

**2020**

**STATE OF NEBRASKA**

**STATUTES RELATING TO  
EMERGENCY MEDICAL SERVICES PRACTICE ACT**

**NEBRASKA**

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**DEPT. OF HEALTH AND HUMAN SERVICES**

Department of Health and Human Services  
Division of Public Health  
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## STATUTES PERTAINING TO EMERGENCY MEDICAL SERVICES PRACTICE ACT

### **38-1201. Act, how cited.**

Sections 38-1201 to 38-1237 and sections 16 to 18 of this act shall be known and may be cited as the Emergency Medical Services Practice Act.

**Source:** Laws 1997, LB 138, § 1; Laws 2003, LB 242, § 128; R.S.1943, (2003), § 71-5172; Laws 2007, LB463, § 485; Laws 2018, LB1034, § 8. Laws 2020, LB1002, § 11.

### **38-1202. Legislative intent; act; how construed.**

It is the intent of the Legislature in enacting the Emergency Medical Services Practice Act to (1) effectuate the delivery of quality emergency medical care in the state, (2) provide for the appropriate licensure of persons providing emergency medical care and licensure of organizations providing emergency medical services, (3) provide for the establishment of educational requirements and permitted practices for persons providing emergency medical care, (4) provide a system for regulation of emergency medical care which encourages emergency care providers and emergency medical services to provide the highest degree of care which they are capable of providing, and (5) provide a flexible system for the regulation of emergency care providers and emergency medical services that protects public health and safety.

The act shall be liberally construed to effect the purposes of, carry out the intent of, and discharge the responsibilities prescribed in the act.

**Source:** Laws 1997, LB 138, § 2; R.S.1943, (2003), § 71-5173; Laws 2007, LB463, § 486; Laws 2020, LB1002, § 12.

### **38-1203. Legislative findings.**

The Legislature finds:

- (1) That emergency medical care is a primary and essential health care service and that the presence of an adequately equipped ambulance and trained emergency care providers may be the difference between life and death or permanent disability to those persons in Nebraska making use of such services in an emergency;
- (2) That effective delivery of emergency medical care may be assisted by a program of training and licensure of emergency care providers and licensure of emergency medical services in accordance with rules and regulations adopted by the board;
- (3) That the Emergency Medical Services Practice Act is essential to aid in advancing the quality of care being provided by emergency care providers and by emergency medical services and the provision of effective, practical, and economical delivery of emergency medical care in the State of Nebraska;
- (4) That the services to be delivered by emergency care providers are complex and demanding and that training and other requirements appropriate for delivery of the services must be constantly reviewed and updated; and
- (5) That the enactment of a regulatory system that can respond to changing needs of patients and emergency care providers and emergency medical services is in the best interests of the residents of Nebraska.

**Source:** Laws 1997, LB 138, § 3; R.S.1943, (2003), § 71-5174; Laws 2007, LB463, § 487; Laws 2020, LB1002, § 13.

### **38-1204. Definitions, where found.**

For purposes of the Emergency Medical Services Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1205 to 38-1214 and sections 16 to 18 of this act apply.

**Source:** Laws 1997, LB 138, § 4; R.S.1943, (2003), § 71-5175; Laws 2007, LB296, § 602; Laws 2007, LB463, § 488; Laws 2018, LB1034, § 9; Laws 2020, LB1002, § 14.

#### **38-1204.01. Advanced emergency medical technician practice of emergency medical care, defined.**

Advanced emergency medical technician practice of emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an advanced emergency medical technician. Such care includes, but is not limited to, (1) all of the acts that an emergency medical technician is authorized to perform and (2) complex interventions, treatments, and pharmacological interventions.

**Source:** Laws 2018, LB1034, § 10; Laws 2020, LB1002, § 15.

#### **38-1205. Ambulance, defined.**

Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland

or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state or any other motor vehicles or aircraft used for such purposes.

**Source:** Laws 2007, LB463, § 489; Laws 2018, LB1034, § 11.

**38-1206. Board, defined.**

Board means the Board of Emergency Medical Services.

**Source:** Laws 2007, LB463, § 490.

**38-1206.01. Emergency medical responder practice of emergency medical care, defined.**

Emergency medical responder practice of emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical responder. Such care includes, but is not limited to, (1) contributing to the assessment of the health status of an individual, (2) simple, noninvasive interventions, and (3) minimizing secondary injury to an individual.

**Source:** Laws 2018, LB1034, § 12; Laws 2020, LB1002, § 19.

**38-1206.02. Community paramedic practice of emergency medical care, defined.**

Community paramedic practice of emergency medical care means care provided by an advanced emergency medical technician, emergency medical technician, emergency medical technician-intermediate, or paramedic in accordance with the knowledge and skill acquired through successful completion of an approved program for a community paramedic at the respective licensure classification of the emergency care provider except for an emergency medical responder. Such care includes, but is not limited to, (1) the provision of telephone triage, advice, or other assistance to non-urgent 911 calls, (2) the provision of assistance or education to patients with chronic disease management, including post-hospital discharge follow-up to prevent hospital admission or readmission, and (3) all of the acts that the respective licensure classification of an emergency care provider is authorized to perform.

**Source:** Laws 2020, LB1002, § 16

**38-1206.03. Critical care paramedic practice of emergency medical care, defined.**

Critical care paramedic practice of emergency medical care means care provided by a paramedic in accordance with the knowledge and skill acquired through successful completion of an approved program for a critical care paramedic. Such care includes, but is not limited to, (1) all of the acts that a paramedic is licensed to perform, (2) advanced clinical patient assessment, (3) intravenous infusions, and (4) complex interventions, treatments, and pharmacological interventions used to treat critically ill or injured patients within the critical care environment, including transport.

**Source:** Laws 2020, LB1002, § 17.

**38-1206.04. Emergency care provider.**

Emergency care provider includes all licensure classifications of emergency care providers established pursuant to the Emergency Medical Services Practice Act. Prior to December 31, 2025, emergency care provider includes advanced emergency medical technician, community paramedic, critical care paramedic, emergency medical responder, emergency medical technician, emergency medical technician-intermediate, and paramedic. On and after December 31, 2025, emergency care provider includes advanced emergency medical technician, community paramedic, critical care paramedic, emergency medical responder, emergency medical technician, and paramedic.

**Source:** Laws 2007, LB463, § 492; Laws 2018, LB1034, § 15; Laws 2020, LB1002, § 18.

**38-1207. Emergency medical service, defined; amendment of section; how construed.**

Emergency medical service means the organization responding to a perceived individual need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. The amendment of this section by Laws 2012, LB646, shall not be construed to modify or expand or authorize the modification or expansion of the scope of practice of any licensure classifications established pursuant to section 38-1217.

**Source:** Laws 2007, LB463, § 491; Laws 2012, LB646, § 1.

**38-1207.01. Emergency medical technician practice of emergency medical care, defined.**

Emergency medical technician practice of emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical technician. Such care includes, but is not limited to, (1) all of the acts that an emergency medical responder can perform, and (2) simple invasive interventions, management and transportation of individuals, and nonvisualized intubation.

**Source:** Laws 2018, LB1034, § 13; Laws 2020, LB1002, § 20.

**38-1207.02. Emergency medical technician-intermediate practice of emergency medical care, defined.**

Emergency medical technician-intermediate practice of emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for an emergency medical technician-intermediate. Such care includes, but is not limited to, (1) all of the acts that an advanced emergency medical technician can perform, and (2) visualized intubation. This section terminates on December 31, 2025.

**Source:** Laws 2018, LB1034, § 14; Laws 2020, LB1002, § 21.

**38-1208.01. Paramedic practice of emergency medical care, defined.**

Paramedic practice of emergency medical care means care provided in accordance with the knowledge and skill acquired through successful completion of an approved program for a paramedic. Such care includes, but is not limited to, (1) all of the acts that an emergency medical technician-intermediate can perform, and (2) surgical cricothyrotomy.

**Source:** Laws 2018, LB1034, § 16; Laws 2020, LB1002, § 22.

**38-1208.02. Practice of emergency medical care, defined.**

Practice of emergency medical care means the performance of any act using judgment or skill based upon the United States Department of Transportation education standards and guideline training requirements, the National Highway Traffic Safety Administration's National Emergency Medical Service Scope of Practice Model and National Emergency Medical Services Education Standards, an education program for a community paramedic or a critical care paramedic that is approved by the board and the Department of Health and Human Services, and permitted practices and procedures for the level of licensure listed in section 38-1217. Such acts include the identification of and intervention in actual or potential health problems of individuals and are directed toward addressing such problems based on actual or perceived traumatic or medical circumstances. Such acts are provided under therapeutic regimens ordered by a physician medical director or through protocols as provided by the Emergency Medical Services Practice Act.

**Source:** Laws 2018, LB1034, § 17; Laws 2020, LB1002, § 23.

**38-1209. Patient, defined.**

Patient means an individual who either identifies himself or herself as being in need of medical attention or upon assessment by an emergency care provider has an injury or illness requiring treatment.

**Source:** Laws 2007, LB463, § 493; Laws 2020, LB1002, § 24.

**38-1210. Physician medical director, defined.**

Physician medical director means a qualified physician who is responsible for the medical supervision of emergency care providers and verification of skill proficiency of emergency care providers pursuant to section 38-1217.

**Source:** Laws 2007, LB463, § 494; Laws 2020, LB1002, § 25.

**38-1211. Protocol, defined.**

Protocol means a set of written policies, procedures, and directions from a physician medical director to an emergency care provider concerning the medical procedures to be performed in specific situations.

**Source:** Laws 2007, LB463, § 495; Laws 2020, LB1002, § 26.

**38-1212. Qualified physician, defined.**

Qualified physician means an individual who is licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to the Uniform Credentialing Act and meets any other requirements established by rule and regulation.

**Source:** Laws 2007, LB463, § 496.

**38-1213. Qualified physician surrogate, defined.**

Qualified physician surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or renewal of licensure of emergency care providers.

**Source:** Laws 2007, LB463, § 497; Laws 2020, LB1002, § 27.

**38-1214. Standing order, defined.**

Standing order means a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances.

**Source:** Laws 2007, LB463, § 498.

**38-1215. Board; members; terms; meetings; removal.**

(1) The board shall have seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2)(a) Seven members of the board shall be active emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of licensure at the time of his or her appointment or reappointment. Of the seven members who are emergency care providers, two shall be emergency medical responders, two shall be emergency medical technicians, one shall be an advanced emergency medical technician, and two shall be paramedics.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified emergency physician, and at least one of the physician members shall specialize in pediatrics.

(c) Five members shall be appointed to include one member who is a representative of an approved training agency, one member who is a physician assistant with at least five years of experience and active in emergency medical care education, one member who is a registered nurse with at least five years of experience and active in emergency medical care education, and two public members who meet the requirements of section 38-165 and who have an expressed interest in the provision of emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board appointed after January 1, 2017, there shall be at least three members who are volunteer emergency medical care providers, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine whether or not the diversity in qualifications required in this subsection has been met.

(f) At least five members of the board shall be appointed from each congressional district, and at least one of such members shall be a physician member described in subdivision (b) of this subsection.

(3) Members shall serve five-year terms beginning on December 1 and may serve for any number of such terms. The terms of the members of the board appointed prior to December 1, 2008, shall be extended by two years and until December 1 of such year. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

(4) Special meetings of the board may be called by the department or upon the written request of any six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department.

(5) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional credential may be suspended or revoked pursuant to the Uniform Credentialing Act, or for a lack of license required by the Emergency Medical Services Practice Act.

(6) Except as provided in subsection (5) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her licensure classification after appointment or has a licensure classification which is terminated under section 38-1207.02 or 38-1217 when such licensure classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

**Source:** Laws 1997, LB 138, § 5; Laws 1998, LB 1073, § 146; Laws 2004, LB 821, § 18; R.S.Supp.,2006, § 71-5176; Laws 2007, LB463, § 499; Laws 2009, LB195, § 12; Laws 2016, LB952, § 1; Laws 2018, LB1034, § 18; Laws 2020, LB1002, § 28.

**Cross References**

- **Critical Incident Stress Management Program**, see section 71-7104.

**38-1216. Board; duties.**

In addition to any other responsibilities prescribed by the Emergency Medical Services Practice Act, the board shall:

- (1) Promote the dissemination of public information and education programs to inform the public about emergency medical service and other medical information, including appropriate methods of medical self-help, first aid, and the availability of emergency medical services training programs in the state;
- (2) Provide for the collection of information for evaluation of the availability and quality of emergency medical care, evaluate the availability and quality of emergency medical care, and serve as a focal point for discussion of the provision of emergency medical care;
- (3) Establish model procedures for patient management in medical emergencies that do not limit the authority of law enforcement and fire protection personnel to manage the scene during a medical emergency;
- (4) Not less than once each five years, undertake a review and evaluation of the act and its implementation together with a review of the emergency medical care needs of the residents of the State of Nebraska and submit electronically a report to the Legislature with any recommendations which it may have; and
- (5) Identify communication needs of emergency medical services and make recommendations for development of a communications plan for a communications network for emergency care providers and emergency medical services.

**Source:** Laws 1997, LB 138, § 6; R.S.1943, (2003), § 71-5177; Laws 2007, LB463, § 500; Laws 2012, LB782, § 38; Laws 2018, LB1034, § 19; Laws 2020, LB1002, § 29.

### **38-1217. Rules and regulations.**

The board shall adopt rules and regulations necessary to:

- (1) Create licensure requirements for advanced emergency medical technicians, community paramedics, critical care paramedics, emergency medical responders, emergency medical technicians, and paramedics and, until December 31, 2025, create renewal requirements for emergency medical technicians-intermediate. The rules and regulations shall include all criteria and qualifications for each classification determined to be necessary for protection of public health and safety;
- (2) Provide for temporary licensure of an emergency care provider who has completed the educational requirements for a licensure classification enumerated in subdivision (1) of this section but has not completed the testing requirements for licensure under such subdivision. A temporary license shall allow the person to practice only in association with a licensed emergency care provider under physician medical direction and shall be valid until the date on which the results of the next licensure examination are available to the department. The temporary license shall expire immediately if the applicant has failed the examination. In no case may a temporary license be issued for a period extending beyond one year. The rules and regulations shall include qualifications and training necessary for issuance of such temporary license, the practices and procedures authorized for a temporary licensee under this subdivision, and supervision required for a temporary licensee under this subdivision. The requirements of this subdivision and the rules and regulations adopted and promulgated pursuant to this subdivision do not apply to a temporary license issued as provided in section 38-129.01;
- (3) Provide for temporary licensure of an emergency care provider relocating to Nebraska, if such emergency care provider is lawfully authorized to practice in another state that has adopted the licensing standards of the EMS Personnel Licensure Interstate Compact. Such temporary licensure shall be valid for one year or until a license is issued and shall not be subject to renewal. The requirements of this subdivision do not apply to a temporary license issued as provided in section 38-129.01;
- (4) Set standards for the licensure of basic life support services and advanced life support services. The rules and regulations providing for licensure shall include standards and requirements for: Vehicles, equipment, maintenance, sanitation, inspections, personnel, training, medical direction, records maintenance, practices and procedures to be provided by employees or members of each classification of service, and other criteria for licensure established by the board;
- (5) Authorize emergency medical services to provide differing practices and procedures depending upon the qualifications of emergency care providers available at the time of service delivery. No emergency medical service shall be licensed to provide practices or procedures without the use of personnel licensed to provide the practices or procedures;
- (6) Authorize emergency care providers to perform any practice or procedure which they are authorized to perform with an emergency medical service other than the service with which they are affiliated when requested by the other service and when the patient for whom they are to render services is in danger of loss of life;
- (7) Provide for the approval of training agencies, provide for disciplinary or corrective action against training agencies, and establish minimum standards for services provided by training agencies;
- (8) Provide for the minimum qualifications of a physician medical director in addition to the licensure required by section 38-1212;
- (9) Provide for the use of physician medical directors, qualified physician surrogates, model protocols, standing orders, operating procedures, and guidelines which may be necessary or appropriate to carry out the purposes of



the Emergency Medical Services Practice Act. The model protocols, standing orders, operating procedures, and guidelines may be modified by the physician medical director for use by any emergency care provider or emergency medical service before or after adoption;

(10) Establish renewal and reinstatement requirements for emergency care providers and establish continuing competency requirements. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 38-145 which a licensed person may select as an alternative to continuing education. The reinstatement requirements for emergency care providers shall allow reinstatement at the same or any lower level of licensure for which the emergency care provider is determined to be qualified;

(11) Create licensure, renewal, and reinstatement requirements for emergency medical service instructors. The rules and regulations shall include the practices and procedures for licensure, renewal, and reinstatement;

(12) Establish criteria for emergency medical technicians-intermediate, advanced emergency medical technicians, emergency medical technicians, community paramedics, critical care paramedics, or paramedics performing activities within their scope of practice and as determined by a licensed health care practitioner as defined in section 38-1224; and

(13) Establish model protocols for compliance with the Stroke System of Care Act by an emergency medical service and an emergency care provider.

**Source:** Laws 1997, LB 138, § 7; Laws 1999, LB 498, § 2; Laws 2001, LB 238, § 1; Laws 2002, LB 1021, § 87; Laws 2002, LB 1033, § 1; R.S.1943, (2003), § 71-5178; Laws 2007, LB463, § 501; Laws 2009, LB195, § 13; Laws 2016, LB722, § 10; Laws 2017, LB88, § 48; Laws 2018, LB1034, § 20; Laws 2020, LB1002, § 30.

**Cross References**

- **EMS Personnel Licensure Interstate Compact**, see section 38-3801.
- **Stroke System of Care Act**, see section 71-4201.

**38-1218. Curricula for licensure classification; board; powers; military spouse; temporary license.**

(1) The board may approve curricula for the licensure classifications listed in the Emergency Medical Services Practice Act.

(2) The department and the board shall consider the following factors, in addition to other factors required or permitted by the Emergency Medical Services Practice Act, when adopting rules and regulations for a licensure classification:

(a) Whether the initial training required for licensure in the classification is sufficient to enable the emergency care provider to perform the practices and procedures authorized for the classification in a manner which is beneficial to the patient and protects public health and safety;

(b) Whether the practices and procedures to be authorized are necessary to the efficient and effective delivery of emergency medical care;

(c) Whether morbidity can be reduced or recovery enhanced by the use of the practices and procedures to be authorized for the classification; and

(d) Whether continuing competency requirements are sufficient to maintain the skills authorized for the classification.

(3) An applicant for licensure for a licensure classification listed in subdivision (1) of section 38-1217 who is a military spouse may apply for a temporary license as provided in section 38-129.01.

**Source:** Laws 1997, LB 138, § 8; Laws 2002, LB 1021, § 88; R.S.1943, (2003), § 71-5179; Laws 2007, LB463, § 502; Laws 2009, LB195, § 14; Laws 2017, LB88, § 49; Laws 2018, LB1034, § 21; Laws 2020, LB1002, § 31.

**38-1218.01. Decisions of Interstate Commission for Emergency Medical Services Personnel Practice; board; duties.**

The board shall review decisions of the Interstate Commission for Emergency Medical Services Personnel Practice established pursuant to the EMS Personnel Licensure Interstate Compact. Upon approval by the commission of any action that will have the result of increasing the cost to the state for membership in the compact, the board may recommend to the Legislature that Nebraska withdraw from the compact.

**Source:** Laws 2018, LB1034, § 22.

**Cross References**

- **EMS Personnel Licensure Interstate Compact**, see section 38-3801.

**38-1219. Department; additional rules and regulations.**

The department, with the recommendation of the board, shall adopt and promulgate rules and regulations necessary to:

(1) Administer the Emergency Medical Services Practice Act;

- (2) Establish procedures and requirements for applications for licensure, renewal, and reinstatement in any of the licensure classifications created pursuant to the Emergency Medical Services Practice Act;
- (3) Provide for the inspection, review, and termination of approval of training agencies. All training for licensure shall be provided through an approved training agency; and
- (4) Provide for the inspection, review, and termination of basic life support emergency medical services and advanced life support emergency medical services.

**Source:** Laws 2007, LB463, § 503; Laws 2009, LB195, § 15; Laws 2018, LB1034, § 23.

### **38-1220. Act; exemptions.**

The following are exempt from the licensing requirements of the Emergency Medical Services Practice Act:

- (1) The occasional use of a vehicle or aircraft not designated as an ambulance and not ordinarily used in transporting patients or operating emergency care, rescue, or resuscitation services;
- (2) Vehicles or aircraft rendering services as an ambulance in case of a major catastrophe or emergency when licensed ambulances based in the localities of the catastrophe or emergency are incapable of rendering the services required;
- (3) Ambulances from another state which are operated from a location or headquarters outside of this state in order to transport patients across state lines, but no such ambulance shall be used to pick up patients within this state for transportation to locations within this state except in case of an emergency;
- (4) Ambulances or emergency vehicles owned and operated by an agency of the United States Government and the personnel of such agency;
- (5) Except for the provisions of section 38-1232, physicians, physician assistants, registered nurses, or advanced practice registered nurses, who hold current Nebraska licenses and are exclusively engaged in the practice of their respective professions;
- (6) Persons authorized to perform emergency care in other states when incidentally working in Nebraska in response to an emergency situation; and
- (7) Students under the supervision of (a) a licensed emergency care provider performing emergency medical services that are an integral part of the training provided by an approved training agency or (b) an organization accredited by the Commission on Accreditation of Allied Health Education Programs for the level of training the student is completing.

**Source:** Laws 1997, LB 138, § 20; Laws 2000, LB 1115, § 76; Laws 2005, LB 256, § 94; R.S.Supp.,2006, § 71-5191; Laws 2007, LB463, § 504; Laws 2019, LB135, § 1; Laws 2020, LB1002, § 32.

### **38-1221. License; requirements.**

To be eligible for a license under the Emergency Medical Services Practice Act, an individual shall have attained the age of eighteen years and met the requirements established in accordance with section 38-1217.

**Source:** Laws 2007, LB463, § 505; Laws 2009, LB195, § 16; Laws 2016, LB722, § 11; Laws 2018, LB1034, § 24.

#### **Cross References**

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

### **38-1222. Fees.**

The department shall establish and collect fees for credentialing activities under the Emergency Medical Services Practice Act as provided in sections 38-151 to 38-157.

**Source:** Laws 2003, LB 242, § 129; R.S.1943, (2003), § 71-5181.01; Laws 2007, LB463, § 506.

### **38-1223. Physician medical director; required.**

Each licensed emergency medical service shall have a physician medical director.

**Source:** Laws 1997, LB 138, § 12; R.S.1943, (2003), § 71-5183; Laws 2007, LB463, § 507.

### **38-1224. Duties and activities authorized; limitations.**

- (1) An emergency care provider other than an emergency medical responder may not assume the duties incident to the title or practice the skills of an emergency care provider unless he or she is acting under the supervision of a licensed health care practitioner.
- (2) An emergency care provider may only practice the skills he or she is authorized to employ and which are covered by the license issued to such provider pursuant to the Emergency Medical Services Practice Act or as authorized pursuant to the EMS Personnel Licensure Interstate Compact.
- (3) A registered nurse may provide for the direction of an emergency care provider in any setting other than an emergency medical service.
- (4) For purposes of this section, licensed health care practitioner means (a) a physician medical director or physician surrogate for purposes of supervision of an emergency care provider for an emergency medical service

or (b) a physician, a physician assistant, or an advanced practice registered nurse for purposes of supervision of an emergency care provider in a setting other than an emergency medical service.

**Source:** Laws 1997, LB 138, § 13; Laws 1998, LB 1073, § 147; Laws 2002, LB 1033, § 2; R.S.1943, (2003), § 71-5184; Laws 2007, LB463, § 508; Laws 2009, LB195, § 17; Laws 2018, LB1034, § 25; Laws 2020, LB1002, § 33.

#### **Cross References**

- **EMS Personnel Licensure Interstate Compact**, see section 38-3801.

#### **38-1225. Patient data; confidentiality; immunity.**

(1) No patient data received or recorded by an emergency medical service or an emergency care provider shall be divulged, made public, or released by an emergency medical service or an emergency care provider, except that patient data may be released for purposes of treatment, payment, and other health care operations as defined and permitted under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2018, or as otherwise permitted by law. Such data shall be provided to the department for public health purposes pursuant to rules and regulations of the department. For purposes of this section, patient data means any data received or recorded as part of the records maintenance requirements of the Emergency Medical Services Practice Act.

(2) Patient data received by the department shall be confidential with release only (a) in aggregate data reports created by the department on a periodic basis or at the request of an individual, (b) as case-specific data to approved researchers for specific research projects, (c) as protected health information to a public health authority, as such terms are defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2018, and (d) as protected health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2018, to an emergency medical service, to an emergency care provider, or to a licensed health care facility for purposes of treatment. A record may be shared with the emergency medical service or emergency care provider that reported that specific record. Approved researchers shall maintain the confidentiality of the data, and researchers shall be approved in the same manner as described in section 81-666. Aggregate reports shall be public documents.

(3) No civil or criminal liability of any kind or character for damages or other relief or penalty shall arise or be enforced against any person or organization by reason of having provided patient data pursuant to this section.

**Source:** Laws 1997, LB 138, § 14; Laws 2003, LB 667, § 11; R.S.1943, (2003), § 71-5185; Laws 2007, LB185, § 42; Laws 2007, LB463, § 509; Laws 2018, LB1034, § 26; Laws 2020, LB1002, § 34.

#### **38-1226. Ambulance; transportation requirements.**

No ambulance shall transport any patient upon any street, road, highway, airspace, or public way in the State of Nebraska unless such ambulance, when so transporting patients, is occupied by at least one licensed emergency care provider. Such requirement shall be met if any of the individuals providing the service is a licensed physician, registered nurse, or licensed physician assistant, functioning within the scope of practice of his or her license.

**Source:** Laws 1997, LB 138, § 15; R.S.1943, (2003), § 71-5186; Laws 2007, LB463, § 510; Laws 2020, LB1002, § 35.

#### **38-1227. Motor vehicle ambulance; driver privileges.**

The driver of a licensed motor vehicle ambulance who holds a valid driver's license issued by the state of his or her residence may exercise the privileges set forth in Nebraska statutes relating to emergency vehicles when responding to an emergency call or while transporting a patient.

**Source:** Laws 1997, LB 138, § 16; R.S.1943, (2003), § 71-5187; Laws 2007, LB463, § 511.

#### **38-1228. Department; waive rule, regulation, or standard; when.**

The department, with the approval of the board, may, whenever it deems appropriate, waive any rule, regulation, or standard relating to the licensure of emergency medical services or emergency care providers when the lack of a licensed emergency medical service in a municipality or other area will create an undue hardship in the municipality or other area in meeting the emergency medical service needs of the residents thereof.

**Source:** Laws 1997, LB 138, § 17; R.S.1943, (2003), § 71-5188; Laws 2007, LB463, § 512; Laws 2020, LB1002, § 36.

#### **38-1229. License; person on national registry.**

The department may issue a license to any individual who has a current certificate from the National Registry of Emergency Medical Technicians.

**Source:** Laws 1997, LB 138, § 18; R.S.1943, (2003), § 71-5189; Laws 2007, LB463, § 513; Laws 2018, LB1034, § 27.

**38-1230. License; sale, transfer, or assignment; prohibited.**

A license issued under the Emergency Medical Services Practice Act shall not be sold, transferred, or assigned by the holder. Any change of ownership of an emergency medical service requires a new application and a new license.

**Source:** Laws 1997, LB 138, § 19; R.S.1943, (2003), § 71-5190; Laws 2007, LB463, § 514.

**38-1231. Person objecting to treatment; effect.**

The Emergency Medical Services Practice Act or the rules or regulations shall not be construed to authorize or require giving any medical treatment to a person who objects to such treatment on religious or other grounds or to authorize the transportation of such person to a medical facility.

**Source:** Laws 1997, LB 138, § 22; R.S.1943, (2003), § 71-5193; Laws 2007, LB463, § 515.

**38-1232. Individual liability.**

(1) No emergency care provider, physician assistant, registered nurse, or licensed practical nurse who provides public emergency care shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of his or her rendering in good faith any such care.

Nothing in this subsection shall be deemed to grant any such immunity for liability arising out of the operation of any motor vehicle, aircraft, or boat or while such person was impaired by alcoholic liquor or any controlled substance enumerated in section 28-405 in connection with such care, nor shall immunity apply to any person causing damage or injury by his or her willful, wanton, or grossly negligent act of commission or omission.

(2) No qualified physician or qualified physician surrogate who gives orders, either orally or by communication equipment, to any emergency care provider at the scene of an emergency, no emergency care provider following such orders within the limits of his or her licensure, and no emergency care provider trainee in an approved training program following such orders, shall be liable civilly or criminally by reason of having issued or followed such orders but shall be subject to the rules of law applicable to negligence.

(3) No physician medical director shall incur any liability by reason of his or her use of any unmodified protocol, standing order, operating procedure, or guideline provided by the board pursuant to subdivision (9) of section 38-1217.

**Source:** Laws 1997, LB 138, § 23; R.S.1943, (2003), § 71-5194; Laws 2007, LB463, § 516; Laws 2009, LB195, § 18; Laws 2018, LB1034, § 28; Laws 2020, LB1002, § 37.

**38-1233. Emergency care provider; liability relating to consent.**

No emergency care provider shall be subject to civil liability based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age when the patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

**Source:** Laws 1997, LB 138, § 24; R.S.1943, (2003), § 71-5195; Laws 2007, LB463, § 517; Laws 2020, LB1002, § 38.

**38-1234. Emergency care provider; liability within scope of practice.**

No act of commission or omission of any emergency care provider while rendering emergency medical care within the limits of his or her licensure or status as a trainee to a person who is deemed by the provider to be in immediate danger of injury or loss of life shall impose any liability on any other person, and this section shall not relieve the emergency care provider from personal liability, if any.

**Source:** Laws 1997, LB 138, § 25; R.S.1943, (2003), § 71-5196; Laws 2007, LB463, § 518; Laws 2020, LB1002, § 39.

**38-1235. Department; accept gifts.**

The department may accept from any person, in the name of and for the state, services, equipment, supplies, materials, or funds by way of bequest, gift, or grant for the purposes of promoting emergency medical care. Any such funds received shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

**Source:** Laws 1997, LB 138, § 26; R.S.1943, (2003), § 71-5197; Laws 2007, LB296, § 604; Laws 2007, LB463, § 519.

**38-1236. Act; construction with other laws.**

The provisions of the Emergency Medical Services Practice Act shall not be construed to supersede, limit, or otherwise affect the state emergency management laws or any interstate civil defense compact participated in by the State of Nebraska dealing with the licenses for professional, mechanical, or other skills of persons performing emergency management functions.

**Source:** Laws 1997, LB 138, § 27; R.S.1943, (2003), § 71-5198; Laws 2007, LB463, § 520.

### **38-1237. Prohibited acts.**

It shall be unlawful for any person who has not been licensed pursuant to the Emergency Medical Services Practice Act or authorized pursuant to the EMS Personnel Licensure Interstate Compact to hold himself or herself out as an emergency care provider, to use any other term to indicate or imply that he or she is an emergency care provider, or to act as such a provider without a license therefor. It shall be unlawful for any person to operate a training agency for the initial training or renewal or reinstatement of licensure of emergency care providers unless the training agency is approved pursuant to rules and regulations of the department. It shall be unlawful for any person to operate an emergency medical service unless such service is licensed.

**Source:** Laws 1997, LB 138, § 28; R.S.1943, (2003), § 71-5199; Laws 2007, LB463, § 521; Laws 2018, LB1034, § 29; Laws 2020, LB1002, § 40.

### **Cross References**

- **EMS Personnel Licensure Interstate Compact**, see section 38-3801.

## **STATUTES PERTAINING TO EMS PERSONNEL LICENSURE INTERSTATE COMPACT**

**38.3801. The State of Nebraska adopts the EMS Personnel Licensure Interstate Compact in the form substantially as follows:**

### **ARTICLE 1. PURPOSE**

In order to protect the public through verification of competency and ensure accountability for patient-care-related activities, all states license emergency medical services personnel, such as emergency medical technicians, advanced emergency medical technicians, and paramedics. The EMS Personnel Licensure Interstate Compact is intended to facilitate the day-to-day movement of emergency medical services personnel across state boundaries in the performance of their emergency medical services duties as assigned by an appropriate authority and authorize state emergency medical services offices to afford immediate legal recognition to emergency medical services personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of emergency medical services personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

1. Increase public access to emergency medical services personnel;
2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
3. Encourage the cooperation of member states in the areas of emergency medical services personnel licensure and regulation;
4. Support licensing of military members who are separating from an active duty tour and their spouses;
5. Facilitate the exchange of information between member states regarding emergency medical services personnel licensure, adverse action, and significant investigatory information;
6. Promote compliance with the laws governing emergency medical services personnel practice in each member state; and
7. Invest all member states with the authority to hold emergency medical services personnel accountable through the mutual recognition of member state licenses.

### **ARTICLE 2. DEFINITIONS**

In the EMS Personnel Licensure Interstate Compact:

A. Advanced emergency medical technician (AEMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. Adverse action means any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state EMS authority.

C. Alternative program means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

- D. Certification means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.
- E. Commission means the national administrative body of which all states that have enacted the compact are members.
- F. Emergency medical services (EMS) means services provided by emergency medical services personnel.
- G. Emergency medical services (EMS) personnel includes emergency medical technicians, advanced emergency medical technicians, and paramedics.
- H. Emergency medical technician (EMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
- I. Home state means a member state where an individual is licensed to practice emergency medical services.
- J. License means the authorization by a state for an individual to practice as an EMT, an AEMT, or a paramedic.
- K. Medical director means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.
- L. Member state means a state that has enacted the EMS Personnel Licensure Interstate Compact.
- M. Privilege to practice means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.
- N. Paramedic means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.
- O. Remote state means a member state in which an individual is not licensed.
- P. Restricted means the outcome of an adverse action that limits a license or the privilege to practice.
- Q. Rule means a written statement by the commission promulgated pursuant to Article 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of this compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.
- R. Scope of practice means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.
- S. Significant investigatory information means:
1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or
  2. Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.
- T. State means any state, commonwealth, district, or territory of the United States.
- U. State EMS authority means the board, office, or other agency with the legislative mandate to license EMS personnel.

### **ARTICLE 3. HOME STATE LICENSURE**

- A. Any member state in which an individual holds a current license shall be deemed a home state for purposes of the EMS Personnel Licensure Interstate Compact.
- B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.
- C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:
1. Currently requires the use of the National Registry of Emergency Medical Technicians examination as a condition of issuing initial licenses at the EMT and paramedic levels;
  2. Has a mechanism in place for receiving and investigating complaints about individuals;
  3. Notifies the commission, in compliance with the terms of this compact, of any adverse action or significant investigatory information regarding an individual;
  4. No later than five years after activation of this compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. 731.202 and submit documentation of such as promulgated in the rules of the commission; and
  5. Complies with the rules of the commission.

### **ARTICLE 4. COMPACT PRIVILEGE TO PRACTICE**

- A. Member states shall recognize the privilege to practice of an individual license in another member state that is in conformance with Article 3 of the EMS Personnel Licensure Interstate Compact.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least eighteen years of age;
2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and
3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

D. Except as provided in section C of this Article, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, it shall promptly notify the home state and the commission.

E. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked, the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

#### **ARTICLE 5. CONDITIONS OF PRACTICE IN A REMOTE STATE**

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;
2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;
3. The individual enters a remote state to provide patient care or transport within that remote state;
4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;
5. Other conditions as determined by rules promulgated by the commission.

#### **ARTICLE 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT**

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact, all relevant terms and provisions of the compact shall apply and to the extent any terms or provisions of the EMS Personnel Licensure Interstate Compact conflict with the Emergency Management Assistance Compact, the terms of the Emergency Management Assistance Compact shall prevail with respect to any individual practicing in the remote state in response to such declaration.

#### **ARTICLE 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES**

A. Member states shall consider a veteran, an active military service member, and a member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted National Registry of Emergency Medical Technicians certification at or above the level of the state license sought as satisfying the minimum training and examination requirements for such licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour and their spouses.

C. All individuals functioning with a privilege to practice under this Article remain subject to the adverse actions provisions of Article 8 of the EMS Personnel Licensure Interstate Compact.

#### **ARTICLE 8. ADVERSE ACTIONS**

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from the state EMS authority of both the home state and the remote state.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from the state EMS authority of both the home state and the remote state.

C. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

F. A home state's state EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

G. Nothing in the EMS Personnel Licensure Interstate Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

#### **ARTICLE 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S STATE EMS AUTHORITY**

A member state's state EMS authority, in addition to any other powers granted under state law, is authorized under the EMS Personnel Licensure Interstate Compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's state EMS authority for the attendance and testimony of witnesses, or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

#### **ARTICLE 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE**

A. The member states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The commission is a body politic and an instrumentality of the member states.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in the EMS Personnel Licensure Interstate Compact shall be construed to be a waiver of sovereign immunity.

##### **B. Membership, Voting, and Meetings**

1. Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the member state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article 12 of this compact.

5. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

a. Noncompliance of a member state with its obligations under this compact;

b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;



- h. Disclosure of investigatory records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or
- j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this Article, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. The commission shall, by a majority vote of the delegates, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

1. Establishing the fiscal year of the commission;
2. Providing reasonable standards and procedures:
  - a. For the establishment and meetings of other committees; and
  - b. Governing any general or specific delegation of any authority or function of the commission;
3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;
4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission;
5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
6. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;
7. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving and obligations;
8. The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.
9. The commission shall maintain its financial records in accordance with the bylaws.
10. The commission shall meet and take such actions as are consistent with this compact and the bylaws.

D. The commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;
2. To bring and prosecute legal proceedings or actions in the name of the commission. The standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;
3. To purchase and maintain insurance and bonds;
4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same. At all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed. At all times the commission shall strive to avoid any appearance of impropriety;
8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
9. To establish a budget and make expenditures;

10. To borrow money;
11. To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
12. To provide and receive information from, and to cooperate with, law enforcement agencies;
13. To adopt and use an official seal; and
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.

#### E. Financing of the Commission

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.
4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.
5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

#### F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the commission shall have no greater liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, than a state employee would have under the same or similar circumstances. Nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.
2. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities. Nothing in this paragraph shall be construed to prohibit that person from retaining his or her own counsel. The commission shall provide such defense if the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

### **ARTICLE 11. COORDINATED DATA BASE**

- A. The commission shall provide for the development and maintenance of a coordinated data base and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.
- B. A member state shall submit a uniform data set to the coordinated data base on all individuals to whom the EMS Personnel Licensure Interstate Compact is applicable as required by the rules of the commission, including:
  1. Identifying information;
  2. Licensure data;
  3. Significant investigatory information;
  4. Adverse actions against an individual's license;
  5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked;

6. Nonconfidential information related to alternative program participation;
  7. Any denial of application for licensure, and the reason for such denial; and
  8. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.
- C. The coordinated data base administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.
- D. Member states contributing information to the coordinated data base may designate information that may not be shared with the public without the express permission of the contributing state.
- E. Any information submitted to the coordinated data base that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated data base.

## **ARTICLE 12. RULEMAKING**

- A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
- B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the EMS Personnel Licensure Interstate Compact, then such rule shall have no further force and effect in any member state.
- C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.
- D. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:
1. On the web site of the commission; and
  2. On the web site of each member state's state EMS authority or the publication in which each state would otherwise publish proposed rules.
- E. The notice of proposed rulemaking shall include:
1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
  2. The text of the proposed rule or amendment and the reason for the proposed rule;
  3. A request for comments on the proposed rule from any interested person; and
  4. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.
- F. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.
- G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
1. At least twenty-five persons;
  2. A governmental subdivision or agency; or
  3. An association having at least twenty-five members.
- H. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.
1. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.
  2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
  3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.
  4. Nothing in this Article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this Article.
- I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
- J. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- K. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.
- L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing. The usual rulemaking procedures provided in this compact

and in this Article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For purposes of this paragraph, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

## **ARTICLE 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

### **A. Oversight**

1. The executive, legislative, and judicial branches of state government in each member state shall enforce the EMS Personnel Licensure Interstate Compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent. This compact and the rules promulgated under this compact shall have standing as statutory law.
2. All courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
3. The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

### **B. Default, Technical Assistance, and Termination**

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:
  - a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and
  - b. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to cure the default, the defaulting state may be terminated from this compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature or the speaker if no such leaders exist, and each of the member states.
4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this compact, unless agreed upon in writing between the commission and the defaulting state.
6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

### **C. Dispute Resolution**

1. Upon request by a member state, the commission shall attempt to resolve disputes related to this compact that arise among member states and between member and nonmember states.
2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

### **D. Enforcement**

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to

enforce compliance with this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies in this Article shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

#### **ARTICLE 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT**

A. The EMS Personnel Licensure Interstate Compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

C. Any member state may withdraw from this compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's state EMS authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does with this compact.

E. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

#### **ARTICLE 15. CONSTRUCTION AND SEVERABILITY**

The EMS Personnel Licensure Interstate Compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

**Source:** Laws 2018, LB1034, § 69.

##### **Cross References**

- **Emergency Management Assistance Compact**, see section 1-124, Appendix, Nebraska Revised Statutes, Volume 2A.

##### **(a) EMERGENCY MEDICAL TECHNICIANS**

**71-5101 to 51-5165. Repealed.** Laws 1997, LB 138, §57.

##### **(c) EMERGENCY MEDICAL SERVICES ACT**

**71-5172. Transferred** to section 38-1201.

**71-5173. Transferred** to section 38-1202.

**71-5174. Transferred** to section 38-1203.

**71-5175. Transferred** to section 38-1204.

**71-5176. Transferred** to section 38-1215.

**71-5177. Transferred** to section 38-1216.

**71-5178. Transferred** to section 38-1217.

**71-5179. Transferred** to section 38-1218.

**71-5180. Repealed.** Laws 2007, LB 463, § 1319.

**71-5181. Repealed.** Laws 2007, LB 463, § 1319.

**71-5181.01. Transferred** to section 38-1222.

**71-5182. Repealed.** Laws 2007, LB 463, § 1319.

**71-5183. Transferred** to section 38-1223.

**71-5184. Transferred** to section 38-1224.

**71-5185. Transferred** to section 38-1225.

**71-5186. Transferred** to section 38-1226.

**71-5187. Transferred** to section 38-1227.

- 71-5188. **Transferred** to section 38-1228.
- 71-5189. **Transferred** to section 38-1229.
- 71-5190. **Transferred** to section 38-1230.
- 71-5191. **Transferred** to section 38-1220.
- 71-5192. **Repealed.** Laws 2007, LB 463, § 1319.
- 71-5193. **Transferred** to section 38-1231.
- 71-5194. **Transferred** to section 38-1232.
- 71-5195. **Transferred** to section 38-1233.
- 71-5196. **Transferred** to section 38-1234.
- 71-5197. **Transferred** to section 38-1235.
- 71-5198. **Transferred** to section 38-1236.
- 71-5199. **Transferred** to section 38-1237.
- 71-51,100. **Repealed.** Laws 2007, LB 463, § 1319.
- 71-51,101. **Repealed.** Laws 1997, LB 90, § 8.

**(d) AUTOMATED EXTERNAL DEFIBRILLATOR**

**71-51,102. Automated external defibrillator; use; conditions; liability.** (1) For purposes of this section:

- (a) Automated external defibrillator means a device that:
  - (i) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention of an operator, whether defibrillation should be performed; and
  - (ii) Automatically charges and requests delivery of an electrical impulse to an individual's heart when it has identified a condition for which defibrillation should be performed;
- (b) Emergency medical service means an emergency medical service as defined in section 38-1207;
- (c) Health care facility means a health care facility as defined in section 71-413;
- (d) Health care practitioner facility means a health care practitioner facility as defined in section 71-414; and
- (e) Health care professional means any person who is licensed, certified, or registered by the Department of Health and Human Services and who is authorized within his or her scope of practice to use an automated external defibrillator.

(2) Except for the action or omission of a health care professional acting in such capacity or in a health care facility, no person who delivers emergency care or treatment using an automated external defibrillator shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of rendering such care or treatment in good faith. Nothing in this subsection shall be construed to (a) grant immunity for any willful, wanton, or grossly negligent acts of commission or omission or (b) limit the immunity provisions for certain health care professionals as provided in section 38-1232.

(3) A person acquiring an automated external defibrillator shall notify the local emergency medical service of the existence, location, and type of the defibrillator and of any change in the location of such defibrillator unless the defibrillator was acquired for use in a private residence, a health care facility, or a health care practitioner facility.

**Source:** Laws 1999, LB 498, § 1; Laws 2000, LB 819, § 111; Laws 2003, LB 667, § 12; Laws 2005, LB 176, § 1; Laws 2007, LB296, § 605; Laws 2007, LB463, § 1221. The changes made by LB 296 became operative July 1, 2007. The changes made by LB 463 became operative December 1, 2008.

**(e) NEBRASKA EMERGENCY MEDICAL SYSTEM OPERATIONS FUND**

**71-51,103. Nebraska Emergency Medical System Operations Fund; created; use; investment.** There is hereby created the Nebraska Emergency Medical System Operations Fund. The fund may receive gifts, bequests, grants, fees, or other contributions or donations from public or private entities. The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical Services Practice Act, including activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Source:** Laws 2001, LB 191, § 2; Laws 2007, LB296, § 606; Laws 2007, LB463 § 1222; Laws 2012, LB782, §119; Laws 2013, LB222, § 28. Effective Date: May 8, 2013.

## **STATUTES PERTAINING TO EMERGENCY MEDICAL CARE**

**71-5501 to 71-5518. Repealed.** Laws 1997, LB 138, §57.

**71-5519. Transferred** to section 71-5501.01.

**71-5520 to 71-5521.01. Repealed.** Laws 1997, LB 138, §57.

**71-5522. Transferred** to section 71-5514.01.

**71-5523. Repealed.** Laws 1997, LB 138, §57.

## **STATUTES PERTAINING TO THE FIRST RESPONDERS EMERGENCY RESCUE ACT**

**71-7301 to 71-7318. Repealed.** Laws 1997, LB 138, §57.