

ACT 208

H.B. NO. 1281

A Bill for an Act Relating to Emergency Medical Services.

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

PART I

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . COUNTY EMERGENCY MEDICAL SERVICES SYSTEM

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

“Advanced life support” shall have the same meaning as defined in section 321-222.

“Basic life support” means initiating noninvasive 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 that constitute the practice of medicine; provided that state-approved basic life support personnel may use fully automatic external defibrillators, initiate intravenous lines, and perform manual external defibrillation under the direction and personal supervision of a mobile intensive care technician.

“Community paramedicine program” means an enhanced and expanded service in the county emergency medical services system that allows state-licensed health care professionals and community health workers to assist with

public health, primary care, and prevention services, including services through telehealth.

“County” means any county having a population of five hundred thousand or more.

“County system” means the county emergency medical services system.

“Emergency aeromedical services” shall have the same meaning as defined in section 321-222.

“Emergency medical services for children” shall have the same meaning as defined in section 321-222.

“Emergency medical services personnel” shall have the same meaning as defined in section 321-222.

§46- County emergency medical services system; establishment. Each county shall establish, administer, and maintain a county emergency medical services system to serve the emergency health needs of the people in the county. The county, in the implementation of this part, shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the county system. All emergency medical services or ambulance services conducted by or under the authority of the county shall be consistent with this part.

§46- County, functions; duties. In addition to other functions and duties assigned under this part, the county shall:

- (1) Establish emergency medical services throughout the county that may include emergency aeromedical services, which shall meet the requirements of this part and include the purchase, maintenance, and servicing of all vehicles, equipment, and supplies; a National Emergency Medical Services Information System compliant pre-hospital electronic patient care record system; and compatible data uploads to the cardiac arrest registry to enhance survival, the state trauma system, and the department of health pre-hospital electronic patient record registries; and
- (2) Establish, administer, and maintain a medical communication system for the county.

§46- Emergency medical services; fees. (a) The county may establish reasonable fees to be collected from individuals who are:

- (1) Transported by emergency ground ambulance services to a health care facility within the county designated by the county for the care of the individual;
- (2) Provided health care by emergency medical services personnel within the county but not transported by ground ambulance to a health care facility; or
- (3) Provided care by the community paramedicine program.

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

(c) The county may adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this section.

§46- Community paramedicine program; established. (a) The county may establish and administer the community paramedicine program.

- (b) The county may:

- (1) Develop community paramedicine guidelines consistent with those adopted by the department of health;
 - (2) Explore and develop partnerships with public and private health care entities, insurers, and community organizations to facilitate the community paramedicine program; and
 - (3) Employ telehealth within the community paramedicine program to enhance access and improve the patient experience.
- (c) The county shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

§46- Emergency medical services; levels of service; contracts. The county shall determine the levels of emergency medical services that shall be implemented throughout the county; provided that the county shall provide no fewer than twenty-one ground ambulance units. The county may contract to provide emergency medical services, including emergency aeromedical services, or any necessary component of the county system.

§46- Grants. The county 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.

§46- Immunity and limitation on liability for emergency aeromedical services. The county shall not be liable for any claim of injury or death based on a failure to establish or continue emergency aeromedical services in any part of the county.

§46- Rules. The county may adopt rules necessary for the implementation of this part, subject to chapter 91.”

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XVIII to be appropriately designated and to read as follows:

“§321- Retention of relevant documentation. Notwithstanding any provision of this part or any other state or county law or ordinance to the contrary, the department shall maintain data repositories, charts, patient information, data submission, and epidemiology information for all emergency medical services statewide.”

SECTION 3. Chapter 321, part XVIII, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART XVIII. STATE [COMPREHENSIVE] EMERGENCY MEDICAL SERVICES SYSTEM.”

SECTION 4. Section 321-221, Hawaii Revised Statutes, is amended to read as follows:

“§321-221 Findings and purpose. The legislature finds that the establishment of a state [comprehensive] emergency medical services system [~~to include but not be limited to~~], including emergency medical services for children, is a matter of compelling state interest and necessary to protect and preserve [the] public 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] public health needs [~~of the people~~]. Accordingly, the purpose of this part is to establish and maintain a state [com-

~~prehensive] emergency medical services system [throughout the] in communities that can be most effectively served by 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], from natural disasters, or from other causes. The system shall provide for personnel, personnel training, communications, emergency 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, mandatory standard medical recordkeeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part."~~

SECTION 5. Section 321-222, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Service area” means the State, excluding any county having a population of five hundred thousand or more.

“Statewide” means all counties in the State.”

2. By amending the definition of “emergency medical services for children” to read:

““Emergency medical services for children” means [~~comprehensive] emergency medical services, including preventive, pre-hospital, hospital, rehabilitative, and other post-hospital care for children.”~~

3. By amending the definition of “state system” to read:

““State system” means the state [~~comprehensive] pre-hospital emergency medical services system.”~~

SECTION 6. Section 321-223, Hawaii Revised Statutes, is amended to read as follows:

~~“[§321-223] 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] in the [State.] service area. [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] contracted by or under the authority of the department [of health] or any county within the service area shall be consistent with this part.”~~~~~~~~

SECTION 7. Section 321-224, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to other functions and duties assigned under this part, the department shall:

- (1) Regulate ambulances and ambulance services[;] statewide;
- (2) Establish emergency medical services throughout the [State,] service area, including emergency aeromedical services, which shall meet the requirements of this part, subject to section 321-228;
- (3) Review and approve the curricula and syllabi of training courses offered to emergency medical services personnel statewide who provide basic, intermediate, and advanced life support, consult and coordinate with the University of Hawaii, or any other accredited

- community college, college, or university, or any professional organization that provides emergency medical services training, regarding the training for basic, intermediate, and advanced life support personnel, as provided in section 321-229;
- (4) Collect and evaluate data for the continued evaluation of the [state] statewide emergency medical services system, subject to section 321-230;
 - (5) Coordinate, on a statewide basis, emergency medical resources and the allocation of [~~the state system's~~] emergency 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 these plans;
 - (6) Establish, administer, and maintain a communication system for the [~~state system;~~] service area;
 - (7) Assist each county in the service area in the development of a "911" emergency telephone system;
 - (8) Secure technical assistance and other assistance and consultation necessary for the implementation of this part, subject to section 321-230;
 - (9) Implement public information and education programs to inform the public of the [state] statewide system and its use, and disseminate 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;~~] statewide;
 - (10) Establish standards and provide training for dispatchers in the state system, and maintain a program of quality assurance for dispatch equipment and operations; provided that individuals acting as dispatchers in the State as of July 1, 2022, shall obtain emergency medical dispatch certification by July 1, 2026, and shall maintain certification thereafter;
 - (11) Establish a program that will enable emergency service personnel statewide to provide early defibrillation;
 - (12) Establish within the department the emergency medical service system for children[;] statewide;
 - (13) Consult with the advisory committee on matters relating to the implementation of this part; and
 - (14) Establish and maintain statewide standards for emergency medical services course instructor qualifications and statewide requirements for emergency medical services training facilities."

SECTION 8. Section 321-224.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall establish reasonable fees to be collected from individuals who are:

- (1) Transported by emergency ground ambulance services to a health care facility within the service area designated by the department for the care of the individual; or
- (2) Provided health care by emergency medical services personnel within the service area but not transported by ground ambulance to a health care facility."

SECTION 9. Section 321-224.4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The department [~~of health~~] shall establish and administer the community paramedicine program[~~:-~~] within the service area.”

2. By amending subsection (c) to read:

“(c) For purposes of this part, “community paramedicine program” means an enhanced and expanded service in the state [~~comprehensive~~] emergency medical services system that allows state-licensed health care professionals, and community health workers, to assist with public health, primary care, and prevention services, including services through telehealth.”

SECTION 10. Section 321-226, Hawaii Revised Statutes, is amended to read as follows:

“**§321-226 Emergency medical services and systems, standards.** The department [~~of health~~] shall establish statewide standards for emergency medical services and for emergency medical service systems consistent with [~~the state system~~] this part and applicable federal guidelines for [~~such~~] those services, including a requirement that ambulance service providers licensed by the State establish and maintain an alcohol and substance abuse policy for employees that the department [~~of health~~] deems is equivalent to, or exceeds the provisions of, the safety and health standards established by the federal Department of Transportation for holders of commercial driver’s licenses. 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.”

SECTION 11. Section 321-227, Hawaii Revised Statutes, is amended to read as follows:

“**§321-227 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[~~:-~~]; provided that any county operating a county emergency medical services system pursuant to part ___ of chapter 46 shall be responsible for the purchase, maintenance, and servicing of all vehicles, equipment, supplies, and communication systems operated for emergency services within the county. The department may contract to certify air and ground ambulance units statewide. The department may charge a reasonable fee for annual certification and safety inspections of air and ground ambulances. Any person who provides emergency medical service as an employee of any emergency ambulance service statewide shall be subject to chapter 453.”

SECTION 12. Section 321-228, Hawaii Revised Statutes, is amended to read as follows:

“**§321-228 Emergency medical services; counties.** The department shall determine, in consultation with the advisory committee under section 321-225, the levels of emergency medical services that shall be implemented in each county[~~:-~~] within the service area. The department may contract to provide emergency medical services, including emergency aeromedical services, or any necessary component of [~~a county~~] the emergency services system of a county within the service area in conformance with the state system. [~~In the event~~] If any county within the service area shall apply to the department to operate emergency medical ambulance services within the respective county, the department may contract with the county for the provision of those services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties [~~which~~] within the service area that 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 those services in a manner and at a level consistent with the levels determined under this section.”

SECTION 13. Section 321-229, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The University of Hawaii shall provide training courses in basic, intermediate, and advanced life support for emergency medical services personnel~~[-] statewide~~. The curricula and syllabi of these courses shall be approved in advance by the department ~~[of health]~~. The curricula and syllabi of courses for ambulance personnel shall be consistent with the scope and level of the practice of emergency medical services associated with emergency ambulance personnel certification defined by the Hawaii medical board under part II of chapter 453.

(b) The University of Hawaii, or other accredited community college, college, or university, or any professional organization that is approved by the department ~~[of health]~~ to provide emergency medical services training, shall consult with the department ~~[of health]~~ and any county operating a county emergency medical services system pursuant to part of chapter 46 to determine the number and type of emergency medical services courses necessary to support the staffing requirements for emergency medical services. The basic life support and advanced life support training programs shall be relevant to and consistent with the training course required for certification under chapter 453.”

SECTION 14. Section 321-230, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department may contract for technical assistance and consultation, including ~~[but not limited to]~~ categorization, data collection, and evaluation appropriate to the needs of the ~~[state]~~ statewide emergency medical services system. The collection and analysis of statewide emergency medical services data, including pediatrics, trauma, cardiac, medical, and behavioral medical emergencies, shall be for the purpose of improving the quality of services provided.

The department may implement and maintain a trauma registry for the collection of information concerning the treatment of critical trauma patients at state designated trauma centers, and carry out a system for the management of that information. The system may provide for the recording of information concerning treatment received before and after a trauma patient’s admission to a hospital or medical center. All state designated trauma centers shall submit to the department ~~[of health]~~ periodic reports of each patient treated for trauma in the state system in ~~[such]~~ the manner as the department shall specify.

For the purposes of this subsection, “categorization” means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients.

(b) The department shall establish, administer, and maintain an aeromedical emergency medical services system designed to collect and analyze data to measure the efficiency and effectiveness of each phase of ~~[an]~~ the statewide emergency aeromedical program.

The department shall monitor aeromedical emergency ambulance service flights statewide to include date of service, patient demographics, transport diagnosis, and medical outcomes. The department shall work with each health care facility as the intermediary to arrange emergency transport of bariatric patients by the United States Coast Guard, and maintain a registry of all emergency transports provided by the United States Coast Guard. All statewide aeromedi-

cal providers shall submit their data to the department as specified and requested by the department.

The statewide aeromedical emergency medical services system shall serve the emergency health needs of the people of the State by identifying:

- (1) The system's strengths and weaknesses;
- (2) The allocation of resources; and
- (3) The development of rotary-wing emergency aeromedical services standards;

provided that emergency helicopter use, including triage protocols, shall be based on national aeromedical triage and transport guidelines established by the Association of Air Medical Services, the American College of Surgeons ~~[and]~~, the National Association of Emergency Medical Service Physicians~~[-]~~, or other department-approved national aeromedical accreditation agency. The department, in the implementation of this subsection, shall plan, coordinate, and provide assistance to all entities and agencies, public and private, involved in the statewide system."

SECTION 15. Section 321-232, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The department ~~[of health]~~ shall establish reasonable fees for services rendered to the public within the service area by the department ~~[of health]~~, any county~~[-]~~ within the service area, or private agency under this part; provided that all ~~[such]~~ revenues ~~[which shall be]~~ collected by the department ~~[of health]~~ and the respective counties pursuant to this section shall be deposited into the state general fund, except ~~[such]~~ amounts necessary to provide for collection services for bad debt accounts. Fees required to be set by this section shall be established in accordance with chapter 91."

2. By amending subsection (c) to read:

"(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]~~ the fees and make every reasonable effort to collect ~~[such]~~ the 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]~~ the fee is delegated by contractual agreement to the county or other agency ~~[which] that~~ 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] that~~ the department ~~[of health]~~ shall adopt, subject to chapter 91, governing ~~[such]~~ the determinations."

SECTION 16. Section 321-234, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

follows: "(b) The moneys in the special fund shall be ~~[used by]~~ distributed as follows:

- (1) Beginning with fiscal year 2021-2022, \$3,500,000 shall be distributed each fiscal year to a county operating a county emergency medical services system pursuant to part _____ of chapter 46 for the operation of that system; and
- (2) The remainder shall be distributed to the department for operating [a state comprehensive emergency medical services] the system es-

established pursuant to this chapter, including enhanced and expanded services, and shall not be used to supplant funding for emergency medical services authorized prior to [[July 1, 2004]].”

SECTION 17. Section 321-236, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321-236]]~~ **Emergency medical services; use of latex gloves prohibited.** The use of latex gloves by personnel providing ambulance services or emergency medical services statewide pursuant to this part and part of chapter 46 shall be prohibited.”

PART II

SECTION 18. (a) The transition of all rights, powers, functions, and duties of the department of health under part XVIII of chapter 321, Hawaii Revised Statutes, that are exercised within the island of Oahu are hereby transferred to the city and county of Honolulu and the transition shall commence on July 1, 2021. The transition of the rights, powers, functions, and duties of the department of health pursuant to part I, to the city and county of Honolulu shall be completed no later than June 30, 2024.

(b) Funding for the transition and maintenance of the rights, powers, functions, and duties of the department of health pursuant to part I, to the city and county of Honolulu shall be allocated as follows:

- (1) For the first year of the transition (fiscal year 2021-2022), the city and county of Honolulu shall be reimbursed for fiscal year 2021-2022 emergency medical services operational expenses, up to \$46,171,411, and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical service system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu. The department shall continue to provide all emergency service medical billing and collections for the city and county of Honolulu with all moneys received deposited in the State’s general fund;
- (2) For the second year of the transition (fiscal year 2022-2023), the city and county of Honolulu shall retain all the amounts it receives from billing for its services, receive \$8,904,499, and receive the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu;
- (3) For the third year of the transition (fiscal year 2023-2024), the city and county of Honolulu shall retain all the amounts it receives from billing for its services, receive \$4,452,249, and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu; and
- (4) Every year thereafter, the city and county of Honolulu shall continue to retain all the amounts it receives from billing for its services and the amount specified in section 321-234(b), Hawaii Revised Statutes, from the emergency medical services special fund as the

State's share pursuant to section 5 of article VIII of the Constitution of the State of Hawaii, and receive no additional funds from the State's general fund for the operation of an emergency medical services system in the city and county of Honolulu. Any additional costs shall be borne by the city and county of Honolulu.

SECTION 19. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of health to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the city and county of Honolulu by this Act shall remain in full force and effect until amended or repealed by the city and county of Honolulu pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of health or director of health in those rules, policies, procedures, guidelines, and other material as made applicable by this Act, is amended to refer to the city and county of Honolulu or the mayor of the city and county of Honolulu.

SECTION 20. All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of health, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the city and county of Honolulu by this Act shall remain in full force and effect. Effective July 1, 2021, every reference to the department of health or the director of health in those deeds, leases, contracts, loans, agreements, permits, or other documents shall be construed as a reference to the city and county of Honolulu or the mayor of the city and county of Honolulu.

SECTION 21. All personal computers and radios used, acquired, or held by the department of health relating to the functions transferred to the city and county of Honolulu shall be transferred with the functions to which they relate; provided that the department of health shall retain data repositories, charts, patient information, data submission, and epidemiology information for all emergency medical services within the State.

SECTION 22. There is appropriated out of the emergency medical services special fund established pursuant to section 321-234, Hawaii Revised Statutes, the sum of \$3,500,000 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for emergency medical services in the city and county of Honolulu.

The sums appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 23. There is appropriated out of the funds received by the State from the American Rescue Plan Act, Public Law 117-2 (Section 9901), the sum of \$84,257,043 or so much thereof as may be necessary for fiscal year 2021-2022 and \$46,990,131 or so much thereof as may be necessary for fiscal year 2022-2023 for the operation of the statewide emergency medical services and injury prevention system.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 24. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 25. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 26. This Act shall take effect upon its approval; provided that part I, except section 16, shall take effect on July 1, 2022; and section 16 and part II shall take effect on July 1, 2021.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.