

SENATE BILL No. 224

AN ACT concerning the emergency medical services board; imposition of fines; investigation authority; issuance of subpoenas; amending K.S.A. 65-6130 and K.S.A. 2015 Supp. 65-6111 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2015 Supp. 65-6111 is hereby amended to read as follows: 65-6111. (a) The emergency medical services board shall:

- (1) Adopt any rules and regulations necessary to carry out the provisions of this act;
- (2) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;
- (3) conduct hearings for all regulatory matters concerning ambulance services, attendants, instructor-coordinators, training officers and providers of training;
- (4) submit a budget to the legislature for the operation of the board;
- (5) develop a state plan for the delivery of emergency medical services;
- (6) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;
- (7) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the ~~administrator~~ *executive director*;
- (8) approve all training programs for attendants, instructor-coordinators and training officers and prescribe certification application fees by rules and regulations;
- (9) approve methods of examination for certification of attendants, training officers and instructor-coordinators and prescribe examination fees by rules and regulations;
- (10) appoint a medical advisory council of not less than six members, including ~~two one~~ *one* board members, ~~one of whom~~ *member who* shall be a physician and not less than ~~four~~ *five* other physicians who are active and knowledgeable in the field of emergency medical services who are not members of the board to advise and assist the board in medical standards and practices as determined by the board. The medical advisory council shall elect a chairperson from among its membership and shall meet upon the call of the chairperson; and
- (11) approve providers of training by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative procedures act and the rules and regulations of the board.

(b) The emergency medical services board may grant a temporary variance from an identified rule or regulation when a literal application or enforcement of the rule or regulation would result in serious hardship and the relief granted would not result in any unreasonable risk to the public interest, safety or welfare.

(c) (1) *In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board, in accordance with the Kansas administrative procedure act, upon the finding of a violation of a provision of this act or the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted pursuant to such provisions:*

(A) *May impose a fine on any person granted a certificate by the board in an amount not to exceed \$500 for each violation; or*

(B) *may impose a fine on an ambulance service which holds a permit to operate in this state or on a sponsoring organization in an amount not to exceed \$2,500 for each violation.*

(2) *All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

(d) (1) *In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, laboratory, pharmacy, medical care facility or other public or private agency, if such document, report, record or evidence relates to professional competence, unprofessional con-*

duct or the mental or physical ability of the person to perform activities the person is authorized to perform.

(2) For the purpose of all investigations and proceedings conducted by the board:

(A) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person being investigated to perform activities the person is authorized to perform. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(B) Any person appearing before the board shall have the right to be represented by counsel.

(C) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(i) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(ii) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(3) Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any certificate or permit issued under article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to this act.

(4) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this subsection shall be confidential and shall not be disclosed.

(5) Nothing in this subsection or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this subsection. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this subsection.

(e) The emergency medical services board shall prepare an annual report on or before January 15 of each year on the number, amount and reasons for the fines imposed by the board and the number of and reasons for subpoenas issued by the board during the previous calendar year. The report shall be provided to the senate committee on federal and state affairs and the house committee on federal and state affairs.

Sec. 2. K.S.A. 65-6130 is hereby amended to read as follows: 65-6130.

(a) The board may inquire into the operation of ambulance services and the conduct of attendants, and may conduct periodic inspections of facilities, communications services, materials and equipment at any time without notice.

(b) The board may issue subpoenas in accordance with the provisions

of K.S.A. 65-6111(d), and amendments thereto, to compel an operator holding a permit to make access to or for the production of records regarding services performed and to furnish such other information as the board may require to carry out the provisions of this act to the same extent and subject to the same limitations as would apply if the subpoenas were issued or served in aid of a civil action in the district court. A copy of such records shall be kept in the operator's files for a period of not less than three years.

(c) The board also may require operators to submit lists of personnel employed and to notify the board of any changes in personnel or in ownership of the ambulance service.

Sec. 3. K.S.A. 65-6130 and K.S.A. 2015 Supp. 65-6111 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.