

HOUSE BILL NO. 2135

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RHOADS.

5760H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 99.848, 190.102, 190.103, and 190.165, RSMo, and to enact in lieu thereof seven new sections relating to regional emergency medical services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 99.848, 190.102, 190.103, and 190.165, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 99.848, 190.102, 190.103, 190.144, 190.165, 190.173, and 190.240, to read as follows:

99.848. **1.** Notwithstanding subsection 1 of section 99.847, any district providing emergency services pursuant to chapter 190 or 321 shall be entitled to reimbursement from the special allocation fund in the amount of at least fifty percent nor more than one hundred percent of the district's tax increment.

2. An ambulance district board, as defined in chapter 190, a fire protection district board, as defined in chapter 321, or an emergency telephone service 911 board, as defined in chapter 190, shall set the reimbursement rate prior to the time the assessment is paid into the special allocation fund. If the redevelopment project is amended by ordinance, or by other means, the board reserves the right to recalculate the refund amount provided under this section.

3. This section shall not apply to tax increment financing projects or districts approved prior to August 28, 2004.

190.102. **1.** The department shall designate through regulation EMS regions and committees. The purpose of the regional EMS advisory committees is to advise and make recommendations to the region and the department on:

(1) Coordination of emergency resources in the region;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

5 (2) Improvement of public and professional education;
6 (3) Cooperative research endeavors;
7 (4) Development of standards, protocols and policies; [and]
8 (5) Voluntary multiagency quality improvement committee and process; **and**
9 **(6) Development, review, and recommendation for action to be taken on community**
10 **and regional time critical diagnosis plans.**

11 2. The members of the committees shall serve without compensation except that the
12 department of health and senior services shall budget for reasonable travel expenses and meeting
13 expenses related to the functions of the committees.

14 3. The director will appoint personnel to no less than six regional EMS committees from
15 recommendations provided by recognized professional organizations. Appointments will be for
16 four years with individuals serving until reappointed or replaced. **The regional EMS medical**
17 **director shall serve as a member of the regional EMS committee.**

190.103. 1. One physician with expertise in emergency medical services from each of
2 the EMS regions shall be elected by that region's EMS medical directors to serve as a regional
3 EMS medical director. The regional EMS medical directors shall constitute the state EMS
4 medical director's advisory committee and shall advise the department and their region's
5 ambulance services on matters relating to medical control and medical direction in accordance
6 with sections 190.001 to 190.245 and rules adopted by the department pursuant to sections
7 190.001 to 190.245. **The regional EMS medical director shall serve a term of four years.**
8 **The southwest, northwest, and Kansas City regional EMS medical directors shall be**
9 **elected to an initial two-year term. The central, east central, and southeast regional EMS**
10 **medical directors shall be elected to an initial four-year term. All subsequent terms**
11 **following the initial terms shall be four years.**

12 2. A medical director is required for all ambulance services and emergency medical
13 response agencies that provide: advanced life support services; basic life support services
14 utilizing medications or providing assistance with patients' medications; or basic life support
15 services performing invasive procedures including invasive airway procedures. The medical
16 director shall provide medical direction to these services and agencies in these instances.

17 3. The medical director, in cooperation with the ambulance service or emergency
18 medical response agency administrator, shall have the responsibility and the authority to ensure
19 that the personnel working under their supervision are able to provide care meeting established
20 standards of care with consideration for state and national standards as well as local area needs
21 and resources. The medical director, in cooperation with the ambulance service or emergency
22 medical response agency administrator, shall establish and develop triage, treatment and
23 transport protocols, which may include authorization for standing orders.

24 4. All ambulance services and emergency medical response agencies that are required
25 to have a medical director shall establish an agreement between the service or agency and their
26 medical director. The agreement will include the roles, responsibilities and authority of the
27 medical director beyond what is granted in accordance with sections 190.001 to 190.245 and
28 rules adopted by the department pursuant to sections 190.001 to 190.245. The agreement shall
29 also include grievance procedures regarding the emergency medical response agency or
30 ambulance service, personnel and the medical director.

**190.144. No emergency medical technician licensed under sections 190.142 or
2 190.143, if acting in good faith and without gross negligence, shall be liable for:**

3 **(1) Transporting a person for whom an application for detention for evaluation and
4 treatment has been filed under section 631.115 or 632.305; or**

5 **(2) Physically or chemically restraining an at-risk behavioral health patient as that
6 term is defined under section 190.240 if such restraint is to ensure the safety of the patient
7 or technician.**

190.165. 1. The department may refuse to issue or deny renewal of any certificate,
2 permit or license required pursuant to sections 190.100 to 190.245 for failure to comply with the
3 provisions of sections 190.100 to 190.245 or any lawful regulations promulgated by the
4 department to implement its provisions as described in subsection 2 of this section. The
5 department shall notify the applicant in writing of the reasons for the refusal and shall advise the
6 applicant of his or her right to file a complaint with the administrative hearing commission as
7 provided by chapter 621.

8 2. The department may cause a complaint to be filed with the administrative hearing
9 commission as provided by chapter 621 against any holder of any certificate, permit or license
10 required by sections 190.100 to 190.245 or any person who has failed to renew or has
11 surrendered his or her certificate, permit or license for failure to comply with the provisions of
12 sections 190.100 to 190.245 or any lawful regulations promulgated by the department to
13 implement such sections. Those regulations shall be limited to the following:

14 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,
15 or alcoholic beverage to an extent that such use impairs a person's ability to perform the work
16 of any activity licensed or regulated by sections 190.100 to 190.245;

17 (2) Being finally adjudicated and found guilty, or having entered a plea of guilty or nolo
18 contendere, in a criminal prosecution under the laws of any state or of the United States, for any
19 offense reasonably related to the qualifications, functions or duties of any activity licensed or
20 regulated pursuant to sections 190.100 to 190.245, for any offense an essential element of which
21 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether
22 or not sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate,
24 permit or license issued pursuant to sections 190.100 to 190.245 or in obtaining permission to
25 take any examination given or required pursuant to sections 190.100 to 190.245;

26 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
27 fraud, deception or misrepresentation;

28 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
29 in the performance of the functions or duties of any activity licensed or regulated by sections
30 190.100 to 190.245;

31 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
32 190.100 to 190.245, or of any lawful rule or regulation adopted by the department pursuant to
33 sections 190.100 to 190.245;

34 (7) Impersonation of any person holding a certificate, permit or license or allowing any
35 person to use his or her certificate, permit, license or diploma from any school;

36 (8) Disciplinary action against the holder of a license or other right to practice any
37 activity regulated by sections 190.100 to 190.245 granted by another state, territory, federal
38 agency or country upon grounds for which revocation or suspension is authorized in this state;

39 (9) For an individual being finally adjudged insane or incompetent by a court of
40 competent jurisdiction;

41 (10) Assisting or enabling any person to practice or offer to practice any activity licensed
42 or regulated by sections 190.100 to 190.245 who is not licensed and currently eligible to practice
43 pursuant to sections 190.100 to 190.245;

44 (11) Issuance of a certificate, permit or license based upon a material mistake of fact;

45 (12) Violation of any [professional trust or confidence] **legally protected privacy rights**
46 **of a patient by means of an unauthorized or unlawful disclosure;**

47 (13) Use of any advertisement or solicitation which is false, misleading or deceptive to
48 the general public or persons to whom the advertisement or solicitation is primarily directed;

49 (14) Violation of the drug laws or rules and regulations of this state, any other state or
50 the federal government;

51 (15) Refusal of any applicant or licensee to [cooperate with the] **respond to reasonable**
52 **department of health and senior [services during any investigation] services' requests for**
53 **necessary information to process an application or to determine license status or license**
54 **eligibility;**

55 (16) Any conduct or practice which is or might be harmful or dangerous to the mental
56 or physical health **or safety** of a patient or the public **as defined by applicable national**
57 **standards;**

58 (17) Repeated **acts of negligence or recklessness** in the performance of the functions
59 or duties of any activity licensed or regulated by sections 190.100 to 190.245.

60 3. **If the department conducts investigations, the department, prior to interviewing**
61 **a licensee who is the subject of the investigation, shall explain to the licensee that he or she**
62 **has the right to:**

63 (1) **Consult legal counsel or have legal counsel present;**

64 (2) **Have anyone present whom he or she deems to be necessary or desirable; and**

65 (3) **Refuse to answer any question or refuse to provide or sign any written**
66 **statement.**

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68 **The assertion of any right listed in this subsection shall not be deemed by the department**
69 **to be a failure to cooperate with any department investigation.**

70 4. After the filing of such complaint, the proceedings shall be conducted in accordance
71 with the provisions of chapter 621. Upon a finding by the administrative hearing commission
72 that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the
73 department may, singly or in combination, censure or place the person named in the complaint
74 on probation on such terms and conditions as the department deems appropriate for a period not
75 to exceed five years, or may suspend, for a period not to exceed three years, or revoke the
76 license, certificate or permit. **Notwithstanding any provision of law to the contrary, the**
77 **department shall be authorized to impose a suspension or revocation as a disciplinary**
78 **action only if it first files the requisite complaint with the administrative hearing**
79 **commission. The commission shall not be permitted to grant summary judgment in such**
80 **instances if the licensee files an answer contesting the department's intended licensure**
81 **action.**

82 [4.] 5. An individual whose license has been revoked shall wait one year from the date
83 of revocation to apply for relicensure. Relicensure shall be at the discretion of the department
84 after compliance with all the requirements of sections 190.100 to 190.245 relative to the
85 licensing of an applicant for the first time. Any individual whose license has been revoked twice
86 within a ten-year period shall not be eligible for relicensure.

87 [5.] 6. The department may notify the proper licensing authority of any other state in
88 which the person whose license was suspended or revoked was also licensed of the suspension
89 or revocation.

90 [6.] 7. Any person, organization, association or corporation who reports or provides
91 information to the department pursuant to the provisions of sections 190.100 to 190.245 and who
92 does so in good faith shall not be subject to an action for civil damages as a result thereof.

93 [7.] 8. The department of health and senior services may suspend any certificate, permit
94 or license required pursuant to sections 190.100 to 190.245 simultaneously with the filing of the
95 complaint with the administrative hearing commission as set forth in subsection 2 of this section,
96 if the department finds that there is an imminent threat to the public health. The notice of
97 suspension shall include the basis of the suspension and notice of the right to appeal such
98 suspension. The licensee may appeal the decision to suspend the license, certificate or permit
99 to the department. The appeal shall be filed within ten days from the date of the filing of the
100 complaint. A hearing shall be conducted by the department within ten days from the date the
101 appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings,
102 including review thereof, unless sooner withdrawn by the department, dissolved by a court of
103 competent jurisdiction or stayed by the administrative hearing commission.

**190.173. 1. All complaints, investigatory reports, and information pertaining to any
2 applicant; holder of any certificate, permit, or license; or other individual are confidential
3 and shall only be disclosed upon written consent of the person whose records are involved
4 or to other administrative or law enforcement agencies acting with the scope of their
5 statutory authority. However, no applicant; holder of any certificate, permit, or license;
6 or other individual shall have access to any complaints, investigatory reports, or
7 information concerning an investigation in progress until such time as the investigation has
8 been completed as required by subsection 1 of section 190.248.**

**9 2. Any information regarding the identity, name, address, license, final disciplinary
10 action taken, or currency of the license of the person possessing a license in accordance
11 with sections 190.100 to 190.245, of any applicant shall not be confidential.**

**12 3. This section shall not be construed to authorize the release of records, reports,
13 or other information that may be held in department files for any holder of any certificate,
14 permit, or license, or applicant which is subject to other specific state or federal laws
15 concerning their disclosure.**

**190.240. 1. Any hospital licensed under chapter 197 or any nursing home facility
2 licensed under chapter 198 shall have policies and procedures that require the hospital or
3 facility to give advance notification to emergency medical services personnel prior to the
4 transportation of any at-risk behavioral health patient.**

**5 2. Any emergency medical services personnel licensed under this chapter who
6 conducts interfacility transfers of at-risk behavioral health patients may be properly
7 trained as determined by the ambulance services and emergency medical response agency
8 medical director, established under section 190.103, with regard to proper restraining
9 procedures and nonmedical management techniques, such as verbal de-escalation
10 techniques, to handle such patients before their transportation.**

11 **3. Any physician treating an at-risk behavioral patient in an emergency situation**
12 **who, after assessing the patient, determines that there is a reasonable cause to believe there**
13 **is a likelihood that the patient may cause an imminent serious harm to himself, herself, or**
14 **others unless the patient is immediately transported to another appropriate facility may**
15 **place the patient on a temporary involuntary hold for a period of time necessary to**
16 **effectuate the patient's transport. During the transport, the emergency medical services**
17 **personnel may rely on the physician's hold order as a basis for implied consent to treat and**
18 **transport the patient and shall not be liable for any claims of negligence, false**
19 **imprisonment, or invasion of privacy based on such temporary hold, treatment, or**
20 **transport of the patient.**

21 **4. Nothing in this section shall be construed to limit the patient's rights under the**
22 **federal Mental Health Patient's Bill of Rights under 42 U.S.C. Section 9501(1)(A) and (F).**

23 **5. For the purposes of this section, "at-risk behavioral health patient" shall mean**
24 **any patient who displays violent, homicidal, or suicidal ideation or behavior.**

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