

ACT 148

S.B. NO. 2386-78

A Bill for an Act Relating to the State Comprehensive Emergency Medical Services System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by repealing part XIII and by adding a new part, to be appropriately designated, and to read as follows:

“PART . STATE COMPREHENSIVE EMERGENCY MEDICAL SERVICES SYSTEM

Sec. 321- Findings and purpose. The legislature finds that the establishment of a state comprehensive emergency medical services system is a matter of compelling state interest, to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve the health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and

equipment for the effective and coordinated delivery of health care services under emergency conditions whether occurring as the result of a patient's condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, and the transfer of patients, mandatory standard medical record keeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.

Sec. 321- Definitions. As used in this part, unless the context clearly requires otherwise:

- (1) "Advanced life support" means initiating all basic life support care as well as invasive patient care designed to stabilize and support a patient's condition due to sudden illness or injury. The care rendered, excluding basic life support, constitutes the practice of medicine.
- (2) "Advisory committee" means the emergency medical services advisory committee.
- (3) "Basic life support" means initiating non-invasive emergency patient care designed to optimize the patient's chances of surviving the emergency situation. The care rendered consists of all first aid procedures needed, but does not include invasive procedures which constitute the practice of medicine.
- (4) "State system" means the state comprehensive emergency medical services system.

Sec. 321- State comprehensive emergency medical services system, establishment. The department of health shall establish, administer, and maintain the state comprehensive emergency medical services system to serve the emergency health needs of the people of the State. The department of health in the implementation of this part shall plan, coordinate and provide assistance to all entities and agencies, public and private, involved in the state system. All emergency medical services or ambulance services conducted by or under the authority of the department of health or any county shall be consistent with this part.

Sec. 321- Department of health, functions, duties. In addition to other functions and duties assigned to the department of health under this part, it shall have but not be limited to the following functions and duties. The department shall:

- (1) Regulate ambulances and ambulance services.
- (2) Establish emergency medical services throughout the State, which shall meet the requirements of this part, subject to section 321-
- (3) Provide training for basic life support personnel, and advance life support personnel, as provided in section 321-
- (4) Collect and evaluate data for the continued evaluation of the state system subject to section 321-
- (5) Coordinate emergency medical resources, and the allocation of the state

system's services and facilities, in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test such disaster plans.

- (6) Establish, administer, and maintain a communication system for the state emergency medical services system.
- (7) Assist each county in the development of a "911" system.
- (8) Secure technical assistance and other assistance and consultation necessary to the implementation of this part, subject to section 321-
- (9) Implement public information and education programs to inform the public of the state system and its use, and to disseminate such other emergency medical information including appropriate methods of medical self-help and first-aid and the availability of first-aid training programs in the State.
- (10) Consult with the advisory committee on matters relating to the implementation of this part.

Sec. 321- The state emergency medical services advisory committee. (a)

There is established within the department of health for administrative purposes only the state emergency medical services advisory committee, which shall sit in an advisory capacity to the department of health on all matters relating to the state system. The advisory committee may advise the department of health upon request of the department or upon its own initiative with regard to the state system. The advisory committee shall:

- (1) Monitor, review, and evaluate on an on-going basis the operations, administration, and efficacy of the state system, or any components thereof, to determine conformity with and maximum implementation of this part.
- (2) Prepare and submit periodic assessments, reports, and other documents relating to the state system to ensure the implementation of this part, as deemed necessary or desirable in the discretion of the advisory committee.
- (3) Seek the input of the public in relation to the state system to ensure adequate fulfillment of the emergency medical services needs of the State consistent with this part.
- (4) Participate in any planning or other policy making with regard to the state system, and seek the participation of the public, including subarea health planning councils in its consideration of plans and policies relating to the state system.
- (5) Perform other functions, and have other duties necessary to ensuring the fullest implementation and maintenance of the state system.
- (6) Advise the department of health in formulating a master plan for emergency medical services, including medicom, the "911" system, and other components necessary to meet the emergency medical needs of the people of the State which shall be submitted to the legislature.

(b) The advisory committee shall be composed of fifteen members: three ex-officio members with vote, who shall be the director of transportation, the

adjutant general, and the administrator of the state health planning and development agency, or the designated representatives thereof, and twelve members representing all counties of the State and who shall be appointed by the governor subject to section 26-34 as follows:

- (1) Four members shall be appointed from a panel of not less than eight persons who shall be nominated by the Hawaii Medical Association; provided that the persons nominated shall be physicians experienced in the conduct and delivery of emergency medical services;
- (2) Four members who shall be consumers of health care and who shall have no connection with or relationship to the health care system of the State and who shall be representative of all counties; and
- (3) Four members of allied health professions related to emergency medical services.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, including travel expenses. The chairperson of the advisory committee shall be elected by the members from among their numbers. A majority of the members of the advisory committee shall constitute a quorum for the conduct of business of the advisory committee. A majority vote of the members present at a meeting at which a quorum is established shall be necessary to validate any action of the committee.

(c) The advisory committee may adopt rules for its governance.

(d) The department of health shall provide necessary staff and other support required by the advisory committee for the performance of its duties.

Sec. 321- Emergency medical services and systems, standards. The department of health shall establish standards for emergency medical services and for emergency medical service systems consistent with the state system and applicable federal guidelines for such services. In the event the standards are determined or regulated by any other law, or by applicable federal guidelines, standards required to be set by this section shall be at least equivalent to or exceed the other state and federal standards.

Sec. 321- Regulation of ambulances. The department of health shall adopt, amend, and repeal rules under chapter 91 for the regulation of ambulances within the State, including but not limited to the certification of vehicles, equipment, supplies, and communications systems. Any person who provides emergency medical service as an employee of any emergency ambulance service shall be subject to chapter 453. In the absence of implementation of certification under chapter 453 the department of health shall provide for the certification of such personnel in accordance with the state system's requirements.

Sec. 321- Emergency medical services; counties. The department of health shall determine, in consultation with the advisory committee under section 321- the levels of emergency medical services which shall be implemented in each county. The department of health may contract to provide emergency medical services or any necessary component of a county emergency services system in conformance with the state system. In the event any county shall apply to the department to operate emergency medical ambulance services within the

respective county, the department of health shall contract with the county for the provision of such services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties which do not apply to it under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement such services in a manner and at a level consistent with the levels determined under this section.

The department of health shall be responsible for providing for the training of first responders and basic life support personnel within counties not applying to provide emergency medical services under this section. The department of health shall adopt rules subject to chapter 91 for the implementation of this section.

Sec. 321- Emergency medical services personnel, training programs. The department of health and the counties in the fulfillment of their responsibilities under this part shall be responsible for the training of basic life support personnel, shall contract for the provision of such training with community colleges or other available services. The department of health shall contract for the training of advance life support personnel with a professional medical organization which has experience in such training; provided that such training shall be conducted in the State to the extent that such training is available within the State, to minimize costs and more importantly, to familiarize and instruct personnel in conjunction with the state system and the environs in which they will be working. The department of health and the counties shall consult with the advisory committee on the selection of any contractors who shall provide such services.

Sec. 321- Technical assistance, data collection, evaluation. The department of health shall contract with appropriate professional medical organizations with expertise in emergency medical services for technical assistance and consultation, including but not limited to categorization, data collection, and evaluation appropriate to the needs of the state system. Such contracting shall be accomplished in consultation with the advisory committee.

For the purposes of this section, "categorization" means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients. The department of health in determining the parameters of any contract services under this section, shall consult with the advisory committee.

Sec. 321- Grants. The state system may seek and accept any funds or property and other desirable support and assistance from any source whatsoever, whether gift, grant, services or any combination thereof, subject to applicable laws. In the event that any grant applications are made in relation to the state system, or any component thereof, the department shall consult with the advisory committee and provide technical assistance in the preparation, management, or administration of the application or the grant, or both.

Sec. 321- Revenues; deposit into state general fund. (a) The department of health shall establish reasonable fees for services rendered to the public by the department of health, any county or private agency under this part; provided that

all such revenues which shall be collected by the department of health and the respective counties shall be deposited into the state general fund. Fees required to be set by this section shall be established in accordance with chapter 91.

(b) No ambulance services, or any other emergency medical services available from or under the authority of this chapter shall be denied to any person on the basis of the ability of the person to pay therefor or because of the lack of prepaid health care coverage or proof of such ability or coverage.

(c) In the event of nonpayment of any fees required to be assessed by this section, the department of health shall determine whether the recipient of such services is financially able to pay such fees and make every reasonable effort to collect such fees. In the event the department finds the person is without sufficient resources to pay for the services, no further action to collect the fees shall be taken. If the services are paid by a county or any other entity, and collection of such fee is delegated by contractual agreement to the county or other agency which provides the services, the county or other agency shall forward records relating to unpaid fees for action by the department of health under this subsection. No county or other entity shall make a final determination of the ability of a person to pay under this subsection. Any determination of ability to pay for purposes of this subsection shall be in accordance with rules which the department of health shall adopt, subject to chapter 91, governing such determinations.

Sec. 321- Rules. The director of health may adopt, amend, and repeal rules necessary to the implementation of this part, subject to chapter 91."

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended in the following ways:

1. By adding a new part to be appropriately designated and to read as follows:

"PART . EMERGENCY MEDICAL SERVICE PERSONNEL

Sec. 453- Emergency ambulance service personnel. The practice of any emergency medical services by any individual employed by an emergency ambulance service who is not licensed under this chapter or under chapter 457 shall be subject to certification under this part. In the event of any conflict between this part and any rules adopted under section 453-2, the provisions of this part shall control with regard to emergency ambulance service personnel.

Sec. 453- Certification of emergency ambulance personnel. The board of medical examiners shall certify individuals as qualified in emergency medical services upon application therefor; provided that the applicant for certification:

- (1) Has successfully passed an examination recognized by the board of medical examiners to determine the knowledge and competence of emergency ambulance personnel; or who has satisfactorily passed a board-recognized course of training in emergency medical services for emergency ambulance services personnel; or who meets other standards and qualifications which may be set by the board of medical examiners pertinent to the emergency medical services work of emergency ambulance services personnel;

(2) Meets continuing education requirements which shall be set by the board of medical examiners; and

(3) Meets other qualifications set by the board of medical examiners.

Certification under this section shall be a prerequisite to the practice of emergency medical services as an employee of an emergency ambulance service.

The board of medical examiners shall provide standard application forms for the certification of emergency ambulance personnel, and shall provide for the periodic renewal of such certification. The board of medical examiners shall assess a fee for such application, certification, and renewal. The board of medical examiners shall provide for the lapsing, revocation, suspension, or limitation of certification in the event an individual once certified under this section fails to maintain or meet requirements for continued certification, or for good cause shown.

Sec. 453- Rules. The board of medical examiners shall adopt rules to implement this part, subject to chapter 91."

2. By amending section 453-2, to read as follows:

"Sec. 453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to his name, with the intent thereby to imply that he is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided [,] that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel and physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity

with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part ."

SECTION 3. Section 27-21.6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 27-21.6 Functions reassigned to the counties. The following functions are hereby reassigned to the several counties:

- [(1)] (1) Ambulance and first aid services, if the county has a population of 200,000 or more;
- (2)] (1) The medical care of inmates of county jails;
- [(3)] (2) The rendering of medical investigatory services requested by the police;
- [(4)] (3) Physical examinations of employees to the extent that such functions had been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965; and
- [(5)] (4) The care and treatment of county workers' compensation cases to the extent that such functions have been performed immediately prior to the adoption of Act 97, Session Laws of Hawaii 1965."

SECTION 4. Persons currently employed by emergency ambulance services and who are required to be certified in such capacities and functions by this Act shall be so certified within two years after the effective date of this Act. No action shall be taken by any person against such individuals or their employers with regard to the lack of such certification until after the two years allowed by this section shall have elapsed.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$687,000, or so much thereof as may be necessary, as a grant-in-aid to the Hawaii Medical Association, for the continuation and expansion of its emergency services program and technical assistance in relation thereto, including the following components:

- (1) Training of ambulance personnel (emergency medical technician-ambulance, and medical intensive care technicians, paramedic levels);
- (2) Continuing education of emergency services physicians;
- (3) Continuing education of emergency intensive care, and critical care nurses;
- (4) Training of public safety first responders, firefighters, police officers, and ocean lifeguards;
- (5) Data collection and analysis of emergency medical care delivery;
- (6) Evaluation of emergency medical services;
- (7) Research and development of information on techniques for handling disasters and poisonings; and
- (8) Dissemination of information to the public to enable rapid and

knowledgeable use of the emergency medical service system.

The sum appropriated herein shall be expended by the department of health for the purposes of this section. Any unexpended or unencumbered balance of any appropriation made by this section as of the close of business on June 30, 1979 shall lapse into the general fund.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This Act shall take effect on July 1, 1979, provided that section 5 of this Act shall take effect on July 1, 1978.

(Approved June 1, 1978.)