

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 418
99TH GENERAL ASSEMBLY

Reported from the Committee on Professional Registration, March 9, 2017, with recommendation that the Senate Committee Substitute do pass.

1769S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 190.103 and 190.165, RSMo, and to enact in lieu thereof three new sections relating to emergency medical services.

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

Section A. Sections 190.103 and 190.165, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 190.103, 190.147,
3 and 190.165, to read as follows:

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

14 2. A medical director is required for all ambulance services and emergency
15 medical response agencies that provide: advanced life support services; basic life
16 support services utilizing medications or providing assistance with patients'
17 medications; or basic life support services performing invasive procedures

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 including invasive airway procedures. The medical director shall provide medical
19 direction to these services and agencies in these instances.

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

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

36 **5. Regional EMS medical directors elected as provided under**
37 **subsection 1 of this section shall be considered public officials for**
38 **purposes of sovereign immunity, official immunity, and the Missouri**
39 **public duty doctrine defenses.**

40 **6. The state EMS medical director's advisory committee shall be**
41 **considered a peer review committee under section 537.035 and regional**
42 **EMS medical directors shall be eligible to participate in the Missouri**
43 **Patient Safety Organization as provided under the Patient Safety and**
44 **Quality Improvement Act of 2005, 42 U.S.C. Section 299, et seq., as**
45 **amended.**

46 **7. Regional EMS medical directors may act to provide online**
47 **telecommunication medical direction to EMT-Bs, EMT-Is, EMT-Ps, and**
48 **community paramedics and provide offline medical direction per**
49 **standardized treatment, triage, and transport protocols when EMS**
50 **personnel, including EMT-Bs, EMT-Is, or EMT-Ps community**
51 **paramedics, are providing care to special needs patients or at the**
52 **request of a local EMS agency or medical director.**

53 **8. When developing treatment protocols for special needs**

54 patients, regional EMS medical directors may promulgate such
55 protocols on a regional basis across multiple political subdivisions'
56 jurisdictional boundaries and such protocols may be used by multiple
57 agencies including, but not limited to, ambulance services, emergency
58 response agencies, and public health departments.

59 9. Multiple EMS agencies including, but not limited to,
60 ambulance services, emergency response agencies, and public health
61 departments shall take necessary steps to follow the regional EMS
62 protocols established as provided under subsection 8 of this section in
63 cases of mass casualty or state-declared disaster incidents.

64 10. When regional EMS medical directors develop and implement
65 treatment protocols for patients or provide online medical direction for
66 such patients, such activity shall not be construed as having usurped
67 local medical direction authority in any manner.

68 11. Notwithstanding any other provision of law, when regional
69 EMS medical directors are providing either online telecommunication
70 medical direction to EMT-Bs, EMT-Is, EMT-Ps, and community
71 paramedics, or offline medical direction per standardized EMS
72 treatment, triage, and transport protocols for patients, those medical
73 directions or treatment protocols may include the administration of the
74 patient's own prescription medications.

190.147. 1. Emergency medical technician paramedics (EMT-Ps)
2 who have:

3 (1) Completed at least forty hours of the standard crisis
4 intervention training course as endorsed and developed by the National
5 Alliance on Mental Illness or a course of training that the ground or air
6 ambulance service's medical director has determined to be
7 academically equivalent thereto;

8 (2) Been authorized by their ground or air ambulance service's
9 administration and medical director under subsection 3 of section
10 190.103; and

11 (3) Whose ground or air ambulance service has developed and
12 adopted standardized triage, treatment, and transport protocols under
13 subsection 3 of section 190.103, which address the challenge of treating
14 and transporting behavioral health patients who present a likelihood
15 of serious harm to themselves or others as the term "likelihood of
16 serious harm" is defined under section 632.005 or who are significantly

17 **incapacitated by alcohol or drugs;**
18 **may make a good faith determination that such patients shall be placed**
19 **into a temporary hold for the sole purposes of transport to the nearest**
20 **appropriate facility.**

21 **2. EMT-Ps who have made a good faith decision for a temporary**
22 **hold of a patient as authorized by this section shall no longer have to**
23 **rely on the common law doctrine of implied consent and therefore shall**
24 **not be civilly liable for a good faith determination made in accordance**
25 **with this section and shall not have waived any sovereign immunity**
26 **defense, official immunity defense, or Missouri public duty doctrine**
27 **defense if employed at the time of the good faith determination by a**
28 **governmental employer.**

29 **3. Any ground or air ambulance service that adopts the authority**
30 **and protocols provided for by this section shall have a memorandum of**
31 **understanding with applicable local law enforcement agencies in order**
32 **to achieve a collaborative and coordinated response to patients**
33 **displaying symptoms of either a likelihood of serious harm to**
34 **themselves or others or significant incapacitation by alcohol or drugs,**
35 **which require a crisis intervention response.**

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

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

16 (1) Use or unlawful possession of any controlled substance, as defined in
17 chapter 195, or alcoholic beverage to an extent that such use impairs a person's

18 ability to perform the work of any activity licensed or regulated by sections
19 190.100 to 190.245;

20 (2) Being finally adjudicated and found guilty, or having entered a plea
21 of guilty or nolo contendere, in a criminal prosecution under the laws of any state
22 or of the United States, for any offense reasonably related to the qualifications,
23 functions or duties of any activity licensed or regulated pursuant to sections
24 190.100 to 190.245, for any offense an essential element of which is fraud,
25 dishonesty or an act of violence, or for any offense involving moral turpitude,
26 whether or not sentence is imposed;

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

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

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

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

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

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

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

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

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

53 (12) Violation of any professional trust, confidence, or legally protected

54 privacy rights of a patient by means of an unauthorized or unlawful disclosure;
55 (13) Use of any advertisement or solicitation which is false, misleading or
56 deceptive to the general public or persons to whom the advertisement or
57 solicitation is primarily directed;
58 (14) Violation of the drug laws or rules and regulations of this state, any
59 other state or the federal government;
60 (15) Refusal of any applicant or licensee to respond to reasonable
61 department of health and senior services' requests for necessary information to
62 process an application or to determine license status or license eligibility;
63 (16) Any conduct or practice which is or might be harmful or dangerous
64 to the mental or physical health or safety of a patient or the public;
65 (17) Repeated acts of negligence or recklessness in the performance of the
66 functions or duties of any activity licensed or regulated by sections 190.100 to
67 190.245.

68 3. If the department conducts investigations, the department, prior to
69 interviewing a licensee who is the subject of the investigation, shall explain to the
70 licensee that he or she has the right to:

71 (1) Consult legal counsel or have legal counsel present;
72 (2) Have anyone present whom he or she deems to be necessary or
73 desirable[, except for any holder of any certificate, permit, or license required by
74 sections 190.100 to 190.245]; and
75 (3) Refuse to answer any question or refuse to provide or sign any written
76 statement.

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

79 4. After the filing of such complaint, the proceedings shall be conducted
80 in accordance with the provisions of chapter 621. Upon a finding by the
81 administrative hearing commission that the grounds, provided in subsection 2 of
82 this section, for disciplinary action are met, the department may, singly or in
83 combination, censure or place the person named in the complaint on probation on
84 such terms and conditions as the department deems appropriate for a period not
85 to exceed five years, or may suspend, for a period not to exceed three years, or
86 revoke the license, certificate or permit. Notwithstanding any provision of law
87 to the contrary, the department shall be authorized to impose a suspension or
88 revocation as a disciplinary action only if it first files the requisite complaint with
89 the administrative hearing commission. **The administrative hearing**

90 **commission shall hear all relevant evidence on remediation activities**
91 **of the licensee and shall make a recommendation to the department of**
92 **health and senior services as to licensure disposition based on such**
93 **evidence.**

94 5. An individual whose license has been revoked shall wait one year from
95 the date of revocation to apply for relicensure. Relicensure shall be at the
96 discretion of the department after compliance with all the requirements of
97 sections 190.100 to 190.245 relative to the licensing of an applicant for the first
98 time. Any individual whose license has been revoked twice within a ten-year
99 period shall not be eligible for relicensure.

100 6. The department may notify the proper licensing authority of any other
101 state in which the person whose license was suspended or revoked was also
102 licensed of the suspension or revocation.

103 7. Any person, organization, association or corporation who reports or
104 provides information to the department pursuant to the provisions of sections
105 190.100 to 190.245 and who does so in good faith shall not be subject to an action
106 for civil damages as a result thereof.

107 8. The department of health and senior services may suspend any
108 certificate, permit or license required pursuant to sections 190.100 to 190.245
109 simultaneously with the filing of the complaint with the administrative hearing
110 commission as set forth in subsection 2 of this section, if the department finds
111 that there is an imminent threat to the public health. The notice of suspension
112 shall include the basis of the suspension and notice of the right to appeal such
113 suspension. The licensee may appeal the decision to suspend the license,
114 certificate or permit to the department. The appeal shall be filed within ten days
115 from the date of the filing of the complaint. A hearing shall be conducted by the
116 department within ten days from the date the appeal is filed. The suspension
117 shall continue in effect until the conclusion of the proceedings, including review
118 thereof, unless sooner withdrawn by the department, dissolved by a court of
119 competent jurisdiction or stayed by the administrative hearing commission.

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