

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on February 26, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Kelly Navinsky-Wenzl, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Jan Lunn, Committee Assistant

Conferees appearing before the committee:

Robert Waller, Executive Director - Kansas Board of Emergency Medical Services
K. C. Jones, Kansas Chapter of the Association of Air Medical Services

Others attending:

See attached list.

Nobuko Folmsbee briefed those attending on **SB 220 - Emergency medical services, changing attendants from certified to licensed**. This bill authorizes the Board of Emergency Medical Services to adopt rules and regulations on requirements for quality assurance and improvement programs for ambulance services; it changes certification to licensure for attendants, training officers and instructor-coordinators; it creates grandfather clauses for attendants who hold permits and ambulance services that hold permits. The bill creates definitions for professional incompetency; it provides responsibility for monitoring attendant education to a medical director; it adds additional grounds for revocation, denial, or license limitation for an operator who engages in unprofessional conduct; it adds additional grounds for revocation, denial or license limitation when an attendant has been publicly or privately censured or had other disciplinary actions in other jurisdictions; it establishes the complaint investigation process; it establishes the rules on testifying before the board; it establishes accountability for costs of board proceedings; and it makes necessary technical changes.

Senator Barnett recognized Robert Waller, director of the emergency medical services board, who testified the board had reviewed all statutes and regulations under its authority, and this bill provides clarification of existing authorities granted to the board (Attachment 1).

Several senators questioned the language on page 13, line 29 through line 35, section "c" in which it appears that an individual's Fifth Amendment rights could be affected. Mr. Waller replied that it was not the board's intent to restrict Fifth Amendment rights, and that section would require revision. Senator Pilcher-Cook requested clarification relative to the words "aiding, abetting and violation" compared to "unprofessional conduct" on page 12, section 14, subsection (a), number 6 and 7. Mr. Waller suggested revision of those lines.

A balloon amendment was distributed for Section 16 on page 14, section "b" in which the word "ground ambulance" was inserted in order to differentiate that staffing levels referred to in this section exclude air ambulance operators.

Senator Schmidt requested a revision to include a date certain for rules and regulations. In addition, Mr. Waller was asked whether the Board of Emergency Services had contacted the Kansas Department of Health and Environment to undergo the credentialing process through the Kansas Health Occupations Credentialing Act for emergency services personnel. Mr. Waller responded that he was unaware of an existing credentialing process in statute.

K. C. Jones, representing the Kansas Chapter of Air Ambulance Medical Services, indicated support of the proposed legislation with the insertion of "ground ambulance" in section 16 (b), line 17 (page 14). (Attachment 2) This ensures the staffing levels described apply only to ground ambulance services and not air ambulance medical services.

CONTINUATION SHEET

Minutes of the Senate Public Health And Welfare Committee at 1:30 p.m. on February 26, 2009, in Room 136-N of the Capitol.

Chairman Barnett called attention to written testimony submitted by Jon E. Friesen, President of the Kansas EMS Association, (Attachment 3).

Chairman Barnett summarized existing issues with the proposed legislation (in its current form,) are:

- a) credentialing health occupations under KAR 28-60-1 through the Kansas Department of Health and Environment
- b) inserting a date certain for rules and regulations
- c) revising section(s) regarding fifth amendment rights.

Senator Barnett adjourned the meeting at 2:04pm.

The next meeting is scheduled for February 27, 2009.



KANSAS

DENNIS ALLIN, M.D., CHAIR
ROBERT WALLER, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

BOARD OF EMERGENCY MEDICAL SERVICES

Testimony

Date: February 26, 2009
To: Senate Committee on Public Health and Welfare
From: Robert Waller, Executive Director
RE: 2009 Senate Bill 220

Chairman Barnett and members of the Senate Committee on Public Health and Welfare, thank you for the opportunity to provide testimony on the Senate Bill 220, my name is Robert Waller and I am the Executive Director for the Kansas Board of Emergency Medical Services (KBEMS).

As the Board has begun a top to bottom review of all statutes and regulations under the Board's authority, the Board found several areas within law that were unclear legally, could be misinterpreted, needed to be updated according to current standards, or conflicted with other laws. In one collective bill, the Board is requesting passage of said language. The changes in the bill, as introduced, would not provide or require any additional revenue or expenses. The bill, as introduced, does not provide any additional resources or require expenditures from the Board. The current language only changes terminology or clarifies current authorities granted to or being engaged in by the Board.

The following explains the aforementioned changes:

Section 1 (a)(6).

(6) requirements for a quality assurance and improvement program for ambulance services

The new language grants the Board authority to review quality assurance and quality improvement programs. The Board did not have specific and implicit authority to review quality improvement and quality assurance programs. Currently the board reviews QA/QI programs through the inspection process, but has no legal authority to do so. The Board feels that this is a critical connection between the attendant, service, medical director, and the State.

Amendment:

Section 1, page 1, line 27, after "and" add *(7) attendant or medical personnel required for ambulance services and vehicles*", and renumber accordingly.

Section 2 and throughout the bill

“certification” to “license” or “licensure”, “permit” to “license”

Terminology change: from “certification” to “license”. “License” shall mean a license to practice emergency medical services under this act. The change does not affect Board authorities, authorized activities, educational standards, services operations, or licensure/certification. A national trend in EMS is a change in terminology from certification to licensure. The change is in terminology only, and does not make a change in current law.

Section 3 (n)

(n) “Medical adviser director” means a physician.

The language is a change in terminology/wording. Currently, EMS does not refer to a medical doctor approving protocols as a “medical advisor”. All are referred to as a medical director. KBEMS is attempting to change statutory language to mirror current standards.

Section 3 (aa)

(aa) “Professional incompetency” means: (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board; (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice emergency medical services.

The language establishes a definition for “professional incompetency”. A standard held by other public safety and health care agencies in the State. It allows the Board, in conducting its Investigations, to continue to hold attendants and services to the highest standard of patient care and regulatory compliance.

Section 6 (a)

Each emergency medical service shall have a medical adviser director appointed by the operator of the service to review, approve and monitor the activities and education of the attendants. The board may approve an alternative procedure for medical oversight if no medical adviser director is available.

Language mandates and authorizes medical control over the review, approval, and monitoring of attendant “education” along with attendant activities. Current language does not mandate the medical control is held in the education and training of attendants, only their “activities”.

Section 8 (d)

(d) An operator may apply for a temporary license to operate an ambulance service following the same procedure required by the section for application for a license to operate an ambulance service. The application shall be accompanied by a temporary license fee fixed by rules and

regulations of the board to cover all or any part of the cost of processing the temporary license application. A temporary license may be granted if application complies with preliminary equipment list as established by the board in rules and regulations. Each temporary license shall be valid for 60 days and may be approved for additional time by the executive director.

The language proposed grants the Board authority to issue temporary licenses to EMS services. An operator (ambulance service) may apply for and be granted a temporary license for an ambulance. Each temporary license would be valid for 60 days. The Board would utilize this authority in instances such as mechanical failure, natural/man-made disasters, new vehicle purchase, or emergency response.

Section 15 (a)(8)

has had a license, certificate or permit to practice emergency medical services as an attendant as defined by K.S.A. 65-6112, and amendments thereto, denied, revoked, limited or suspended or has been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or has had other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph.

(b) Upon filing a sworn complaint with the board charging a person with having committed any of the practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee has committed any of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings may be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. If an order of the emergency medical services board is adverse to a licensee of the board, the costs shall be charged to such person in an amount not to exceed \$500. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be

collected from the applicant or licensee shall be paid from the emergency medical services operating fund. All moneys collected following board proceedings shall be credited in full to the emergency medical services operating fund.

The language allows the Board, upon sworn complaint filed, to investigate charges taken against an attendant through action to deny, revoke, limit or suspended, or has been publicly or privately censured by a licensing authority of another state, agency of the United States government, territory of the United States or country or has had other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action would constitute prima facie evidence of such a fact.

Amendment:

Section 15, page 14, line 12, add (9) In all matters pending before the emergency medical services board, the board shall have the power to revoke the certificate or permit of any certificate or permit holder who voluntarily surrenders such person's certificate pending investigation of misconduct or while charges of misconduct against the person are pending or anticipated.

Section 16 (b)

Whenever an operator is required to have a permit license, at least one person on each vehicle providing emergency medical service shall be an attendant ~~eertified as an emergency medical technician, emergency medical technician intermediate, emergency medical technician-defibrillator, a mobile intensive care technician, a physician, a licensed physician assistant or a professional nurse as defined under K.S.A. 65-6112 and amendments thereto.~~

The language attempts to define the term "attendant", and their function and necessity on an ambulance. The language would clarify that at a minimum one "attendant" must be on an ambulance. An attendant is defined as a first responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator or a mobile intensive care technician.

Amendment

Section 16 (b), line 17, by striking the word "vehicle" and inserting "ground ambulance".

Conclusion

Thank you for allowing me to testify in support of Senate Bill 220. The language above, as introduced, is solely the Board's need to ensure that laws are clear, resolve misinterpretation, and update laws according to the current standard.

February 26, 2009

Statement to the Kansas Senate Public Health and Welfare Committee

RE: SB 220

Mr. Chairman and members of the Committee:

My name is K.C. Jones and I am speaking on behalf of the Kansas Chapter of the Association of Air Medical Services. We are seven companies with program bases located throughout the state of Kansas serving in support of public safety agencies, ground ambulances and hospitals. We have worked collaboratively with the Board of EMS and their staff as it pertains to air medical services. We understand the Board intends to recommend a change to the language of SB 220 so it only applies to ground ambulances. With this change, we believe the concepts behind SB 220 will enhance the system developed in the state. We continue to follow the language of this bill and may have further comments if and as additional changes are considered.

Thank you.

Public Health and Welfare

Date:

02/26/09

Attachment:

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TESTIMONY

Date: February 26, 2009

To: Senate Committee on Public Health and Welfare

From: Jon E. Friesen
President
Kansas EMS Association

RE: 2009 Senate Bill 220
EMS Attendant Licensure

Chairman Barnett and members of the Senate Committee on Public Health and Welfare, my name is Jon Friesen. I am the president of the Kansas Emergency Medical Services Association. We represent 1,250 individual EMS attendants in Kansas as well as 116 of the 171 Kansas ambulance services. I am providing in this written testimony comments regarding 2009 Senate Bill 220 with regards to the licensure of EMS attendants.

The proposed legislation in this bill will move EMS attendants from being certified to being licensed. This move is congruent with the National EMS Scope of Practice Document that was released by the National Highway Safety and Traffic Administration (NHTSA). This is an important step for EMS providers. By moving in line with this national model, the framework for a scope of practice is complete. The NHTSA document clearly outlines (1) initial education, (2) certification (by the educational institution), (3) licensure (by the state), and (4) local medical direction credentialing as the four components that build the EMS attendant's scope of practice.

By moving Kansas EMS attendants to licensure, the legislature will enable the Kansas Board of EMS to come in to line with the National EMS Scope of Practice model and this in turn will facilitate both testing of new attendants as well as reciprocity for attendants from out of state.

On behalf of our members, KEMSA supports this legislation and urges the Committee on Public Health and Welfare to move this bill forward into the full Senate.

Public Health and Welfare
Date:
Attachment:

02/26/09
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Thank you for allowing me the opportunity to provide written testimony on behalf of our membership regarding the 2009 Senate Bill 220. If you have questions regarding my testimony please feel free to contact me.

Respectfully submitted,

Jon E. Friesen
President
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