

## Emergency and Health Services Act (BC)

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### IMPORTANT INFORMATION

This Act is Current to January 23, 2013

## **EMERGENCY AND HEALTH SERVICES ACT [RSBC 1996] CHAPTER 182**

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### **Definitions**

1 (1) In this Act:

**"ambulance"** means a conveyance that is used, or intended to be used, for the purpose of transporting persons requiring medical attention or under medical care, and that is designed and constructed, or equipped, for that purpose;

**"board"** means the Emergency Medical Assistants Licensing Board continued under section 6;

**"commission"** means the Emergency and Health Services Commission;

**"emergency health service"** means the provision of first aid or medical services in emergency situations;

**"emergency medical assistant"** means a person licensed by the board under this Act as an emergency medical assistant;

**"health service"** means a service designated under subsection (2) that provides emergency or non-emergency health information or services, or referrals, for one or more of the following purposes:

(a) to assess a person's health status and respond to a particular problem or circumstance;

(b) to support persons in caring for themselves;

(c) to assist persons, including health care professionals, in accessing care, information and services available through the health system;

(d) a prescribed purpose;

**"minister"**, except in subsection (2) and sections 2 to 4, includes a person designated in writing by the minister;

**"profession"** means practice as an emergency medical assistant.

- (2) The minister may designate, in writing, a service as a health service by
  - (a) setting out the name by which the service is commonly known, and
  - (b) describing the nature of the service.
- (3) Section 23 (2) of the *Interpretation Act* does not apply for the purposes of subsection (2) and sections 2 to 4.

**Commission**

- 2 (1) The Emergency and Health Services Commission is continued.
- (2) The commission is to be composed of one or more members appointed by the minister.
- (3) The minister may
  - (a) establish the terms and conditions of the members' appointments under subsection (2), and
  - (b) designate a member of the commission as chair.
- (4) A member of the commission is entitled to necessary and reasonable travelling and living expenses incurred while exercising powers or performing duties on behalf of the commission.
- (5) [Repealed 2008-34-2.]

**Agent of the government**

- 3 (1) The commission is, for all purposes, an agent of the government.
- (2) The commission may, as agent,
  - (a) carry out its powers and duties under this Act in its own name,
  - (b) purchase or otherwise acquire and hold in its own name personal, and, with the prior approval of the minister, real property required for the purpose of the commission, and
  - (c) sell, transfer, lease or otherwise dispose of, the property.
- (3) The commission, as agent, is a legal entity.

**Staff**

- 4 (1) An executive officer of the commission must be appointed by the minister and must be paid remuneration for his or her services on behalf of the commission as determined by the minister.
- (2) Subject to the prior approval of the minister, the commission or, if authorized by the commission, the executive officer may, despite the *Public Service Act*, appoint officers and employees and engage and retain specialists and consultants considered necessary to carry out the duties and functions of the commission and may determine their remuneration.
- (3) The *Public Service Act* and the *Public Service Labour Relations Act* do not apply to the commission or its officers and employees appointed under subsection (2).
- (4) [Repealed 1999-44-58.]

**Power and authority of commission**

- 5 (1) The commission has the power and authority to do one or more of the following:
  - (a) provide, in British Columbia, emergency health services and health services;
  - (b) establish, equip and operate, in areas of British Columbia that the commission considers advisable,
    - (i) emergency health centres and stations, and
    - (ii) centres from which health services may be provided;
  - (c) assist hospitals and other health institutions and agencies, municipalities and other organizations, and persons, to
    - (i) provide emergency health services and health services, and
    - (ii) train personnel to provide emergency health services and health services;
  - (d) enter into agreements or arrangements for the purposes set out in paragraph (c);
  - (e) establish or improve communication systems, in British Columbia, for emergency health services and health services;
  - (f) make available the services of trained persons on a continuous, continual or temporary basis to those residents of British Columbia who are not, in the opinion of the commission, adequately served by existing emergency health services and health services;
  - (g) recruit and train emergency medical assistants and health service providers;
  - (h) provide ambulance services in British Columbia to be known as the British Columbia Ambulance Service;
  - (i) perform any other function related to emergency health services as the Lieutenant Governor in Council may order.

(2) Except with the written consent of the commission and on terms it may specify, a person must not do anything that the commission is given the power to do under subsection (1).

(3) Subsection (2) does not apply if a person is acting in connection with the provision of industrial first aid in accordance with the requirements of the *Workers Compensation Act* or regulations made under that Act.

#### **Services outside British Columbia**

5.1 (1) The minister or, with the approval of the minister, the commission may enter into an agreement with a government for the provision outside British Columbia of emergency health services or health services.

(2) The minister may grant an approval under subsection (1) with or without conditions.

(3) The commission has the power and authority to do the things set out in section 5 (1) outside British Columbia according to the terms and conditions of an agreement made under subsection (1).

#### **Emergency Medical Assistants Licensing Board**

6 (1) The Emergency Medical Assistants Licensing Board is continued.

(2) The board is composed of 3 members, one of whom must be an emergency medical assistant selected in the prescribed manner and another of whom must be a medical practitioner, appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may

(a) establish the remuneration and other terms and conditions of appointments under subsection (2), and

(b) designate a member of the board as its chair.

(4) A member of the board is entitled to necessary and reasonable travelling and living expenses incurred while exercising powers or performing duties on behalf of the board.

(5) Subject to this Act and the regulations, the board has the power and authority to do the following:

(a) examine, register and license emergency medical assistants;

(b) set terms and conditions for a licence under this section;

(c) investigate complaints;

(d) delegate to one or more persons the power and authority to act under one or more of the provisions of paragraphs (a), (b) and (c).

#### **Disciplinary action**

7 (1) On receipt of a complaint or on its own motion and after a hearing, the board may determine that an emergency medical assistant or former emergency medical assistant

(a) has incompetently carried out the duties of an emergency medical assistant,

(b) has breached a term or condition of his or her licence, or

(c) suffers from a physical ailment, emotional disturbance or an addiction to alcohol or drugs that materially impairs his or her ability to act as an emergency medical assistant.

(2) For the purposes of a hearing under this section, sections 34 (3) and (4), 48 and 49 of the *Administrative Tribunals Act* apply to the board.

(3) If the board has made one or more determinations under subsection (1), it may do one or more of the following:

(a) impose conditions on the person's licence;

(b) suspend the licence for a term the board considers appropriate;

(c) revoke the licence;

(d) bar the person from being licensed under this Act for a period the board considers appropriate.

#### **Extraordinary action to protect public**

8 (1) If the board considers the action necessary to protect the public during the investigation of an emergency medical assistant or until a hearing of the board, it may

(a) set limits or conditions on the practice of the profession by the emergency medical assistant, or

(b) suspend the licence of the emergency medical assistant.

(2) If the board acts under subsection (1), it must notify the emergency medical assistant in writing of

(a) its decision,

(b) the reasons for the decision, and

(c) the emergency medical assistant's right to appeal the decision to the Supreme Court.

(3) A decision under subsection (1) is not effective until the earlier of

- (a) the time the emergency medical assistant receives the notice under subsection (2), and
  - (b) 3 days after the notice is mailed to the emergency medical assistant at the last address for the emergency medical assistant recorded in the register.
- (4) If the board determines that action taken under subsection (1) is no longer necessary to protect the public, it must cancel the limits, conditions or suspension and must notify the emergency medical assistant in writing of this as soon as possible.
- (5) An emergency medical assistant against whom action has been taken under subsection (1) may appeal the decision to the Supreme Court and, for these purposes, the provisions of section 9 respecting an appeal from a decision of the board apply to an appeal under this section.

### **Appeal**

- 9 (1) A person who considers himself or herself aggrieved or adversely affected by a determination or disciplinary action of the board under section 7 may appeal to the Supreme Court at any time within 30 days after the date of the determination or disciplinary action.
- (2) The appellant must file a notice of appeal with the Registrar of the Supreme Court and must serve a copy of the notice of appeal on a member of the board within the time limited under subsection (1).
- (3) The board, on the request of the appellant, must provide to the appellant certified copies of all records on which the board acted, on payment for copies at the same rate as would be charged for the same service by an official stenographer of the Supreme Court.
- (4) The appeal is to be
- (a) a new hearing if there is no transcript, or
  - (b) a review of the transcript and proceedings if there is a transcript, but the court may, if it considers it necessary in the interests of justice, conduct a new hearing or allow the introduction of new evidence.
- (5) The board is entitled to be a party on the hearing of the appeal and may take part in the proceedings.
- (6) On the hearing of an appeal under this section, the Supreme Court may
- (a) make an order confirming, reversing or varying the decision of the board,
  - (b) refer the matter back to the board with or without directions, or
  - (c) make any other order that it considers proper in the circumstances.

### **Immunity for acts or omissions in good faith**

- 10 (1) No action for damages lies or may be brought against the commission, against a member of the commission or of the board or against a person appointed under section 4 because of anything done or omitted in good faith
- (a) in the performance or intended performance of any duty or function under this Act, or
  - (b) in the exercise or intended exercise of any power under this Act.
- (2) Subsection (1) does not absolve the government from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

### **Repealed**

- 11 [Repealed 2002-15-5.]

### **No service contrary to advance directive**

- 11.1 An emergency medical assistant must not provide a service under this Act in respect of a person if the emergency medical assistant has reasonable grounds to believe that the person has made an advance directive, as defined in the *Health Care (Consent) and Care Facility (Admission) Act*, that refuses consent to the service.

### **Licence required**

- 12 A person must not assume or use the title "emergency medical assistant" or otherwise represent himself or herself to be an emergency medical assistant unless the person is the holder of a valid and subsisting licence under this Act.

### **Annual reports**

- 13 (1) The commission must submit an annual report to the minister about the operation of the commission.

(2) The board must submit an annual report about the operations of the board, including information that the Lieutenant Governor in Council may prescribe, to the minister not later than 120 days after the end of the fiscal year for the board.

**Power to make regulations**

**14** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) [Repealed 2010-6-148.]
- (b) prescribing the manner of selection of an emergency medical assistant for the purposes of section 6 (2);
- (c) prescribing fees payable for any service rendered, or a licence issued, under this Act, and providing for different fees for a service rendered to
  - (i) a person who is not a "beneficiary" or "qualified person" as defined in the *Hospital Insurance Act*,
  - (ii) an employee who requires an emergency health service if the employer is, under an enactment, obliged to supply emergency health services, or
  - (iii) different persons or classes of persons;
- (c.1) authorizing the waiving of fees for
  - (i) different persons or classes of persons, and
  - (ii) involuntary committals under the *Mental Health Act*;
- (d) prescribing fees for the service of documents, on behalf of the commission, arising out of legal proceedings relating to the work of the commission;
- (e) respecting the equipping of emergency health centres and stations;
- (f) establishing standards of construction and maintenance required for an ambulance, and providing for different standards for different classes of ambulances;
- (g) establishing the standard of equipment and supplies to be carried in an ambulance while it is being used or held out as being available for use as an ambulance;
- (h) prescribing purposes for which a service may be designated as a health service under this Act.

(2.1) Without limiting subsections (1) and (2), the minister may make regulations as follows:

- (a) respecting the qualifications, examination, training, registration and licensing of emergency medical assistants;
- (b) respecting the continuing competence of emergency medical assistants, and providing for the assessment, by persons designated by the minister or the board, of the professional performance of emergency medical assistants;
- (c) prescribing titles that may be used by emergency medical assistants, and providing for limits or conditions on the use of prescribed titles by emergency medical assistants;
- (d) prescribing services that may be provided by emergency medical assistants, and providing for limits or conditions on the provision of those services;
- (e) respecting standards, guidelines or protocols for, and audits of, the provision of services by emergency medical assistants.

(3) Regulations under subsections (1), (2) and (2.1) may make different provisions for different classes of emergency medical assistants.

(3.1) A regulation under subsection (2.1) (e) may confer a discretion on the following:

- (a) the commission;
- (b) a regional health board designated under the *Health Authorities Act*;
- (c) the Provincial Health Services Authority.

(4) The commission may, with the prior approval of the minister, make rules governing its own procedure as it considers advisable.

(5) The board under section 6 may, with the prior approval of the minister, make rules governing its own procedure.