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FISCAL IMPACT REPORT

SPONSOR: Hurt DATE TYPED: 3/6/03 HB _____

SHORT TITLE: Expand Emergency Medical Services Act SB 527/aSPAC

ANALYST: Dunbar

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|-------------------|------|---------------------------------|-------------------------|------------------|
| FY03 | FY04 | | | |
| | | Indeterminate- See Narrative | Recurring | New Fund |
| | | | | |

SOURCES OF INFORMATION

Responses Received From
 Department of Health (DOH)
 Health Policy Commission (HPC)
 Department of Public Safety (DPS)
 Board of Nursing

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment amends the bill as follows:

- Clarifies language pertaining to “provider” to grant patient care pursuant to the Emergency Medical Services Act.
- Clarifies language by providing for the adoption of rules for a “certification” program for certified emergency medical services.
- Allows for the state emergency medical services medical director bureau chief or his designee who shall serve without a vote on the joint organization on education committee. The change address DOH concerns.
- Gives committees the ability to take their recommendations to a higher level. This change addresses the concerns of HPC.
- Provides that the Emergency Medical Services Act shall not prevent public safety personnel from rendering emergency first aid commensurate with their training. This change addresses the concerns of DPS and the Board of Nursing.

Synopsis of Original Bill

Senate Bill 527 proposes a comprehensive amendment of the Emergency Medical Services (EMS) Act, Section 24-10B-1, et seq., NMSA 1978. The following is a summary of the proposed changes:

Section 1 amends 24-10B-2. Purpose – broadens the purpose of the Act by replacing specific, limiting types of emergency medical services with all the types of services set forth in the now-amended Act.

Section 2 amends 24.10B-3. Definitions –

- Deletes definitions of:
 - advanced life support
 - basic life support
 - curricula
 - intermediate life support
 - joint review committee
 - medical control
 - medical rescue service

- Redefines/replaces:
 - “advance directive” to include “emergency medical services *Do Not Resuscitate* form”
 - “joint review committee on educational programs” replaced with “a national educational accrediting organization” for EMS
 - replace “primary care” and add “injury prevention”
 - replace “emergency medical technicians, certified emergency medical services first responder or emergency medical dispatchers” with “providers”
 - to change the meaning of “provider” to a person “who has been licensed...to provide patient care within a designated scope of practice”

- New definitions for:
 - “certified emergency medical service”
 - “emergency medical dispatch”
 - “emergency medical services first responder”
 - “health care facility”
 - “injury prevention”
 - “paramedic”

Section 3 amends 24-10B.4. Bureau Duties –

- Adds “injury prevention” to the full duties of the EMS Bureau, and clarifies other duties related to EMS, such as the duty to honor advance directives including EMS *Do Not Resuscitate* forms, to adopt rules for administering the EMS licensure program, and to promote, develop, implement, coordinate and evaluate risk reduction and injury prevention systems.

Section 4 amends 24-10B-5. Personnel Licensure Required –

- Clarifies licensure requirements and penalties, and allows the Secretary of Health to waive licensure requirements during declared emergencies.
- Misrepresentation of oneself as an EMS provider such as an EMT, EMT-Intermediate, EMT-Paramedic, etc. or as having expertise while not currently licensed under the EMS Act is made a misdemeanor.

Section 5 enacts a new section in 24-10B-5.1. Licensing Commission Established –

- The EMS Licensing Commission may require the submission of pertinent documents for investigation purposes, and may seek enforcement of subpoenas issued in the relevant county to obtain such documents.

Section 7 amends 24-10B-7. Committees Established

- Expands the membership on the EMS Advisory Committee to include the members below, and others as determined by the Secretary of Health:
 - NM Ambulance Association
 - NM Nurse's Association
 - Association of Public Safety Communications
 - National Emergency Numbers Association
 - Lead State agency for Public Safety and Emergency Preparedness
 - NM Emergency Services Council
 - NM Health and Hospital Systems
 - UNM Health Sciences Center
 - The NM Fire Chief's Association
 - A consumer
- Expands the membership of the Joint Organization on Education to include
 - NM EMS Director
 - EMS Regional Office Training Office Training Coordinators
 - One provider from the 3 highest levels of licensure
- Expands the membership of the Medical Direction Committee to include
 - 1 emergency medicine physician with pediatric experience
 - 1 physician representing Medical Dispatchers
 - 1 provider from the 3 highest levels of licensure
- Deletes language relating to procedures undertaken when the EMS Bureau proposes to make decisions contrary to what any of the committees recommended.

Section 10 amends 24-10B-12. Academy Duties –

- Adds to the Academy's duties to support, promote and conduct EMS research, and to report and publish EMS information, and
- 3 new sections are enacted addressing records confidentiality, approved training pro-

grams, and the duties of regional offices.

Significant Issues

The EMS Act is important enabling legislation that was initially enacted in 1983 to establish and regulate a more comprehensive EMS System in New Mexico. The EMS Act has guided the development of a management infrastructure including the IPEMS Bureau, EMS Regional Offices, EMS Training Programs, and Advisory Committees. The EMS Act underwent a comprehensive review and revision in 1993, and a review and proposed revisions are necessary. Under the auspices of the Statewide EMS Advisory Committee, the review of the EMS Act leading to SB 527 took almost a year and involved scores of meetings and hundreds of participants. The proposed changes have been well communicated to the EMS community. It appears that a strong consensus has been reached that these recommended amendments will contribute towards the continued progress for EMS in New Mexico.

FISCAL IMPLICATIONS

SB 527 does not contain an appropriation. It does contain a provision for creation of a Cardiac Arrest Response Fund pursuant to the Cardiac Arrest Response Act. This fund would be set up administratively to contain monies that would be received and managed by the DOH and distributed by the IPEMS Bureau in support of the program.

ADMINISTRATIVE IMPLICATIONS

SB 527 would create several new duties for the Injury Prevention and EMS Bureau. All of the new activity may be accomplished without additional personnel or funding. The duty to “adopt regulations for the certification of EMS Services” would require the creation of new regulations. There may also be the need to create new regulations to manage the Cardiac Arrest Response Fund. Other existing regulations related to licensing of EMS personnel would need to be revised.

TECHNICAL ISSUES

HPC notes that a “physician with pediatric emergency medicine expertise”(p.18, line 10-11) is not the same as an “emergency medicine specialty pediatrician” or a “pediatrician with emergency medicine experience.” Leaving the language as is can be interpreted to mean that any physician, regardless of the amount of time spent in the emergency department (E.D), or knowledge in either the E.D. or pediatric field, would qualify to be part of the committee.

DPS states that Section 8 of the Bill proposes the deletion of the first sentence of Section 24-10B-9, which, as written, states that the Emergency Medical Services Act shall not prevent public safety personnel from rendering emergency first aid commensurate with their training. It is not clear why the deletion of this sentence is proposed, but the obligation to provide emergency first aid will remain with public safety personnel who appear on the scene of an accident with injuries.

OTHER SUBSTANTIVE ISSUES

SB 527 would be a comprehensive amendment to the Emergency Medical Services Act, Section

24-10B-1, et seq., NMSA 1978. In April 2002, the Statewide EMS Advisory Committee established a Subcommittee to review and make recommendations to update the EMS Act. SB 527 is a compilation of the recommendations from the Subcommittee. The current Emergency Medical Services Act, Section 24-10B-1, et seq., NMSA 1978, was last substantially revised 10 years ago with an effective date of July 1, 1993. There are several important and needed changes proposed in SB527 that are summarized by DOH below.

In the last major revision of the EMS Act the terms “Certification” and “Licensure” for EMS Personnel were both utilized and this has been somewhat confusing. Although the terms are synonymous from a legal perspective, they have been used to differentiate emergency medical technicians (EMT) from other EMS caregivers (EMS First Responder and Emergency Medical Dispatcher). The proposed change in SB 527 to identify only “Licensed” EMS Providers will help to better manage these valuable resources more effectively.

At present, only about 110 ambulance services and 40 registered medical rescue services are regulated by the Public Regulation Commission as transportation entities, and have to comply with health and medical standards. About 250 non-transport first response and special event EMS Services are currently not regulated to ensure these standards. A program to “certify all EMS Services” will help resolve this and ensure minimum health and medical standards of care for the public.

Many emergency medical technicians are working inside different health care facilities including hospitals, clinics and jails unable to function under their EMS license and/or approved Scopes of Practice. The changes proposed in the EMS Act will enable EMTs to function inside health care facilities and these facilities could limit or restrict EMS practice, allow EMTs to perform their full scopes of practice, or add additional duties and responsibilities. In disaster situations, there may be a need to waive some of the standards for “licensing” EMS providers. A proposed change in the EMS Act enables the Secretary of Health to waive licensure requirements during a declared emergency.

The IPEMS Bureau enforces EMS Licensure under the oversight of the EMS Licensing Commission. It is sometimes difficult to acquire pertinent investigative materials for occupational licensure investigations. The revised EMS Act contains a provision that authorizes the EMS Licensing Commission to require compliance with requests for information and to subpoena investigative materials if necessary.

The protection of patient identifiable information is of major importance and has been highlighted recently with the implementation of HIPPA. The IPEMS Bureau, Regional Offices and EMS Services must comply with HIPPA and protect patient information. A new provision in the EMS Act strengthens the ability to protect patient records and investigative records.

The EMS Act establishes the primary duties of the Injury Prevention and EMS Bureau. Although combined with the EMS Bureau in 1998, the duties of the Injury Prevention Section are not been well defined. This revision adds definitions and a duty for the Injury Prevention role.

A “physician with pediatric emergency medicine expertise”(p.18, line 10-11) is not the same as an “emergency medicine specialty pediatrician” or a “pediatrician with emergency medicine experience.” Leaving the language as is can be interpreted to mean that any physician, regardless of the amount of time spent in the emergency department (E.D), or knowledge in either the E.D.

or pediatric field, would qualify to be part of the committee.

AMENDMENTS

Based on recent feedback from EMS Joint Organizations on Education (JOE) members, they oppose the language on page 17, line 7: “the state emergency medical services director”, which would allow the IPEMS Bureau, State EMS Director to have a vote on the JOE. Therefore, the DOH recommends removing that language.

Board of Nursing suggests the following amendments:

- Section 24-10B-3 U.- Amend this definition for clarity by naming/lists those who are licensed by the department to provide pt. care within a designated scope of practice.
- Section 24-10B-5 B. Amend this definition for clarity by defining the emergency medical services scope of practice and defining the law described in the second sentence of the paragraph. The third sentence in the paragraph is unclear, it seems redundant of the first sentence in the paragraph.
- Section 24-10B 9. The proposed changes to this section limit the provision of services by qualified individuals in emergency situations except at the scene of an emergency. This section remain as it currently is constructed in the statute and the proposed amendment should not be made.

HPC suggests that the language in Section 7 E, lines 5-13, page 19 remain as originally written, to give committees the ability to take their recommendations to a higher level if it is important enough to do so.

BD/lb