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## **OLR Bill Analysis**

**sHB 5542 (as amended by House "A")\***

### ***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 a "performance crisis" or "unsatisfactory performance" for this purpose and (2) sets deadlines for the commissioner to act on these petitions.

The bill requires municipalities seeking a change in their PSARs for specified reasons to submit to DPH alternative local EMS plans, which include the names of recommended PSARs. The bill establishes certain criteria the commissioner must consider when deciding whether to approve the alternative plan.

It 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" (PSA) 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).

\*House Amendment “A”:

1. makes several changes concerning alternative local EMS plans submitted by towns seeking to change their PSARs, such as requiring the town to recommend another PSAR;
2. adds the prohibition on a PSAR transferring its responsibilities to another responder while a municipal removal petition is pending;
3. makes the provisions on sale or transfer of a PSAR effective upon passage, and requires the PSAR to give prior notice to the town, not just DPH;
4. amends certain definitions; and
5. makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2014, except for the provisions on PSAR sales and buyer approval, which are effective upon passage.

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

By law, each municipality had to establish a local EMS plan containing specified information by July 1, 2002. 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 bill allows the commissioner to 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 — MUNICIPAL PETITION TO REMOVE PSAR**

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.

Under current law, 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 does not define “emergency.” The bill refers to “performance crisis” rather than “emergency,” and defines the term as meaning that:

1. the PSAR failed to (a) respond to at least 50% of 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 PSAR 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.)

Current law specifies that "unsatisfactory performance" is determined under the local EMS plan and associated agreements or contracts. The bill instead defines the term as meaning that a PSAR failed to deliver services in accordance with the local EMS plan and also did any of the following:

1. failed to respond to at least 80% of first-call responses, excluding those the municipality excused in any rolling 12-month review period;
2. failed to (a) meet defined response time standards agreed to between the municipality and responder, excluding responses the municipality excused, and (b) 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 DPH 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 open a petition (1) within five business days after receipt, for petitions alleging a performance crisis or (2) within 15 business days after receipt, for those alleging unsatisfactory performance. She must

conclude her investigation within (1) 30 days after receipt for petitions alleging a performance crisis 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 a performance crisis petition as an unsatisfactory performance petition and vice versa. If she does so, she must comply with the timeframes corresponding with her reclassification.

The bill authorizes the commissioner to develop and implement procedures for designating temporary responders while a performance crisis petition is under her review. It also prohibits a PSAR, while a municipal petition to remove the PSAR is pending, from transferring its responsibilities to another responder.

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

Under the bill, before a PSAR sells or transfers more than half of its ownership interest or assets, it must give at least 60 days' notice to (1) DPH and (2) the chief elected official or chief executive officer of the municipality where the PSAR is assigned. 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 must also consult with any municipality or sponsor hospital in the PSA in making her determination.

### **§ 4 — ALTERNATIVE LOCAL EMS PLAN FOR MUNICIPALITIES SEEKING PSAR CHANGE**

Under certain circumstances, the bill requires municipalities seeking a change in their PSARs to submit to DPH alternative local EMS plans. This applies when:

1. the municipality's current PSAR has failed to meet the standards outlined in the local plan;
2. the municipality has established a performance crisis or unsatisfactory performance, as defined above;
3. the PSAR does not meet a performance measure set forth in regulations;
4. the municipality has developed a plan to regionalize service; or
5. the municipality (a) has developed a plan that will improve or maintain patient care and (b) has the opportunity to align to a new PSAR that is better suited than the current one to meet the community's current needs.

Under the bill, the alternative plan must include the name of a recommended PSAR for each category of emergency medical response services.

Within 45 days after a municipality submits such an alternative local EMS plan, each new recommended PSAR who agrees to be considered for the PSA designation must apply to the commissioner, on a form she prescribes.

If the commissioner receives such an alternative plan, including for the proposed removal of a PSAR and designation of a new PSAR, she must hold a hearing. The commissioner must give the municipality's current PSAR at least 30 days' notice of the hearing. The PSAR must have an opportunity to be heard and can submit information for the commissioner's consideration. (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;

2. the recommendation of the sponsor hospital's medical oversight staff; and
3. the financial impact to the municipality without compromising the quality of patient care.

Under the bill, if the commissioner approves the alternative plan and the application of the recommended PSAR, she must issue a written decision to reassign the PSA in accordance with the alternative plan and indicate the effective date for the reassignment. The bill requires a PSAR to deliver services in accordance with the local EMS plan until the effective date of the reassignment as set forth in the commissioner's decision.

## **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.

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 21 Nay 4 (03/27/2014)

Appropriations Committee

Joint Favorable

Yea 44 Nay 3 (04/28/2014)