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CHAPTER 61.

 EMERGENCY MEDICAL SERVICES

ARTICLE 1.

 EMERGENCY MEDICAL SERVICES

**SECTION 44‑61‑10.** Short title.

This article may be cited as the “Emergency Medical Services Act of South Carolina”.

**SECTION 44‑61‑20.** Definitions.

As used in this article, and unless otherwise specified, the term:

(1) “Ambulance” means a vehicle maintained or operated by a licensed provider who has obtained the necessary permits and licenses for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated.

(2) “Attendant” means a trained and qualified individual responsible for the operation of an ambulance and the care of the patients, regardless of whether the attendant also serves as driver.

(3) “Attendant‑driver” means a person who is qualified as an attendant and a driver.

(4) “Authorized agent” means any individual designated to represent the department.

(5) “Board” means the governing body of the Department of Health and Environmental Control or its designated representative.

(6) “Certificate” means official acknowledgment by the department that an individual has completed successfully one of the appropriate emergency medical technician training courses referred to in this article in addition to completing successfully the requisite examinations, which entitles that individual to perform the functions and duties as delineated by the classification for which the certificate was issued.

(7) “Condition requiring an emergency response” means the sudden onset of a medical condition manifested by symptoms of such sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect without medical attention, to result in:

(a) serious illness or disability;

(b) impairment of a bodily function;

(c) dysfunction of the body; or

(d) prolonged pain, psychiatric disturbance, or symptoms of withdrawal.

(8) “Department” means the administrative agency known as the Department of Health and Environmental Control.

(9) “Driver” means an individual who drives or otherwise operates an ambulance.

(10) “Emergency medical responder agency” means a licensed agency providing medical care at the EMT level or above, as a nontransporting emergency medical responder.

(11) “Emergency medical service system” means the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.

(12) “Emergency medical technician” (EMT) when used in general terms for emergency medical personnel, means an individual possessing a valid EMT, advanced EMT (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

(13) “Emergency transport” means services and transportation provided after the sudden onset of a medical condition manifesting itself by acute symptoms of such severity including severe pain that the absence of medical attention could reasonably be expected to result in the following:

(a) placing the patient’s health in serious jeopardy;

(b) causing serious impairment to bodily functions;

(c) causing serious dysfunction of bodily organ or part; or

(d) a situation that resulted from an accident, injury, acute illness, unconsciousness, or shock, for example, required oxygen or other emergency treatment, required the patient to remain immobile because of a fracture, stroke, heart attack, or severe hemorrhage.

(14) “Immediate family” means a person’s spouse. In the event there is no spouse, “immediate family” means a person’s parents and children.

(15) “In‑service training” means a course of training approved by the department that is conducted by the licensed provider for his personnel at his prime location.

(16) “Investigative Review Committee” means a professional peer review committee that is convened by the department when the findings of an official investigation against an entity or an individual regulated by the department may warrant suspension or revocation of a license or certification. This committee consists of the State Medical Control Physician, three regional EMS office representatives, at least one paramedic, and at least one emergency room physician who is also a medical control physician. Appointment is made to this committee by the Director of the Division of EMS and Trauma.

(17) “Legal guardian” means a person who is lawfully invested with the power, and charged with the obligation of, taking care of and managing the property and rights of a person who, because of age, understanding, or self‑control, is considered incapable of administering his or her own affairs.

(18) “Legal representative” of a person is his personal representative, general guardian, or conservator of his property or estate, or the person to whom power of attorney has been granted.

(19) “License” means an authorization to a person, firm, corporation, or governmental division or agency to provide emergency medical services in the State.

(20) “Licensee” means any person, firm, corporation, or governmental division or agency possessing authorization, permit, license, or certification to provide emergency medical service in this State.

(21) “Moral turpitude” means behavior that is not in conformity with and is considered deviant by societal standards.

(22) “National Registry of Emergency Medical Technicians Registration” is given to an individual who has completed successfully the National Registry of Emergency Medical Technicians examination and its requirements.

(23) “Nonemergency ambulance transport” means services and transportation provided to a patient whose condition is considered stable. A stable patient is one whose condition reasonably can be expected to remain the same throughout the transport and for whom none of the criteria for emergency transport has been met. Prearranged transports scheduled at the convenience of the service or medical facility will be classified as a nonemergency transport.

(24) “Nonemergency ambulance transport service” means an ambulance service that provides for routine transportation of patients that require medical monitoring in a nonemergency setting including, but not limited to, prearranged transports.

(25) “Operator” means an individual, firm, partnership, association, corporation, company, group, or individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

(26) “Patient” means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(27) “Permit” means an authorization issued for an ambulance vehicle which meets the standards adopted pursuant to this article.

(28) “Revocation” means that the department has permanently voided a license or certificate and the holder no longer may perform the function associated with the license, or certificate. The department will not reissue the license or certificate for a period of two years for a license or permit and four years for a certificate. At the end of this period the holder may petition for reinstatement.

(29) “Standards” means the required measurable components of an emergency medical service system having permanent and recognized value that provide adequate emergency health care delivery.

(30) “State Medical Control Physician” means a physician who shall be contracted with the department to oversee all medical aspects of the EMS Program. The contracted physician must both reside and be licensed to practice in this State. Duties of the State Medical Control Physician shall include, but not be limited to, the following:

(a) protocol development;

(b) establishment of the scope of practice for EMTs at all levels;

(c) provide recommendations for disciplinary actions in cases involving inappropriate patient care; and

(d) serve as Chairman of the State Medical Control Committee and the State Emergency Medical Services Advisory Council.

(31) “Suspension” means that the department has temporarily voided a license, permit, or certificate and the holder may not perform the function associated with the license, permit, or certificate until the holder has complied with the statutory requirements and other conditions imposed by the department.

**SECTION 44‑61‑30.** Standards and regulations for improvement of emergency medical services; creation and membership of Emergency Medical Services Advisory Council.

(A) The Department of Health and Environmental Control, with the advice of the Emergency Medical Services Advisory Council and the State Medical Control Physician, shall develop standards and promulgate regulations for the improvement of emergency medical services (hereinafter referred to as EMS) in the State. All administrative responsibility for this program is vested in the department.

(B) The EMS Program shall include:

(1) the regulation and licensing of public, private, volunteer, or other type ambulance services; however, in developing these programs for regulating and licensing ambulance services, the programs must be formulated in such a manner so as not to restrict or restrain competition;

(2) inspection and issuance of permits for ambulance vehicles;

(3) the licensing of emergency medical responder agencies;

(4) training and certification of EMS personnel;

(5) development, adoption, and implementation of EMS standards and state plan;

(6) the development and coordination of an EMS communications system;

(7) designation of trauma centers and the categorization of hospital emergency departments; and

(8) the establishment of an electronic patient care reporting system to provide data to the National EMS Information System database for betterment of EMS across the nation.

(C) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina Trauma Advisory Council, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the board. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems. The advisory council shall serve without compensation, mileage, per diem, or subsistence.

**SECTION 44‑61‑40.** Required licenses and permits; applications; requirement to retain medical control physician; renewals.

(A) A person, firm, corporation, association, county, district, municipality, or metropolitan government or agency, either as owner, agent, or otherwise, may not furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service, or both, without obtaining a license and ambulance permit issued by the department. Failure to furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to engage in the business or service of providing emergency medical response or ambulance service without the proper license or permit, or both, from the department results in a Class I civil penalty, as defined in Regulation 61‑7(304).

(B) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the board and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to Article 3, Chapter 23, Title 1.

(C) An applicant shall retain a medical control physician to maintain quality control of the patient care provided by the applicant’s service. No medical control physician acting in good faith who participates in the review or evaluation of the services provided by the applicant to help improve the quality of patient care is liable for any civil damages as a result of any act or omission by the physician in the course of a review or evaluation.

(D) Applicants shall renew licenses and permits every two years.

**SECTION 44‑61‑50.** Ambulance permits.

A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations promulgated by the board. Absent revocation or suspension, permits issued for ambulances are valid for a period not to exceed two years.

**SECTION 44‑61‑60.** Ambulance equipment requirements.

(A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the board and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the board.

(B) The transportation of patients and the provision of emergency medical services shall conform to standards promulgated by the board.

**SECTION 44‑61‑65.** First responder licensing requirements

Organizations applying for emergency medical responder licensure must comply with equipment, training, and certification standards and other requirements promulgated by the department in regulation.

**SECTION 44‑61‑70.** Suspension or revocation of license or permit; penalty.

(A) The department may enforce rules, regulations, and standards promulgated pursuant to this article. An enforcement action taken by the department may be appealed pursuant to Article 3, Chapter 23, Title 1.

(B) Grounds for an enforcement action against an authorization, license, or permit exist for violation of a regulation promulgated pursuant to this article. The department may suspend a license pending an investigation of an alleged violation or complaint. The department may impose a civil monetary penalty up to five hundred dollars per offense per day to a maximum of ten thousand dollars and revoke or suspend the provider’s license or permit if the department finds that a service has:

(1) allowed uncertified personnel to perform patient care;

(2) falsified required forms or paperwork as required by the department;

(3) failed to maintain required equipment as evidenced by past compliance history;

(4) failed to maintain a medical control physician;

(5) failed to maintain equipment in working order; or

(6) failed to respond to a call within the response area of the service without providing for response by an alternate service.

(C) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article or regulation of the board promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.

(D) If a permitted ambulance or licensed emergency medical responder service fails inspection or loses points upon initial inspection, a civil monetary penalty must not be levied. Instead, a copy of the inspection report will be given to the service indicating deficiencies found and a request for a letter of compliance and a time period by which to correct the deficiencies will be issued. Upon reinspection, any deficiencies found will be assigned a point value and fine schedule or the permit will be revoked, or both. The fine schedule is found in Regulation 61‑7.

**SECTION 44‑61‑80.** Emergency medical technician certificate; educational standards; examination; state criminal history background check; renewal; misconduct.

(A) All ambulance attendants shall obtain a valid emergency medical technician certificate unless an exception is granted pursuant to regulations promulgated by the department. A person who provides patient care that is within the scope of an emergency medical technician without obtaining proper certification from the department shall be sanctioned in accordance with a Class I civil penalty as defined in Regulation 61‑7(304), unless an exception was granted as provided for in this subsection.

(B) The department shall develop and approve educational standards for the necessary classification of emergency medical technicians and approve the training program for the necessary classifications of emergency medical technicians.

(C) A person seeking EMT certification must pass the National Registry of Emergency Medical Technicians examination for the level of certification desired and meet other requirements established by the department. The department will make a determination of the applicant’s qualifications and, if appropriate, issue a certificate to the applicant.

(D) A person seeking EMT certification or recertification must undergo a state criminal history background check, supported by fingerprints by the South Carolina Law Enforcement Division (SLED), and a national criminal history background check, supported by fingerprints by the Federal Bureau of Investigation (FBI). The results of these criminal history background checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. The cost of the state criminal history background check must not exceed eight dollars and must be paid by the EMT or the EMS agency upon application for the state check. The cost of the national criminal history background check is established by the FBI and must be paid by the EMT or the EMS agency upon application for the national check. The state and national criminal history background checks are not required for an EMT employed as of July 1, 2008, until the EMT applies for recertification. The department may deny certification to applicants with certain past felony convictions and to those who are under felony indictment. Applications for certification of individuals convicted of or under indictment for the following crimes will be denied in all cases:

(1) felonies involving criminal sexual conduct;

(2) felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual conduct with a minor, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on a vulnerable adult;

(3) a crime in which the victim is a patient or resident of a health care facility, including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.

Applications from individuals convicted of, or under indictment for, other offenses not listed above will be reviewed by the department on a case by case basis.

(E) EMT certification is valid for a period not exceeding four years from the date of issuance and must be renewed by undergoing a state and national criminal history background check as provided for in subsection (D) and providing documentation to the department of current national registration for the appropriate level of certification and any other credential as required by the department. The national registry credential must be renewed in accordance with National Registry of Emergency Medical Technicians policies and procedures. An individual who was certified in this State before October 2006, and has continuously maintained certification, may continue to renew certification without a national registry credential if the individual has successfully completed all other requirements as established by the department in regulation.

(F) The department may take enforcement action against the holder of a certificate at any time it is determined that the holder no longer meets the prescribed qualifications set forth by the department or has failed to provide to patients emergency medical treatment of a quality deemed acceptable by the department or is guilty of misconduct. Misconduct means that, while holding a certificate, the holder:

(1) used a false, fraudulent, or forged statement or document or practiced a fraudulent, deceitful, or dishonest act in connection with the certification requirements or official documents required by the department;

(2) was convicted of or currently under indictment for a felony or another crime involving moral turpitude, drugs, or gross immorality;

(3) was addicted to alcohol or drugs to such a degree as to render him unfit to perform as an EMT;

(4) sustained a mental or physical disability that renders further practice by him dangerous to the public;

(5) obtained fees or assisted another in obtaining fees under dishonorable, false, or fraudulent circumstances;

(6) disregarded an appropriate order by a physician concerning emergency treatment or transportation;

(7) at the scene of an accident or illness, refused to administer emergency care based on the age, sex, race, religion, creed, or national origin of the patient;

(8) after initiating care of a patient at the scene of an accident or illness, discontinued care or abandoned the patient without the patient’s consent or without providing for the further administration of care by an equal or higher medical authority;

(9) revealed confidences entrusted to him in the course of medical attendance, unless this revelation was required by law or is necessary in order to protect the welfare of the individual or the community;

(10) by action or omission and without mitigating circumstance, contributed to or furthered the injury or illness of a patient under his care;

(11) was careless, reckless, or irresponsible in the operation of an emergency vehicle;

(12) performed skills above the level for which he was certified or performed skills that he was not trained to do;

(13) observed the administration of substandard care by another EMT or other medical provider without documenting the event and notifying a supervisor;

(14) by his actions or inactions, created a substantial possibility that death or serious physical harm could result;

(15) did not take or complete remedial training or other courses of action as directed by the department as a result of an investigation or inquiry;

(16) was found to be guilty of the falsification of documentation as required by the department;

(17) breached a section of the Emergency Medical Services Act of South Carolina or a subsequent amendment of the act or any rules or regulations published pursuant to the act.

The department is further authorized to suspend a certificate pending the investigation of any complaint or allegation regarding the commission of an offense including, but not limited to, those listed above.

(G) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the board; and all such training courses shall be supervised by certified instructors.

**SECTION 44‑61‑90.** Records shall be kept by ambulance service licensees.

Each licensee shall maintain records that include approved patient care report forms, employee or member rosters or both, and training records. These records must be available for inspection by the department at any reasonable time and copies must be furnished to the department upon request.

**SECTION 44‑61‑100.** Exemptions.

The following are exempted from the provisions of this article:

(A) ambulances owned and operated by the Federal Government;

(B) a vehicle or vehicles, including associated personnel, rendering assistance to community ambulances in the case of a catastrophe when licensed ambulances in the locality are insufficient to render the required services;

(C) the use of a privately or publicly owned vehicle, not ordinarily utilized in the transportation of persons who are sick, injured, or otherwise incapacitated and operating pursuant to Section 15‑1‑310 (Good Samaritan Act) in the prevention of loss of life and alleviation of suffering;

(D) the use of out‑of‑state ambulance services and personnel to assist with treatment and transport of patients during a disaster or catastrophe when licensed services in the locality are insufficient to render the required services.

**SECTION 44‑61‑105.** Repealed by 2010 Act No. 157, Section 2, eff May 11, 2010.

**SECTION 44‑61‑110.** Restriction on financial aid.

No financial grants or funds administered by the State for emergency medical services pertinent to this article shall be made available to counties or municipalities not in compliance with the provisions of this article.

**SECTION 44‑61‑120.** Development of plan; guidelines for administration of epinephrine by paramedic emergency medical technicians.

The department shall develop a comprehensive statewide emergency medical services plan to implement and ensure the delivery of adequate emergency medical services to every citizen. This plan shall include guidelines for emergency medical technicians at all levels for the administration of epinephrine to a person suffering or believed to be suffering from anaphylaxis.

**SECTION 44‑61‑130.** Authority of emergency medical technicians.

A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the board may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Health and Environmental Control certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the Department of Health and Environmental Control for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.

**SECTION 44‑61‑140.** Chapter shall not affect present rescue units.

This article must not be construed as limiting presently operating rescue units from utilizing their existing equipment and performing the functions they are now allowed to do so long as they do not conflict with licensed agencies contained in Section 44‑61‑40(A).

**SECTION 44‑61‑150.** Repealed by 2010 Act No. 157, Section 2, eff May 11, 2010.

**SECTION 44‑61‑160.** Confidentiality of data; exceptions; penalty.

(A) The identities of patients and emergency medical technicians mentioned, referenced, or otherwise appearing in information and data collected or prepared by emergency medical services must be treated as confidential. The identities of these persons are not available to the public under the Freedom of Information Act nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual in attendance at a proceeding must not be required to testify as to the identity of a patient except pursuant to court order. A person, medical facility, or other organization providing or releasing information in accordance with this article must not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient upon his request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

(B) The identity of a patient is confidential and must not be released except that the identity of a patient may be released upon consent of the patient, the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative.

(C) An official investigation or inquiry shall be conducted by an Investigative Review Committee. The fact of suspension or restriction of a license, and the fact of any subsequent related action taken by the department is public information under the Freedom of Information Act after issuance of an administrative order.

(D) Except as otherwise provided in this section, patient information must not be released except to:

(1) appropriate staff of the department’s Division of Emergency Medical Services and Trauma, the South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

(2) submitting hospitals or their designees;

(3) a person engaged in an approved research project, except that information identifying a subject of a report or a reporter must not be made available to a researcher unless consent is obtained pursuant to this section.

(E) For purposes of maintaining the database collected pursuant to this article, the department and the Office of Research and Statistics may access and provide access to appropriate confidential data reported in accordance with this section.

(F) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars for a first offense and not more than five thousand dollars for each subsequent violation.

(G) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

(H) This section supersedes any other provision of law, with the exception of federal law, which may be contrary to requirements set forth in this section.

ARTICLE 3.

 EMERGENCY MEDICAL SERVICES FOR CHILDREN

**SECTION 44‑61‑300.** Short title.

This article may be cited as the “Children’s Emergency Medical Services Act”.

**SECTION 44‑61‑310.** Definitions.

As used in this article:

(1) “Advanced life support” means an advanced level of prehospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the department pursuant to regulations.

(2) “Basic life support” means a basic level of prehospital care which includes patient stabilization, airway clearance, cardiopulmonary resuscitation, hemorrhage control, initial wound care and fracture stabilization, and other techniques and procedures authorized by the department pursuant to regulations.

(3) “Board” means the governing body of the Department of Health and Environmental Control or its designated representative.

(4) “Department” means the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control.

(5) “Director” means the Director of the Department of Health and Environmental Control.

(6) “EMSC Program” means the Emergency Medical Services for Children Program established pursuant to this article and other relevant programmatic activities conducted by the department in support of appropriate treatment, transport, and triage of ill or injured children.

(7) “Emergency medical services personnel” means persons trained and certified or licensed to provide emergency medical care, whether on a paid or volunteer basis, as part of a basic life support or advanced life support prehospital emergency care service or in an emergency department or pediatric critical care or specialty unit in a licensed hospital.

(8) “Emergency medical technician” or “EMT” means, when used in general terms for emergency medical personnel, an individual possessing a valid, emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic certificate issued by the State pursuant to the provisions of this article.

(9) “Manager” means the person coordinating the EMSC Program within the Department of Health and Environmental Control.

(10) “Prehospital care” means the provision of emergency medical care or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency and while transporting sick or injured persons to a medical care facility or provider.

**SECTION 44‑61‑320.** Establishment of program.

There is established within the Department of Health and Environmental Control, Division of Emergency Medical Services, the Emergency Medical Services and Trauma for Children Program.

**SECTION 44‑61‑330.** Scope of program; gathering of data.

(A) The EMSC Program must include, but is not limited to, the establishment of:

(1) initial and continuing education programs for emergency medical services personnel that include training in the emergency care of infants and children;

(2) guidelines for referring children to the appropriate emergency treatment facility;

(3) pediatric equipment guidelines for prehospital care and emergency department;

(4) guidelines for EMT, AEMT, and paramedic emergency medical technician certification for administering epinephrine to children suffering from a severe allergic reaction;

(5) guidelines for the voluntary designation of pediatric emergency departments;

(6) guidelines for pediatric trauma centers;

(7) an interhospital transfer system for critically ill or injured children;

(8) in conjunction with the South Carolina Data Oversight Council, the collection and analysis of statewide pediatric emergency and critical care medical services data from emergency and critical care medical services for the purpose of quality improvement by these facilities and services, subject to the confidentiality requirements of Section 44‑61‑350;

(9) injury prevention programs for parents;

(10) public education programs on accessing the emergency medical services system and what to do until the emergency medical services personnel arrive;

(11) guidelines for the appropriate response to children and their families before, during, and after a disaster;

(12) incorporation of pediatric disaster preparedness training into initial and continuing education programs for emergency medical services personnel;

(13) assistance with the development of disaster plan strategies that address pediatric surge capacity before, during, and after a disaster for both injured and noninjured children.

(B) In gathering statewide pediatric emergency and critical care medical services data, the department shall rely upon, to the extent possible, data from existing sources; however, the department may contact families and physicians for the purpose of gathering additional data and providing information on available public and private resources. Information requested from a physician’s office must be obtained pursuant to Section 44‑115‑10. Patient contact following data received from the State Budget and Control Board, Office of Research and Statistics must be conducted in accordance with regulations approved by the South Carolina Data Oversight Council and promulgated by the Office of Research and Statistics.

**SECTION 44‑61‑340.** Confidentiality of data; exceptions; penalty.

(A) The identities of patients and emergency medical technicians mentioned, referenced, or otherwise appearing in information or data collected or prepared by the EMSC Program must be treated as confidential. The identities of these persons are not available to the public under the Freedom of Information Act nor are they subject to subpoena in any administrative, civil, or criminal proceeding, and they are not otherwise available except pursuant to court order. An individual in attendance at a proceeding shall not be required to testify as to the identity of a patient except pursuant to court order. A person, medical facility, or other organization providing or releasing information in accordance with this article shall not be held liable in a civil or criminal action for divulging confidential information unless the individual or organization acted in bad faith or with malicious purpose. However, the name of emergency medical technicians, and information and data collected or prepared by emergency medical services must be released to the patient or the patient’s legal guardian upon request. In the event the patient is incapacitated or deceased, the name of emergency medical technicians, information, and data collected or prepared by emergency medical services must be released to the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative upon their request.

(B) The identity of a patient is confidential and shall not be released except that the identity of a patient may be released upon written consent of the patient, the patient’s immediate family, the patient’s legal guardian, or the patient’s legal representative.

(C) Except as otherwise authorized in this section, patient information must not be released except to:

(1) appropriate staff of the Division of Emergency Medical Services and Trauma within the Department of Health and Environmental Control, South Carolina Data Oversight Council, and State Budget and Control Board, Office of Research and Statistics;

(2) submitting hospitals or their designees;

(3) a person engaged in an approved research project, except that no information identifying a subject of a report or a reporter may be made available to a researcher unless consent is obtained pursuant to this section.

(D) For purposes of maintaining the database collected pursuant to this article, the department and the Office of Research and Statistics may both access and provide access to appropriate confidential data reported in accordance with Section 44‑61‑160.

(E) A person subject to this article who intentionally fails to comply with reporting, confidentiality, or disclosure requirements of this article is subject to a civil penalty of not more than one hundred dollars for a first offense and not more than five thousand dollars for each subsequent violation.

(F) The department, or a person or entity licensed or certified under this section is required to disclose to the solicitor or his designee information received that could aid in the investigation or prosecution of criminal activity. This includes, but is not limited to, information concerning child abuse, felony driving under the influence, assaults, or other crimes regardless of whether the information is obtained before, during, or after treatment. All information received by the solicitor shall be held confidential by the solicitor or his designee unless such information is necessary for criminal investigation and prosecution.

**SECTION 44‑61‑350.** Advisory Committee.

(A) There is established the Emergency Medical Services for Children Advisory Committee to advise the department on matters concerning preventative, prehospital, hospital, rehabilitative, and other post‑hospital medical care for children.

(B) Committee members must be appointed by the board.

(C) The advisory committee is composed of a nurse with emergency pediatric experience, a physician with pediatric training, an emergency physician, an EMT/paramedic who is currently practicing, a ground level prehospital provider representative, an emergency medical services state agency representative, the EMSC Program principal investigator, the EMSC Program manager, and a family representative. All members must reside and, if applicable, be licensed or certified to practice in this State.

(D) Members of the advisory committee shall serve without compensation, mileage, per diem, or subsistence.

ARTICLE 5.

 TRAUMA CARE SYSTEM

**SECTION 44‑61‑510.** Definitions.

As used in this article:

(1) “Department” means the South Carolina Department of Health and Environmental Control.

(2) “Designation” means a formal determination by the department that a hospital or health care facility is capable of providing a specified level of trauma care services.

(3) “Emergency Medical Services Advisory Council” means the emergency medical services council created in Section 44‑61‑30(c).

(4) “Participating providers” means those providers that have been approved by the department for participation in the trauma system and include, but are not limited to, designated trauma centers, designated rehabilitation facilities, and designated fee for service physicians who provide trauma care within a designated facility.

(5) “State Trauma Advisory Council” means the state advisory council created in this article.

(6) “Trauma” means a major injury or wound to a living person caused by the application of an external force or by violence and the requiring immediate medical or surgical intervention to prevent death or permanent disability. For the purposes of this article, the definition of “trauma” must be determined by current national medical standards including, but not limited to, trauma severity scales.

(7) “Trauma care facility” or “trauma center” means a hospital that has been designated by the department according to the rules and regulations set forth by the department to provide trauma care services at a particular level.

(8) “Trauma registry” means a statewide database of information collected by the department including, but not limited to, the incidence, severity, and causes of trauma and the care and outcomes for certain types of injuries.

(9) “Trauma system” means an organized statewide and regional system of care for the trauma patient, including the department, emergency medical service providers, hospitals, in‑patient rehabilitation providers, and other providers who have agreed to participate in and coordinate with and who have been accepted by the department in an organized statewide system.

(10) “Trauma System Fund” means the separate fund established pursuant to this article for the department to create and administer the State Trauma System.

(11) “Verification” means the department’s inspection of a participating facility in order to determine whether the facility is capable of providing a designated level of trauma care.

**SECTION 44‑61‑520.** Trauma care standards and regulations; revocation of designation; fines.

(A) The Department of Health and Environmental Control, with the advice of the Trauma Advisory Council, established pursuant to Section 44‑61‑530, may develop standards and promulgate regulations for the creation and establishment of a State Trauma Care System to promote access to trauma care for all residents of the State.

(B) In developing this system, the department shall take into consideration current recognized national standards for trauma care systems including, but not limited to, standards for trauma care cited in “Resources for Optimal Care of the Injured Patient” adopted by the American College of Surgeons’ Committee on Trauma and the guidelines for trauma care systems adopted by the American College of Emergency Physicians.

(C) All authority and responsibility for the Trauma Care System is vested in the department and the department may:

(1) establish minimum standards for levels of designation as a trauma center, consistent with this article, through regulations promulgated by the department;

(2) require facilities applying for trauma center designation or other participation in the Trauma Care System to submit an application in a manner and form prescribed by the department;

(3) conduct on‑site inspections and reviews of facilities seeking designation or participation in the Trauma Care System. As part of this process, the department may review or request records and other information it considers reasonably necessary to determine a facility’s ability to comply with the minimum trauma care standards set by the department for a particular level or type of designation;

(4) when appropriate, designate applicant hospitals as trauma centers, which are authorized to provide a level of trauma care based on criteria established pursuant to this article;

(5) periodically verify, or inspect, or both, designated trauma centers and other participating providers to assure compliance with the provisions of this article and regulations promulgated pursuant to this article. Information received by the department through filed reports, inspections, or as otherwise authorized under this article must not be disclosed publicly in such a manner as to identify individuals or hospitals or other participating providers except in proceedings involving the denial, change, or revocation of a trauma center designation or type, the imposition of a fine, or the determination that a provider is no longer eligible to participate in the Trauma Care System;

(6) promote access to quality trauma care by encouraging facilities in all areas of the State to participate in the trauma system and to attempt to meet the minimum standards as established by the department pursuant to this article;

(7) oversee a continuing quality improvement system for the statewide Trauma Care System.

(D) Within one year of the effective date of regulations promulgated pursuant to this article, a trauma center designated prior to the effective date of this article, which wishes to remain a designated trauma center, must comply with the provisions of this article and submit an application and obtain approval by the department to maintain its status as a designated trauma center.

(E)(1) The department may immediately revoke or change a trauma center’s designation if the trauma center fails to meet prescribed requirements for designation at a particular level or no longer meets established standards and criteria.

(2) The department may immediately determine that a participating facility or provider is no longer eligible for participation in the trauma system and remove that provider from the system or impose a fine, or both, if the facility or provider no longer meets established standards and criteria.

(F) The department may fine any provider or facility that displays an inaccurate trauma center designation or holds itself out to be a designated trauma care center or participating trauma care system provider without first obtaining the department’s approval and meeting established criteria for participation or designation or provides false information to the department or otherwise violates the conditions of this article or regulations promulgated pursuant to this article. The department may also levy fines on any licensed emergency medical service provider found out of compliance with this or other related emergency medical service statutes or regulations. Maximum and minimum fine limits must be established in regulation.

(G) The Trauma Care Fund, established pursuant to Section 44‑61‑540, may retain fines collected pursuant to this article up to an amount of twenty‑five thousand dollars per fiscal year. Amounts collected in excess of twenty‑five thousand dollars per fiscal year must be deposited into the general fund of the State.

(H) An appeal of a department decision involving an application, the revocation or changing of a designation, or a decision involving fines imposed under this article are governed by the Administrative Procedures Act.

**SECTION 44‑61‑530.** Trauma Advisory Council; membership.

(A) There is established the Trauma Advisory Council composed of, but not limited to, the following members to be appointed by the director of the department for terms of three years and members may be reappointed:

(1) a surgeon who oversees trauma care at each designated level, upon the recommendation of the South Carolina Chapter of the American College of Surgeons;

(2) a hospital administrator from each designated level, upon the recommendation of the South Carolina Hospital Association;

(3) a hospital administrator from a nondesignated facility, upon the recommendation of the South Carolina Hospital Association;

(4) an emergency physician representative from each designated level, upon the recommendation of the South Carolina Chapter of the College of Emergency Physicians;

(5) a trauma nurse coordinator from each designated level, upon the recommendation of the Trauma Association of South Carolina;

(6) the chairman of the South Carolina Department of Health and Environmental Control’s Medical Control Committee;

(7) one public and one private field emergency medical services provider, upon the recommendation of the Emergency Medical Services Association;

(8) a physician, upon the recommendation of the South Carolina Medical Association;

(9) the chairman of the Committee on Trauma of the South Carolina Chapter of the American College of Surgeons;

(10) a rehabilitation center administrator, upon the recommendation of the South Carolina Hospital Association;

(11) the chairman of the Emergency Medical Services Advisory Council of the South Carolina Department of Health and Environmental Control;

(12) a representative from the South Carolina State Office of Rural Health;

(13) a third party payor representative, upon the recommendation of the Insurance Commissioner;

(14) a consumer representative appointed by the director;

(15) a representative from the South Carolina Department of Disabilities and Special Needs;

(16) a representative from the South Carolina Department of Health and Human Services;

(17) an orthopedic physician representative, upon the recommendation of the South Carolina Orthopedic Association; and

(18) a pediatric physician representative, upon the recommendation of the South Carolina Chapter of the American Academy of Pediatrics.

(B) The Chairman of the Trauma Advisory Council must be appointed by the director of the department from the membership of the council. The council members shall select a vice chairman from their membership. The council shall meet at least twice a year or at the call of the chairman. The council is authorized to create an executive committee made up of the chairman and vice chairman and no more than five other members from the membership of the council. The department’s Emergency Medical Services Division shall provide staff support to the council.

(C) The Trauma Advisory Council shall act as an advisory body for trauma care system development and provide technical support to the department in areas of trauma care system design, trauma standards, data collection and evaluation, quality improvement, trauma system funding, and evaluation of the trauma care system and trauma care programs.

**SECTION 44‑61‑540.** South Carolina State Trauma Care Fund established; administration; funding contingency.

(A) There is created the South Carolina State Trauma Care Fund. In addition to those monies appropriated to the fund in the general appropriations act, the fund may receive gifts, bequests, grants, fees, or other contributions or donations from public or private entities.

(B) The fund must be a separate and distinct fund for the payment of the Department of Health and Environmental Control’s expenses in establishing, administering, and overseeing the Trauma Care System. After the payment of the department’s operating expenses from the fund, the department may authorize and allocate the distribution of any remaining funds for any or all of the following purposes:

(1) distribution of financial aid to participating providers using a formula based on criteria and factors identified in regulations promulgated by the department pursuant to this article. All providers receiving funds must be located within this State;

(2) distribution of any remaining funds for grants for proposals related to trauma care in this State which may include, but are not limited to, research, injury prevention, education, and planning and development of related services under this article;

(3) other expenses or providers considered appropriate by the department related to the purposes of this article.

(C) If there is adequate funding in the State Trauma Care Fund, the department shall promulgate regulations to establish the distribution of funds in accordance with the purposes stated in subsection (B). The department is solely responsible for determining the priority of distributions and may use contracts with other agencies, including the Department of Health and Human Services, in the distribution of these funds.

(D) Money remaining in the fund at the end of a fiscal year carries forward to the next fiscal year for the purposes stated in this article. If the trauma system ceases to exist and money remains in the Trauma Fund, the remaining money must be distributed in accordance with this article.

(E) All of the department’s duties pursuant to this article including the requirement to promulgate regulations are contingent upon adequate funding to cover the department’s operating and administrative costs. If adequate funding does not exist in the State Trauma Care Fund, the department is not obligated to carry out any duties pursuant to this article.

**SECTION 44‑61‑550.** Trauma Registry; confidentiality.

(A) The department may establish a trauma data collection and evaluation system, known as the “Trauma Registry”. The Trauma Registry must be designed to include, but must not be limited to, trauma studies, patient care and outcomes, compliance with standards of verification, and types and severity of injuries in the State.

(B) The department may collect, as considered necessary and appropriate, data and information regarding patients admitted to a facility through the emergency department, through a trauma center, or directly to a special care unit. Data and information must be collected in a manner that protects and maintains the confidential nature of patient and staff identifying information.

(C) Records and reports made pursuant to this section must be held confidential within the department and must not be available to the public, admissible as evidence, or subject to discovery by subpoena. Information that identifies individual patients must not be disclosed publicly without the patient’s consent.

(D) All data collection and data inquiry activity shall follow federally established Health Insurance Portability and Accountability Act guidelines.