

SENATE BILL NO. 104

INTRODUCED BY D. SANDS, M. MOE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING ESTABLISHMENT OF AN EMERGENCY CARE
5 SYSTEM; ALLOWING THE BOARD OF MEDICAL EXAMINERS TO DETERMINE THE ROLE OF EMERGENCY
6 CARE PROVIDERS; ALLOWING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO
7 REGULATE THE EMERGENCY CARE SYSTEM; UPDATING TERMINOLOGY; AND AMENDING SECTIONS
8 2-15-1731, 7-33-4510, 7-34-102, ~~37-3-101~~, 37-3-102, 37-3-203, 37-20-303, 37-27-104, 39-71-118, 45-5-214,
9 46-4-114, 50-6-101, 50-6-102, 50-6-103, 50-6-105, 50-6-201, 50-6-202, 50-6-203, 50-6-206, 50-6-301, 50-6-302,
10 50-6-323, 50-6-506, 50-16-701, 61-2-502, 61-2-503, AND 61-2-504, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 2-15-1731, MCA, is amended to read:

15 **"2-15-1731. Board of medical examiners.** (1) There is a Montana state board of medical examiners.

16 (2) The board consists of 13 members appointed by the governor with the consent of the senate.
17 Appointments made when the legislature is not in session may be confirmed at the next session.

18 (3) The members are:

19 (a) five members having the degree of doctor of medicine, including one member with experience in
20 emergency medicine;

21 (b) one member having the degree of doctor of osteopathy;

22 (c) one member who is a licensed podiatrist;

23 (d) one member who is a licensed nutritionist;

24 (e) one member who is a licensed physician assistant;

25 (f) one member who is a licensed acupuncturist;

26 (g) one member who is a volunteer emergency medical technician care provider, as defined in 50-6-202;

27 and

28 (h) two members of the general public who are not medical practitioners.

29 (4) (a) The members having the degree of doctor of medicine may not be from the same county.

30 (b) The volunteer emergency medical technician care provider must have a demonstrated interest in and

1 knowledge of state and national issues involving emergency medical service.

2 (c) Each member must be a citizen of the United States.

3 (d) Each member, except for public members, must have been licensed and must have practiced
4 medicine, acupuncture, emergency medical care, or dietetics-nutrition in this state for at least 5 years and must
5 have been a resident of this state for at least 5 years.

6 (5) Members shall serve staggered 4-year terms. A term begins on September 1 of each year of
7 appointment. A member may be removed by the governor for neglect of duty, incompetence, or unprofessional
8 or dishonorable conduct.

9 (6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."
10

11 **Section 2.** Section 7-33-4510, MCA, is amended to read:

12 **"7-33-4510. Workers' compensation for volunteer firefighters -- definitions.** (1) An employer may
13 provide workers' compensation coverage as provided in Title 39, chapter 71, to any volunteer firefighter who is
14 listed on a roster of service.

15 (2) An employer may purchase workers' compensation coverage from any entity authorized to provide
16 workers' compensation coverage under plan No. 1, 2, or 3 as provided in Title 39, chapter 71.

17 (3) If an employer provides workers' compensation coverage as provided in this section, the employer
18 may, upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and
19 recorder in the county in which the employer is located and update the roster of service monthly if necessary to
20 report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original
21 and replace it with updates whenever necessary. The employer shall maintain the roster of service with the
22 effective date of membership for each volunteer firefighter.

23 (4) For the purposes of this section, the following definitions apply:

24 (a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33,
25 including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a
26 volunteer rural fire control crew.

27 (ii) The term does not mean a governing body of a city of the first class or second class, including a city
28 to which 7-33-4109 applies, that provides workers' compensation coverage to employees as defined in
29 39-71-118.

30 (b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card prior

1 to performing services as a volunteer firefighter.

2 (c) (i) "Volunteer firefighter" means a volunteer who is on the employer's roster of service. A volunteer
3 firefighter includes a volunteer emergency ~~medical technician~~ care provider as defined in 50-6-202 who is on the
4 roster of service. A volunteer firefighter is not required to be an active member as defined in 19-17-102.

5 (ii) The term does not mean an individual who is not listed on a roster of service or a member of a
6 volunteer fire department provided for in 7-33-4109."

7

8 **Section 3.** Section 7-34-102, MCA, is amended to read:

9 **"7-34-102. Ambulance service mill levy permitted.** Subject to 15-10-420 and in addition to all other
10 levies authorized by law, each county, city, or town may levy an annual tax on the taxable value of all taxable
11 property within the county, city, or town to defray the costs incurred in providing ambulance service. These costs
12 may include workers' compensation coverage for emergency ~~medical technicians~~ care providers on volunteer
13 duty with the ambulance service or members of a paid or volunteer nontransporting medical unit defined in
14 50-6-302."

15

16 ~~Section 4.~~ Section 37-3-101, MCA, is amended to read:

17 ~~"37-3-101. Purpose.~~ It is hereby declared, as a matter of legislative policy in the state of Montana, that
18 ~~the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not~~
19 ~~a natural right of individuals, and that it~~ It is deemed necessary, as a matter of such in order to advance that policy
20 ~~and in the interests of~~ protect the health, happiness, safety, and welfare of the people of Montana, to provide laws
21 and provisions covering the granting of that privilege and its subsequent use, control, and regulation to the end
22 that:

23 ~~(1) the public shall be properly protected~~ protect the public against unprofessional, improper,
24 unauthorized, and unqualified practice of medicine and to license:

25 ~~(2) license competent physicians to practice medicine and thereby provide for the health needs of the~~
26 ~~people of Montana; and~~

27 ~~(3) license competent emergency care providers to provide prehospital care and other services as part~~
28 ~~of an emergency care system."~~

29

30 **Section 4.** Section 37-3-102, MCA, is amended to read:

1 **"37-3-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
2 apply:

3 (1) "ACGME" means the accreditation council for graduate medical education.

4 (2) "AOA" means the American osteopathic association.

5 (3) "Approved internship" means an internship training program of at least 1 year in a program that either
6 is approved for intern training by the AOA or conforms to the standards for intern training established by the
7 ACGME or successors. However, the board may, upon investigation, approve any other internship.

8 (4) "Approved medical school" means a school that either is accredited by the AOA or conforms to the
9 education standards established by the LCME or the world health organization or successors for medical schools
10 that meet standards established by the board by rule.

11 (5) "Approved residency" means a residency training program conforming to the standards for residency
12 training established by the ACGME or successors or approved for residency training by the AOA.

13 (6) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

14 (7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

15 (8) ~~"ECP" means an emergency~~ "Emergency care provider" means a person licensed by the board,
16 including but not limited to an emergency medical responder, an emergency medical technician, an advanced
17 emergency medical technician, or a paramedic.

18 (9) "LCME" means the liaison committee on medical education.

19 (10) "Medical assistant" means an unlicensed allied health care worker who functions under the
20 supervision of a physician or podiatrist in a physician's or podiatrist's office and who performs administrative and
21 clinical tasks.

22 (11) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and
23 who has a valid license to practice medicine or osteopathic medicine in this state.

24 (12) "Practice of medicine" means the diagnosis, treatment, or correction of or the attempt to or the
25 holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries,
26 or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including
27 electronic and technological means such as telemedicine. If a person who does not possess a license to practice
28 medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter
29 performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

30 (13) (a) "Telemedicine" means the practice of medicine using interactive electronic communications,

1 information technology, or other means between a licensee in one location and a patient in another location with
 2 or without an intervening health care provider. Telemedicine typically involves the application of secure
 3 videoconferencing or store-and-forward technology, as defined in 33-22-138.

4 (b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging
 5 conversation, or a message sent by facsimile transmission."
 6

7 **Section 5.** Section 37-3-203, MCA, is amended to read:

8 **"37-3-203. Powers and duties.** (1) The board may:

9 (a) adopt rules necessary or proper to:

10 (i) carry out the requirements in Title 37, chapter 3, parts 1 through 4, ~~as well as;~~

11 (ii) carry out the requirements of chapters covering podiatry, acupuncture, physician assistants,
 12 nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203,
 13 respectively; and

14 (iii) determine the role of emergency care providers in the emergency care system established pursuant
 15 to Title 50, chapter 6, and this part; ~~The rules must be fair, impartial, and nondiscriminatory.~~

16 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
 17 and duties vested in the board;

18 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as
 19 well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed
 20 by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms,
 21 associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

22 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
 23 as provided in 87-2-803(11); and

24 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
 25 increasing license fees as necessary.

26 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who
 27 are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual
 28 intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness
 29 or chronic physical illness.

30 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical

1 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll
2 in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified
3 treatment program outside the state unless the board finds that there is no qualified treatment program in this
4 state.

5 (3) Rules adopted under this section must be fair, impartial, and nondiscriminatory.

6 ~~(4)~~(4) (a) The board shall report annually on the number and types of complaints it has received involving
7 physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a
8 debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

- 9 (i) the number of complaints received by the board pursuant to 37-1-308;
10 (ii) the number of complaints for which a reasonable cause determination was made pursuant to
11 37-1-307;
12 (iii) the general nature of the complaints;
13 (iv) the number of investigations conducted into physician practices in providing written certification; and
14 (v) the number of physicians disciplined by the board for their practices in providing written certification
15 for the use of marijuana for a debilitating medical condition.

16 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying information
17 regarding the physicians about whom the board received complaints.

18 (c) For each physician against whom the board takes disciplinary action related to the physician's
19 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report
20 must include:

- 21 (i) the name of the physician;
22 (ii) the general results of the investigation of the physician's practices; and
23 (iii) the disciplinary action taken against the physician.

24 (d) The board shall provide the report to the children, families, health, and human services interim
25 committee by August 1 of each year and shall make a copy of the report available on the board's website.

26 ~~(4)~~(5) The board may enter into agreements with other states for the purposes of mutual recognition of
27 licensing standards and licensing of physicians and ECPs emergency care providers from other states under the
28 terms of a mutual recognition agreement."
29

30 **Section 6.** Section 37-20-303, MCA, is amended to read:

1 **"37-20-303. Exemptions from licensure requirement.** (1) This chapter does not prohibit or require a
 2 license as a physician assistant for the rendering of medical or medically related services if the service rendered
 3 is within the applicable scope of practice for any of the following individuals:

4 (a) a physician assistant providing services in an emergency or catastrophe, as provided in 37-20-410;

5 (b) a federally employed physician assistant;

6 (c) a registered nurse, an advanced practice registered nurse, a licensed practical nurse, or a medication
 7 aide licensed or authorized pursuant to Title 37, chapter 8;

8 (d) a student physician assistant when practicing in a hospital or clinic in which the student is training;

9 (e) a physical therapist licensed pursuant to Title 37, chapter 11;

10 (f) a medical assistant, as provided in 37-3-104;

11 (g) an emergency ~~medical technician~~ care provider licensed pursuant to Title 50, chapter 6; or

12 (h) any other medical or paramedical practitioner, specialist, or medical assistant, technician, or aide
 13 when licensed or authorized pursuant to laws of this state.

14 (2) A licensee or other individual referred to in subsection (1) who is not a licensed physician assistant
 15 may not use the title "PA" or "PA-C" or any other word or abbreviation to indicate or induce others to believe that
 16 the individual is a physician assistant."

17

18 **Section 7.** Section 37-27-104, MCA, is amended to read:

19 **"37-27-104. Exemptions.** This chapter does not limit or regulate the practice of a licensed physician,
 20 certified nurse-midwife, or licensed basic or advanced emergency ~~medical technician~~ care provider. The practice
 21 of direct-entry midwifery does not constitute the practice of medicine, certified nurse-midwifery, or emergency
 22 medical care to the extent that a direct-entry midwife advises, attends, or assists a woman during pregnancy,
 23 labor, natural childbirth, or the postpartum period when the pregnancy is not a high-risk pregnancy."

24

25 **Section 8.** Section 39-71-118, MCA, is amended to read:

26 **"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical**
 27 **technician care provider defined.** (1) As used in this chapter, the term "employee" or "worker" means:

28 (a) each person in this state, including a contractor other than an independent contractor, who is in the
 29 service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied,
 30 oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the

1 elected and appointed paid public officers and officers and members of boards of directors of quasi-public or
2 private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the
3 corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not
4 otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of
5 the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic
6 employment is excluded.

7 (b) any juvenile who is performing work under authorization of a district court judge in a delinquency
8 prevention or rehabilitation program;

9 (c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training
10 under a state or federal vocational training program, whether or not under an appointment or contract of hire with
11 an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving
12 payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational
13 training programs, as outlined in this subsection, while they are on the premises of a public school or community
14 college.

15 (d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

16 (e) a person, other than a juvenile as described in subsection (1)(b), who is performing community
17 service for a nonprofit organization or association or for a federal, state, or local government entity under a court
18 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under
19 appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment
20 from a third party. For a person covered by the definition in this subsection (1)(e):

21 (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment
22 award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part
23 4, for a full-time employee at the time of the injury; and

24 (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the
25 minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service
26 required under the order from the court or hearings officer.

27 (f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

28 (g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under
29 Title 7, chapter 34, part 1;

30 (h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is

1 considered an employee for workers' compensation purposes only. The department of public health and human
2 services shall provide workers' compensation coverage for recipients of financial assistance, as defined in
3 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or
4 private worksites through an endorsement to the department of public health and human services' workers'
5 compensation policy naming the public or private worksite entities as named insureds under the policy. The
6 endorsement may cover only the entity's public assistance participants and may be only for the duration of each
7 participant's training while receiving financial assistance or while participating in the food stamp program under
8 a written agreement between the department of public health and human services and each public or private
9 entity. The department of public health and human services may not provide workers' compensation coverage
10 for individuals who are covered for workers' compensation purposes by another state or federal employment
11 training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for
12 work of a similar nature at the assigned worksite.

13 (i) subject to subsection (11), a member of a religious corporation, religious organization, or religious
14 trust while performing services for the religious corporation, religious organization, or religious trust, as described
15 in 39-71-117(1)(d).

16 (2) The terms defined in subsection (1) do not include a person who is:

17 (a) performing voluntary service at a recreational facility and who receives no compensation for those
18 services other than meals, lodging, or the use of the recreational facilities;

19 (b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under
20 the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on
21 behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

22 (c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and
23 providing care without wage compensation to no more than six foster children in the provider's own residence.
24 The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure
25 and recreational activities, and providing for other needs and activities arising in the provision of in-home foster
26 care.

27 (d) performing temporary agricultural work for an employer if the person performing the work is otherwise
28 exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to
29 a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is
30 not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person

1 does not regularly perform agricultural work away from the person's own fixed business location. For the
2 purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

3 (3) With the approval of the insurer, an employer may elect to include as an employee under the
4 provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in
5 7-33-4510.

6 (4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed
7 limited liability company, the employer may elect to include as an employee within the provisions of this chapter
8 any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member
9 of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or
10 limited liability company business.

11 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice
12 naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage
13 desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner,
14 sole proprietor, or member is not considered an employee within this chapter until notice has been given.

15 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following
16 notification.

17 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to the
18 minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination
19 of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than
20 \$900 a month and not more than 1 1/2 times the state's average weekly wage.

21 (5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability
22 company, the employer may elect to include as an employee within the provisions of this chapter any corporate
23 officer or manager exempted under 39-71-401(2).

24 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice
25 naming the corporate officer or manager to be covered and stating the level of compensation coverage desired
26 by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer
27 or manager is not considered an employee within this chapter until notice has been given.

28 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following
29 notification.

30 (d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be

1 based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d).
2 For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the
3 electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's
4 average weekly wage.

5 (6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are
6 furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or
7 corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to
8 be under the control and employment of the employer. This presumption may be rebutted as provided in
9 39-71-117(3).

10 (7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution
11 who is participating in work-based learning activities and who is paid wages by the educational institution or
12 business partner is the employee of the entity that pays the student's wages for all purposes under this chapter.
13 A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject
14 to the provisions of this chapter.

15 (8) For purposes of this section, an "employee or worker in this state" means:

16 (a) a resident of Montana who is employed by an employer and whose employment duties are primarily
17 carried out or controlled within this state;

18 (b) a nonresident of Montana whose principal employment duties are conducted within this state on a
19 regular basis for an employer;

20 (c) a nonresident employee of an employer from another state engaged in the construction industry, as
21 defined in 39-71-116, within this state; or

22 (d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose
23 employer elects coverage with an insurer that allows an election for an employer whose:

24 (i) nonresident employees are hired in Montana;

25 (ii) nonresident employees' wages are paid in Montana;

26 (iii) nonresident employees are supervised in Montana; and

27 (iv) business records are maintained in Montana.

28 (9) An insurer may require coverage for all nonresident employees of a Montana employer who do not
29 meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection
30 (8)(d).

1 (10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer
2 nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as
3 an employee within the provisions of this chapter a volunteer emergency ~~medical technician~~ care provider who
4 serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or
5 volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase
6 workers' compensation coverage from any entity authorized to provide workers' compensation coverage under
7 plan No. 1, 2, or 3 as provided in this chapter.

8 (b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer
9 emergency ~~medical technicians~~ care providers for premium and weekly benefit purposes based on the number
10 of volunteer hours of each emergency ~~medical technician~~ care provider, but no more than 60 hours, times the
11 state's average weekly wage divided by 40 hours.

12 (c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer
13 nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as
14 described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has
15 elected not to be covered under this chapter, but who is covered as a volunteer emergency ~~medical technician~~
16 care provider pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer
17 emergency ~~medical technician~~ care provider, a member may instead of the benefits described in subsection
18 (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3,
19 part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll
20 information for those self-employed sole proprietors or partners must be reported and premiums must be
21 assessed on the assumed weekly wage.

22 (d) A volunteer emergency ~~medical technician~~ care provider who receives workers' compensation
23 coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also
24 eligible as a volunteer firefighter.

25 (e) (i) The term "volunteer emergency ~~medical technician~~ care provider" means a person who has
26 received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who
27 serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer
28 nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

29 (ii) The term does not include a volunteer emergency ~~medical technician~~ care provider who serves an
30 employer as defined in 7-33-4510.

1 (f) The term "volunteer hours" means the time spent by a volunteer emergency ~~medical technician~~ care
2 provider in the service of an employer or as a volunteer for a town, city, or county, including but not limited to
3 training time, response time, and time spent at the employer's premises.

4 (11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the
5 administrative purposes of this chapter and may not be interpreted or construed to create an employment
6 relationship in any other context."

7

8 **Section 9.** Section 45-5-214, MCA, is amended to read:

9 **"45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if
10 the person purposely causes one of the person's bodily fluids to make physical contact with:

11 (a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care
12 provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health
13 care provider is acting in the course and scope of the health care provider's profession and occupation:

14 (i) during or after an arrest for a criminal offense;

15 (ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or
16 regional jail or detention facility, or a health care facility; or

17 (iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city,
18 or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility,
19 short-term detention center, state youth correctional facility, health care facility, or shelter care facility; or

20 (b) an emergency responder.

21 (2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed
22 \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

23 (3) The youth court has jurisdiction of any violation of this section by a minor, unless the charge is filed
24 in district court, in which case the district court has jurisdiction.

25 (4) As used in this section, the following definitions apply:

26 (a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

27 (b) "Emergency responder" means a licensed medical services provider, law enforcement officer,
28 firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency ~~medical technician~~ care
29 provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in
30 good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

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Section 10. Section 46-4-114, MCA, is amended to read:

"46-4-114. Reporting fetal deaths. A licensed nurse, a midwife, a physician assistant, an emergency ~~medical technician~~ care provider, a birthing assistant, or any other person who assists in the delivery that occurs outside a licensed medical facility of a fetus that is believed or declared to be dead shall report the death by the earliest means available to the coroner of the county in which the death occurred."

Section 11. Section 50-6-101, MCA, is amended to read:

"50-6-101. Legislative purpose. The public welfare requires the providing of assistance and encouragement for the development of a comprehensive emergency ~~medical services program~~ care system for Montanans who each year are dying and suffering permanent disabilities needlessly because of inadequate emergency medical services. The repeated loss of persons who die unnecessarily because necessary life-support personnel and equipment are not available to victims of accidents and sudden illness is a tragedy that can and must be eliminated. The development of an emergency ~~medical services program~~ care system is in the interest of the social well-being and health and safety of the state and all its people who require emergency and community-based prehospital medical care."

Section 12. Section 50-6-102, MCA, is amended to read:

"50-6-102. Department to establish and administer program. The department of public health and human services shall establish and administer an emergency ~~medical services program~~ care system."

Section 13. Section 50-6-103, MCA, is amended to read:

"50-6-103. Powers of department. (1) The department of public health and human services is authorized to confer and cooperate with any other persons, organizations, and governmental agencies that have an interest in the emergency ~~medical services problems and needs~~ care system.

(2) The department is authorized to accept, receive, expend, and administer any funds that are now available or that may be donated, granted, or appropriated to the department.

(3) The department may, after consultation with the trauma care committee, the Montana committee on trauma of the American college of surgeons, the Montana hospital association, and the Montana medical association, adopt rules necessary to implement part 4 of this chapter.

1 (4) The department shall continually assess and, as needed, revise the functions and components that
2 it regulates to improve the quality of emergency medical services and to ensure that the emergency care system
3 adapts to the changing prehospital care needs of the citizens of Montana.

4 (5) The department shall collaborate with other components of the health care system to fully integrate
5 the emergency care system into the overall health care system to identify, modify, and manage illness and injury."

6
7 **Section 14.** Section 50-6-105, MCA, is amended to read:

8 **"50-6-105. Emergency medical care standards -- review process.** (1) The board of medical
9 examiners shall establish patient care standards for prehospital and interfacility emergency medical treatment
10 and transportation.

11 (2) (a) Complaints involving prehospital care, interfacility care, or the operation of an emergency medical
12 service, as defined in 50-6-302, must be filed with the board and reviewed by a screening panel pursuant to
13 37-1-307.

14 (b) If a complaint is initially filed with the department of public health and human services, the department
15 shall refer the complaint to the board for review by a screening panel.

16 (3) (a) When a complaint involves the operation or condition of an emergency medical service, the
17 screening panel shall refer the complaint to the department for investigation as provided in 50-6-323.

18 (b) When a complaint involves patient care provided by an emergency ~~medical technician~~ care provider,
19 the screening panel shall:

20 (i) refer the complaint to the board for investigation as provided in 37-1-308 and 50-6-203; and

21 (ii) forward to the department the complaint and the results of the screening panel's initial review as soon
22 as the review is completed.

23 (c) When a complaint involves a combination of patient care and emergency medical service matters,
24 the screening panel shall refer the complaint to both the department and the board for matters that fall within the
25 jurisdiction of each entity.

26 (4) For a complaint involving patient care, the board shall:

27 (a) immediately share with the department any information indicating:

28 (i) a potential violation of department rules; or

29 (ii) that the existing policies or practices of an emergency medical service may be jeopardizing patient
30 care; and

- 1 (b) notify the department when:
- 2 (i) a sanction is imposed upon an emergency ~~medical technician~~ care provider; or
- 3 (ii) the complaint is resolved.
- 4 (5) For a complaint involving an emergency medical service, the department shall:
- 5 (a) immediately share with the board any information indicating:
- 6 (i) a potential violation of board rules; or
- 7 (ii) that the practices of an emergency ~~medical technician~~ care provider may be jeopardizing patient care;
- 8 and
- 9 (b) notify the board when:
- 10 (i) a sanction is imposed upon an emergency medical service; or
- 11 (ii) the complaint is resolved."

Section 15. Section 50-6-201, MCA, is amended to read:

"50-6-201. Legislative findings -- duty of board. (1) The legislature finds and declares that ~~prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is an important ingredient necessary for reduction of the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition and that a program for emergency~~ medical technicians care providers is required in order to provide the safest and most efficient delivery of emergency care.

(2) The legislature further finds that prompt and efficient emergency medical care of the sick and injured at the scene and during transport to a health care facility is important in reducing the mortality and morbidity rate during the first critical minutes immediately after an accident or the onset of an emergent condition.

(3) The legislature further finds that community-based health care integrated into the overall health care system can prevent illness and injury and can help fill gaps in the state's health care system, particularly in rural communities with limited health care services and providers.

~~(2)~~(4) The board has a duty to:

(A) LICENSE COMPETENT EMERGENCY CARE PROVIDERS TO PROVIDE PREHOSPITAL CARE AND OTHER SERVICES AS PART OF AN EMERGENCY CARE SYSTEM; AND

(B) ensure that emergency ~~medical technicians~~ care providers provide proper treatment to patients in their care."

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Section 16. Section 50-6-202, MCA, is amended to read:

"50-6-202. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

(2) "Emergency ~~medical technician care provider~~" means a person who has been specially trained in ~~emergency prehospital~~ care in a training program approved by the board and certified by the board as having demonstrated a level of competence suitable to treat victims of injury or other emergent condition and to provide community-based health services as allowed by the board.

(3) "Volunteer emergency ~~medical technician care provider~~" means an individual who is licensed pursuant to this part and provides ~~emergency prehospital~~ medical care:

(a) on the days and at the times of the day chosen by the individual; and

(b) for an emergency medical service other than:

(i) a private ambulance company unless the care is provided without compensation and outside of the individual's regular work schedule; or

(ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties."

Section 17. Section 50-6-203, MCA, is amended to read:

"50-6-203. Rules. (1) The board, after consultation with the department of public health and human services and other appropriate departments, associations, and organizations, shall adopt rules of the board implementing this part, including but not limited to:

(a) training and licensure of emergency ~~medical technicians~~ care providers;

(b) the administration of drugs by emergency ~~medical technicians~~ care providers; and

(c) the handling of complaints involving patient care provided by emergency ~~medical technicians~~ care providers.

(2) The board may, by rule, establish various levels of emergency ~~medical technician~~ care provider licensure and shall specify for each level the training requirements, acts allowed, relicensure requirements, and any other requirements regarding the training, performance, or licensure of that level of emergency ~~medical technician~~ care provider that it considers necessary, subject to the provisions of 37-1-138."

1 **Section 18.** Section 50-6-206, MCA, is amended to read:

2 **"50-6-206. Consent.** ~~No An~~ emergency ~~medical technician~~ care provider may not be subject to civil
3 liability for failure to obtain consent in performing acts as authorized ~~herein~~ in this part to any individual regardless
4 of age ~~where~~ when the patient is unable to give consent and there is no other person present legally authorized
5 to consent, provided that ~~such~~ the acts are in good faith and without knowledge of facts negating consent."
6

7 **Section 19.** Section 50-6-301, MCA, is amended to read:

8 **"50-6-301. Findings.** The legislature finds and declares that:

9 (1) the public welfare requires the establishment of minimum uniform standards for the operation of
10 emergency medical services;

11 (2) the control, inspection, and regulation of persons providing emergency medical services AND
12 PREHOSPITAL CARE is necessary to prevent or eliminate improper care that may endanger the health of the public;
13 and

14 (3) the regulation of emergency medical ~~care~~ services and the emergency care system is in the interest
15 of the social well-being and the health and safety of the state and all its people."
16

17 **Section 20.** Section 50-6-302, MCA, is amended to read:

18 **"50-6-302. Definitions.** As used in this part, unless the context requires otherwise, the following
19 definitions apply:

20 (1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or
21 helicopter.

22 (2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and
23 used for the transportation of patients.

24 (b) The term does not include:

25 (i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

26 (ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal
27 aviation administration and that offer no special medical services or provide only transportation to patients or
28 persons at the direction or under the supervision of an independent physician.

29 (3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

30 (4) "Department" means the department of public health and human services provided for in 2-15-2201.

1 (5) "Emergency care system" means an organized system of emergency and prehospital medical care
2 including prevention and community-based care of injury and illness, recognition of an emergency, provision of
3 prehospital care, and integration of care in a hospital or other appropriate health care setting.

4 ~~(5)~~(6) "Emergency medical service" means a prehospital or interfacility emergency medical transportation
5 or treatment service provided by an ambulance or nontransporting medical unit that is licensed by the department
6 to provide:

7 (a) prehospital or interfacility emergency medical transportation or treatment services; or

8 (b) community-based health care services as part of an emergency care system that is integrated into
9 the overall health care system.

10 ~~(6)~~(7) "Nonemergency ambulance transport" means the use of an ambulance to transport a patient
11 between health care facilities, as defined in 50-5-101, including federal facilities, when the patient's medical
12 condition requires special transportation considerations, supervision, or handling but does not indicate a need
13 for medical treatment during transit or for emergency medical treatment upon arrival at the receiving health care
14 facility.

15 ~~(7)~~(8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to
16 a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting
17 medical units provide any one of varying types and levels of service defined by department rule but may not
18 transport patients.

19 ~~(8)~~(9) "Offline medical direction" means the function of a board-licensed physician or physician assistant
20 in providing:

21 (a) medical oversight and supervision for an emergency medical service or an emergency medical
22 technician care provider; and

23 (b) review of patient care techniques, emergency medical service procedures, and quality of care.

24 ~~(9)~~(10) "Online medical direction" means the function of a board-licensed physician or physician assistant
25 or the function of a designee of the physician or physician assistant in providing direction, advice, or orders to
26 an emergency medical technician care provider for prehospital and interfacility emergency care as identified in
27 a plan for offline medical direction.

28 ~~(10)~~(11) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or
29 helpless.

30 (b) The term does not include an individual who is nonambulatory and who needs transportation

1 assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.

2 ~~(11)~~(12) "Person" means an individual, firm, partnership, association, corporation, company, group of
3 individuals acting together for a common purpose, or organization of any kind, including a governmental agency
4 other than the United States.

5 ~~(12)~~(13) "Volunteer emergency ~~medical technician~~ care provider" means an individual who is licensed
6 pursuant to Title 50, chapter 6, part 2, and provides prehospital or emergency medical care:

7 (a) on the days and at the times of the day chosen by the individual; and

8 (b) for an emergency medical service other than:

9 (i) a private ambulance company, unless the care is provided without compensation and outside of the
10 individual's regular work schedule; or

11 (ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular
12 basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties."

13

14 **Section 21.** Section 50-6-323, MCA, is amended to read:

15 **"50-6-323. Powers and duties of department.** (1) The department has general authority to supervise
16 and regulate emergency medical services in Montana.

17 (2) Upon referral by a screening panel pursuant to 50-6-105, the department shall review and may
18 investigate complaints relating to the operation of any emergency medical service.

19 (3) In investigating a complaint, the department may review:

20 (a) the type and condition of equipment and procedures used by an emergency medical service to
21 provide care at the scene, ~~or~~ during prehospital or interfacility transportation, or in other out-of-hospital care
22 settings;

23 (b) the condition of any vehicle or aircraft used as an ambulance;

24 (c) general performance by an emergency medical service; and

25 (d) the results of any investigation conducted by the board concerning patient care by an ~~emergency~~
26 ~~medical technician~~ emergency care provider who was, at the time of the complaint, providing care through the
27 emergency medical service that is the subject of a complaint under investigation by the department.

28 (4) Upon completion of an investigation as provided in subsection (3), the department shall take
29 appropriate action, including sharing information regarding complaints with the board as provided in 50-6-105 and
30 initiating any necessary legal proceedings as authorized under this part.

1 (5) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for
2 emergency medical services. Rules of the department may include but are not limited to the following:

3 (a) the classification and identification of specific types and levels of prehospital and interfacility medical
4 transportation or treatment services;

5 (b) procedures for issuing, denying, renewing, and canceling licenses;

6 (c) minimum licensing standards for each type and level of service, including requirements for personnel,
7 offline medical direction, online medical direction, maintenance, equipment, reporting, recordkeeping, sanitation,
8 and minimum insurance coverage as determined appropriate by the department; and

9 (d) other requirements necessary and appropriate to ensure the quality, safety, and proper operation
10 and administration of emergency medical services and the emergency care system.

11 (6) A rule adopted pursuant to this section is not effective until:

12 (a) a public hearing has been held for review of the rule; and

13 (b) notice of the public hearing and a copy of the proposed rules have been sent to all persons licensed
14 under 50-6-306 to conduct or operate an emergency medical service. Notice must be sent at least 30 days prior
15 to the date of the public hearing."
16

17 **Section 22.** Section 50-6-506, MCA, is amended to read:

18 **"50-6-506. Exemptions.** This part does not apply to the use of an AED by:

19 (1) a patient or the patient's caretaker if use of the AED is ordered by a physician; or

20 (2) a licensed health care professional, including an emergency ~~medical technician~~ care provider, whose
21 scope of practice includes the use of an AED."
22

23 **Section 23.** Section 50-16-701, MCA, is amended to read:

24 **"50-16-701. Definitions.** As used in this part, the following definitions apply:

25 (1) "Airborne infectious disease" means an infectious disease transmitted from person to person by an
26 aerosol, including but not limited to infectious tuberculosis.

27 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

28 (3) "Designated officer" means the emergency services organization's representative and the alternate
29 whose names are on record with the department as the persons responsible for notifying an emergency services
30 provider of exposure.

1 (4) "Emergency services organization" means a public or private organization that provides emergency
2 services to the public.

3 (5) "Emergency services provider" means a person employed by or acting as a volunteer with an
4 emergency services organization, including but not limited to a law enforcement officer, firefighter, emergency
5 ~~medical technician~~ care provider, paramedic, corrections officer, or ambulance service attendant.

6 (6) "Exposure" means the subjecting of a person to a risk of transmission of an infectious disease
7 through the commingling of the blood or bodily fluids of the person and a patient or in another manner as defined
8 by department rule.

9 (7) "Health care facility" has the meaning provided in 50-5-101 and includes a public health center as
10 defined in 7-34-2102.

11 (8) "Infectious disease" means human immunodeficiency virus infection, hepatitis B, hepatitis C, hepatitis
12 D, communicable pulmonary tuberculosis, meningococcal meningitis, and any other disease capable of being
13 transmitted through an exposure that has been designated by department rule.

14 (9) "Infectious disease control officer" means the person designated by the health care facility as the
15 person who is responsible for notifying the emergency services provider's designated officer and the department
16 of an infectious disease as provided for in this part and by rule.

17 (10) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless."
18

19 **Section 24.** Section 61-2-502, MCA, is amended to read:

20 **"61-2-502. Definitions.** As used in this part, the following definitions apply:

21 (1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or
22 helicopter.

23 (2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and
24 used for the transportation of patients.

25 (b) The term does not include:

26 (i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or

27 (ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal
28 aviation administration and that offer no special medical services or provide only transportation to patients or
29 persons at the direction or under the supervision of an independent physician.

30 (3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

- 1 (4) "Department" means the department of transportation provided for in 2-15-2501.
- 2 (5) "Emergency care provider" means a person who has been specially trained in emergency care in
3 a training program approved by the board and licensed by the board as having demonstrated a level of
4 competence suitable to treat victims of injury or other emergent condition.
- 5 ~~(5)(6)~~ "Emergency medical service" means a prehospital or interhospital emergency medical
6 transportation or treatment service provided by an ambulance or nontransporting medical unit.
- 7 ~~(6) "Emergency medical technician" means a person who has been specially trained in emergency care~~
8 ~~in a training program approved by the board and licensed by the board as having demonstrated a level of~~
9 ~~competence suitable to treat victims of injury or other emergent condition.~~
- 10 (7) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding
11 to emergency medical calls.
- 12 (b) The term does not include a vehicle used for an individual's personal purposes.
- 13 (8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a
14 call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting
15 medical units provide any one of varying types and levels of service defined by department of public health and
16 human services rule but may not transport patients.
- 17 (9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or
18 helpless.
- 19 (b) The term does not include an individual who is nonambulatory and who needs transportation
20 assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility.
- 21 (10) "Person" means an individual, firm, partnership, association, corporation, company, group of
22 individuals acting together for a common purpose, or organization of any kind, including a governmental agency
23 other than the United States.
- 24 (11) "Volunteer emergency ~~medical technician~~ care provider" means an individual who is licensed
25 pursuant to Title 50, chapter 6, part 2, and provides emergency medical care:
- 26 (a) on the days and the times of the day chosen by the individual; and
- 27 (b) for an emergency medical service other than:
- 28 (i) a private ambulance company, unless the care is provided without compensation and outside of the
29 individual's regular work schedule; or
- 30 (ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular

1 basis with a regular, hourly wage to provide emergency medical care as part of the individual's job duties."
2

3 **Section 25.** Section 61-2-503, MCA, is amended to read:

4 **"61-2-503. Emergency medical services grant program -- eligibility -- matching funds.** (1) The
5 department shall provide competitive grants to emergency medical service providers for acquiring or leasing
6 ambulances or emergency response vehicles or for purchasing equipment, other than routine medical supplies,
7 for any of the following purposes:

8 (a) training;

9 (b) communications; or

10 (c) providing medical care to a patient.

11 (2) A licensed emergency medical service may apply for a grant if:

12 (a) it has been in operation at least 12 months;

13 (b) it bills for services at a level that is at least equivalent to the medicare billing level; and

14 (c) a majority of its active emergency ~~medical technicians~~ care providers are volunteer emergency
15 ~~medical technicians~~ care providers.

16 (3) An emergency medical service is ineligible for grant funding if it is either a private business or a public
17 agency, as defined in 7-1-4121, and employs the majority of its emergency ~~medical technicians~~ care providers
18 on a regular basis with a regular, hourly wage.

19 (4) An eligible emergency medical service applying for a grant under this section shall provide a 10%
20 match for any grant funds received.

21 (5) The department shall award grants on an annual basis using the criteria contained in 61-2-504.

22 (6) Up to 5% of the annual appropriation for the program may be distributed for emergency purposes
23 each year as provided in 61-2-507."
24

25 **Section 26.** Section 61-2-504, MCA, is amended to read:

26 **"61-2-504. Grant review criteria.** When evaluating grant applications, the department shall consider
27 the following factors:

28 (1) demonstrated need;

29 (2) size of the geographic area covered by the emergency medical service;

30 (3) distance from other emergency medical service providers in the geographic region;

- 1 (4) distance from the closest hospital;
- 2 (5) number of calls in the previous calendar year; and
- 3 (6) number of volunteer emergency ~~medical technicians~~ care providers on the active call roster."

4 - END -