

FIRST REGULAR SESSION

# HOUSE BILL NO. 1044

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LAUER.

2109H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 190.103, 190.165, and 190.339, RSMo, and to enact in lieu thereof four new sections relating to emergency medical services.

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

Section A. Sections 190.103, 190.165, and 190.339, RSMo, are repealed and four new  
2 sections enacted in lieu thereof, to be known as sections 190.103, 190.147, 190.165, and  
3 190.339, to read as follows:

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. The  
8 southwest, northwest, and Kansas City regional EMS medical directors shall be elected to an  
9 initial two-year term. The central, east central, and southeast regional EMS medical directors  
10 shall be elected to an initial four-year term. All subsequent terms following the initial terms shall  
11 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.

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.

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.

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

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

39           **7. Regional EMS medical directors may act to provide online telecommunication**  
40 **medical direction to EMT-Bs, EMT-Is, EMT-Ps, and community paramedics and provide**  
41 **offline medical direction per standardized treatment, triage, and transport protocols when**  
42 **EMS personnel, including EMT-Bs, EMT-Is, EMT-Ps, and community paramedics, are**  
43 **providing care to special needs patients or at the request of a local EMS agency or medical**  
44 **director.**

45           **8. When developing treatment protocols for special needs patients, regional EMS**  
46 **medical directors may promulgate such protocols on a regional basis across multiple**  
47 **political subdivisions' jurisdictional boundaries and such protocols may be used by**  
48 **multiple agencies including, but not limited to, ambulance services, emergency response**  
49 **agencies, and public health departments.**

50           **9. Multiple EMS agencies including, but not limited to, ambulance services,**  
51 **emergency response agencies, and public health departments shall take necessary steps to**

52 follow the regional EMS protocols established as provided under subsection 8 of this  
53 section in cases of mass casualty or state-declared disaster incidents.

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

57 11. Notwithstanding any other provision of law, when regional EMS medical  
58 directors are providing either online telecommunication medical direction to EMT-Bs,  
59 EMT-Is, EMT-Ps, and community paramedics, or offline medical direction per  
60 standardized EMS treatment, triage, and transport protocols for patients, those medical  
61 directions or treatment protocols may include the administration of the patient's own  
62 prescription medications.

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

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

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

8 (3) Whose ground or air ambulance service has developed and adopted  
9 standardized triage, treatment, and transport protocols under subsection 3 of section  
10 190.103 that address the challenge of treating and transporting behavioral health patients  
11 who present a likelihood of serious harm to themselves or others, as the term "likelihood  
12 of serious harm" is defined under section 632.005, or who are significantly incapacitated  
13 by alcohol or drugs;

14  
15 may make a good faith determination that such patients shall be placed into a temporary  
16 hold for the sole purpose of transport to the nearest appropriate facility.

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

23 3. Any ground or air ambulance service that adopts the authority and protocols  
24 provided for by this section shall have a memorandum of understanding with applicable  
25 local law enforcement agencies in order to achieve a collaborative and coordinated

26 **response to patients displaying symptoms of either a likelihood of serious harm to**  
27 **themselves or others or significant incapacitation by alcohol or drugs, which require a**  
28 **crisis intervention response.**

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, confidence, or 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 respond to reasonable department of health  
52 and senior services' requests for necessary information to process an application or to determine  
53 license status or license eligibility;

54 (16) Any conduct or practice which is or might be harmful or dangerous to the mental  
55 or physical health or safety of a patient or the public;

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

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

61 (1) Consult legal counsel or have legal counsel present;

62 (2) Have anyone present whom he or she deems to be necessary or desirable~~], except for~~  
63 ~~any holder of any certificate, permit, or license required by sections 190.100 to 190.245];~~ and

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

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

68 4. After the filing of such complaint, the proceedings shall be conducted in accordance  
69 with the provisions of chapter 621. Upon a finding by the administrative hearing commission

70 that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the  
71 department may, singly or in combination, censure or place the person named in the complaint  
72 on probation on such terms and conditions as the department deems appropriate for a period not  
73 to exceed five years, or may suspend, for a period not to exceed three years, or revoke the  
74 license, certificate or permit. Notwithstanding any provision of law to the contrary, the  
75 department shall be authorized to impose a suspension or revocation as a disciplinary action only  
76 if it first files the requisite complaint with the administrative hearing commission. **The**  
77 **administrative hearing commission shall hear all relevant evidence on remediation**  
78 **activities of the licensee and shall make a recommendation to the department of health and**  
79 **senior services as to licensure disposition based on such evidence.**

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

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

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

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

190.339. 1. The powers and duties of the emergency services board shall include, but  
2 not be limited to:

3 (1) Planning a 911 system and dispatching system;

4 (2) Coordinating and supervising the implementation, upgrading or maintenance of the  
5 system, including the establishment of equipment specifications and coding systems;

6 (3) Receiving money from any county sales tax authorized to be levied pursuant to  
7 section 190.335 and authorizing disbursements from such moneys collected;

8 (4) Hiring any staff necessary for the implementation, upgrade or operation of the  
9 system.

10 2. Except for emergency services 911 boards in existence prior to August 25, 2010, and  
11 operating under the authority of subsection 11 of section 190.335, the board shall be a body  
12 corporate and a political subdivision of the state and shall be known as the " \_\_\_\_\_ Emergency  
13 Services Board".

14 3. The administrative control and management of the moneys from any county sales tax  
15 authorized to be levied pursuant to section 190.335 and the administrative control and  
16 management of the central dispatching of emergency services shall rest solely with the board,  
17 and the board shall employ all necessary personnel, affix their compensation and provide suitable  
18 quarters and equipment for the operation of the central dispatching of emergency services from  
19 the funds available for this purpose.

20 4. The board may contract to provide services relating in whole or in part to central  
21 dispatching of emergency services and for such purpose may expend the tax funds or other funds.

22 5. The board shall elect a vice chairman, treasurer, secretary and such other officers as  
23 it deems necessary. Before taking office, the treasurer shall furnish a surety bond in an amount  
24 to be determined and in a form to be approved by the board for the faithful performance of the  
25 treasurer's duties and faithful accounting of all moneys that may come into the treasurer's hands.  
26 The treasurer shall enter into the surety bond with a surety company authorized to do business  
27 in Missouri, and the cost of such bond shall be paid by the board of directors.

28 6. The board may accept any gift of property or money for the use and benefit of the  
29 central dispatching of emergency services, and the board is authorized to sell or exchange any  
30 such property which it believes would be to the benefit of the service so long as the proceeds are  
31 used exclusively for central dispatching of emergency services. The board shall have exclusive  
32 control of all gifts, property or money it may accept; of all interest of other proceeds which may  
33 accrue from the investment of such gifts or money or from the sale of such property; of all tax  
34 revenues collected by the county on behalf of the central dispatching of emergency services; and  
35 of all other funds granted, appropriated or loaned to it by the federal government, the state or its  
36 political subdivisions so long as such resources are used solely to benefit the central dispatching  
37 of emergency services.

38           7. Any board member may, following notice and an opportunity to be heard, be removed  
39 from any office by a majority vote of the other members of the board for any of the following  
40 reasons:

41           (1) Failure to attend five consecutive meetings, without good cause;

42           (2) Conduct prejudicial to the good order and efficient operation of the central  
43 dispatching of emergency services; or

44           (3) Neglect of duty.

45           8. The chairperson of the board shall preside at such removal hearing, unless the  
46 chairperson is the person sought to be removed, in which case the hearing shall be presided over  
47 by another member elected by a majority vote of the other board members. All interested parties  
48 may present testimony and arguments at such hearing, and the witnesses shall be sworn in by  
49 oath or affirmation before testifying. Any interested party may, at his or her own expense, record  
50 the proceedings.

51           9. Vacancies on the board occasioned by removals, resignations or otherwise shall be  
52 filled by the remaining members of the board. The appointee or appointees shall act until the  
53 next election at which a director or directors are elected to serve the remainder of the unexpired  
54 term.

55           10. Individual board members shall not be eligible for employment by the board within  
56 twelve months of termination of service as a member of the board.

57           11. No person shall be employed by the board who is related within the fourth degree  
58 by blood or by marriage to any member of the board.

59           **12. The board shall possess all of the powers delineated in section 190.327,**  
60 **including those necessary, incidental, or appropriate to carry out any express power.**

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