

**HB 2376 – Emergency medical services board authority to impose fines,
investigate and issue subpoenas**

Chairman Hawkins and members of the House Committee on Health and Human Services, thank you for the opportunity to provide testimony in support of HB 2376 – a bill that would grant the Emergency medical services board the ability to impose civil fines as well as to issue subpoenas pursuant to an investigation to those for whom the board does not directly regulate.

My name is Joe House and I am the Executive Director for the Emergency Medical Services (EMS) Board. The EMS Board is the state regulatory agency responsible for oversight of the EMS systems, both services and personnel, and educational programs pertaining to EMS. Our Board's purpose is to protect and promote the welfare of the citizens of Kansas through the efficient and effective regulation of EMS and to ensure that quality out-of-hospital care is available throughout the state.

Our agency mission is to promote EMS through the consistent application of laws; and to provide support for the ambulance services, EMS professionals, and EMS educational organizations in maintaining statutory and regulatory compliance. We achieve this through multiple methods, which include enforcing the statutes adopted by legislature and regulations adopted by the emergency medical services board and through thorough investigation into complaints and reports of non-compliance.

The EMS Board certifies EMS attendants, licenses ambulances and permits ambulance services. EMS attendants are those individuals that provide emergency medical care outside of a hospital setting and usually in response to a 911 call or during transportation between hospitals. Ambulances are the vehicles used in the provision of emergency medical care. Ambulance services are the business entity that ensures that transportation and care of the sick/injured occurs upon request.

It is the EMS Board's responsibility to provide regulatory oversight of all 3 of these entities as well as the oversight over educational institutions that provide initial courses of instruction for EMS certification and EMS continuing education programs. As of December 31, 2014, the Board provides oversight of 10,575 EMS attendants, 730 ambulances (both air and ground), 171 ambulance services, and 441 EMS educational institutions (to include 705 EMS educators).

HB 2376 provides the EMS Board with two additional tools to aid in the investigation of complaints and for the imposition of corrective action, when necessary. The first is the authority for the Board to issue a subpoena to assist in completing a thorough investigation into a complaint or non-compliance event. Current statute (K.S.A. 65-6130) allows the Board to subpoena records from those to whom we issue a permit, license or certificate.

However, complaints into EMS typically involve multiple entities that are not permitted, licensed, or certified by the Board (law enforcement, fire departments, local government, hospitals and clinics, etc.). In these instances, it becomes necessary to obtain records or statements from these individuals or entities that would assist in completing a thorough investigation into the complaint.

Historically, documents and statements could be verbally requested and would be provided without question or concern. However, increases in awareness of potential litigation and the creation and awareness of federal privacy laws has led to less entities and individuals able to comply with anything less than a court order, or its equivalent, stating such.

In CY12, CY13, and CY14, 11 of the 47 complaints investigated by the Board had the potential to require a subpoena be issued. In 10 of the 11 cases, it would have been for hospital records to determine if there was a potential harm to a patient. The 11th case would have been for a large corporation to compel production of video evidence of the event.

The second tool that HB 2376 would provide is to add the ability for the Board to impose a civil fine as possible disciplinary/corrective action. Current statutes limit the disciplinary action of the Board to modifying, limiting, suspending, denying, or revoking a permit, license or certificate (K.S.A. 65-6132 and K.S.A. 65-6133). Current statute also states that any violation of the EMS act or any rule and regulation is a class B misdemeanor (K.S.A. 65-6137).

Certain situations exist where the imposition of a civil fine would be a more appropriate and fair corrective action for violation of the EMS act than no action; suspension of an attendant resulting in lost wages; or the modification of care to be provided to the public. A 30 day suspension of an EMT equals approximately \$2,300 in lost wages (based upon an average annual salary of \$28,000). A 30 day suspension of a paramedic equals approximately \$3,000 in lost wages (based upon an average annual salary of \$36,000). Any modification or limitation of a service permit could adversely affect the level of care available to a community.

The imposition of a civil fine provides an additional tool to appropriately address non-compliance with the EMS act. This bill places a cap on civil fines at \$500/violation for a person and \$2,500/violation for a service. In CY12, CY13, and CY14, 36 of the 47 complaints investigated resulted in the determination of a violation of the EMS act. 13 of these 36 resulted in action being taken less than a suspension. 10 of the 36 resulted in a suspension of less than 1 year; 4 resulted in a suspension of greater than 1 year; 3 resulted in a consent agreement between the Board and the violating party; and 6 resulted in revocation.

In closing, the emergency medical services board feels that these two tools are an absolute necessity to allow for a complete investigation into complaints and to allow for a fair and consistent corrective action in enforcement of the EMS act, both afforded through HB 2376. I would be more than happy to address any questions you may have.