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## **OLR Bill Analysis**

### **sHB 5542**

#### ***AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT EMERGENCY MEDICAL SERVICES PRIMARY SERVICE AREA TASK FORCE.***

#### **SUMMARY:**

This bill makes several changes concerning emergency medical services (EMS) and primary service area responders (PSARs).

It requires municipalities to update their local EMS plans as they determine necessary, and consult with their PSAR when doing so. It requires the Department of Public Health (DPH), at least every five years, to review local EMS plans and PSARs' provision of services under them and then rate the responders' performance. A "failing" rating has various consequences, including possible removal as PSAR if the responder fails to improve.

The bill makes changes to the process for municipalities to petition for removal of a PSAR. Among other things, it (1) defines what constitutes an "emergency" or "unsatisfactory performance" for this purpose and (2) sets deadlines for the commissioner to act on these petitions.

The bill provides a new avenue for municipalities to request a change to their PSARs. It does so by allowing them, for specified reasons, to submit to DPH alternative local EMS plans. If the commissioner approves the alternative plan after a hearing, she must reassign the primary service area (PSA) to another responder.

The bill also requires a PSAR to give prior notice to DPH before selling its ownership interest or assets, and requires the buyer to obtain DPH's approval.

By law, a "primary service area" is a specific geographic area to

which DPH assigns a designated EMS provider for each category of emergency medical response services. These providers are termed “primary service area responders” (CGS § 19a-175).

EFFECTIVE DATE: October 1, 2014

## **§§ 1 & 2 — LOCAL EMS PLAN UPDATES AND DPH REVIEW**

By law, each municipality had to establish a local EMS plan by July 1, 2002 (see BACKGROUND). The bill requires each municipality to update its plan as it determines necessary. In updating its plan, a municipality must consult with its PSAR. Upon request, DPH must assist municipalities with the updating process by (1) providing technical assistance and (2) helping to resolve disagreements (presumably between the municipality and PSAR) concerning the plan.

The bill also requires DPH, at least every five years, to review local EMS plans and PSARs’ provision of services under them. In conducting the review, DPH must evaluate how the PSAR has complied with applicable laws and regulations and rate the service as “meeting performance standards,” “exceeding performance standards,” or “failing to comply with performance standards.”

If DPH rates a PSAR as failing, the commissioner may require it to comply with a department-developed performance improvement plan. PSARs rated as failing may also be subject to (1) later performance reviews or (2) removal as the town’s PSAR for failing to improve their performance.

The commissioner may initiate a hearing on her own and remove the PSAR if she rated it as failing to comply with performance standards and the responder subsequently fails to improve its performance. The town may also petition for removal, as explained below.

## **§§ 2 & 3 — REMOVAL OF PSAR**

### **§ 2 — *Petitions Based on Emergency or Unsatisfactory Performance***

By law, a municipality can petition the DPH commissioner to remove a PSAR not meeting certain standards. This applies to PSARs notified for initial response as well as those responsible for basic life support or services above basic life support. A municipality can file a petition (1) at any time based on an allegation that an emergency exists and the safety, health, and welfare of the PSA's citizens are jeopardized by the responder's performance or (2) not more than once every three years on the basis of the responder's unsatisfactory performance. The commissioner can revoke a PSAR assignment, after a contested case hearing, if she determines that (1) either of these standards are met or (2) it is in the best interests of patient care to do so.

For this purpose, current law (1) does not define "emergency" and (2) specifies that "unsatisfactory performance" is determined under the local EMS plan and associated agreements or contracts. The bill instead defines both terms. Under the bill, an "emergency" means:

1. the PSAR failed to (a) respond to 50% or more first-call responses in any rolling three-month period and (b) comply with any corrective action plan agreement between the PSAR and municipality or
2. the sponsor hospital refuses to endorse or recommend the responder due to unresolved issues relating to the PSAR's quality of patient care. (By law, a sponsor hospital provides medical oversight, supervision, and direction to an EMS organization and its personnel.)

Under the bill, "unsatisfactory performance" means a PSAR:

1. failed to respond to 80% or more first-call responses, excluding those the municipality excused in any rolling 12-month review period;
2. failed to meet defined response time standards agreed to between the municipality and responder, excluding responses the municipality excused, and the responder failed to comply

- with a mutually agreed-upon corrective action plan;
3. repeatedly failed to investigate and adequately respond to complaints about quality of emergency care or response times;
  4. repeatedly failed to report adverse events as required by the commissioner or under the local EMS plan;
  5. failed to communicate (a) changes to service level or coverage patterns that materially affect service delivery as required under the local EMS plan or (b) an intent to change service in a manner inconsistent with the plan; or
  6. failed to communicate changes in its organizational structure likely to negatively affect its service delivery.

The bill requires the commissioner or her designee to act on such a petition (1) within five business days after receipt, for petitions alleging an emergency and (2) within 15 business days after receipt, for those alleging unsatisfactory performance. (Presumably, this means the commissioner must begin her investigation within these timeframes.) She must conclude her investigation within (1) 30 days after receipt for petitions alleging an emergency or (2) 90 days after receipt for those alleging unsatisfactory performance.

The bill allows the commissioner, based on the facts alleged in a petition, to reclassify an emergency petition as an unsatisfactory performance petition and vice versa. If she does so, she may comply with the timeframes corresponding with her reclassification.

The bill authorizes the commissioner to develop and implement procedures for designating temporary responders while an emergency petition is under her review.

### **§ 3 — Enforcement Hearing**

The bill also allows a municipality to petition the commissioner to hold a hearing if the PSAR failed to deliver services in accordance with the local EMS plan.

By law, the hearing's purpose is to determine if the performance standards in the local EMS plan are reasonable, based on certain comparative documents. Under the bill, this hearing has the same purpose and procedures as those under existing law if the town and PSAR cannot reach a written agreement on performance standards (see BACKGROUND).

### **§ 5 — ALTERNATIVE LOCAL EMS PLAN**

The bill allows municipalities to submit to DPH alternative local EMS plans, which may include one or more alternative PSARs. A municipality can do so when:

1. its current PSAR has failed to meet the standards outlined in the local EMS plan;
2. the municipality has established an emergency or unsatisfactory performance, as defined under the bill;
3. the PSAR does not meet a performance measure set forth in regulations;
4. the municipality has developed a plan to regionalize service;
5. the municipality has developed a plan that will improve patient care; or
6. the municipality has the opportunity to align to a new PSAR that is better suited than the current one to meet the community's current needs.

If the commissioner receives such an alternative plan, she must hold a hearing. (The bill does not specify a deadline for her to hold a hearing or make a decision after the hearing.)

In deciding whether to approve the plan, the commissioner must consider any relevant factors, including:

1. the plan's impact on (a) patient care, (b) EMS system design, including system sustainability, and (c) the local, regional, and

statewide EMS system and

2. the medical oversight sponsor hospital's recommendation.

If the commissioner approves the plan, she must reassign the PSA according to the plan. Before the new PSAR assignment takes effect, the responder named in the plan must apply for and receive the commissioner's approval.

#### **§ 4 — SALE OR TRANSFER OF PSAR**

Under the bill, a PSAR must give DPH at least 60 days' notice before selling or transferring more than half of its ownership interest or assets. The intended buyer or transferee must apply to DPH for approval, on a form the commissioner prescribes.

In deciding whether to approve the transaction, the commissioner must consider the applicant's (1) performance history in Connecticut or other states and (2) financial ability to perform PSAR responsibilities under the local EMS plan.

The bill gives the commissioner 45 days to approve or reject the application. It allows her to hold a hearing on the application. She also may consult with any municipality or sponsor hospital in the PSA in making her determination.

#### **BACKGROUND**

##### ***Local EMS Plans***

By law, a municipality's local EMS plan must include written agreements or contracts between the town, its EMS providers, and the public safety answering point covering the municipality. The plan must also include:

1. identification of specified levels of EMS;
2. the person or entity responsible for each EMS level identified in the plan;
3. performance standards for each part of the town's EMS system; and

4. any subcontracts, written agreements, or mutual aid call agreements that EMS providers have with other entities to provide services identified in the plan.

***Petition Regarding Failing to Reach Agreement on Performance Standards***

By law, a municipality can petition the DPH commissioner to hold a hearing if the town and PSAR cannot reach a written agreement on performance standards. If so, the commissioner must hold a hearing, which is not considered a contested case for purposes of the Uniform Administrative Procedure Act.

After the hearing, if the commissioner determines that the performance standards in the local EMS plan are reasonable, the responder has 30 days to agree to them. If the responder fails or refuses to do so, the commissioner can (1) revoke the responder's PSA assignment and require the town to submit an acceptable plan for alternative PSAR responsibilities, (2) issue an order for alternative EMS provision, or (3) do both.

If the commissioner determines that the adopted standards are unreasonable, she must provide reasonable performance standards based on the statewide plan for coordinated EMS delivery, model EMS plans, and the standards and agreements used by similar towns. If the town refuses to agree to such standards, the responder must meet the minimum performance standards in state regulations.

***Related Bill***

sHB 5580, reported favorably by the Planning and Development Committee, has similar provisions as this bill regarding EMS and PSARs.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 21 Nay 4 (03/27/2014)