



H.B. 321

125th General Assembly
(As Introduced)

Reps. Flowers, Kearns, C. Evans, Gilb, McGregor, Schaffer, Webster

BILL SUMMARY

- Specifies procedures to be followed by the Emergency Medical Services (EMS) Board in investigating complaints and taking certain disciplinary actions under the EMS law.
- Requires the Emergency Medical Services (EMS) Board to divide the state geographically into prehospital emergency medical services regions.

CONTENT AND OPERATION

EMS Board--investigations and discipline of certificate holders

(R.C. 4765.10, 4765.11, and 4765.111)

The Emergency Medical Services (EMS) Board governs the training and practice of emergency medical service personnel. It issues certificates to practice to first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians paramedic. The EMS Board issues certificates of accreditation or approval to EMS training and continuing education programs and certificates to teach to training and continuing education program teachers. The EMS Board is authorized by current law to investigate complaints concerning emergency medical services as it determines necessary and to adopt rules establishing procedures for suspending or revoking certificates of accreditation or approval, certificates to teach, and certificates to practice.

The bill requires the EMS Board to investigate alleged violations of Ohio's EMS law (R.C. Chapter 4765.) and specifies its authority in conducting investigations. The bill also specifies the procedures the Board is to follow in imposing summary suspensions, automatic suspensions, and sanctions against an emergency medical services certificate holder for certain offenses. It provides that

all disciplinary proceedings, other than those regarding summary suspensions and automatic suspensions, are to be conducted in accordance with the Board's rules.

Investigative authority

(R.C. 4765.101)

The bill requires the EMS Board to investigate any allegation that a person has violated Ohio's EMS law (R.C. Chapter 4765.) or any rule adopted under it. Any person may submit to the EMS Board, in a signed writing, information regarding an alleged violation of EMS law. Under the bill, no person who, in the absence of fraud or bad faith, reports to the Board or testifies in an adjudication hearing regarding an alleged violation may be held liable for damages in a civil action as a result of reporting the information or providing testimony.

The bill provides that, in investigating an alleged violation, the EMS Board may do any of the following:

- (1) Administer oaths;
- (2) Order the taking of depositions;
- (3) Issue subpoenas;
- (4) Compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.

The bill includes the following provisions regarding the confidentiality of information collected pursuant to an investigation:

(1) Information received by the EMS Board pursuant to an investigation, including any information regarding an alleged violation of EMS law or a complaint submitted to the Board, is confidential and not subject to discovery in any civil action, except that the Board may disclose information to law enforcement officers and government entities investigating the holder of a certificate to practice emergency medical services or an individual who may have engaged in the unauthorized provision of emergency medical services.

(2) A law enforcement officer or government entity with knowledge of information disclosed by the EMS Board pursuant to an investigation may not divulge that information other than for the purpose of an adjudication by a court or licensing board to which the individual to whom the information relates is a party.

(3) If an investigation requires a review of patient records, the investigation and proceedings related to it must be conducted in such a manner as to protect patient confidentiality.

The bill prohibits issuance of a subpoena for patient record information without consultation with the Attorney General's office and the approval of the Executive Director of the EMS Board. Before issuance of a subpoena for patient record information, the Executive Director must determine whether there is probable cause to believe that the records are relevant to the alleged violation and material to the investigation. The bill specifies that a subpoena for patient records may apply only to records that cover a reasonable period of time surrounding the alleged violation.

A subpoena issued by the EMS Board may be served by any of the following: a sheriff, the sheriff's deputy, or by an investigator for the Division of Emergency Medical Services of the Ohio Department of Public Safety. A subpoena may be served by delivering a copy to the person named in the subpoena, by reading it to the person, or by leaving it at the person's usual place of residence, unless the person named in the subpoena is the holder of a certificate to practice emergency medical services. If the person being served is the holder of a certificate to practice emergency medical services, the subpoena may be served by certified mail, return receipt requested, and shall be deemed served on the date that delivery is made or, if the person refuses delivery, the date of the refusal.

The bill provides that on failure to comply with any subpoena issued by the Board and after reasonable notice to the person being subpoenaed, the EMS Board may, pursuant to the Rules of Civil Procedure, move for an order compelling the production of persons or records.¹

Summary suspensions

(R.C. 4765.112 and 4765.113)

Under the bill, the EMS Board may, by an affirmative vote of the majority of its members, suspend without a prior hearing a certificate to practice emergency medical services if the Board determines that there is clear and convincing evidence that continued practice by the certificate holder presents a danger of immediate and serious harm to the public and that the certificate holder has done any of the following:

(1) Furnished false, fraudulent, or misleading information to the Board;

¹ *The Rules of Civil Procedure are adopted by the Ohio Supreme Court and govern civil proceedings in Ohio courts.*

(2) Engaged in activities that exceed those permitted by the individual's certificate to practice emergency medical services;

(3) In a court of this or any other state or federal court, been convicted of, pled guilty to, or been the subject of a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony or for a misdemeanor committed in the course of practice or that involves gross immorality or moral turpitude.

The bill requires that, immediately following the decision to impose a summary suspension, the EMS Board must issue a written order and cause it to be delivered to the certificate holder and notify the certificate holder of the opportunity for a hearing under Chapter 119. of the Revised Code. If the certificate holder requests a hearing in a timely manner, the Board must hold a hearing in accordance with procedures established by the bill.²

The bill provides that, if the Board suspends a certificate to practice on the basis of a conviction, plea of guilty, or judicial finding as described in (3) above, and the conviction, plea, or finding is overturned on appeal, the certificate holder may, on exhaustion of the criminal appeal process, file a petition with the Board for reconsideration of the suspension, along with appropriate court documents. On receipt of the petition and documents, the Board may either rescind the suspension or hold an adjudication hearing to determine whether the certificate holder committed the act in question. The bill requires that, if the Board decides to hold an adjudication hearing, it must immediately notify the certificate holder of the opportunity for a hearing. If the certificate holder requests a hearing in a timely manner, the Board must hold a hearing in accordance with procedures established by the bill.³ If the Board finds, pursuant to the hearing, that the certificate holder committed the act in question, it may order any of the sanctions established by the bill.⁴

Automatic suspensions

(R.C. 4765.114)

Under the bill, an individual's certificate to practice emergency medical services is automatically suspended on the certificate holder's conviction of, plea of guilty to, or judicial finding of guilt of any of the following offenses:

² See "*Hearings*," below.

³ See "*Hearings*," below.

⁴ See "*Sanctions*," below.

aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, aggravated vehicular homicide, felonious assault, endangering children, kidnapping, rape, importuning, pandering obscenity involving a minor, sexual battery, gross sexual imposition, aggravated arson, aggravated burglary, aggravated robbery, drug trafficking, or a substantially equivalent offense committed in this state or another jurisdiction. Continued practice after an automatic suspension constitutes practice without a certificate.

The bill requires that, if the Board has knowledge that an automatic suspension has occurred, the Board notify the certificate holder of the suspension and of the opportunity for a hearing. If the certificate holder requests a hearing in a timely manner, the Board must hold a hearing in accordance with procedures established by the bill.⁵

Hearings

(R.C. 4765.115)

The bill specifies that the Board must conduct a hearing requested pursuant to a summary suspension order or an automatic suspension in accordance with the Administrative Procedure Act (Chapter 119.). Hearings must be held not later than 15, but not earlier than seven, days after the certificate holder requests it, unless another date is agreed to by both the certificate holder and the Board.

The bill states that summary suspension orders and automatic suspensions remain in effect, unless reversed by the Board, until a final adjudication order issued by the Board, pursuant to a hearing, becomes effective. The bill also specifies that neither a summary suspension order nor an automatic suspension is subject to suspension by a court prior to a hearing held pursuant to the suspension or during the pendency of any appeal of such a suspension.

Sanctions

(R.C. 4765.11, 4765.115(E), (F), and (G))

The bill provides that, after completion of an adjudication hearing, the Board may adopt, by an affirmative vote of a majority of its members, a final adjudication order that imposes any of the following sanctions:

- (1) Suspension of the holder's certificate to practice;
- (2) Revocation of the holder's certificate to practice;

⁵ See "**Hearings**," below.

- (3) Imposition of fine established by the Board in rules;
- (4) Issuance of a written reprimand;
- (5) Any other sanction the Board considers reasonable and appropriate.

The bill requires the Board to issue its final adjudication order not later than 90 days after completion of an adjudication hearing. If the Board does not issue a final order within that time period, the suspension order is void, but any final adjudication order subsequently issued is not affected.

The bill provides that any action taken by the Board that results in a certificate holder's suspension from practice must be accompanied by a written statement of the conditions under which the holder's certificate may be reinstated. Reinstatement of a certificate suspended pursuant to a sanction requires an affirmative vote by the majority of the members of the Board.

The bill also provides that when the Board revokes or refuses to reinstate a certificate to practice, the Board may specify that its action is permanent. An individual subject to a permanent action taken by the Board is forever ineligible to hold a certificate of the type revoked or refused. The bill prohibits the Board from accepting from such an individual an application for reinstatement of the certificate or for a new certificate.

Failure to request a hearing

(R.C. 4765.116)

If a certificate holder subject to a summary suspension order or an automatic suspension fails to make a timely request for a hearing, the bill provides the following:

(1) In the case of a certificate holder subject to a summary suspension, the Board is not required to hold a hearing, but may adopt, by an affirmative vote of a majority of its members, a final order that contains the Board's findings. In the final order, the Board may order any of the sanctions listed above.

(2) In the case of a certificate holder subject to an automatic suspension, the Board may adopt, by an affirmative vote of a majority of its members, a final order that permanently revokes the holder's certificate to practice emergency medical services.

Prehospital emergency medical services regions

(R.C. 4765.05)

Under current law, the state is divided into prehospital emergency medical services regions.⁶ The regions are identical to the health services areas designated by the Director of Health for health services planning. The bill provides instead that, for the purposes of overseeing the delivery of adult and pediatric prehospital emergency medical services, the EMS Board is to divide the state geographically into prehospital emergency medical services regions.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-06-03	p. 1053

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⁶ Current law defines "prehospital emergency medical services" as "an emergency medical services system that provides medical services to patients who require immediate assistance, because of illness or injury, prior to their arrival at an emergency medical facility." (R.C. 4765.05.)