

SENATE BILL No. 223

By Committee on Ways and Means

2-5

9 AN ACT concerning the emergency medical services board; subpoena
10 authority; amending K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111
11 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 65-6111 is hereby amended to read as follows: 65-
15 6111. (a) The emergency medical services board shall:

16 (1) Adopt any rules and regulations necessary to carry out the pro-
17 visions of this act;

18 (2) review and approve the allocation and expenditure of moneys ap-
19 propriated for emergency medical services;

20 (3) conduct hearings for all regulatory matters concerning ambulance
21 services, attendants, instructor-coordinators, training officers and provid-
22 ers of training;

23 (4) submit a budget to the legislature for the operation of the board;

24 (5) develop a state plan for the delivery of emergency medical
25 services;

26 (6) enter into contracts as may be necessary to carry out the duties
27 and functions of the board under this act;

28 (7) review and approve all requests for state and federal funding in-
29 volving emergency medical services projects in the state or delegate such
30 duties to the administrator;

31 (8) approve all training programs for attendants, instructor-coordi-
32 nators and training officers and prescribe certification application fees by
33 rules and regulations;

34 (9) approve methods of examination for certification of attendants,
35 training officers and instructor-coordinators and prescribe examination
36 fees by rules and regulations;

37 (10) appoint a medical consultant for the board. Such person shall be
38 a person licensed to practice medicine and surgery and shall be active in
39 the field of emergency medical services; and

40 (11) approve providers of training by prescribing standards and
41 requirements by rules and regulations and withdraw or modify such ap-
42 proval in accordance with the Kansas administrative procedures act and
43 the rules and regulations of the board.

- 1 (b) The emergency medical services board may grant a temporary
2 variance from an identified rule or regulation when a literal application
3 or enforcement of the rule or regulation would result in serious hardship
4 and the relief granted would not result in any unreasonable risk to the
5 public interest, safety or welfare.
- 6 (c) (1) *In connection with any investigation by the board, the board*
7 *or its duly authorized agents or employees shall at all reasonable times*
8 *have access to, for the purpose of examination, and the right to copy any*
9 *document, report, record or other physical evidence of any person being*
10 *investigated, or any document, report, record or other evidence main-*
11 *tained by and in possession of any clinic, laboratory, pharmacy, medical*
12 *care facility or other public or private agency if such document, report,*
13 *record or evidence relates to professional competence, unprofessional con-*
14 *duct or the mental or physical ability of a licensee to perform activities*
15 *the licensee is authorized to perform.*
- 16 (2) *For the purpose of all investigations and proceedings conducted*
17 *by the board:*
- 18 (A) *The board may issue subpoenas compelling the attendance and*
19 *testimony of witnesses or the production for examination or copying of*
20 *documents or any other physical evidence if such evidence relates to pro-*
21 *fessional competence, unprofessional conduct or the mental or physical*
22 *ability of a licensee to perform activities the licensee is authorized to per-*
23 *form. Within five days after the service of the subpoena on any person*
24 *requiring the production of any evidence in the person's possession or*
25 *under the person's control, such person may petition the board to revoke,*
26 *limit or modify the subpoena. The board shall revoke, limit or modify such*
27 *subpoena if in its opinion the evidence required does not relate to practices*
28 *which may be grounds for disciplinary action, is not relevant to the charge*
29 *which is the subject matter of the proceeding or investigation, or does not*
30 *describe with sufficient particularity the physical evidence which is re-*
31 *quired to be produced. Any member of the board, or any agent designated*
32 *by the board, may administer oaths or affirmations, examine witnesses*
33 *and receive such evidence.*
- 34 (B) *Any person appearing before the board shall have the right to be*
35 *represented by counsel.*
- 36 (C) *The district court, upon application by the board or by the person*
37 *subpoenaed, shall have jurisdiction to issue an order:*
- 38 (i) *Requiring such person to appear before the board or the board's*
39 *duly authorized agent to produce evidence relating to the matter under*
40 *investigation; or*
- 41 (ii) *revoking, limiting or modifying the subpoena if in the court's opin-*
42 *ion the evidence demanded does not relate to practices which may be*
43 *grounds for disciplinary action, is not relevant to the charge which is the*

1 *subject matter of the hearing or investigation or does not describe with*
2 *sufficient particularity the evidence which is required to be produced.*

3 (3) *Disclosure or use of any such information received by the board*
4 *or of any record containing such information, for any purpose other than*
5 *that provided by this subsection is a class A misdemeanor and shall con-*
6 *stitute grounds for removal from office, termination of employment or*
7 *denial, revocation or suspension of any license issued under this act. Noth-*
8 *ing in this subsection shall be construed to make unlawful the disclosure*
9 *of any such information by the board in a hearing held pursuant to this*
10 *act.*

11 (4) *Patient records, including clinical records, medical reports, labo-*
12 *ratory statements and reports, files, films, other reports or oral statements*
13 *relating to diagnostic findings or treatment of patients, information from*
14 *which a patient or a patient's family might be identified, peer review or*
15 *risk management records or information received and records kept by the*
16 *board as a result of the investigation procedure outlined in this subsection*
17 *shall be confidential and shall not be disclosed.*

18 (5) *Nothing in this subsection or any other provision of law making*
19 *communications between a physician and the physician's patient a priv-*
20 *ileged communication shall apply to investigations or proceedings con-*
21 *ducted pursuant to this subsection. The board and its employees, agents*
22 *and representatives shall keep in confidence the names of any patients*
23 *whose records are reviewed during the course of investigations and pro-*
24 *ceedings pursuant to this subsection.*

25 Sec. 2. K.S.A. 65-6130 is hereby amended to read as follows: 65-
26 6130. The board may inquire into the operation of ambulance services
27 and the conduct of attendants, and may conduct periodic inspections of
28 facilities, communications services, materials and equipment at any time
29 without notice. The board may issue subpoenas *in accordance with the*
30 *provisions of subsection (c) of K.S.A. 65-6111, and amendments thereto,*
31 *to compel an operator holding a permit to make access to or for the*
32 *production of records regarding services performed and to furnish such*
33 *other information as the board may require to carry out the provisions of*
34 *this act to the same extent and subject to the same limitations as would*
35 *apply if the subpoenas were issued or served in aid of a civil action in the*
36 *district court.* A copy of such records shall be kept in the operator's files
37 for a period of not less than three years. The board also may require
38 operators to submit lists of personnel employed and to notify the board
39 of any changes in personnel or in ownership of the ambulance service.

40 Sec. 3. K.S.A. 65-6130 and K.S.A. 2008 Supp. 65-6111 is hereby
41 repealed.

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the statute book.