~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 14, 2010

**S. 907**

Introduced by Senator Peeler

S. Printed 4/14/10--H. [SEC 4/15/10 4:29 PM]

Read the first time March 2, 2010.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (S. 907) to repeal Article 1, Chapter 61, Title 44 of the 1976 Code, relating to emergency medical services, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting Section 44-61-30 (C) on page 8, line 13-39 and inserting:

/(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina ~~Committee on~~ Trauma Advisory Council, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the board. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems. The advisory council shall serve without compensation, mileage, per diem, or subsistence.”/

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The department reports that the bill will have no fiscal impact on the state general fund or on federal and/or other funds. The increased costs associated with any additional requests for information under the FOIA would be covered by a fee that may be charged for duplicating services.

**SPECIAL NOTES:**

The bill contains no language clearly stating that DHEC may charge application, license, etc. fees or establish a fee schedule by regulation. The committee may wish to clarify whether it is the intent of the legislation to authorize DHEC to charges and retain fees for such services.

[The bill does state that DHEC has the responsibility for the regulation and licensing of ambulance services and EMT certification. The bill also states that “DHEC may promulgate regulations for the improvement of emergency medical services” and “all administrative responsibility for this program is vested in the department.” But the bill does not specifically state that DHEC may establish a schedule of fees for applications, licenses, permits, certifications, re-certifications, etc.]

The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO REPEAL ARTICLE 1, CHAPTER 61, TITLE 44 OF THE 1976 CODE, RELATING TO EMERGENCY MEDICAL SERVICES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 61, Title 44 of the 1976 Code is amended to read:

“Section 44‑61‑10. This article may be cited as the ‘Emergency Medical Services Act of South Carolina’.

Section 44‑61‑20. As used in this article, and unless otherwise specified, the term:

~~(a)~~ ~~‘Ambulance’ means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.~~

~~(b)~~ ~~‘Attendant’ means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.~~

~~(c)~~ ~~‘Attendant‑driver’ means a person who is qualified as an attendant and a driver.~~

~~(d)~~ ~~‘Driver’ means an individual who drives or otherwise operates an ambulance.~~

~~(e)~~ ~~‘Permit’ means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.~~

~~(f)~~ ~~‘License’ means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical, services in the State.~~

~~(g)~~ ~~‘Licensee’ means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.~~

~~(h)~~ ~~‘Certificate’ means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.~~

~~(i)~~ ~~‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.~~

~~(j)~~ ~~‘Emergency medical service system’ means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.~~

~~(k)~~ ~~‘Emergency medical technician’ (technician or EMT) means an individual possessing a valid, basic, intermediate, or paramedic certificate issued by the State pursuant to the provisions of this article.~~

~~(l)~~ ~~‘Standards’ means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.~~

~~(m)~~ ~~‘Authorized agent’ means any individual designated to represent the department.~~

~~(n)~~ ~~‘Patient’ means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.~~

~~(o)~~ ~~‘Operator’ means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.~~

~~(p)~~ ~~‘Department’ means the administrative agency known as the Department of Health and Environmental Control.~~

~~(q)~~ ~~‘National Registry of Emergency Medical Technicians Registration’ is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.~~

~~(r)~~ ~~‘In‑service training’ means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.~~

~~(s)~~ ~~‘Convalescent vehicle’ means a vehicle that is used for making nonemergency calls such as scheduled visits to a physician’s office or hospital for treatment, routine physical examinations, x‑rays or laboratory tests, or is used for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or other nonemergency calls.~~

~~(t)~~ ~~‘EMT First Responder Agency’ means a licensed agency providing medical care at the EMT Basic level or above, as a nontransporting first responder.~~

~~(u)~~ ~~‘Emergency transport’ means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:~~

~~(1)~~ ~~placing the patient’s health in serious jeopardy;~~

~~(2)~~ ~~causing serious impairment to bodily functions;~~

~~(3)~~ ~~causing serious dysfunction of bodily organ or part; or~~

~~(4)~~ ~~a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.~~

~~(v)~~ ~~‘Nonemergency transport’ means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.~~

~~(w)~~ ~~‘Moral turpitude’ means behavior that is not in conformity with and is considered deviant by societal standards.~~

~~(x)~~ ~~‘Condition requiring an emergency response’ means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:~~

~~(1)~~ ~~serious illness or disability;~~

~~(2)~~ ~~impairment of a bodily function;~~

~~(3)~~ ~~dysfunction of the body; or~~

~~(4)~~ ~~prolonged pain, psychiatric disturbance, or symptoms of withdrawal.~~

~~(y)~~ ~~‘Revocation’ means that the department has permanently voided a license, permit, or certificate and the holder no longer may perform the function associated with the license, permit, or certificate. The department will not reissue the license, permit, or certificate for a period of two years for a license or permit and three years for a certificate. At the end of this period, the holder may petition for reinstatement.~~

~~(z)~~ ~~‘Suspension’ means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.~~

(1) ‘Ambulance’ means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(2) ‘Attendant’ means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.

(3) ‘Attendant‑driver’ means a person who is qualified as an attendant and a driver.

(4) ‘Authorized agent’ means any individual designated to represent the department.

(5) ‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.

(6) ‘Certificate’ means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.

(7) ‘Condition requiring an emergency response’ means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

(a) serious illness or disability;

(b) impairment of a bodily function;

(c) dysfunction of the body; or

(d) prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

(8) ‘Department’ means the administrative agency known as the Department of Health and Environmental Control.

(9) ‘Driver’ means an individual who drives or otherwise operates an ambulance.

(10) ‘Emergency medical responder agency’ means a licensed agency providing medical care at the EMT level or above, as a nontransporting emergency medical responder.

(11) ‘Emergency medical service system’ means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.

(12) ‘Emergency medical technician’ (EMT) when used in general terms for emergency medical personnel, means an individual possessing a valid EMT, advanced EMT (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

(13) ‘Emergency transport’ means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:

(a) placing the patient’s health in serious jeopardy;

(b) causing serious impairment to bodily functions;

(c) causing serious dysfunction of bodily organ or part; or

(d) a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

(14) ‘Immediate family’ means a person’s spouse. In the event there is no spouse, ‘immediate family’ means a person’s parents and children.

(15) ‘In‑service training’ means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.

(16) ‘Investigative Review Committee’ means a professional peer review committee that is convened by the department when the findings of an official investigation against an entity or an individual regulated by the department may warrant suspension or revocation of a license or certification. This committee consists of the State Medical Control Physician, three regional EMS office representatives, at least one paramedic, and at least one emergency room physician who is also a medical control physician. Appointment is made to this committee by the Director of the Division of EMS and Trauma.

(17) ‘Legal guardian’ means a person who is lawfully invested with the power, and charged with the obligation of, taking care of and managing the property and rights of a person who, because of age, understanding, or self‑control, is considered incapable of administering his or her own affairs.

(18) ‘Legal representative’ of a person is his executor or the administrator, general guardian, guardian, or conservator of his property or estate.

(19) ‘License’ means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical services in the State.

(20) ‘Licensee’ means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.

(21) ‘Moral turpitude’ means behavior that is not in conformity with and is considered deviant by societal standards.

(22) ‘National Registry of Emergency Medical Technicians Registration’ is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.

(23) ‘Nonemergency ambulance transport’ means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.

(24) ‘Nonemergency ambulance transport service’ means an ambulance service that provides for routine transportation of patients that require medical monitoring in a nonemergency setting including, but not limited to, prearranged transports.

(25) ‘Operator’ means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

(26) ‘Patient’ means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(27) ‘Permit’ means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.

(28) ‘Revocation’ means that the department has permanently voided a license or certificate and the holder no longer may perform the function associated with the license, or certificate. The department will not reissue the license or certificate for a period of two years for a license or permit and four years for a certificate. At the end of this period the holder may petition for reinstatement.

(29) ‘Standards’ means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.

(30) ‘State Medical Control Physician’ means a physician who shall be contracted with the department to oversee all medical aspects of the EMS Program. The contracted physician must both reside and be licensed to practice in this State. Duties of the State Medical Control Physician shall include, but not be limited to, the following:

(a) protocol development;

(b) establishment of the scope of practice for EMTs at all levels;

(c) provide recommendations for disciplinary actions in cases involving inappropriate patient care; and

(d) serve as Chairman of the State Medical Control Committee and the State Emergency Medical Services Advisory Council.

(31) ‘Suspension’ means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.

Section 44‑61‑30. ~~(a)~~(A) The Department of Health and Environmental Control, with the advice of the Emergency Medical Services Advisory Council and the State Medical Control Physician, shall develop standards and ~~prescribe~~ promulgate regulations for the improvement of emergency medical services (hereinafter referred to as EMS) in the State. All administrative responsibility for this program is vested in the department.

~~(b)~~(B) The EMS Program shall include:

(1) the regulation and licensing of public, private, volunteer, or other type ambulance services; however, in developing these programs for regulating and licensing ambulance services, the programs must be formulated in such a manner so as not to restrict or restrain competition;

(2) inspection and issuance of permits for ambulance vehicles;

(3) the licensing of emergency medical ~~EMT first~~ responder agencies;

(4) training and certification of EMS personnel;

(5) development, adoption, and implementation of EMS standards and state plan;

(6) the development and coordination of an EMS communications system; ~~and~~

(7) designation of trauma centers and the categorization of hospital emergency departments; and

(8) the establishment of an electronic patient care reporting system to provide data to the National EMS Information System database for betterment of EMS across the nation.

~~(c)~~(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina Committee on Trauma, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, ~~State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety,~~ Department of Health and Human Services, four members representing the regional Emergency Medical Services councils, ~~and~~ one member representing an emergency responder ~~EMT first responder~~ agency, three members representing organized rescue squads operating in this State, three members representing private emergency services systems, three members representing county emergency medical services systems, and the State Medical Control Physician who shall serve as chair. ~~Membership on the council must be by appointment by the board. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems.~~ The advisory council shall be appointed by the board. The advisory council shall serve without compensation, mileage, per diem, or subsistence.”

“Section 44‑61‑40. ~~(a)~~(A) A person, firm, corporation, association, county, district, municipality, or metropolitan government or agency, either as owner, agent, or otherwise, may not furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing ~~EMT first~~ emergency medical response or ambulance service, or both, without obtaining a ~~valid~~ license and ambulance permit issued by the department. Failure to furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service without the proper license or permit, or both, from the department results in a Class I civil penalty, as defined in Regulation 61‑7(304).

~~(b)~~(B) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the board and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to  ~~the Administrative Procedures Act beginning at Section 1‑23‑310~~ Article 3, Chapter 23 of Title 1.

~~(c)~~(C) An applicant shall retain a medical control physician to maintain quality control of the patient care provided by the applicant’s service. No medical control physician acting in good faith who participates in the review or evaluation of the services provided by the applicant to help improve the quality of patient care is liable for any civil damages as a result of any act or omission by the physician in the course of a review or evaluation.

(D) Applicants shall renew licenses and permits every two years.

Section 44‑61‑50. A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations ~~established~~ promulgated by the board. Absent revocation or suspension, permits issued for ambulances are valid for a period not to exceed two years.

Section 44‑61‑60. ~~(a)~~(A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the board and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the board.

~~(b)~~(B) The transportation of patients and the provision of emergency medical services shall conform to standards ~~adopted~~ promulgated by the board.

Section 44‑61‑65. Organizations applying for ~~first~~ emergency medical responder licensure must comply with equipment, training, and certification standards and other requirements promulgated by the department in regulation.

Section 44‑61‑70.~~(a)~~(A) The department may enforce rules, regulations, and standards promulgated ~~and set~~ pursuant to this article. An enforcement action taken by the department may be appealed pursuant to ~~the Administrative Procedures Act beginning with Section 1‑23‑310~~ Article 3, Chapter 23 of Title 1.

~~(b)~~(B) Grounds for an enforcement action against an authorization, license, or permit exist for violation of a ~~rule or~~ regulation promulgated pursuant to this article. The department may suspend a license pending an investigation of an alleged violation or complaint. The department may impose a civil monetary penalty up to five hundred dollars per offense per day to a maximum of ten thousand dollars and revoke or suspend the provider’s license or permit if the department finds that a service has:

(1) allowed uncertified personnel to perform patient care;

(2) falsified required forms or paperwork as required by the department;

(3) failed to maintain required equipment as evidenced by past compliance history;

(4) failed to maintain a medical control physician;

(5) failed to maintain equipment in working order; or

(6) failed to respond to a call within the response area of the service without providing for response by an alternate service.

~~(c)~~(C) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article ~~or rule~~ or regulation of the board promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.

~~(d)~~(D) If a permitted ambulance or licensed ~~first~~ emergency medical responder service fails inspection or loses points upon initial inspection, a civil monetary penalty must not be levied. Instead, a copy of the inspection report will be given to the service indicating deficiencies found and a request for a letter of compliance and a time period by which to correct the deficiencies will be issued. Upon reinspection, any deficiencies found will be assigned a point value and fine schedule or the permit will be revoked, or both. The fine schedule is found in Regulation 61‑7.

Section 44‑61‑80. ~~(a)~~(A) All ambulance attendants shall obtain a valid emergency medical technician certificate unless an exception is granted pursuant to regulations promulgated by the department. A person who provides patient care that is within the scope of an emergency medical technician without obtaining proper certification from the department shall be sanctioned in accordance with a Class I civil penalty as defined in Regulation 61‑7(304), unless an exception was granted as provided for in this subsection.

~~(b)~~(B) The department shall develop and approve ~~curricula~~ educational standards for the necessary classification of emergency medical technicians and approve the training program for the necessary classifications of emergency medical technicians.

~~(c)~~(C) A person seeking EMT certification must pass the National Registry of Emergency Medical Technicians examination for the level of certification desired and meet other requirements established by the department. The department will make a determination of the applicant’s qualifications and, if appropriate, issue a certificate to the applicant.

~~(d)~~(D) A person seeking EMT certification or recertification must undergo a state criminal ~~records~~ history background check, supported by fingerprints~~,~~ by the South Carolina Law Enforcement Division (SLED), and a national criminal ~~records~~ history background check, supported by fingerprints~~,~~ by the Federal Bureau of Investigation (FBI). The results of these criminal ~~records~~ history background checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The cost of the state criminal ~~records~~ history background check must not exceed eight dollars and must be paid ~~to the department~~ by the EMT or the EMS agency upon application for the state check. The cost of the national criminal history background ~~records~~ check is established by the FBI and must be paid ~~to the department~~ by the EMT or the EMS agency upon application for the national check. The state and national criminal ~~records~~ history background checks are not required for an EMT employed as of July 1, 2008, until the EMT applies for recertification. The department may deny certification to applicants with certain past felony convictions and to those who are under felony indictment. Applications for certification of individuals convicted of or under indictment for the following crimes will be denied in all cases:

(1) felonies involving criminal sexual conduct;

(2) felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual ~~misconduct with a child,~~ conduct with a minor, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on a vulnerable adult;

(3) a crime in which the victim is a patient or resident of a health care facility, including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.

Applications from individuals convicted of, or under indictment for, other offenses not listed above will be reviewed by the department on a case by case basis.

~~(e)~~(E) EMT certification is valid for a period not exceeding ~~three~~ four years from the date of issuance and must be renewed by undergoing a state and national criminal ~~records~~ history background check as provided for in subsection ~~(d)~~ (D) and ~~completing a refresher course and examination during the three‑year certification period as required by the department and provided for by this article. Upon successful completion of an approved in‑service training program directed by the medical control physician during the three‑year certification period and passage of the skills evaluation as provided for by the department, the refresher course requirements and the practical skills evaluation may be waived. Failure to pass the written examination after three attempts will require completion of another refresher course and reexamination. The curriculum for in‑service training programs required in this subsection must include, but not be limited to, subject matter prescribed by the department. The in‑service training programs shall consist of classroom and skills phases that may be conducted at licensed services, educational facilities, or hospitals throughout the State. The medical control physician who evaluates the skills of an emergency medical technician applying for certificate renewal also may grant a waiver of taking the written exam. The waiver must certify that the emergency medical technician is knowledgeable, proficient, and capable of performing the duties of an emergency medical technician. The accomplished waiver substitutes for the written exam, but all others are required to take the prescribed written exam before renewal. Those who are nationally registered may exempt the state practical and written exam upon submission of appropriate documentation~~ providing documentation to the department of current national registration for the appropriate level of certification and any other credential as required by the department. The national registry credential must be renewed in accordance with National Registry of Emergency Medical Technicians policies and procedures. An individual who was certified in this State before October 2006, and has continuously maintained certification, may continue to renew certification without a national registry credential if the individual has successfully completed all other requirements as established by the department in regulation.

~~(f)~~(F) The department may take enforcement action against the holder of a certificate at any time it is determined that the holder no longer meets the prescribed qualifications set forth by the department or has failed to provide to patients emergency medical treatment of a quality deemed acceptable by the department or is guilty of misconduct ~~as outlined by the rules and regulations~~. Misconduct means that, while holding a certificate, the holder:

(1) used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with the certification requirements or official documents required by the department;

(2) was convicted of or currently under indictment for a felony or another crime involving moral turpitude, drugs, or gross immorality;

(3) was addicted to alcohol or drugs to such a degree as to render him unfit to perform as an EMT;

(4) sustained a mental or physical disability that renders further practice by him dangerous to the public;

(5) obtained fees or assisted another in obtaining fees under dishonorable, false, or fraudulent circumstances;

(6) disregarded an appropriate order by a physician concerning emergency treatment or transportation;

(7) at the scene of an accident or illness, refused to administer emergency care based on the age, sex, race, religion, creed, or national origin of the patient;

(8) after initiating care of a patient at the scene of an accident or illness, discontinued care or abandoned the patient without the patient’s consent or without providing for the further administration of care by an equal or higher medical authority;

(9) revealed confidences entrusted to him in the course of medical attendance, unless this revelation was required by law or is necessary in order to protect the welfare of the individual or the community;

(10) by action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his care;

(11) was careless, reckless, or irresponsible in the operation of an emergency vehicle;

(12) performed skills above the level for which he was certified or performed skills that he was not trained to do;

(13) observed the administration of substandard care by another EMT or other medical provider without documenting the event and notifying a supervisor;

(14) by his actions or inactions, created a substantial possibility that death or serious physical harm could result;

(15) did not take or complete remedial training or other courses of action as directed by the department as a result of an investigation or inquiry;

(16) was found to be guilty of the falsification of documentation as required by the department;

(17) breached a section of the Emergency Medical Services Act of South Carolina or a subsequent amendment of the act or any rules or regulations published pursuant to the act.

The department is further authorized to suspend a certificate pending the investigation of any complaint or allegation regarding the commission of an offense including, but not limited to, those listed above.

~~(g)~~(G) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the board; and all such training courses shall be supervised by certified instructors.

Section 44‑61‑90. Each licensee shall maintain records that include approved patient care report forms, ~~employee/member~~ employee or member rosters or both, and training records. These records must be available for inspection by the department at any reasonable time and copies must be furnished to the department upon request.

Section 44‑61‑100. The following are exempted from the provisions of this article:

~~(a)~~(A) ambulances owned and operated by the Federal Government;

~~(b)~~(B) a vehicle or vehicles, including associated personnel, rendering assistance to community ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services;

~~(c)~~(C) the use of a privately or publicly owned vehicle, not ordinarily utilized in the transportation of persons who are sick, injured, or otherwise incapacitated and operating pursuant to Section 15‑1‑310 (Good Samaritan Act) in the prevention of loss of life and alleviation of suffering;

~~(d)~~(D) the use of out‑of‑state ambulance services and personnel to assist with treatment and transport of patients during a disaster or catastrophe when licensed services in the locality are insufficient to render the required services.

Section 44‑61‑110. No financial grants or funds administered by the State for emergency medical services pertinent to this article shall be made available to counties or municipalities not in compliance with the provisions of this article.

Section 44‑61‑120. The department shall develop a comprehensive statewide emergency medical services plan to implement and ensure the delivery of adequate emergency medical services to every citizen. This plan ~~must~~ shall include guidelines for ~~basic, intermediate, and paramedic~~ emergency medical technicians at all levels for the administration of epinephrine to a person suffering or believed to be suffering from anaphylaxis.

Section 44‑61‑130. A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the board may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Health and Environmental Control certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the Department of Health and Environmental Control for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.

Section 44‑61‑140. This article must not be construed as limiting presently operating rescue units from utilizing their existing equipment and performing the functions they are now allowed to do so long as they do not conflict with licensed agencies contained in ~~subsection (a)of~~ Section 44‑61‑40(A).

Section 44‑61‑160. ~~(a)~~(A) The identities of patients~~, emergency, and critical care medical services personnel and emergency and critical care medical services~~ and emergency medical technicians mentioned, referenced, or otherwise appearing in information and data collected or prepared by ~~or in connection with~~ emergency medical services must be treated as ~~strictly~~ confidential. The identities of these persons ~~or entities~~ are not available to the public under the Freedom of Information Act nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual~~’s~~ in attendance at a proceeding must not be required to testify as to the identity of a ~~person or entity~~ patient except pursuant to court order. A person, medical facility, or other organization providing or releasing information in accordance with this article must not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient upon his request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

~~(b)~~(B) The identity of a patient~~, physician, or hospital~~ is confidential and must not be released except that the identity of a patient may be released upon ~~written~~ consent of the patient, the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative~~; the identity of a physician may be released upon written consent of the physician; and the identity of a hospital may be released upon written consent of the hospital~~.

~~(c)~~ ~~The contents of an official investigation or inquiry conducted by the Emergency Medical Services Section within the Department of Health and Environmental Control must be treated as confidential and only may be released in a legal proceeding involving the question of licensing, certification, or revocation of a license or certificate. The proceedings, records, and information acquired or produced by the emergency practices review committee is confidential pursuant to Section 40‑71‑20. The emergency practices review committee is a professional committee that reviews the information on official investigations into the actions of a certified EMT at any level or a licensed emergency medical service.~~

(C) An official investigation or inquiry shall be conducted by an Investigative Review Committee. The fact of suspension or restriction of a license, and the fact of any subsequent related action taken by the department is public information under the Freedom of Information Act after issuance of an administrative order.

~~(d)~~(D) ~~Information~~ Except as otherwise provided in this section, patient information must not be released except to:

(1) appropriate staff of the ~~Emergency Medical Services Section within the Department of Health and Environmental Control,~~ department’s Division of Emergency Medical Services and Trauma, the South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

(2) submitting hospitals or their designees;

(3) a person engaged in an approved research project, except that information identifying a subject of a report or a reporter must not be made available to a researcher unless consent is obtained pursuant to this section.

~~(e)~~(E) For purposes of maintaining the data base collected pursuant to this article, the department and the Office of Research and Statistics may access and provide access to appropriate confidential data reported in accordance with  ~~Section 44‑61‑160~~ this section.

~~(f)~~(F) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars ~~for a violation the first time a person fails to comply~~ for a first offense and not more than five thousand dollars for ~~a~~ each subsequent violation.

~~(g)~~(G) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

(H) This section supersedes any other provision of law, with the exception of federal law, which may be contrary to requirements set forth in this section.”

SECTION 2. Sections 44‑61‑105 and 44‑61‑150 of the 1976 Code are repealed.

SECTION 3. Article 3, Chapter 61, Title 44 of the 1976 Code is amended to read:

“Section 44‑61‑300. This article may be cited as the ‘Children’s Emergency Medical Services Act’.

Section 44‑61‑310. As used in this article:

(1) ‘Advanced life support’ means an advanced level of prehospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the department pursuant to regulations.

(2) ‘Basic life support’ means a basic level of prehospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the department pursuant to regulations.

(3) ~~‘Coordinator’ means the person coordinating the EMSC Program within the Department of Health and Environmental Control.~~ ‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative.

(4) ‘Department’ means the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control.

(5) ‘Director’ means the Director of the Department of Health and Environmental Control.

(6) ‘EMSC Program’ means the Emergency Medical Services for Children Program established pursuant to this article and other relevant programmatic activities conducted by the department in support of appropriate treatment, transport, and triage of ill or injured children.

(7) ‘Emergency medical services personnel’ means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support prehospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

(8) ‘Emergency medical technician’ or ‘EMT’ means, when used in general terms for emergency medical personnel, an individual possessing a valid, emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

(9) ‘Manager’ means the person coordinating the EMSC Program within the Department of Health and Environmental Control.

(10) ‘Prehospital care’ means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

Section 44‑61‑320. There is established within the Department of Health and Environmental Control, Division of Emergency Medical Services, the Emergency Medical Services and Trauma, for Children Program.

Section 44‑61‑330. (A) The EMSC Program must include, but is not limited to, the establishment of:

(1) initial and continuing education programs for emergency medical services personnel that include training in the emergency care of infants and children;

(2) guidelines for referring children to the appropriate emergency treatment facility;

(3) pediatric equipment guidelines for prehospital care and emergency department;

(4) guidelines for ~~basic~~ EMT, ~~intermediate~~ AEMT, and paramedic emergency medical technician certification for administering epinephrine to children suffering from a severe allergic reaction;

(5) ~~pediatric equipment guidelines for emergency departments~~ guidelines for the voluntary designation of pediatric emergency departments;

(6) guidelines for pediatric trauma centers;

(7) an interhospital transfer system for critically ill or injured children;

(8) in conjunction with the South Carolina Data Oversight Council, the collection and analysis of statewide pediatric emergency and critical care medical services data from emergency and critical care medical services for the purpose of quality improvement by these facilities and services, subject to the confidentiality requirements of Section 44‑61‑350;

(9) injury prevention programs for parents;

(10) public education programs on accessing the emergency medical services system and what to do until the emergency medical services personnel arrive;

(11) guidelines for the appropriate response to children and their families before, during, and after a disaster;

(12) incorporation of pediatric disaster preparedness training into initial and continuing education programs for emergency medical services personnel;

(13) assistance with the development of disaster plan strategies that address pediatric surge capacity before, during, and after a disaster for both injured and noninjured children.

(B) In gathering statewide pediatric emergency and critical care medical services data, the department shall rely upon, to the extent possible, data from existing sources; however, the department may contact families and physicians for the purpose of gathering additional data and providing information on available public and private resources. Information requested from a physician’s office must be obtained pursuant to ~~Chapter 115~~ Section 44‑115‑10. Patient contact following data received from the State Budget and Control Board, Office of Research and Statistics must be conducted in accordance with regulations approved by the South Carolina Data Oversight Council and promulgated by the Office of Research and Statistics.

Section 44‑61‑340. (A) The identities of patients~~, emergency and critical care medical services personnel, and emergency and critical care medical services facilities~~ and emergency medical technicians mentioned, referenced, or otherwise appearing in information or data collected or prepared by ~~or in connection with~~ the EMSC Program must be treated as ~~strictly~~ confidential. The identities of these persons ~~or entities~~ are not available to the public under the Freedom of Information Act ~~or discoverable or admissible in any administrative, civil, or criminal proceeding~~ nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual in attendance at ~~any such~~ a proceeding ~~may~~ shall not be required to testify as to the identity of  ~~any such person or entity~~ a patient except pursuant to court order. ~~No~~ A person, medical facility, or other organization providing or releasing information in accordance with this article ~~may~~ shall not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient or the patient’s legal guardian upon request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

(B) The identity of a patient~~, physician, or hospital~~ is confidential and ~~may~~ shall not be released except that the identity of a patient may be released upon ~~informed~~ written consent of the patient, the patient’s immediate family, ~~or~~ the patient’s legal guardian, or the patient’s legal representative~~; the identity of a physician may be released upon written consent of the physician; and the identity of a hospital may be released upon written consent of the hospital~~.

(C) ~~Information~~ Except as otherwise authorized in this section, patient information must not be released except to:

(1) appropriate staff of the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control, South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

(2) submitting hospitals or their designees;

(3) a person engaged in an approved research project, except that no information identifying a subject of a report or a reporter may be made available to a researcher unless consent is obtained pursuant to this section.

(D) For purposes of maintaining the ~~data base~~ database collected pursuant to this article, the department and the Office of Research and Statistics may both access and provide access to appropriate confidential data reported in accordance with Section ~~44‑6‑170~~ 44‑61‑160.

(E) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars for a ~~violation the first time a person fails to comply~~ first offense and not more than five thousand dollars for ~~a~~ each subsequent violation.

(F) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

Section 44‑61‑350. (A) There is established the Emergency Medical Services for Children Advisory Committee to advise the department on matters concerning preventative, prehospital, hospital, rehabilitative, and other post‑hospital medical care for children.

(B) Committee members must be appointed by the board.

(C) The advisory committee is composed of a nurse with emergency pediatric experience, a physician with pediatric training, an emergency physician, an EMT/paramedic who is currently practicing, a ground level prehospital provider representative, an emergency medical services state agency representative, the EMSC Program principal investigator, the EMSC Program manager, and a family representative. All members must reside and, if applicable, be licensed or certified to practice in this State.

(D) Members of the advisory committee shall serve without compensation, mileage, per diem, or subsistence.”

SECTION 4. This act takes effect upon approval by the Governor.

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