

**EMERGENCY MEDICAL SERVICES SYSTEMS ACT**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Leonard M. Blackham**

AN ACT RELATING TO HEALTH; REPEALING AND ENACTING THE EMERGENCY MEDICAL SERVICES SYSTEM ACT; DEFINING TERMS; CREATING AN EMERGENCY MEDICAL SERVICES COMMITTEE; EXTENDING RULEMAKING AUTHORITY TO THE COMMITTEE AND THE DEPARTMENT; PERMITTING RULES TO BE WAIVED; ESTABLISHING EMERGENCY MEDICAL SERVICE PROGRAMS, PLANS, AND DUTIES; AMENDING THE EMERGENCY MEDICAL SERVICES GRANT PROGRAM; ESTABLISHING CERTIFICATE REQUIREMENTS FOR PERSONNEL, DESIGNATION REQUIREMENTS FOR FACILITIES AND PROVIDERS, PERMIT REQUIREMENTS FOR EMERGENCY MEDICAL VEHICLES, LICENSING REQUIREMENTS FOR AMBULANCE PROVIDERS AND PARAMEDIC PROVIDERS, AND PROVIDING EXEMPTIONS; ESTABLISHING STATE REGULATION OF THE EMERGENCY MEDICAL SERVICES MARKET; REQUIRING THE DEPARTMENT TO SET JUST AND REASONABLE RATES AND TO CREATE EXCLUSIVE GEOGRAPHIC SERVICE AREAS FOR LICENSED PROVIDERS; CREATING AN ADMINISTRATIVE PROCESS FOR ISSUING LICENCES FOR EXCLUSIVE GEOGRAPHIC SERVICE AREAS TO AMBULANCE AND PARAMEDIC PROVIDERS; ESTABLISHING THE REQUIREMENT OF PUBLIC CONVENIENCE AND NECESSITY; PERMITTING THE DEPARTMENT TO TAKE DISCIPLINARY ACTION; AUTHORIZING THE DEPARTMENT TO CONDUCT INSPECTIONS; MAKING TECHNICAL AND CONFORMING AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**26-6a-1**, as last amended by Chapter 282, Laws of Utah 1998

**58-57-7**, as last amended by Chapter 297, Laws of Utah 1993

**62A-12-232**, as last amended by Chapter 142, Laws of Utah 1995

**63-46b-1**, as last amended by Chapter 375, Laws of Utah 1997

**63-63a-3**, as last amended by Chapter 156, Laws of Utah 1993

**63C-7-202**, as enacted by Chapter 136, Laws of Utah 1997

**75-2-1105.5**, as enacted by Chapter 45, Laws of Utah 1993

**76-5-102.7**, as enacted by Chapter 4, Laws of Utah 1997

**76-10-915**, as enacted by Chapter 79, Laws of Utah 1979

**78-29-101**, as last amended by Chapter 282, Laws of Utah 1998

**ENACTS:**

**26-8a-101**, Utah Code Annotated 1953

**26-8a-102**, Utah Code Annotated 1953

**26-8a-104**, Utah Code Annotated 1953

**26-8a-105**, Utah Code Annotated 1953

**26-8a-106**, Utah Code Annotated 1953

**26-8a-201**, Utah Code Annotated 1953

**26-8a-202**, Utah Code Annotated 1953

**26-8a-203**, Utah Code Annotated 1953

**26-8a-204**, Utah Code Annotated 1953

**26-8a-205**, Utah Code Annotated 1953

**26-8a-206**, Utah Code Annotated 1953

**26-8a-208**, Utah Code Annotated 1953

**26-8a-301**, Utah Code Annotated 1953

**26-8a-302**, Utah Code Annotated 1953

**26-8a-303**, Utah Code Annotated 1953

**26-8a-304**, Utah Code Annotated 1953

**26-8a-305**, Utah Code Annotated 1953

**26-8a-306**, Utah Code Annotated 1953

**26-8a-307**, Utah Code Annotated 1953

**26-8a-308**, Utah Code Annotated 1953

**26-8a-309**, Utah Code Annotated 1953  
**26-8a-310**, Utah Code Annotated 1953  
**26-8a-401**, Utah Code Annotated 1953  
**26-8a-402**, Utah Code Annotated 1953  
**26-8a-403**, Utah Code Annotated 1953  
**26-8a-404**, Utah Code Annotated 1953  
**26-8a-405**, Utah Code Annotated 1953  
**26-8a-406**, Utah Code Annotated 1953  
**26-8a-407**, Utah Code Annotated 1953  
**26-8a-408**, Utah Code Annotated 1953  
**26-8a-409**, Utah Code Annotated 1953  
**26-8a-410**, Utah Code Annotated 1953  
**26-8a-411**, Utah Code Annotated 1953  
**26-8a-412**, Utah Code Annotated 1953  
**26-8a-413**, Utah Code Annotated 1953  
**26-8a-414**, Utah Code Annotated 1953  
**26-8a-415**, Utah Code Annotated 1953  
**26-8a-416**, Utah Code Annotated 1953  
**26-8a-501**, Utah Code Annotated 1953  
**26-8a-502**, Utah Code Annotated 1953  
**26-8a-503**, Utah Code Annotated 1953  
**26-8a-504**, Utah Code Annotated 1953  
**26-8a-505**, Utah Code Annotated 1953  
**26-8a-506**, Utah Code Annotated 1953  
**26-8a-507**, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

**26-8a-103**, (Renumbered from 26-8-3, as last amended by Chapters 194 and 243, Laws of Utah 1996)

**26-8a-207**, (Renumbered from 26-8-2.5, as last amended by Chapter 156, Laws of Utah 1993)

**26-8a-601**, (Renumbered from 26-8-11, as last amended by Chapter 320, Laws of Utah 1990)

**REPEALS:**

**26-8-1**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-2**, as last amended by Chapter 288, Laws of Utah 1994

**26-8-4**, as last amended by Chapter 288, Laws of Utah 1994

**26-8-5**, as last amended by Chapter 169, Laws of Utah 1988

**26-8-5.5**, as enacted by Chapter 195, Laws of Utah 1993

**26-8-6**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-7**, as last amended by Chapter 170, Laws of Utah 1996

**26-8-7.5**, as enacted by Chapter 90, Laws of Utah 1998

**26-8-8**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-9**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-10**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-12**, as last amended by Chapter 161, Laws of Utah 1987

**26-8-13**, as enacted by Chapter 126, Laws of Utah 1981

**26-8-14**, as enacted by Chapter 126, Laws of Utah 1981

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **26-6a-1** is amended to read:

**26-6a-1. Definitions.**

For purposes of this chapter:

(1) "Designated agent" means a person or persons designated by an agency employing or utilizing emergency medical services providers as employees or volunteers to receive and distribute test results in accordance with this chapter.

(2) "Disability" means the event of becoming physically incapacitated from performing any work for remuneration or profit.

(3) "Disease" means Acquired Immunodeficiency Syndrome, Human Immunodeficiency Virus infection, Hepatitis B, Hepatitis B seropositivity, and any other infectious disease designated by the department.

(4) "Emergency medical services agency" means an agency, entity, or organization that employs or utilizes emergency medical services providers as employees or volunteers.

(5) "Emergency medical services provider" means ~~[an emergency medical technician as defined in Section 26-8-2]~~ a person certified under Section 26-8a-302, a peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, local fire department personnel, or officials or personnel employed by the Department of Corrections or by a county jail, who provides prehospital emergency medical care for an emergency medical services agency either as an employee or as a volunteer.

(6) "Patient" means any individual cared for by an emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections.

(7) "Significant exposure" means:

(a) contact of an emergency medical services provider's broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration;

(b) that a needle stick, or scalpel or instrument wound has occurred in the process of caring for a patient; or

(c) exposure that occurs by any other method of transmission defined by the department as a significant exposure.

Section 2. Section **26-8a-101** is enacted to read:

## **CHAPTER 8a. UTAH EMERGENCY MEDICAL SERVICES SYSTEM ACT**

### **Part 1. General Provisions**

#### **26-8a-101. Title.**

This chapter is known as the "Utah Emergency Medical Services System Act."

Section 3. Section **26-8a-102** is enacted to read:

#### **26-8a-102. Definitions.**

As used in this chapter:

(1) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(2) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(3) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(4) (a) "Critical care categorization guidelines" means a stratified profile of hospital critical care services related to emergency patient condition which aids a physician in selecting the most appropriate facility for critical patient referral.

(b) Guideline categories include trauma, spinal cord, burns, high risk infant, pediatrics, poisons, cardiac, respiratory, and psychiatric.

(5) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual certified under Section 26-8a-302.

(6) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or his designee requires direct medical observation during transport or may require the intervention of an individual certified under Section 26-8a-302 during transport.

(7) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services to a patient and is

required to be certified under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, and other categories established by the committee.

(8) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Section 26-8a-303; and

(c) emergency medical service personnel.

(9) "Emergency medical services" means medical services, transportation services, or both rendered to a patient.

(10) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(11) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(12) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(13) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(14) "Patient" means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

Section 4. Section **26-8a-103**, which is renumbered from Section 26-8-3 is renumbered and amended to read:

**[26-8-3].      26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.**

(1) The State Emergency Medical Services Committee created by Section 26-1-7 shall be composed of ~~[14]~~ the following 16 members appointed by the governor~~[-The members are]~~, at least five of whom must reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed [to practice in this state, who practice in the following areas] under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

- (i) one [trauma] surgeon who actively provides trauma care at a hospital;
- (ii) one rural physician [practicing in a rural area] involved in emergency medical care;
- (iii) two physicians who practice in the emergency department of a general acute hospital;

and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) one representative from a private ambulance [services representative] provider;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

~~[(e)]~~ (d) two chief officers from fire [chiefs, one who is a paramedic services provider and one who is an advanced life support provider] agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d);

~~[(d)]~~ (e) one [local public safety agency] director of [an] a law enforcement agency that provides emergency medical services;

~~[(e)]~~ (f) one hospital administrator;

~~[(f)]~~ (g) one emergency care nurse;



~~[(g)]~~ (h) one ~~[emergency medical technician-paramedic]~~ paramedic in active field practice;  
~~[(h)]~~ (i) one emergency medical technician ~~[with basic or advanced life support certification;~~  
~~and]~~ in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center; and

~~[(i)]~~ (k) one consumer.

(2) (a) Except as ~~[required by]~~ provided in Subsection (2)(b), members shall be appointed ~~[for a term of four years with terms]~~ to a four-year term beginning July 1.

(b) Notwithstanding ~~[the requirements of]~~ Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term ~~[by the governor]~~.

(3) (a) ~~[The]~~ Each January, the committee shall organize ~~[annually]~~ and select one of its members as chair and one member as vice chair. ~~[The chair or vice chair shall be a physician.]~~ The committee may organize standing or ad hoc subcommittees~~[-but members may not serve on standing committees]~~, which shall operate in accordance with guidelines established by the committee.

(b) The chair shall convene a minimum of four meetings per year. ~~[Special]~~ The chair may call special meetings ~~[may be called by the chair and]~~. The chair shall [be called by the chair] call a meeting upon receipt of a written request signed by five or more members of the committee.

(c) ~~[Eight]~~ Nine members of the committee constitute a quorum for the transaction of business and the action of a majority of the members present is the action of the committee.

(4) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(5) Administrative services for the committee shall be provided by the department.

Section 5. Section **26-8a-104** is enacted to read:

**26-8a-104. Committee powers.**

The committee shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that:

- (1) establish certification and reciprocity requirements under Section 26-8a-302;
- (2) establish designation requirements under Section 26-8a-303;
- (3) promote the development of a statewide emergency medical services system under Section 26-8a-203;
- (4) establish insurance requirements for ambulance providers;
- (5) provide guidelines for requiring patient data under Section 26-8a-203;
- (6) establish criteria for awarding grants under Section 26-8a-207;
- (7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306; and
- (8) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.

Section 6. Section **26-8a-105** is enacted to read:

**26-8a-105. Department powers.**

The department shall:

- (1) coordinate the emergency medical services within the state;
- (2) administer this chapter and the rules established pursuant to it;
- (3) establish a voluntary task force representing a diversity of emergency medical service providers to advise the department and the committee on rules; and
- (4) adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to:
  - (a) license ambulance providers and paramedic providers;
  - (b) permit ambulances and emergency response vehicles;
  - (c) establish application, submission, and procedural requirements for licenses, designations, certificates, and permits; and
  - (d) establish and implement the programs, plans, and responsibilities as specified in other

sections of this chapter.

Section 7. Section **26-8a-106** is enacted to read:

**26-8a-106. Waiver of rules.**

(1) Upon application, the committee or department may waive the requirements of a rule it has adopted if:

(a) the person applying for the waiver satisfactorily demonstrates that:

(i) the waiver is necessary for a pilot project to be undertaken by the applicant;

(ii) in the particular situation, the requirement serves no beneficial public purpose; or

(iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and

(b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or department:

(i) extends the waiver to similarly situated persons upon application; or

(ii) amends the rule to be consistent with the waiver.

(2) No waiver may be granted under this section that is inconsistent with the provisions of this chapter.

Section 8. Section **26-8a-201** is enacted to read:

**Part 2. Programs, Plans, and Duties**

**26-8a-201. Public awareness efforts.**

The department may:

(1) develop programs to inform the public of the emergency medical service system; and

(2) develop and disseminate emergency medical training programs for the public, which emphasize the prevention and treatment of injuries and illnesses.

Section 9. Section **26-8a-202** is enacted to read:

**26-8a-202. Emergency medical communications.**

Consistent with federal law, the department is the lead agency for coordinating the statewide emergency medical service communication systems under which emergency medical personnel, dispatch centers, and treatment facilities provide medical control and coordination between emergency medical service providers.

Section 10. Section **26-8a-203** is enacted to read:

**26-8a-203. Statewide trauma system and plan -- Data collection.**

(1) The committee shall:

(a) approve or disapprove the state emergency medical service plan prepared by the department pursuant to Subsection (2)(b) and make recommendations concerning the emergency medical service plan prepared pursuant to P. L. 93-641, as amended;

(b) approve critical care categorization guidelines and treatment protocols developed by the department pursuant to Subsections (2)(c) and (d);

(c) categorize all hospital critical care facilities and designate trauma, burn, spinal cord, and poison care facilities in the state consistent with guidelines approved under Subsection (1)(b); and

(d) specify the information that must be collected for the emergency medical services data system established pursuant to Subsection 2(a).

(2) The department shall:

(a) establish an emergency medical services data system which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system;

(b) prepare a state plan for the coordinated delivery of emergency medical services which shall be updated at least every three years and shall reflect recommendations of local government emergency medical services councils;

(c) develop hospital critical care categorization guidelines, in consultation with the state medical association and state hospital association, which may not require the transfer of any patient contrary to the wishes of the patient, his next of kin, or his attending physician; and

(d) develop treatment protocols for the critical care guideline categories described in Subsection 26-8a-102(4)(b).

(3) Persons providing emergency medical services shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a).

Section 11. Section **26-8a-204** is enacted to read:

**26-8a-204. Disaster coordination plan.**

The department shall develop and implement, in cooperation with state, federal, and local agencies empowered to oversee disaster response activities, plans to provide emergency medical services during times of disaster or emergency.

Section 12. Section **26-8a-205** is enacted to read:

**26-8a-205. Pediatric quality improvement program.**

The department shall establish a pediatric quality improvement resource program.

Section 13. Section **26-8a-206** is enacted to read:

**26-8a-206. Personnel stress management program.**

(1) The department shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers; and

(b) critical incident stress debriefing for personnel at no cost to the emergency provider.

Section 14. Section **26-8a-207**, which is renumbered from Section 26-8-2.5 is renumbered and amended to read:

**[26-8-2.5]. 26-8a-207. Emergency medical services grant program.**

(1) (a) The department shall receive as [~~nonlapsing~~] dedicated credits the amount established in Section 63-63a-3. That amount shall be transferred to the department by the Division of Finance from funds generated by the surcharge imposed under Title 63, Chapter 63a.

(b) Funds transferred to the department under this section shall be used for improvement of statewide delivery of emergency medical services. Appropriations to the department for the purposes

enumerated in this section shall be made from those dedicated credits.

(c) All funding for the program created by this section shall be nonlapsing.

(2) (a) The department may use up to [~~3%~~] 6% of the funds transferred to it under Subsection

(1):

- (i) to provide staff support; and
- (ii) for other expenses incurred in administration of those funds.

~~[(3)]~~ (b) After funding staff support ~~[and]~~, administrative expenses, and trauma system development, the department and the committee shall make emergency medical services grants ~~[shall be made by the department to agencies, political subdivisions of local or state government, or nonprofit entities]~~ from the remaining funds received as dedicated credits under Subsection (1) ~~[as follows:]~~. A recipient of a grant under this Subsection (2)(b) must actively provide emergency medical services within the state.

~~[(a)]~~ (i) ~~[Forty-two and one-half percent shall be available to prehospital emergency medical services provider agencies in the form of]~~ The department shall distribute 42-1/2% as per capita block grants for [discretionary] use specifically related to the provision of emergency medical services to nonprofit prehospital emergency medical services providers that are either licensed or designated and to emergency medical services that are the primary emergency medical services for a service area. ~~[(†)]~~ The department shall determine the grant amounts ~~[of those grants]~~ by prorating available funds on a per capita basis by county as described in department rule. ~~[Population figures used as a basis for allocating grants shall be derived from the most recent population estimates issued by the state planning coordinator.]~~

~~[(ii)]~~ Allocation of funds to prehospital emergency medical services provider agencies within each county shall be in proportion to the weighted number of state certified prehospital personnel in each prehospital emergency medical services provider agency that is actively involved in the provision of emergency care within the county. Weighting factors are: basic life support personnel = 1; advanced life support personnel (excluding EMT-paramedics) = 2; and EMT-paramedics = 3. The number of certified personnel is based upon the personnel rosters of each prehospital emergency medical services provider agency on March 1 immediately prior to the grant year.]

~~[(iii)]~~ The department may only disburse grant funds under this section after receipt of a claim for reimbursement from the agency, accompanied by a written description of the expenditures made.]

~~[(b)]~~ (ii) ~~[Forty-two and one-half percent shall be distributed]~~ The committee shall award 42-1/2% of the remaining funds as competitive grants [to applicants] for use specifically related to

the provision of emergency medical services based upon rules established by the [state Emergency Medical Services Committee] committee.

~~[(c)]~~ (iii) [Fifteen percent shall be used] The committee shall use 15% of the remaining funds to fund high school emergency medical training programs [developed under Subsection 26-8-5 (13)].

~~[(4) Funds received under Subsection (1) may not be used to fund new local government emergency medical services if the new services compete with existing licensed private emergency medical services.]~~

~~[(5) (a) The department shall make an annual report to the Legislature which includes the amount received during the previous fiscal year and the estimated amounts for the current fiscal year. These amounts are the basis for legislative appropriations from the dedicated credits described in Subsection (1).]~~

~~[(b) The Legislature finds that these funds are for a general and statewide public purpose.]~~

Section 15. Section **26-8a-208** is enacted to read:

**26-8a-208. Fees for training equipment rental, testing, and quality assurance reviews.**

(1) The department may charge fees, established pursuant to Section 26-1-6:

(a) for the use of department-owned training equipment;

(b) to administer tests and conduct quality assurance reviews; and

(c) to process an application for a certificate, designation, permit, or license.

(2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated credits.

(b) Fees under Subsection (1)(a) may be used to purchase training equipment.

(c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality assurance reviews.

(3) Fees and other funding available to purchase training equipment and to administer tests and conduct quality assurance reviews shall be nonlapsing.

Section 16. Section **26-8a-301** is enacted to read:

**Part 3. Certificates, Designations, Permits, and Licenses.**

**26-8a-301. General requirement.**

(1) Except as provided in Section 26-8a-308:

(a) an individual may not provide emergency medical services without a certificate issued under Section 26-8a-302;

(b) a facility or provider may not hold itself out as a designated emergency medical service provider without a designation issued under Section 26-8a-303;

(c) a vehicle may not operate as an ambulance or emergency response vehicle without a permit issued under Section 26-8a-304; and

(d) an entity may not respond as an ambulance or paramedic provider without the appropriate license issued under Part 4, Ambulance and Paramedic Providers.

(2) Section 26-8a-502 applies to violations of this section.

Section 17. Section **26-8a-302** is enacted to read:

**26-8a-302. Certification of emergency medical service personnel.**

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing certification and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) medical director;

(iii) emergency medical service instructor; and

(iv) other types of emergency medical personnel as the committee considers necessary; and

(b) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel; and

(b) issue certifications and certification renewals to emergency medical service personnel.

(3) As provided in Section 26-8a-502, an individual issued a certificate under this section may only provide emergency medical services to the extent allowed by the certificate.

Section 18. Section **26-8a-303** is enacted to read:



**26-8a-303. Designation of emergency medical service providers.**

(1) To ensure quality emergency medical services, the committee shall establish designation requirements for emergency medical service providers in the following categories:

- (a) quick response provider;
- (b) resource hospital for emergency medical providers;
- (c) emergency medical service dispatch center;
- (d) emergency patient receiving facilities; and
- (e) other types of emergency medical service providers as the committee considers

necessary.

(2) The department shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers listed in Subsection (1).

(3) As provided in Section 26-8a-502, an entity issued a designation under Subsection (1) may only function and hold itself out in accordance with its designation.

Section 19. Section **26-8a-304** is enacted to read:

**26-8a-304. Permits for emergency medical service vehicles.**

(1) To ensure that emergency medical service vehicles are adequately staffed, safe, maintained, and properly equipped, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

- (a) ambulance; and
- (b) emergency response vehicle.

(2) The department shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles.

Section 20. Section **26-8a-305** is enacted to read:

**26-8a-305. Ambulance license required for emergency medical transport.**

Except as provided in Section 26-8a-308, only an ambulance operating under a permit issued under Section 26-8a-304, may transport an individual who:

- (1) is in an emergency medical condition;
- (2) is medically or mentally unstable, requiring direct medical observation during transport;

(3) is physically incapacitated because of illness or injury and in need of immediate transport by emergency medical service personnel;

(4) is likely to require medical attention during transport;

(5) is being maintained on any type of emergency medical electronic monitoring;

(6) is receiving or has recently received medications that could cause a sudden change in medical condition that might require emergency medical services;

(7) requires IV administration or maintenance, oxygen that is not patient-operated, or other emergency medical services during transport;

(8) needs to be immobilized during transport to a hospital, an emergency patient receiving facility, or mental health facility due to a mental or physical condition, unless the individual is in the custody of a peace officer and the primary purpose of the restraint is to prevent escape;

(9) needs to be immobilized due to a fracture, possible fracture, or other medical condition;

or

(10) otherwise requires or has the potential to require a level of medical care that the committee establishes as requiring direct medical observation.

Section 21. Section **26-8a-306** is enacted to read:

**26-8a-306. Medical control.**

(1) The committee shall establish requirements for the coordination of emergency medical services rendered by emergency medical service providers, including the coordination between prehospital providers, hospitals, emergency patient receiving facilities, and other appropriate destinations.

(2) The committee may establish requirements for the medical supervision of emergency medical service providers to assure adequate physician oversight of emergency medical services and quality improvement.

Section 22. Section **26-8a-307** is enacted to read:

**26-8a-307. Patient destination.**

(1) If an individual being transported by a ground or air ambulance is in critical or unstable condition, the ground or air ambulance shall transport the patient to the trauma center or closest

emergency patient receiving facility appropriate to adequately treat the patient.

(2) If the patient's condition is not critical or unstable as determined by medical control, the ground or air ambulance may transport the patient to the:

(a) hospital, emergency patient receiving facility, or other medical provider chosen by the patient and approved by medical control as appropriate for the patient's condition and needs; or

(b) nearest hospital, emergency patient receiving facility, or other medical provider approved by medical control as appropriate for the patient's condition and needs if the patient expresses no preference.

Section 23. Section **26-8a-308** is enacted to read:

**26-8a-308. Exemptions.**

(1) The following persons may provide emergency medical services to a patient without being certified or licensed under this chapter:

(a) out-of-state emergency medical service personnel and providers in time of disaster;

(b) an individual who gratuitously acts as a Good Samaritan;

(c) a family member;

(d) a private business if emergency medical services are provided only to employees at the place of business and during transport;

(e) an agency of the United States government if compliance with this chapter would be inconsistent with federal law; and

(f) police, fire, and other public service personnel if:

(i) emergency medical services are rendered in the normal course of the person's duties; and

(ii) medical control, after being apprised of the circumstances, directs immediate transport.

(2) An ambulance or emergency response vehicle may operate without a permit issued under Section 26-8a-304 in time of disaster.

(3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed as requiring a license or certificate for an individual to perform cardiopulmonary resuscitation and use a fully automated external defibrillator if that individual has successfully completed a course that includes instruction on cardiopulmonary resuscitation and the operation and use of a fully automated

external defibrillator that is conducted in accordance with guidelines of the American Heart Association by a person qualified by training or experience.

(4) Nothing in this chapter may be construed as requiring a license, permit, designation, or certificate for an acute care hospital, medical clinic, physician's office, or other fixed medical facility that:

- (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse; and
- (b) treats an individual who has presented himself or was transported to the hospital, clinic, office, or facility.

Section 24. Section **26-8a-309** is enacted to read:

**26-8a-309. Out-of-state vehicles.**

(1) An ambulance or emergency response vehicle from another state may not pick up a patient in Utah to transport that patient to another location in Utah or to another state without a permit issued under Section 26-8a-304 and, in the case of an ambulance, a license issued under Part 4, Ambulance and Paramedic Providers.

(2) Notwithstanding Subsection (1), an ambulance or emergency response vehicle from another state may, without a permit or license:

- (a) transport a patient into Utah; and
- (b) provide assistance in time of disaster.

(3) The department may enter into agreements with ambulance and paramedic providers and their respective licensing agencies from other states to assure the expeditious delivery of emergency medical services beyond what may be reasonably provided by licensed ambulance and paramedic providers, including the transportation of patients between states.

Section 25. Section **26-8a-310** is enacted to read:

**26-8a-310. Criminal background check.**

(1) At the time of application for, or renewal of, a certificate, the department shall obtain, at the applicant's expense, information from a criminal history record or warrant of arrest information maintained by the Department of Public Safety pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, to determine whether the individual has been convicted of a crime that bears

upon his fitness to be certified or to have responsibility for the safety and well-being of children, the elderly, or persons with disabilities.

(2) (a) An applicant who has not had residency in the state for the last five years shall submit fingerprints and other identifying information.

(b) The department shall submit fingerprints obtained under Subsection (2)(a) to the Department of Public Safety to be forwarded to the Federal Bureau of Investigation for a nationwide criminal history record check to determine whether the individual has been convicted of a crime that bears upon his fitness to be certified or to have responsibility for the safety and well-being of children, the elderly, or persons with disabilities.

(3) Information obtained pursuant to Subsections (1) and (2) may be used to:

(a) withhold certification or renewal;

(b) commence or substantiate disciplinary action under Section 26-8a-503;

(c) enforce the provisions of this chapter; and

(d) notify the individual's employer as necessary to protect the public.

Section 26. Section **26-8a-401** is enacted to read:

#### **Part 4. Ambulance and Paramedic Providers**

##### **26-8a-401. State regulation of emergency medical services market.**

(1) To ensure emergency medical service quality and minimize unnecessary duplication, the department shall regulate the emergency medical service market after October 1, 1999, by creating and operating a statewide system that:

(a) consists of exclusive geographic service areas as provided in Section 26-8a-402; and

(b) establishes maximum rates as provided in Section 26-8a-403.

(2) (a) All licenses issued prior to July 1, 1996, shall expire as stated in the license.

(b) If no expiration date is stated on a license issued before July 1, 1996, the license shall expire on October 1, 1999, unless:

(i) the license holder requests agency action before August 1, 1999; and

(ii) before October 1, 1999, the department:

(A) finds the license has been used as the basis for responding to requests for ambulance or

paramedic services during the past five years;

(B) identifies one or more specific geographic areas covered by the license in which the license holder has actively and adequately responded as the primary provider to requests for ambulance or paramedic services during the past five years; and

(C) determines that the continuation of a license in a specific geographic area identified in Subsection (2)(b)(ii)(B) satisfies:

(I) the standards established pursuant to Subsection 26-8a-404(2); and

(II) the requirement of public convenience and necessity.

(c) If the department finds that a license meets the requirements of Subsection (2)(b), the department shall amend the license to reflect:

(i) the specific geographic area of the license; and

(ii) a four-year term extension.

(d) Before July 1, 1999, the department shall publish notice once a week for four consecutive weeks of the expiration of licenses pursuant to Subsection (2)(b) in a newspaper of general circulation in the state.

(e) Nothing in this Subsection (2) may be construed as restricting the authority of the department to amend overlapping licenses pursuant to Section 26-8a-416.

(3) After October 1, 1999, new licenses and license renewals shall be for a four-year term.

Section 27. Section **26-8a-402** is enacted to read:

**26-8a-402. Exclusive geographic service areas.**

(1) Each ground ambulance provider license issued under this part shall be for an exclusive geographic service area as described in the license. Only the licensed ground ambulance provider may respond to an ambulance request that originates within the provider's exclusive geographic service area, except as provided in Subsection (5) and Section 26-8a-416.

(2) Each paramedic provider license issued under this part shall be for an exclusive geographic service area as described in the license. Only the licensed paramedic provider may respond to a paramedic request that originates within the exclusive geographic service area, except as provided in Subsection (6).

(3) Nothing in this section may be construed as either requiring or prohibiting that the formation of boundaries in a given location be the same for a licensed paramedic provider as it is for a licensed ambulance provider.

(4) (a) A licensed ground ambulance or paramedic provider may, as necessary, enter into a mutual aid agreement to allow another licensed provider to give assistance in times of unusual demand, as that term is defined by the committee in rule.

(b) A mutual aid agreement shall include a formal written plan detailing the type of assistance and the circumstances under which it would be given.

(c) The parties to a mutual aid agreement shall submit a copy of the agreement to the department.

(d) Notwithstanding this Subsection (4), a licensed provider may not subcontract with another entity to provide services in the licensed provider's exclusive geographic service area.

(5) Notwithstanding Subsection (1), a licensed ground ambulance provider may respond to an ambulance request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(6) Notwithstanding Subsection (2), a licensed paramedic provider may respond to a paramedic request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

Section 28. Section **26-8a-403** is enacted to read:

**26-8a-403. Establishment of maximum rates.**

(1) The department shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the department on the maximum rates

that should be set under Subsection (1).

Section 29. Section **26-8a-404** is enacted to read:

**26-8a-404. Ground ambulance and paramedic licenses -- Application and department review.**

(1) Except as provided in Section 26-8a-413, an applicant for a ground ambulance or paramedic license shall apply to the department for a license only by:

- (a) submitting a completed application;
- (b) providing information in the format required by the department; and
- (c) paying the required fees, including the cost of the hearing officer.

(2) The department may make rules establishing minimum qualifications and requirements for:

- (a) personnel;
- (b) capital reserves;
- (c) equipment;
- (d) a business plan;
- (e) operational procedures;
- (f) resource hospital and medical direction agreements;
- (g) management and control; and
- (h) other matters that may be relevant to an applicant's ability to provide ground ambulance or paramedic service.

(3) An application for a license to provide ground ambulance service or paramedic service shall be for all ground ambulance services or paramedic services arising within the geographic service area, except that an applicant may apply for a license for less than all ground ambulance services or all paramedic services arising within an exclusive geographic area if it can demonstrate how the remainder of that area will be served.

(4) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum requirements for licensure.



(5) The department may deny an application if it finds that it contains any materially false or misleading information, is incomplete, or if the application demonstrates that the applicant fails to meet the minimum requirements for licensure.

(6) If the department denies an application, it shall notify the applicant in writing setting forth the grounds for the denial.

Section 30. Section **26-8a-405** is enacted to read:

**26-8a-405. Ground ambulance and paramedic licenses -- Agency notice of administrative proceeding.**

If the department determines that the application meets the minimum requirements for licensure under Section 26-8a-404, the department shall:

(1) issue a notice of agency action to the applicant to commence an informal administrative proceeding;

(2) provide notice of the application to all interested parties; and

(3) publish notice of the application, at the applicant's expense, once a week for four consecutive weeks, in a newspaper of general circulation in the geographic service area that is the subject of the application.

Section 31. Section **26-8a-406** is enacted to read:

**26-8a-406. Ground ambulance and paramedic licenses -- Parties.**

(1) An interested party has 30 days to object to an application.

(2) If an interested party objects, the presiding officer must join the interested party as an indispensable party to the proceeding.

(3) The department may join the proceeding as a party to represent the public interest.

(4) Others who may be affected by the grant of a license to the applicant may join the proceeding, if the presiding officer determines that they meet the requirement of legal standing.

Section 32. Section **26-8a-407** is enacted to read:

**26-8a-407. Ground ambulance and paramedic licenses -- Proceedings.**

(1) The presiding officer shall:

(a) commence an informal adjudicative proceeding within 120 days of receiving a completed

application:

(b) meet with the applicant and objecting interested parties and provide no less than 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408;

(c) set aside a separate time during the proceedings to accept public comment on the application; and

(d) present a written decision to the executive director if a resolution has been reached that satisfies the criteria in Section 26-8a-408.

(2) At any time during an informal adjudicative proceeding under Subsection (1), any party may request conversion of the informal adjudicative proceeding to a formal adjudicative proceeding in accordance with Section 63-46b-4.

(3) Upon conversion to a formal adjudicative proceeding, a hearing officer shall be assigned to the application as provided in Section 26-8a-409. The hearing officer shall:

(a) set aside a separate time during the proceedings to accept public comment on the application;

(b) apply the criteria established in Section 26-8a-408; and

(c) present a recommended decision to the executive director in writing.

(4) The executive director may, as set forth in a final written order, accept, modify, reject, or remand the decision of a presiding or hearing officer after:

(a) reviewing the record;

(b) giving due deference to the officer's decision; and

(c) determining whether the criteria in Section 26-8a-408 have been satisfied.

Section 33. Section **26-8a-408** is enacted to read:

**26-8a-408. Criteria for determining public convenience and necessity.**

(1) The criteria for determining public convenience and necessity is set forth in Subsections (2) through (6).

(2) Access to emergency medical services must be maintained or improved. The officer shall consider the impact on existing services, including the impact on response times, call volumes, populations and exclusive geographic service areas served, and the ability of surrounding licensed

providers to service their exclusive geographic service areas. The issuance or amendment of a license may not create an orphaned area.

(3) The quality of service in the area must be maintained or improved. The officer shall consider the:

- (a) staffing and equipment standards of the current licensed provider and the applicant;
- (b) training and certification levels of the current licensed provider's staff and the applicant's staff;
- (c) continuing medical education provided by the current licensed provider and the applicant;
- (d) levels of care as defined by department rule;
- (e) plan of medical control; and
- (f) the negative or beneficial impact on the regional emergency medical service system to provide service to the public.

(4) The cost to the public must be justified. The officer must consider:

- (a) the financial solvency of the applicant;
- (b) the applicant's ability to provide services within the rates established under Section 26-8a-403;
- (c) the applicant's ability to comply with cost reporting requirements;
- (d) the cost efficiency of the applicant; and
- (e) the cost effect of the application on the public, interested parties, and the emergency medical services system.

(5) Local desires concerning cost, quality, and access must be considered. The officer shall assess and consider:

- (a) the existing provider's record of providing services and the applicant's record and ability to provide similar or improved services;
- (b) locally established emergency medical services goals, including those established in Subsection (7);
- (c) comment by local governments on the applicant's business and operations plans;
- (d) comment by interested parties that are providers on the impact of the application on the

parties' ability to provide emergency medical services;

(e) comment by interested parties that are local governments on the impact of the application on the citizens it represents; and

(f) public comment on any aspect of the application or proposed license.

(6) Other related criteria:

(a) the officer considers necessary; or

(b) established by department rule.

(7) The role of local governments in the licensing of ground ambulance and paramedic providers that serve areas also served by the local governments is important. The Legislature strongly encourages local governments to establish cost, quality, and access goals for the ground ambulance and paramedic services that serve their areas.

(8) In a formal adjudicative proceeding, the applicant bears the burden of establishing that public convenience and necessity require the approval of the application for all or part of the exclusive geographic service area requested.

Section 34. Section **26-8a-409** is enacted to read:

**26-8a-409. Ground ambulance and paramedic licenses -- Hearing and presiding officers.**

(1) The department shall set certification and training standards for hearing officers and presiding officers.

(2) At a minimum, a presiding officer shall:

(a) be familiar with the theory and application of public convenience and necessity; and

(b) have a working knowledge of the emergency medical service system in the state.

(3) In addition to the requirements in Subsection (2), a hearing officer shall also be licensed to practice law in the state.

(4) The department shall provide training for hearing officer and presiding officer candidates in the theory and application of public convenience and necessity and on the emergency medical system in the state.

(5) The department shall maintain a roster of no less than five individuals who meet the

minimum qualifications for both presiding and hearing officers and the standards set by the department.

(6) The parties may mutually select an officer from the roster if the officer is available.

(7) If the parties cannot agree upon an officer under Subsection (4), the department shall randomly select an officer from the roster or from a smaller group of the roster agreed upon by the applicant and the objecting interested parties.

Section 35. Section **26-8a-410** is enacted to read:

**26-8a-410. Local approvals.**

(1) Licensed ambulance providers and paramedic providers must meet all local zoning and business licensing standards generally applicable to businesses operating within the jurisdiction.

(2) Publicly subsidized providers must demonstrate approval of the taxing authority that will provide the subsidy.

(3) A publicly operated service must demonstrate that the governing body has approved the provision of services to the entire exclusive geographic service area that is the subject of the license, including those areas that may lie outside the territorial or jurisdictional boundaries of the governing body.

Section 36. Section **26-8a-411** is enacted to read:

**26-8a-411. Limitation on repetitive applications.**

A person who has previously applied for a license under this part may not apply for a license for the same service that covers any exclusive geographic service area that was the subject of the prior application unless:

(1) one year has passed from the date of the issuance of a final decision under Section 26-8a-407; or

(2) all interested parties and the department agree that a new application is in the public interest.

Section 37. Section **26-8a-412** is enacted to read:

**26-8a-412. License for air ambulance providers.**

(1) An applicant for an air ambulance provider shall apply to the department for a license

only by:

- (a) submitting a complete application;
- (b) providing information in the format required by the department; and
- (c) paying the required fees.

(2) The department may make rules establishing minimum qualifications and requirements

for:

- (a) personnel;
- (b) capital reserves;
- (c) equipment;
- (d) business plan;
- (e) operational procedures;
- (f) resource hospital and medical direction agreements;
- (g) management and control qualifications and requirements; and
- (h) other matters that may be relevant to an applicant's ability to provide air ambulance

services.

(3) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum requirements for licensure.

(4) The department may deny an application for an air ambulance if:

(a) the department finds that the application contains any materially false or misleading information or is incomplete;

(b) the application demonstrates that the applicant fails to meet the minimum requirements for licensure; or

(c) the department finds after inspection that the applicant does not meet the minimum requirements for licensure.

(5) If the department denies an application under this section, it shall notify the applicant in writing setting forth the grounds for the denial.

Section 38. Section **26-8a-413** is enacted to read:

**26-8a-413. License renewals.**

(1) A licensed provider desiring to renew its license must meet the renewal requirements established by department rule.

(2) The department shall issue a renewal license for a ground ambulance provider or a paramedic provider upon the licensee's application for a renewal and without a public hearing if there has been no:

(a) change in controlling interest in the ownership of the licensee as defined in Section 26-8a-415;

(b) serious, substantiated public complaints filed with the department against the licensee during the term of the previous license;

(c) material or substantial change in the basis upon which the license was originally granted;

(d) reasoned objection from the committee or the department; and

(e) conflicting license application.

(3) The department shall issue a renewal license for an air ambulance provider upon the licensee's application for renewal and completion of the renewal requirements established by department rule.

Section 39. Section **26-8a-414** is enacted to read:

**26-8a-414. Annexations.**

(1) If a licensee is a municipality that desires to provide service to an area that it has annexed, the municipality may apply to the department to amend its license to include the annexed area. Upon receipt of a completed application to amend the license, the department shall issue written notice of the municipality's application to all other licensed providers who serve any portion of the annexed area.

(2) If the department does not receive an objection from a licensed provider that serves some portion of the annexed area within 30 days of issuing the notice that identifies an adverse impact to the provider or the public, the department shall:

(a) review the application to amend the license to determine whether the applicant can adequately provide services to the proposed area and whether the public interest in the areas of cost,

quality, and access would be harmed; and

(b) if the application meets the requirements of Subsection (2)(a), amend the municipality's license and all other affected licenses to reflect the municipality's new boundaries.

(3) If an objection is received under Subsection (2), the municipality shall file a standard application for a license with the department under the provisions of Sections 26-8a-404 through 26-8a-409.

Section 40. Section **26-8a-415** is enacted to read:

**26-8a-415. Changes in ownership.**

(1) A licensed provider whose ownership or controlling ownership interest has changed shall submit information to the department, as required by department rule:

(a) to establish whether the new owner or new controlling party meets minimum requirements for licensure; and

(b) except as provided in Subsection (2), to commence an administrative proceeding to determine whether the new owner meets the requirement of public convenience and necessity under Section 26-8a-408.

(2) An administrative proceeding is not required under Subsection (1)(b) if:

(a) the change in ownership interest is among existing owners of a closely held corporation and the change does not result in a change in the management of the licensee or in the name of the licensee;

(b) the change in ownership in a closely held corporation results in the introduction of new owners, provided that:

(i) the new owners are limited to individuals who would be entitled to the equity in the closely held corporation by the laws of intestate succession had the transferor died intestate at the time of the transfer;

(ii) the majority owners on January 1, 1999, have been disclosed to the department by October 1, 1999, and the majority owners on January 1, 1999, retain a majority interest in the closely held corporation; and

(iii) the name of the licensed provider remains the same;



(c) the change in ownership is the result of one or more owners transferring their interests to a trust, limited liability company, partnership, or closely held corporation so long as the transferors retain control over the receiving entity;

(d) the change in ownership is the result of a distribution of an estate or a trust upon the death of the testator or the trustor and the recipients are limited to individuals who would be entitled to the interest by the laws of intestate succession had the transferor died intestate at the time of the transfer; or

(e) other similar changes that the department establishes, by rule, as having no significant impact on the cost, quality, or access to emergency medical services.

Section 41. Section **26-8a-416** is enacted to read:

**26-8a-416. Transition to eliminate inconsistent licenses.**

(1) By May 30, 2000, the department shall review all licenses in effect on October 2, 1999, to identify overlap, as defined in department rule, in the service areas of two or more licensed providers.

(2) By June 30, 2000, the department shall notify all licensed providers affected by an overlap. By September 30, 2000, the department shall schedule, by order, a deadline to resolve each overlap, considering the effects on the licensed providers and the areas to be addressed.

(3) For each overlap, the department shall meet with the affected licensed providers and provide 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408.

(4) (a) If a resolution is reached under Subsection (2) that the department finds satisfies the criteria in Section 26-8a-408, the department shall amend the licenses to reflect the resolution consistent with Subsection (6).

(b) If a resolution is not reached under Subsection (2), the department or any of the licensed providers involved in the matter may request the commencement of a formal adjudicative proceeding to resolve the overlap.

(5) The department shall commence adjudicative proceedings for any overlap that is not resolved by July 1, 2003.

(6) Notwithstanding the exclusive geographic service requirement of Section 26-8a-402, the

department may amend one or more licenses after a resolution is reached or an adjudicative proceeding has been held to allow:

- (a) a single licensed provider to serve all or part of the overlap area;
  - (b) more than one licensed provider to serve the overlap area;
  - (c) licensed providers to provide different types of service in the overlap area; or
  - (d) licenses that recognize service arrangements that existed on September 30, 1999.
- (7) Notwithstanding Subsection (6), any license for an overlap area terminates upon:
- (a) relinquishment by the provider; or
  - (b) revocation by the department.

Section 42. Section **26-8a-501** is enacted to read:

#### **Part 5. Enforcement Provisions**

##### **26-8a-501. Discrimination.**

(1) No person licensed, certified, or designated pursuant to this chapter may discriminate in the provision of emergency medical services on the basis of race, sex, color, creed, or prior inquiry as to ability to pay.

(2) This chapter does not authorize or require medical assistance or transportation over the objection of an individual on religious grounds.

Section 43. Section **26-8a-502** is enacted to read:

##### **26-8a-502. Illegal activity.**

(1) Except as provided in Section 26-8a-308, a person may not:

(a) practice or engage in the practice, represent himself to be practicing or engaging in the practice, or attempting to practice or engage in the practice of any activity that requires a license, certification, or designation under this chapter unless that person is so licensed, certified, or designated; or

(b) offer an emergency medical service that requires a license, certificate, or designation unless the person is so licensed, certified, or designated.

(2) A person may not advertise or hold himself out as one holding a license, certification, or designation required under this chapter, unless that person holds the license, certification, or

designation.

(3) A person may not employ or permit any employee to perform any service for which a license or certificate is required by this chapter, unless the person performing the service possesses the required license or certificate.

(4) A person may not wear, display, sell, reproduce, or otherwise use any Utah Emergency Medical Services insignia without authorization from the department.

(5) A person may not reproduce or otherwise use materials developed by the department for certification or recertification testing or examination without authorization from the department.

(6) A person may not willfully summon an ambulance or emergency response vehicle or report that one is needed when such person knows that the ambulance or emergency response vehicle is not needed.

(7) A person who violates this section is subject to Section 26-23-6.

Section 44. Section **26-8a-503** is enacted to read:

**26-8a-503. Discipline of emergency medical services personnel.**

(1) The department may refuse to issue a certificate or renewal, or revoke, suspend, restrict, or place on probation an individual's certificate if:

(a) the individual does not meet the qualifications for certification under Section 26-8a-302;

(b) the individual has engaged in conduct, as defined by committee rule, that:

(i) is unprofessional;

(ii) is adverse to the public health, safety, morals, or welfare; or

(iii) would adversely affect public trust in the emergency medical service system;

(c) the individual has violated Section 26-8a-502 or other provision of this chapter;

(d) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

(e) the individual is unable to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public

health, safety, or welfare that cannot be reasonably mitigated.

(2) (a) An action to revoke, suspend, restrict, or place a certificate on probation shall be done in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 26-8a-507 to immediately suspend an individual's certificate pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose certificate has been suspended, revoked, or restricted may apply for reinstatement of the certificate at reasonable intervals and upon compliance with any conditions imposed upon the certificate by statute, committee rule, or the terms of the suspension, revocation, or restriction.

(4) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.

Section 45. Section **26-8a-504** is enacted to read:

**26-8a-504. Discipline of designated and licensed providers.**

(1) The department may refuse to issue a license or designation or a renewal, or revoke, suspend, restrict, or place on probation, an emergency medical service provider's license or designation if the provider has:

- (a) failed to abide by terms of the license or designation;
- (b) violated statute or rule;
- (c) failed to provide services at the level or in the exclusive geographic service area required by the license or designation;
- (d) failed to submit a renewal application in a timely fashion as required by department rule;
- (e) failed to follow operational standards established by the committee; or
- (f) committed an act in the performance of a professional duty that endangered the public or constituted gross negligence.

(2) (a) An action to revoke, suspend, restrict, or place a license or designation on probation shall be done in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 26-8a-507 to immediately suspend a license or designation pending an administrative proceeding to be held within 30 days if there is evidence to show that the provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.

Section 46. Section **26-8a-505** is enacted to read:

**26-8a-505. Service interruption or cessation -- Receivership -- Default coverage -- Notice.**

(1) Acting in the public interest, the department may petition the district court where an ambulance or paramedic provider operates or the district court with jurisdiction in Salt Lake County to appoint the department or an independent receiver to continue the operations of a provider upon any one of the following conditions:

(a) the provider ceases or intends to cease operations;

(b) the provider becomes insolvent;

(c) the department has initiated proceedings to revoke the provider's license and has determined that the lives, health, safety, or welfare of the population served within the provider's exclusive geographic service area are endangered because of the provider's action or inaction pending a full hearing on the license revocation; or

(d) the department has revoked the provider's license and has been unable to adequately arrange for another provider to take over the provider's exclusive geographic service area.

(2) If a licensed or designated provider ceases operations or is otherwise unable to provide services, the department may arrange for another licensed provider to provide services on a temporary basis until a license is issued.

(3) A licensed provider shall give the department 30 days notice of its intent to cease operations.

Section 47. Section **26-8a-506** is enacted to read:

**26-8a-506. Investigations for enforcement of chapter.**

(1) The department may, for the purpose of ascertaining compliance with the provisions of this chapter, enter and inspect on a routine basis the business premises and equipment of a person:

(a) with a certificate, designation, permit, or license; or

(b) who holds himself out to the general public as providing a service for which a certificate, designation, permit, or license is required under Section 26-8a-301.

(2) Before conducting an inspection under Subsection (1), the department shall, after identifying the person in charge:

(a) give proper identification;

(b) describe the nature and purpose of the inspection; and

(c) if necessary, explain the authority of the department to conduct the inspection.

(3) In conducting an inspection under Subsection (1), the department may, after meeting the requirements of Subsection (2):

(a) inspect records, equipment, and vehicles; and

(b) interview personnel.

(4) An inspection conducted under Subsection (1) shall be during regular operational hours.

Section 48. Section **26-8a-507** is enacted to read:

**26-8a-507. Cease and desist orders.**

The department may issue a cease and desist order to any person who:

(1) may be disciplined under Section 26-8a-503 or 26-8a-504; or

(2) otherwise violates this chapter or any rules adopted under this chapter.

Section 49. Section **26-8a-601**, which is renumbered from Section 26-8-11 is renumbered and amended to read:

**Part 6. Miscellaneous**

**[26-8-11]. 26-8a-601. Persons and activities exempt from civil liability.**

(1) A licensed physician [~~or~~], physician's assistant, or licensed registered nurse who, in good faith, gives oral or written instructions to an individual certified [~~basic or advanced life support personnel to provide emergency care authorized by this chapter~~] under Section 26-8a-302 is not liable for any civil damages as a result of issuing the instructions, unless the instructions given were

the result of gross negligence or willful misconduct.

(2) ~~[A basic or advanced life support person]~~ An individual certified under Section 26-8a-302, during either training or after certification, a licensed physician, physician's assistant, or a registered nurse who, in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) ~~[A]~~ An individual certified ~~[basic or advanced life support person]~~ under Section 26-8a-302 is not subject to civil liability for failure to obtain consent in rendering emergency medical ~~[care]~~ services authorized by this chapter to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency ~~[treatment]~~ medical care, provided that ~~[such personnel act]~~ the certified individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization, institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an ~~[emergency medical services person]~~ individual certified ~~[and authorized pursuant to this chapter, including an advanced life support person,]~~ under Section 26-8a-302 is not liable for any civil damages for any act or omission in connection with such sponsorship, authorization, support, finance, or supervision of ~~[such emergency medical services person]~~ the certified individual where the act or omission occurs in connection with ~~[that person's]~~ the certified individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the ~~[emergency medical services personnel]~~ certified individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician who in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical ~~[medical]~~ care ~~[facility]~~ unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care

capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician has secured an agreement from the [~~transferee~~] receiving facility to accept and render necessary treatment to the patient.

(6) A person who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency [~~medical~~] care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section 62A-12-232 is not liable for civil damages for transporting the individual.

Section 50. Section **58-57-7** is amended to read:

**58-57-7. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of respiratory therapy subject to the stated circumstances and limitations without being licensed under this chapter:

(a) any person who provides gratuitous care for a member of his immediate family without representing himself as a licensed respiratory care practitioner;

(b) any person who is a licensed or qualified member of another health care profession, if this practice is consistent with the accepted standards of the profession and if the person does not represent himself as a respiratory care practitioner;

(c) any person who serves in the Armed Forces of the United States or any other agency of the federal government and is engaged in the performance of his official duties; and

(d) any person who acts under a certification issued pursuant to Title 26, Chapter [8] 8a, Utah Emergency Medical Services System Act, while providing emergency medical services.

(2) Nothing in this chapter permits a respiratory care practitioner to engage in the



unauthorized practice of other health disciplines.

Section 51. Section **62A-12-232** is amended to read:

**62A-12-232. Temporary commitment -- Requirements and procedures.**

(1) (a) An adult may be temporarily, involuntarily committed to a local mental health authority upon:

(i) written application by a responsible person who has reason to know, stating a belief that the individual is likely to cause serious injury to himself or others if not immediately restrained, and stating the personal knowledge of the individual's condition or circumstances which lead to that belief; and

(ii) a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the individual within a three-day period immediately preceding that certification, and that he is of the opinion that the individual is mentally ill and, because of his mental illness, is likely to injure himself or others if not immediately restrained.

(b) Application and certification as described in Subsection (1)(a) authorizes any peace officer to take the individual into the custody of a local mental health authority and transport the individual to that authority's designated facility.

(2) If a duly authorized peace officer observes a person involved in conduct that gives the officer probable cause to believe that the person is mentally ill, as defined in Section 62A-12-202, and because of that apparent mental illness and conduct, there is a substantial likelihood of serious harm to that person or others, pending proceedings for examination and certification under this part, the officer may take that person into protective custody. The peace officer shall transport the person to be transported to the designated facility of the appropriate local mental health authority pursuant to this section, either on the basis of his own observation or on the basis of a mental health officer's observation that has been reported to him by that mental health officer. Immediately thereafter, the officer shall place the person in the custody of the local mental health authority and make application for commitment of that person to the local mental health authority. The application shall be on a prescribed form and shall include the following:

(a) a statement by the officer that he believes, on the basis of personal observation or on the

basis of a mental health officer's observation reported to him by the mental health officer, that the person is, as a result of a mental illness, a substantial and immediate danger to himself or others;

- (b) the specific nature of the danger;
- (c) a summary of the observations upon which the statement of danger is based; and
- (d) a statement of facts which called the person to the attention of the officer.

(3) A person committed under this section may be held for a maximum of 24 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time period, the person shall be released unless application for involuntary commitment has been commenced pursuant to Section 62A-12-234. If that application has been made, an order of detention may be entered under Subsection 62A-12-234(3). If no order of detention is issued, the patient shall be released unless he has made voluntary application for admission.

(4) Transportation of mentally ill persons pursuant to Subsections (1) and (2) shall be conducted by the appropriate municipal, or city or town, law enforcement authority or, under the appropriate law enforcement's authority, by ambulance to the extent that Subsection (5) applies. However, if the designated facility is outside of that authority's jurisdiction, the appropriate county sheriff shall transport the person or cause the person to be transported by ambulance to the extent that Subsection (5) applies.

(5) Notwithstanding Subsections (2) and (4), a peace officer shall cause a person to be transported by ambulance if the person meets any of the criteria in Section 26-8a-305. In addition, if the person requires physical medical attention, the peace officer shall direct that transportation be to an appropriate medical facility for treatment.

Section 52. Section **63-46b-1** is amended to read:

**63-46b-1. Scope and applicability of chapter.**

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) all state agency actions that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny,

revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of these actions.

(2) This chapter does not govern:

(a) the procedures for making agency rules, or the judicial review of those procedures or rules;

(b) the issuance of any notice of a deficiency in the payment of a tax, the decision to waive penalties or interest on taxes, the imposition of and penalties or interest on taxes, or the issuance of any tax assessment, except that this chapter governs any agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of those actions;

(c) state agency actions relating to extradition, to the granting of pardons or parole, commutations or terminations of sentences, or to the rescission, termination, or revocation of parole or probation, to actions and decisions of the Psychiatric Security Review Board relating to discharge, conditional release, or retention of persons under its jurisdiction, to the discipline of, resolution of grievances of, supervision of, confinement of, or the treatment of inmates or residents of any correctional facility, the Utah State Hospital, the Utah State Developmental Center, or persons in the custody or jurisdiction of the Division of Mental Health, or persons on probation or parole, or judicial review of those actions;

(d) state agency actions to evaluate, discipline, employ, transfer, reassign, or promote students or teachers in any school or educational institution, or judicial review of those actions;

(e) applications for employment and internal personnel actions within an agency concerning its own employees, or judicial review of those actions;

(f) the issuance of any citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Chapter 55, Utah Construction Trades Licensing Act, except that this chapter governs any agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency actions relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except

as provided in those contracts, or judicial review of those actions;

(h) state agency actions under Title 7, Chapter 1, Article 3, Powers and Duties of Commissioner of Financial Institutions; and Title 7, Chapter 2, Possession of Depository Institution by Commissioner; Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies; and Title 63, Chapter 30, [Utah] Governmental Immunity Act, or judicial review of those actions;

(i) the initial determination of any person's eligibility for unemployment benefits, the initial determination of any person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency actions relating to the distribution or award of monetary grants to or between governmental units, or for research, development, or the arts, or judicial review of those actions;

(k) the issuance of any notice of violation or order under Title 26, Chapter [8] 8a, Utah Emergency Medical Services System Act; Title 19, Chapter 2, Air Conservation Act; Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act; Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 4, Underground Storage Tank Act; or Title 19, Chapter 6, Part 7, Used Oil Management Act, except that this chapter governs any agency action commenced by any person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency actions, to the extent required by federal statute or regulation to be conducted according to federal procedures;

(m) the initial determination of any person's eligibility for government or public assistance benefits;

(n) state agency actions relating to wildlife licenses, permits, tags, and certificates of registration;

(o) licenses for use of state recreational facilities; and

(p) state agency actions under Title 63, Chapter 2, Government Records Access and Management Act, except as provided in Section 63-2-603.

(3) This chapter does not affect any legal remedies otherwise available to:

- (a) compel an agency to take action; or
- (b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering conferences with parties and interested persons to:

- (i) encourage settlement;
- (ii) clarify the issues;
- (iii) simplify the evidence;
- (iv) facilitate discovery; or
- (v) expedite the proceedings; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56, respectively, of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) Declaratory proceedings authorized by Section 63-46b-21 are not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of declaratory proceedings authorized by Section 63-46b-21 are governed by this chapter.

(6) This chapter does not preclude an agency from enacting rules affecting or governing adjudicative proceedings or from following any of those rules, if the rules are enacted according to the procedures outlined in Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and if the rules conform to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that any provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of those provisions to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for

jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening any time period prescribed in this chapter, except those time periods established for judicial review.

Section 53. Section **63-63a-3** is amended to read:

**63-63a-3. EMS share of surcharge -- Accounting.**

(1) The Division of Finance shall allocate 14% of the collected surcharge established in Section 63-63a-1, but not to exceed the amount appropriated by the Legislature, to the Emergency Medical Services (EMS) Grants Program Account under Section [~~26-8-2.5~~] 26-8a-207.

(2) The amount shall be recorded by the Department of Health as a dedicated credit.

Section 54. Section **63C-7-202** is amended to read:

**63C-7-202. Powers of the Utah Communications Agency Network.**

The Utah Communications Agency Network shall have the power to:

- (1) sue and be sued in its own name;
- (2) have an official seal and power to alter that seal at will;
- (3) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts with private companies licensed under Title 26, Chapter [8] 8a, Utah Emergency Medical Services System Act;
- (4) own, acquire, construct, operate, maintain, and repair a communications network, and dispose of any portion of it;
- (5) borrow money and incur indebtedness;
- (6) issue bonds as provided in this chapter;
- (7) enter into agreements with public agencies, the state, and federal government to provide communications network services on terms and conditions it considers to be in the best interest of its members;
- (8) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a communications network

and all related facilities and rights-of-way which it owns, operates, and maintains;

(9) contract with other public agencies, the state, or federal government to provide public safety communications services in excess of those required to meet the needs or requirements of its members and the state and federal government if:

(a) it is determined by the executive committee to be necessary to accomplish the purposes and realize the benefits of this chapter; and

(b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure that the cost of providing the excess service will be received by the Utah Communications Agency Network; and

(10) perform all other duties authorized by this chapter.

Section 55. Section **75-2-1105.5** is amended to read:

**75-2-1105.5. Emergency medical services -- Directive not to resuscitate.**

(1) (a) A person 18 years of age or older who is in a terminal condition may, by a directive made under this section, direct that emergency medical [~~services~~] service providers licensed or certified under Title 26, Chapter [8] 8a, who respond to a call to provide to that person emergency medical services as defined in Section [~~26-8-2~~] 26-8a-102, withhold all life sustaining procedures.

(b) The directive is binding upon emergency medical services providers only if the person issuing the directive is in compliance with the system developed under Subsection (2).

(2) (a) The Department of Health shall by rule establish a uniform system to allow emergency medical service providers to readily identify persons who have made a directive under this section.

(b) The system may provide for personal, tamper-proof identifying bracelets or other means necessary to assure identification of persons who have made a directive under this section.

(3) An emergency medical services provider is not bound to act in accordance with a directive issued under this section unless the person executing the directive complies with Department of Health rules made under this section, such as the wearing of an identifying bracelet, to clearly express to emergency medical service providers the continued intent to be readily identified as a person who has made a directive under this section.

(4) A directive made under this section shall be:

(a) in writing and on a form approved by the Department of Health;

(b) signed by the declarant or by another person in the declarant's presence and by the declarant's expressed direction, or if the declarant does not have the ability to give current directions concerning his care and treatment, by the following persons, as proxy, in the following order of priority if no person in a prior class is available, willing, and competent to act:

(i) an attorney-in-fact appointed as provided in Section 75-2-1106, but authorized to act under this section;

(ii) any previously appointed legal guardian of the declarant;

(iii) the person's spouse if not legally separated;

(iv) the parents or surviving parent;

(v) the person's child 18 years of age or older, or if the person has more than one child, by a majority of the children 18 years of age or older who are reasonably available for consultation upon good faith efforts to secure participation of all those children;

(vi) by the declarant's nearest reasonably available living relative 18 years of age or older if the declarant has no parent or child living; or

(vii) by a legal guardian appointed for the purposes of this section; [~~and~~]

(c) dated;

(d) signed, completed, and certified by the declarant's attending physician; and

(e) signed pursuant to Subsection (4)(b) above in the presence of two or more witnesses who are 18 years of age or older.

(5) Neither of the witnesses may be:

(a) the person who signed the directive on behalf of the declarant;

(b) related to the declarant by blood or marriage;

(c) entitled to any portion of the declarant's estate according to the laws of intestate succession of this state or under any will or codicil of the declarant;

(d) directly financially responsible for the declarant's medical care; or

(e) an agent of any health care facility in which the declarant is a patient or resident at the



time of executing the directive.

(6) A directive made under this section takes precedence over a directive made pursuant to Section 75-2-1104.

Section 56. Section **76-5-102.7** is amended to read:

**76-5-102.7. Assault against health care provider and emergency medical service worker -- Penalty.**

(1) A person who assaults a health care provider or [~~basic life support~~] emergency medical service worker is guilty of a class A misdemeanor if:

(a) the person knew that the victim was a health care provider or [~~basic life support~~] emergency medical service worker; and

(b) the health care provider or [~~basic life support~~] emergency medical service worker was performing emergency or life saving duties within the scope of his authority at the time of the assault.

(2) As used in this section:

(a) "[~~Basic life support~~] Emergency medical service worker" [~~has the same meaning as "basic life support personnel" provided in Section 26-8-2~~] means a person certified under Section 26-8a-302.

(b) "Health care provider" has the meaning as provided in Section 78-14-3.

Section 57. Section **76-10-915** is amended to read:

**76-10-915. Exempt activities.**

(1) No provision of this act shall be construed to prohibit:

(a) the activities of any public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of any insurer, insurance agent, insurance broker, independent insurance adjuster or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation

by the commissioner of insurance;

(c) the activities of securities dealers, issuers or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of any state or national banking institution, to the extent that such activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of any state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;  
[or]

(f) the activities of a municipality to the extent authorized or directed by state law; or

(g) the activities of an emergency medical service provider licensed under Title 26, Chapter 8a, Utah Emergency Medical Service System Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2) The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate object thereof; nor shall such organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

Section 58. Section **78-29-101** is amended to read:

**78-29-101. Definitions.**

For purposes of this part:

(1) "Blood or blood-contaminated body fluids" include blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.

(2) "Emergency medical services provider" means an ~~emergency medical technician as~~

~~defined in~~ individual certified under Section [26-8-2] 26-8a-302, local fire department personnel, or county jail personnel, who provide prehospital emergency medical care for an emergency medical services [agency] provider either as an employee or as a volunteer.

(3) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or public safety officer.

(4) "HIV" means the Human Immunodeficiency Virus infection as determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot or other methods approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(5) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications.

(6) "Significantly exposed" means exposure of the body of one person to HIV or other blood-borne pathogens from the blood of another person by:

(a) percutaneous inoculation; or

(b) contact with an open wound, nonintact skin which includes chapped, abraded, weeping, or dermatitic skin, or mucous membranes to blood and blood-contaminated body fluids.

**Section 59. Repealer.**

This act repeals:

**Section 26-8-1, Short title.**

**Section 26-8-2, Definitions.**

**Section 26-8-4, Powers and responsibilities of committee.**

**Section 26-8-5, Powers and responsibilities of department.**

**Section 26-8-5.5, Emergency personnel stress debriefing program -- General Fund appropriation for training and reimbursement.**

**Section 26-8-6, Delegation of responsibilities to local departments -- Collection of fees -- Entry into reciprocity agreements -- Authority of department.**

**Section 26-8-7, License or permit required for operation of emergency medical services -- Hearing and ruling on new licenses -- Information required of licensees -- Employees to be licensed.**

**Section 26-8-7.5, Fully automatic external defibrillator.**

**Section 26-8-8, Discrimination in provision of services prohibited -- Religious objections to services.**

**Section 26-8-9, Out-of-state services -- Reciprocity agreements.**

**Section 26-8-10, Exemptions from application of chapter.**

**Section 26-8-12, Notice of violations.**

**Section 26-8-13, Denial, suspension or revocation of license -- Issuance of new license -- Period of suspension.**

**Section 26-8-14, Injunction or other process to restrain or prevent operations in violation of chapter.**

**Section 60. Effective date.**

This act takes effect on October 1, 1999, except Section 26-8a-401 which takes effect on June 1, 1999.