork of EMS medical practices. For these reasons, the undersigned representatives of our organizations strongly OPPOSE SB 443.

Thank you,



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(CSAC)



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cc: The Honorable Robert Hertzberg, Member, California State Senate
Members, Assembly Health Committee
Lara Flynn, Principal Consultant, Assembly Health Committee
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