

By: Solis

H.B. No. 3368

A BILL TO BE ENTITLED

1 AN ACT

2 relating to establishing a State Emergency Medical Services
3 Commission.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 773, Health and Safety
6 Code, is amended by adding Section 773.0031 to read as follows:

7 Sec. 773.0031. TRANSFER OF AUTHORITY AND DUTIES. The
8 authority granted to and the duties of the board, the department,
9 and the bureau under this chapter are transferred to the State
10 Emergency Medical Services Commission under Subchapter H.

11 SECTION 2. Chapter 773, Health and Safety Code, is amended
12 by adding Subchapter H to read as follows:

13 SUBCHAPTER H. STATE EMERGENCY MEDICAL SERVICES COMMISSION

14 Sec. 773.201. DEFINITIONS. In this subchapter:

15 (1) "Advisory council" means the advisory council
16 established by Section 773.012.

17 (2) "Commission" means the State Emergency Medical
18 Services Commission established under this subchapter.

19 (3) "Director" means the state emergency medical
20 services director.

21 (4) "Medical board" means the Emergency Medical
22 Services Medical Board established by Section 773.206.

23 (5) "Medical director" means the state emergency
24 medical services medical director.

1 Sec. 773.202. COMMISSION MEMBERS. (a) The commission is
2 composed of the following nine members:

3 (1) the presiding officer of the advisory council; and

4 (2) eight members appointed by the governor as
5 follows:

6 (A) an officer or employee of a private provider
7 of emergency medical services, appointed from a list of names
8 recommended by a statewide association of private providers of
9 emergency medical services;

10 (B) a volunteer who provides emergency medical
11 services, appointed from a list of names recommended by a statewide
12 association of volunteers;

13 (C) an educator in the field of emergency medical
14 services;

15 (D) a representative of a fire department that
16 provides emergency medical services, appointed from a list of names
17 recommended by a statewide association of firefighters;

18 (E) a representative of hospitals who is
19 affiliated with a hospital that provides emergency medical
20 services, appointed from a list of names recommended by a statewide
21 association of hospitals;

22 (F) a representative of a county provider of
23 emergency medical services;

24 (G) a representative of a municipal provider of
25 emergency medical services; and

26 (H) one member of the advisory council.

27 (b) Appointed members of the commission serve staggered

1 six-year terms with one-third, or as near as one-third as possible,
2 of the members' terms expiring February 1 of each odd-numbered
3 year.

4 (c) A vacancy on the commission is filled for the unexpired
5 term in the same manner as the original appointment.

6 (d) A member of the commission may be removed if the member
7 is absent from more than 60 percent of the regularly scheduled
8 commission meetings that the member is eligible to attend during a
9 calendar year without an excuse approved by a majority vote of the
10 commission.

11 (e) The presiding officer of the commission shall notify the
12 governor if grounds for removal exist.

13 (f) The commission shall elect from among its members a
14 presiding officer, vice presiding officer, secretary, and
15 governor's liaison. Each officer serves in that capacity until the
16 person's term as a commission member expires.

17 (g) The commission shall meet at least six times a year on
18 the call of the presiding officer or any five members.

19 Sec. 773.203. COMMISSION DUTIES. The commission shall:

20 (1) every five years, adopt a statewide plan for the
21 coordinated delivery of emergency medical services and submit the
22 plan to the governor, lieutenant governor, and speaker of the house
23 of representatives;

24 (2) adopt rules to implement the licensing and
25 certification requirements of Subchapter C;

26 (3) annually inventory emergency medical services
27 resources within the state, including facilities, equipment, and

1 personnel, to determine:

2 (A) the need for additional services; and

3 (B) the effectiveness of existing services;

4 (4) report the results of the inventory under
5 Subdivision (3) to the legislature and county and city officials;

6 (5) review and evaluate all areawide plans developed
7 by the emergency medical services councils;

8 (6) review for conformity to policy guidelines all
9 grant and contract applications for federal or state funds
10 available for emergency medical services or related activities and
11 forward applications to the appropriate agency, when applicable;

12 (7) establish minimum standards and regulations to
13 develop the following components of an emergency medical services
14 system:

15 (A) communications;

16 (B) transportation services to and from medical
17 facilities;

18 (C) training, including training of emergency
19 medical technicians and communications personnel; and

20 (D) emergency medical services facilities;

21 (8) coordinate training of all personnel involved with
22 emergency medical services;

23 (9) develop or cause to be developed a data collection
24 system that follows a patient from initial entry into the emergency
25 medical services system to the patient's arrival at the emergency
26 department;

27 (10) establish an emergency medical services research

1 component to improve emergency medical services pre-hospital
2 patient care and approve a process for local emergency medical
3 services providers to perform research approved by the commission;

4 (11) establish emergency medical services service
5 areas for emergency medical services providers in the licensing
6 process;

7 (12) develop programs, including programs relating
8 to:

9 (A) public education and information;

10 (B) administration of emergency medical services
11 grants;

12 (C) planning;

13 (D) cost data and alternative funding sources for
14 commission duties and goals; and

15 (E) performance standards for the evaluation of
16 commission goals;

17 (13) with the advice of the regional advisory council
18 pre-hospital committees, develop model local emergency medical
19 services plans and performance agreements to guide municipalities
20 in the development of such plans and agreements;

21 (14) require all licensed emergency medical services
22 providers to provide their current charges or rates to the
23 commission;

24 (15) review Medicaid reimbursement rates to emergency
25 medical services providers and make recommendations to the
26 legislature on reimbursements to licensed emergency medical
27 services providers each legislative session; and

1 (16) conduct random audits for possible Medicare,
2 insurance, and Medicaid fraud.

3 Sec. 773.204. LICENSE OR CERTIFICATION REQUIREMENTS. (a)
4 Rules adopted under Section 773.203(2) must:

5 (1) require an emergency medical services provider to:

6 (A) have written approval by the local
7 governmental entity the provider serves;

8 (B) follow all ordinances applicable in each
9 municipality in which the provider transports patients;

10 (C) follow all county policies approved by a
11 commissioners court to operate in each county in which the provider
12 operates;

13 (D) be an active member in good standing of at
14 least one regional advisory council for a region in which the
15 provider provides services;

16 (E) report required data run information to the
17 commission; and

18 (F) comply with the data run information set by
19 the commission;

20 (2) require an emergency medical services licensed
21 ambulance provider to have written approval from each governing
22 body of a municipality and county commissioners court in the area in
23 which the provider operates, and submit the approval to the
24 commission; and

25 (3) require an emergency medical services medical
26 director to complete and pass a continuing education course once
27 every two years.

1 (b) The governing body of a municipality or county
2 commissioners court may set its own fines and fees applicable to the
3 operation of a medical transportation service within its
4 jurisdiction, not to exceed the fines and fees set by the state.

5 Sec. 773.205. REPORT BY STATE MEDICAID CONTRACTOR. The
6 executive commissioner of the Health and Human Services Commission
7 shall require the state's Medicaid contractor to provide semiannual
8 reports to the commission on reimbursements made to emergency
9 medical services licensed providers and to work closely with the
10 commission to:

11 (1) ensure that emergency medical services providers
12 are reimbursed within 45 days of the claim;

13 (2) reduce denials of emergency medical services
14 provider claims; and

15 (3) adopt the Medicare methodology for emergency
16 medical services provider reimbursements.

17 Sec. 773.206. MEDICAL BOARD. (a) The medical board is
18 composed of 15 members appointed by the commission as follows:

19 (1) five chairs of regional medical advisory councils;

20 (2) a member of the American College of Emergency
21 Physicians;

22 (3) a member of the Texas College of Emergency
23 Physicians;

24 (4) a member of an emergency medical services medical
25 directors association;

26 (5) a paramedic who is licensed or certified, as
27 required;

1 (6) an emergency medical technician-intermediate who
2 is licensed or certified, as required;

3 (7) an emergency medical technician who is licensed or
4 certified, as required;

5 (8) two emergency medical services administrators of
6 licensed emergency medical services providers in an urban area; and

7 (9) two emergency medical services administrators of
8 licensed emergency medical services providers in a rural area.

9 (b) Nonvoting members may be added to the medical board at
10 the discretion of the medical board.

11 (c) Appointed members of the medical board serve staggered
12 six-year terms, with five of the members' terms expiring February 1
13 of each odd-numbered year. A vacancy on the medical board is filled
14 for the unexpired term in the same manner as the original
15 appointment.

16 (d) The medical board may remove a member if the member is
17 absent from more than 60 percent of the regularly scheduled
18 meetings that the member is eligible to attend during a calendar
19 year without an excuse approved by a majority vote of the medical
20 board.

21 (e) The medical board shall notify by certified mail a
22 member removed under Subsection (d).

23 (f) The medical board shall elect from among its members a
24 presiding officer, vice presiding officer, secretary, and
25 commission liaison. Each officer serves in that capacity until the
26 person's term as a medical board member expires.

27 (g) The medical board shall meet during the same dates that

1 the commission meets.

2 Sec. 773.207. MEDICAL BOARD DUTIES. The medical board may
3 advise the commission to:

4 (1) coordinate the medical aspects of the commission's
5 planning and administration for the statewide emergency medical
6 services system;

7 (2) develop and approve statewide recommended
8 treatment protocols, guidelines, and policies relating to medical
9 care delivered by emergency medical services providers;

10 (3) ensure that all elements of the statewide
11 emergency medical services system are medically current and valid,
12 including training, patient care, protocols, telecommunications,
13 medical equipment, regulations, and performance standards;

14 (4) establish and revise biannually adult and
15 pediatric patient care protocols;

16 (5) oversee medical content of dispatching and
17 pre-arrival instructions;

18 (6) review and approve emergency medical services
19 research proposals;

20 (7) review and disseminate research results and
21 follow-up information;

22 (8) assess regional medical issues as presented by
23 regional medical directors;

24 (9) review disciplinary actions from any emergency
25 medical services segment as requested and comment on medical issues
26 involved; and

27 (10) develop the curriculum, course, and hours for an

1 emergency medical services medical directors course and required
2 continuing education.

3 Sec. 773.208. ADVISORY COUNCIL AS POLICY ARM. (a) The
4 advisory council shall advise the commission on commission policy.
5 The advisory council shall review and comment on all emergency
6 medical services issues, including finances, policies, guidelines,
7 legislation, regulations, and procedures necessary to operate the
8 statewide emergency medical services system. The advisory council
9 will assist the commission in developing and implementing the
10 statewide emergency medical services plan.

11 (b) The advisory council shall establish:

- 12 (1) an air medical committee;
13 (2) an education committee;
14 (3) an injury prevention committee;
15 (4) a pediatric committee;
16 (5) a rural emergency medical services committee;
17 (6) a trauma committee;
18 (7) a medical transportation providers task force; and
19 (8) other committees and task forces the advisory
20 council considers necessary or appropriate.

21 (c) The advisory council shall appoint committee members to
22 its committees and task forces.

23 Sec. 773.209. COMMISSION EMPLOYEES. (a) The commission
24 shall appoint a state emergency medical services director. The
25 director must be a paramedic who is licensed or certified, as
26 required, with not less than 12 years experience, of which eight
27 years must have been in providing patient care for an emergency

1 medical services licensed provider as a paramedic in the field. The
2 director shall carry out the day-to-day functions of the commission
3 and carry out tasks delegated by the commission.

4 (b) The commission shall appoint a state emergency medical
5 services medical director. The medical director serves as a
6 nonvoting member of the medical board and carries out functions
7 related to medical care delegated by the commission. The medical
8 director may serve as medical director for emergency medical
9 services programs that apply with the commission for a medical
10 director due to financial hardship. The commission may set an
11 annual fee for the services provided by the medical director under
12 this subsection. The medical director shall attempt to keep all
13 protocols standard for each of the emergency medical services
14 programs served by the medical director under this subsection.

15 (c) The director shall hire and manage commission staff to
16 assist in carrying out the commission's duties.

17 Sec. 773.210. REGIONAL ADVISORY COUNCILS. (a) Regional
18 advisory councils shall present recommendations from their
19 emergency medical services medical directors committees and
20 pre-hospital provider committees to the advisory council or
21 commission as necessary.

22 (b) The regional advisory councils shall provide continuous
23 evaluation of emergency medical services for their respective
24 geographic areas.

25 (c) Regional advisory councils may charge licensed
26 emergency medical services providers dues in an amount considered
27 reasonable by the commission to support their role in emergency

1 medical services. Regional advisory councils may supplement any
2 state funds the council or an emergency medical services provider
3 receives for problematic issues in emergency medical services.

4 Sec. 773.211. REVENUE; ACCOUNT. (a) Subject to this
5 chapter, the commission may set fines, fees, dues, or any other
6 emergency medical services revenue source at an amount to cover the
7 expense of administering this chapter.

8 (b) The commission may apply for, accept, receive, and
9 administer gifts, grants, loans, and other funds available from any
10 source for the purposes of this chapter.

11 (c) The comptroller shall credit revenue collected under
12 this chapter to an account in the general revenue fund. Money in
13 the account may be appropriated only to the commission to
14 administer this chapter.

15 Sec. 773.212. CONFLICT WITH OTHER PROVISIONS. To the
16 extent that this subchapter conflicts with another provision of
17 this chapter, this subchapter prevails.

18 SECTION 3. (a) On the effective date of this Act:

19 (1) all of the rights, powers, duties, functions,
20 programs, and activities assigned to the executive commissioner of
21 the Health and Human Services Commission, the Department of State
22 Health Services, the Bureau of Emergency Management, or the
23 department's or bureau's officers or employees relating to
24 emergency medical services are transferred to the State Emergency
25 Medical Services Commission established under Subchapter H,
26 Chapter 773, Health and Safety Code, as added by this Act; and

27 (2) all appropriations, funds, obligations,

1 contracts, property, and records of the department and bureau
2 relating to emergency medical services are transferred to the State
3 Emergency Medical Services Commission.

4 (b) A rule or form adopted by the executive commissioner of
5 the Health and Human Services Commission, Department of State
6 Health Services, or Bureau of Emergency Management that relates to
7 emergency medical services is a rule or form of the State Emergency
8 Medical Services Commission and remains in effect until altered by
9 that commission. The secretary of state is authorized to adopt
10 rules as necessary to expedite the implementation of this
11 subsection.

12 (c) A reference in law to the executive commissioner of the
13 Health and Human Services Commission, the Department of State
14 Health Services, the Bureau of Emergency Management, the Texas
15 Department of Health, or the Texas Board of Health that relates to
16 emergency medical services means the State Emergency Medical
17 Services Commission.

18 (d) Not later than November 1, 2006, the presiding officer
19 and the state emergency medical services director of the State
20 Emergency Medical Services Commission shall report to the
21 lieutenant governor and the speaker of the house of representatives
22 on the transition under this section.

23 (e) The transfer of powers, duties, functions, programs,
24 and activities under this Act does not affect or impair any act
25 done, any obligation, right, order, license, permit, rule,
26 criterion, standard, or requirement existing, any investigation
27 begun, or any penalty accrued under former law, and that law remains

1 in effect for any action concerning those matters.

2 (f) An action brought or proceeding commenced before the
3 effective date of this Act, including a contested case or a remand
4 of an action or proceeding by a reviewing court, is governed by the
5 law and rules applicable to the action or proceeding before the
6 effective date of this Act.

7 SECTION 4. (a) Not later than January 1, 2006, the governor
8 shall appoint initial members of the State Emergency Medical
9 Services Commission as required by Section 773.202, Health and
10 Safety Code, as added by this Act. In appointing the initial
11 members of the commission, the governor shall appoint two members
12 to terms expiring February 1, 2007, three members to terms expiring
13 February 1, 2009, and three members to terms expiring February 1,
14 2011.

15 (b) Not later than February 1, 2006, the State Emergency
16 Medical Services Commission shall appoint initial members of the
17 Emergency Medical Services Medical Board as required by Section
18 773.206, Health and Safety Code, as added by this Act. In
19 appointing the initial members of the medical board, the commission
20 shall appoint five members to terms expiring February 1, 2007,
21 three members to terms expiring February 1, 2009, and three members
22 to terms expiring February 1, 2011.

23 SECTION 5. This Act takes effect September 1, 2005.