

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1476

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Campbell

SUBJECT: Emergency Medical Services

DATE: March 30, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1476 grants the Department of Health specific statutory authority to approve training programs for emergency medical technicians and paramedics, to impose minimum requirements on permitted emergency medical vehicles, to require licensees to provide receiving hospitals with a copy of an individual patient care record for each patient transported to the hospital, and to establish requirements for recertification training for emergency medical technicians and paramedics. The bill allows the Department of Health to require documents to be submitted by emergency medical licensees and emergency medical certification applicants to the department under oath.

This bill substantially amends ss. 401.25, 401.27, and 401.35, Florida Statutes, and s. 401.30, Florida Statutes, 1998 Supplement.

The bill creates ss. 401.49 and 401.50, Florida Statutes.

II. Present Situation:

Part III, chapter 401, F.S., provides for the regulation of emergency medical transportation services. Section 401.211, F.S., provides legislative intent for the Department of Health's role in the development and establishment of an emergency medical services state plan; advisory council; and minimum standards for emergency medical personnel, vehicles, services and medical direction. Section 401.23, F.S., provides definitions for purposes of the regulation of emergency medical services. "Medical director" is defined to mean a physician who is employed or contracted by a licensee and who provides medical supervision, including appropriate quality assurance, for daily operations and training. Section 401.245, F.S., provides for the powers and duties of the Emergency Medical Advisory Council which holds meetings at the call of the chair. The Department of Health must license advanced life support services and basic life support services pursuant to s. 401.25, F.S. Section 401.251, F.S., provides the licensure requirement for air ambulance services.

Section 401.27, F.S., establishes standards and certification and recertification requirements for emergency medical technicians and paramedics. Any person who desires to be certified or recertified as an emergency medical technician or paramedic must have completed an appropriate training course: for an emergency medical technician, an emergency medical technician training course equivalent to the most recent emergency medical technician basic training course of the United States Department of Transportation, as approved by the Department of Health; and for a paramedic, a paramedic training program equivalent to the most recent paramedic course of the United States Department of Transportation, as approved by the Department of Health. Applicants for certification or recertification as an emergency medical technician must certify under oath: that he or she is not addicted to alcohol or any controlled substance; and that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties. Emergency medical technician or paramedic applicants must hold a current American Heart Association or American Red Cross cardiopulmonary resuscitation course card or its equivalent. Applicants must complete the Florida examination for the appropriate certification level. Out-of-state applicants for emergency medical technician or paramedic certification must provide proof of current emergency medical technician or paramedic certification upon successful completion of the United States Department of Transportation emergency medical technician or paramedic training curriculum and must, in the case of a paramedic, hold a valid certificate of course completion in cardiopulmonary resuscitation or advanced cardiac life support to be eligible for the Florida certification examination.

A physician or registered nurse may be certified as a paramedic if the professional has passed the required emergency medical technician curriculum, has successfully completed an advanced cardiac life support course, has passed the certification examination for paramedics, and has otherwise met other certification requirements. Section 401.27, F.S., provides requirements and procedures for inactive status and reactivation of emergency medical technician or paramedic certification.

Section 401.30, F.S., requires each permitted advanced life support service, basic life support service, or air ambulance (licensee) to maintain accurate records of emergency calls on forms that contain such information as is required by the department. Patient records maintained by the Department of Health are confidential and exempt from the Public Records Law under s. 401.30, F.S. Records of emergency calls which contain patient examination or treatment information may not be released unless consent is obtained from the person to whom they pertain, except under limited circumstances specified in the section.

The Department of Health has established by rule: requirements for staffing of permitted emergency medical service vehicles (64E-2.003 and 64E-2.007, F.A.C.); requirements for the delivery of patient records by licensees (64E-2.013, F.A.C.); requirements for the department's approval of programs that educate emergency medical technicians and paramedics (64E-2.011, F.A.C.); and specific standards for the security and storage of controlled substances, medications, and fluids by licensees (64E-2.003, F.A.C.). Pursuant to s. 120.536, F.S., the Department of Health submitted administrative rules to the Joint Administrative Procedures Committee as rules that exceeded the rulemaking authority permitted in this section.

Section 120.536(1), F.S., states that, "A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An

agency may only adopt rules that implement, interpret, or make specific the particular powers and duties granted by the enabling statute.” Section 120.536, F.S., further established that an agency may not adopt a rule merely because it is reasonably related to the purpose of the enabling legislation, nor may the agency have the authority to implement statutory provisions setting forth general legislative intent or policy.

Section 120.536(2), F.S., required each agency to provide the Administrative Procedures Committee a listing of rules adopted by the agency before October 1, 1996, which exceeded the rulemaking authority permitted in this section. These lists were to be provided by October 1, 1997, and subsequently combined and presented to the Speaker of the House of Representatives and the President of the Senate. This section further provided that the 1998 Legislature was to consider whether specific legislation authorizing these rules should be enacted. According to s. 120.536(2), F.S., each agency must have initiated appropriate proceedings to repeal rules exceeding rulemaking authority by January 1, 1999. By February 1, 1999, the Administrative Procedure Committee was required to submit to the President of the Senate and the Speaker of the House of Representatives, a report identifying rules that exceed rule authority for which repeal proceedings have not yet been initiated.

III. Effect of Proposed Changes:

Section 1. Amends s. 401.25, F.S., relating to the licensure of a basic life support (BLS) or an advanced life support (ALS) service, to grant the Department of Health specific authority for its administrative rule (64E-2.003 and 64E-2007, F.A.C.) that imposes minimum staffing requirements. A BLS service ambulance must be occupied by at least two persons: a certified emergency medical technician, certified paramedic, or licensed physician and one ambulance driver. An ALS service ambulance must be occupied by at least two persons: a certified paramedic or licensed physician and one who is a certified emergency medical technician, certified paramedic, or licensed physician who meets the requirements of s. 401.281, F.S., as a driver. The person with the highest medical certifications must be in charge of patient care.

Section 2. Amends s. 401.27, F.S., relating to standards and certification of emergency medical services personnel, to grant the Department of Health specific authority for its administrative rule (64E-2.008 and 64E-2.009, F.A.C.) that requires applicants for emergency medical technician or paramedic certification and recertification to apply under oath to the department on forms provided by the department. Such forms must contain information as the department reasonably requires, that may include affirmative evidence of ability to comply with applicable laws and rules. The staff of the Joint Administrative Procedures Committee have raised concerns regarding the department’s authority to require documents to be submitted under oath.

Section 3. Amends s. 401.30, F.S., 1998 Supplement, relating to records that must be maintained by permitted ambulance services, to grant the Department of Health specific authority for its administrative rule (64E-2.013, F.A.C.) that requires each licensee to maintain records and reports and to submit the record to the department as requested. Licensed ambulance services, basic life support services, and advanced life support services, must provide the receiving hospital with a copy of an individual patient care record for each patient who is transported to the hospital. The information contained on the record and the method and timeframe for providing the record must be prescribed by rule of the department.

Section 4. Amends s. 401.35, F.S., relating to the Department of Health's rulemaking authority to enforce provisions relating to the regulation of emergency medical services, to grant the Department of Health with specific rulemaking authority for its administrative rule (64E-2.003, F.A.C.) that requires licensed ambulance services, basic life support services, and advanced life support services to meet specific standards for the security and storage of controlled substances, medications, and fluids that are not inconsistent with requirements of ch. 499, F.S., the Florida Drug and Cosmetic Act or ch. 893, F.S., relating to the regulation of controlled substances. The Department of Health is granted rulemaking authority to require from licensees and certificate holders an oath, upon forms provided by the department which shall contain such information as the department reasonably requires, that may include affirmative evidence of ability to comply with applicable laws and rules.

Section 5. Creates s. 401.49, F.S., to grant the Department of Health specific authority for its administrative rule (64E-2.011, F.A.C.) that specifies requirements for the department's approval of programs that educate emergency medical technicians and paramedics.

Section 6. Creates s. 401.50, F.S., to grant the Department of Health rulemaking authority to establish recertification training requirements for emergency medical technicians and paramedics. The department's rules must provide that all recertification training be at least 30 hours and must include the performance parameters for adult and pediatric emergency medical clinical care, which are documented through a system of record keeping. Any person or entity may conduct emergency medical technician training upon application to the department and payment of a nonrefundable fee which may not exceed the actual cost of the administration of the requirements of this subsection. The department must adopt rules for the application and fee. A certified medical technician or paramedic must provide evidence to the department that the applicant has completed the required recertification training to be eligible for recertification. The department must accept written affirmation of a licensee's medical director or a medical director of a department-approved educational program as documentation that the certified medical technician or paramedic has completed the training required for recertification.

Section 7. Provides an effective date of July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Section 19(f) of the Florida

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

Any individual, institution, school, corporation, or governmental entity may conduct emergency medical technician or paramedic recertification training upon application to the department and payment of an unspecified nonrefundable fee that covers the actual administration costs.

B. Private Sector Impact:

Emergency medical technician and paramedic applicants will incur additional costs in meeting the additional educational requirements for recertification under the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.