



2023 South Dakota Legislature

Senate Bill 101

Introduced by: **Senator Davis**

1 **An Act to provide the Department of Health with oversight authority for the**
 2 **provision of emergency medical services.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 34-11-1 be AMENDED:**

5 **34-11-1.** ~~Any~~A county or municipality may ~~provide ambulance service and enter~~
 6 ~~into agreements with other governmental subdivisions and with other persons for such~~
 7 ~~services. Any county or municipality may appropriate funds for such purposes;~~

8 ~~(1) Provide or contract for the provision of ambulance services; and may enter into an~~
 9 ~~agreement with such other governmental~~

10 ~~(2) Contract with a political subdivision or any competent other person to furnish funds~~
 11 ~~for such purposes, on an annual basis as may mutually be agreed upon. The funds~~
 12 ~~shall be paid to such person or political subdivision when a claim has been duly~~
 13 ~~filed, audited, and allowed by the county or municipality. Any county or~~
 14 ~~municipality may license and regulate persons providing such services, for the~~
 15 ~~provision of moneys to support ambulance services.~~

16 **Section 2. That § 34-11-2 be AMENDED:**

17 **34-11-2.** Terms used in this chapter mean:

18 (1) "Air ambulance," ~~an aircraft, fixed wing, or helicopter, that is designated or can be~~
 19 ~~quickly modified to provide transportation of wounded, injured, sick, invalid, or~~
 20 ~~incapacitated human beings or expectant mothers;~~

21 ~~(2) "Ambulance," a vehicle for emergency care with that has a driver compartment and~~
 22 ~~a patient compartment, carrying and carries all equipment and supplies needed to~~
 23 ~~provide emergency medical technical basic level for the provision of emergency~~
 24 ~~care, at the scene of an emergency and enroute to an appropriate a medical facility,~~
 25 ~~by:~~

- 1 (a) Advanced life support personnel, as defined in § 36-4B-1; and
 2 (b) Emergency medical technicians, certified in accordance with section 31 of
 3 this Act; and
 4 ~~(3)~~(2) "Ambulance service," any person or organization that is licensed by the
 5 Department of Health to provide emergency medical services, at the scene of an
 6 emergency and enroute to a medical facility, and to provide nonemergency medical
 7 transportation to a patient-transport;
 8 ~~(4)~~—"Emergency medical responder," any person certified by the Department of Health
 9 trained to provide simple, noninvasive care focused on lifesaving interventions for
 10 critical patients. The emergency medical responder renders on-site emergency care
 11 while awaiting additional emergency medical services response from an emergency
 12 medical technician or higher level personnel. An emergency medical responder may
 13 not make decisions independently regarding the appropriate disposition of a
 14 patient;
 15 ~~(5)~~—"Emergency medical technician" any person trained in emergency medical care in
 16 accordance with standards prescribed by rules promulgated pursuant to this
 17 chapter, who provides emergency medical services, including automated external
 18 defibrillation under indirect medical control, in accordance with the person's level
 19 of training;
 20 ~~(6)~~—"License," the permit to provide ambulance service;
 21 ~~(7)~~—"Licensing agency," the Department of Health;
 22 ~~(8)~~—"Medical director," a physician licensed pursuant to chapter 36-4 who is responsible
 23 for providing medical supervision and direction to an ambulance service; and
 24 ~~(9)~~—"Operator," any person or entity who has a license from the licensing agency to
 25 provide ambulance service.

26 **Section 3. That § 34-11-3 be AMENDED:**

27 **34-11-3.** ~~No~~ Before an ambulance service shall may be operated in this
 28 state ~~unless the ambulance service has a currently valid license from the licensing agency~~
 29 ~~to provide such, the service must be licensed by the Department of Health. In order to~~
 30 obtain licensure, the chief executive of the service must:

- 31 (1) Complete and submit an application developed by the department; and
 32 (2) Submit a licensure fee established by the department, in rule, pursuant to chapter
 33 1-26, but not exceeding twenty-five dollars.

1 A license issued in accordance with this section expires two years from the date of
 2 issuance.

3 **Section 4. That § 34-11-5 be AMENDED:**

4 **34-11-5.** The Department of Health ~~may adopt~~shall promulgate rules, pursuant to
 5 chapter 1-26, relating to the licensure and operation of an ambulance services including
 6 patient care, personnel, medical and maintenance service. The rules must include:

- 7 (1) The nature and scope of the services that may be provided to patients by the
 8 ambulance service;
 9 (2) The medical equipment and supplies that must be on board each ambulance;
 10 (3) The maintenance requirements for medical equipment, sanitary conditions, and
 11 necessary supplies; and
 12 (4) Sanitary requirements.

13 **Section 5. That § 34-11-6 be AMENDED:**

14 **34-11-6.** ~~No operator may provide~~The Department of Health may not license an
 15 ambulance service unless both the each driver of the ambulance and the attendant on
 16 duty in the ambulance possess certification of completing an emergency carehas:

- 17 (1) Completed an emergency vehicles operation course, approved by the Department
 18 of Health department; and
 19 (2) Met all other requirements set forth by the department, in rules promulgated under
 20 chapter 1-26, regarding:
 21 (a) The performance of cardiopulmonary resuscitation;
 22 (b) The maintenance of patient confidentiality;
 23 (c) Infection control measures;
 24 (d) Patient movement; and
 25 (e) Equipment and communication system knowledge.

26 The department shall, in rules promulgated under chapter 1-26, establish the
 27 frequency with which a driver must undergo initial and continued training.

28 **Section 6. That § 34-11-6.1 be AMENDED:**

29 **34-11-6.1.** The Department of Health ~~may deny the issuance or renewal of a~~
 30 ~~certification or suspend or revoke the certification of any driver or attendant certified~~
 31 ~~pursuant to § 34-11-6 upon satisfactory proof of the person's gross incompetence, or~~

1 ~~unprofessional or dishonorable conduct, including acts of gross incompetence, or~~
2 ~~unprofessional or dishonorable conduct occurring before July 1, 2006. For the purposes of~~
3 ~~this section, the Department of Health shall define, in rules pursuant to chapter 1-26, the~~
4 ~~terms, gross incompetence, unprofessional conduct, and dishonorable conduct~~ not license
5 an ambulance service unless each attendant is:

6 (1) An emergency medical technician, certified in accordance with chapter 36-4B;

7 (2) An emergency medical technician-intermediate/85, licensed in accordance with
8 chapter 36-4B;

9 (3) An emergency medical technician-intermediate/99, licensed in accordance with
10 chapter 36-4B;

11 (4) An advanced emergency medical technician, licensed in accordance with chapter
12 36-4B; or

13 (5) A paramedic, licensed in accordance with chapter 36-4B.

14 **Section 7. That § 34-11-7 be AMENDED:**

15 ~~**34-11-7.** Each operator shall record each trip on forms designated by the licensing~~
16 ~~agency and copies submitted to the department monthly. These records shall be~~
17 ~~maintained for a period of four years and upon request be made available to the~~
18 ~~department for inspection~~ ambulance service shall provide electronic trip records to the
19 Department of Health, at the time and in the manner directed by the department. The
20 department shall set forth the required content for these records in rules promulgated
21 pursuant to chapter 1-26. The content must be statistical in nature and may not include
22 any information that is confidential, as referenced in section 8 of this Act.

23 **Section 8. That chapter 34-11 be amended with a NEW SECTION:**

24 Any information that contains a patient's name, address, diagnosis, treatment, or
25 other personally identifiable information, and which is obtained by the staff of an
26 ambulance service, is a confidential medical record and is not subject to chapter 1-27.

27 **Section 9. That § 34-11-8 be AMENDED:**

28 ~~**34-11-8.** No provision of §§ 34-11-2 to 34-11-10, inclusive, nor any regulation~~
29 ~~adopted pursuant to said sections shall be construed as limiting any other provision of law~~
30 ~~delegating to the~~ The Department of Health the authority to regulate and may inspect an

1 ambulance to verify that the siren and warning lights, siren, brakes, and mechanical
 2 adequacy and safety of ambulances are operational.

3 **Section 10. That § 34-11-9 be AMENDED:**

4 **34-11-9.** The following are exempt from the provisions of §§ 34-11-2 to ~~34-11-~~
 5 ~~10~~ 34-11-8, inclusive:

- 6 (1) The occasional use of a privately owned vehicle or aircraft, not ordinarily used in
 7 the business of providing ambulance service or operating under the provisions of
 8 § 32-34-3;
- 9 (2) A vehicle ~~rendering services as~~ that provides ambulance ~~in case of major~~
 10 ~~catastrophe services following a disaster~~ or emergency ~~when ambulance services,~~
 11 if ambulances based in the localities of the catastrophe or emergency area are
 12 ~~insufficient or unavailable~~ unable to render provide the necessary services required;
- 13 (3) ~~Ambulance services~~ An ambulance service based outside ~~the~~ of this state, except
 14 ~~that any such ambulance~~ unless the service is receiving a patient within in this state
 15 ~~for transport and providing non-emergency medical transportation to a~~ another
 16 ~~location within in~~ this state ~~shall comply with §§ 34-11-2 to 34-11-10, inclusive,~~
 17 ~~unless such transport is a medical emergency~~;
- 18 (4) ~~Vehicles~~ A vehicle owned and operated by a rescue squads ~~which are~~ squad,
 19 provided the vehicle is not regularly used as ~~ambulances~~ except as part an
 20 ambulance outside of rescue operations;
- 21 (5) ~~Ambulances~~ An ambulance owned and operated by agencies ~~of the United~~
 22 States federal government; and
- 23 (6) ~~Coach services engaged~~ A vehicle used to provide coach service, by prior
 24 ~~appointment in the transportation of infirm or disabled individuals not requiring~~
 25 emergency, for persons who require non-emergency medical care in transit
 26 transportation.

27 **Section 11. That § 34-11-10 be AMENDED:**

28 **34-11-10.** Any person violating ~~the provisions~~ any provision of §§ ~~34-11-2~~ 34-11-
 29 3 to 34-11-9, inclusive, or ~~the regulations~~ rules adopted pursuant ~~thereto~~ thereunder, is
 30 guilty of a Class 1 misdemeanor. ~~A violation is also grounds, upon hearing held pursuant~~
 31 ~~to chapter 1-26, for suspension or revocation of any prior authorized license.~~

32 **Section 12. That § 36-4B-1 be AMENDED:**

- 1 **36-4B-1.** Terms used in this chapter mean:
- 2 (1) ~~"Advanced life support," a level of emergency care consisting of basic life support~~
3 ~~procedures and definitive therapy including the use of invasive procedures and may~~
4 ~~include the use of drugs and manual defibrillation services designed to provide~~
5 ~~emergency medical care, by licensed personnel, under the supervision of a~~
6 ~~physician, at the scene of an emergency, during transport to a hospital, during~~
7 ~~interfacility transfer, and in a hospital until responsibility is assumed by the medical~~
8 ~~staff of the hospital;~~
- 9 (2) ~~"Advanced life support personnel," any person other than a physician who has~~
10 ~~completed a department and board approved program and is licensed or holds a~~
11 ~~privilege as an emergency medical technician intermediate/85; emergency~~
12 ~~medical technician intermediate/99; emergency medical technician advanced; or~~
13 ~~emergency medical technician paramedic as set forth in this chapter, or its~~
14 ~~equivalent a person, licensed by the Department of Health as:~~
- 15 ~~(a) An emergency medical technician-intermediate/85;~~
16 ~~(b) An emergency medical technician-intermediate/99;~~
17 ~~(c) An advanced emergency medical technician; or~~
18 ~~(d) A paramedic;~~
- 19 (3) ~~"Board," the South Dakota Board of Medical and Osteopathic Examiners;~~
20 (4) ~~"Department," the South Dakota State Department of Health;~~
21 (5) ~~"Direct medical control," communications between field advanced life support~~
22 ~~personnel and a physician during an emergency run;~~
- 23 (6)(4) ~~"Emergency medical services," health care provided to the patient the provision,~~
24 ~~by advanced life support personnel licensed pursuant to this chapter and~~
25 ~~emergency medical technicians, of prehospital medical care, stabilization, or~~
26 ~~transportation, including interfacility transportation, of a patient who is sick,~~
27 ~~injured, otherwise incapacitated or helpless, or experiencing a real or perceived~~
28 ~~acute medical condition;~~
- 29 (7) ~~"Emergency medical technician advanced," any person who has successfully~~
30 ~~completed a program of study approved by the department and the board in all~~
31 ~~areas of training and skills set forth in the advanced emergency medical technician~~
32 ~~instructional guidelines and standards, including placement of esophageal and~~
33 ~~supraglottic airways, intravenous cannulation, shock management, administration~~
34 ~~of specific medications, and other advanced skills approved by the board, and who~~
35 ~~is licensed by the board to perform such advanced skills;~~

- 1 ~~(8)~~ "Emergency medical technician/EMT," any person trained in emergency medical
2 care in accordance with standards prescribed by rules and regulations promulgated
3 pursuant to ~~§ 34-11-6~~, who provides emergency medical services, including
4 automated external defibrillation under indirect medical control, in accordance with
5 the person's level of training;
- 6 (9) "Emergency medical technician intermediate/85," any person who has successfully
7 completed a department and board approved program of instruction in basic life
8 support and advanced life support skills in shock and fluid therapy, placement of
9 esophageal airways, and other advanced life support skills approved by board
10 action, and who is licensed by the board to perform such skills, including automated
11 external defibrillation;
- 12 ~~(10)~~ "Emergency medical technician paramedic," any person who has successfully
13 completed a program of study approved by the department and the board and is
14 licensed as an emergency medical technician paramedic, which includes all training
15 and skills set forth herein for emergency medical technician intermediate/85 and
16 emergency medical technician intermediate/99, and other advanced skills
17 programs approved by board action, and who is licensed by the board to perform
18 such intermediate, special, and advanced skills;
- 19 ~~(11)~~ "Emergency medical technician intermediate/99," any person who has successfully
20 completed a department and board approved program of instruction in all areas
21 of emergency medical technician intermediate/85 curriculum plus other specific
22 areas of emergency medical care in the following areas: manual and automated
23 external defibrillation, telemetered electrocardiography, administration of cardiac
24 drugs, administration of specific medications and solutions, use of adjunctive
25 breathing devices, advanced trauma care, tracheotomy suction, esophageal
26 airways and endotracheal intubation, intraosseous infusion, or other special skills
27 programs approved by board action, and who is licensed by the board to perform
28 intermediate skills plus such special skills;
- 29 ~~(12)~~ "Epinephrine auto injector," a spring loaded needle and syringe with a single dose
30 of epinephrine that will automatically release and inject the medicine, any similar
31 automatic pre-filled cartridge injector, or any similar automatic injectable
32 equipment;
- 33 ~~(13)~~ "Good faith," honesty, in fact, in the conduct, or transaction concerned;
- 34 ~~(14)~~(5) "Gross negligence," the intentional failure to perform a manifest duty in
35 reckless disregard of the consequences as affecting the life or health of another;

- 1 ~~(15)~~ "Hour of advanced life support studies," fifty minutes of training;
- 2 ~~(16)~~(6) "Indirect medical control," the establishment and implementation of
- 3 system policies and, procedures, such as medical treatment protocols, quality
- 4 assurance programs and case reviews and protocols, by a physician licensed in
- 5 South Dakota this state;
- 6 ~~(17)~~ "Local government," any county, municipality, township, or village in this state;
- 7 ~~(18)~~ "Medical community," the physicians and medical resources located and available
- 8 within a geographic area;
- 9 ~~(19)~~ "Medical emergency," an event affecting an individual in such a manner that a need
- 10 for immediate medical care is created;
- 11 ~~(20)~~ "Patient," an individual who, as a result of illness or injury, needs medical attention;
- 12 and
- 13 ~~(21)~~(7) "Prehospital emergency medical care," those emergency medical services
- 14 rendered to patients in an out of hospital setting, administered for analytic,
- 15 stabilizing, or preventive purposes provided to a patient, before and during
- 16 transportation to a hospital, and upon arrival at the hospital, until responsibility is
- 17 assumed by the medical staff of the hospital.

18 **Section 13. That § 36-4B-2 be AMENDED:**

19 **36-4B-2.** ~~A state~~The Department of Health shall administer an advanced life
20 support program ~~is created. It shall be implemented by the department of health under~~
21 the direction of the Board of Medical and Osteopathic Examiners, in accordance with this
22 chapter.

23 **Section 14. That § 36-4B-7 be AMENDED:**

24 **36-4B-7.** ~~An~~The Department of Health shall approve educational program
25 programs for the instruction of advanced life support personnel ~~shall meet the following~~
26 general requirements:

27 ~~(1)~~ The educational program shall develop an evaluation mechanism satisfactory
28 to the Board of Medical and Osteopathic Examiners to determine the effectiveness of its
29 theoretical and clinical programs, the results of which shall be made available to the board
30 annually;

31 ~~(2)~~ Instructors in the theoretical and clinical training programs shall be competent
32 and properly qualified in their respective fields of instruction and clinical training;

Underscores indicate new language.
Overstrikes indicate deleted language.

1 ~~(3) The educational program shall establish a method of definitive candidate~~
2 ~~selection~~

3 ~~satisfactory to the board; and~~

4 ~~(4) The number of students enrolled in the theoretical program may not exceed~~
5 ~~the number that can be clinically supervised and trained, provided the programs meet or~~
6 ~~exceed the standards established for certification by the National Registry of Emergency~~
7 ~~Medical Technicians, as of January 1, 2023.~~

8 A person may not offer a program for the instruction of advanced life support
9 personnel without first receiving approval by the department, in accordance with this
10 section.

11 The department shall, by rule promulgated in accordance with chapter 1-26:

12 (1) Provide for the time and manner in which applications for program approval under
13 this section must be submitted; and

14 (2) Set forth the criteria for approval, including instructor qualifications, student
15 acceptance, and clinical requirements.

16 **Section 15. That § 36-4B-13 be AMENDED:**

17 ~~**36-4B-13.** The board may issue an appropriate advanced life support license to~~
18 ~~any person who files a verified application upon a form prescribed by the board, pays the~~
19 ~~required fee, and furnishes evidence satisfactory to the board that the person has met the~~
20 ~~following qualifications:~~

21 ~~(1) Completes successfully an appropriate course of study approved by the board~~
22 ~~for the license sought; and~~

23 ~~(2) Completes successfully a written and practical examination testing the~~
24 ~~applicant's knowledge in theoretical and applied prehospital primary care as it applies to~~
25 ~~the practice of the advanced life support license sought~~Department of Health shall, by rule
26 promulgated pursuant to chapter 1-26:

27 (1) Establish the educational and practical criteria and requirements for licensure as:

28 (a) An emergency medical technician-intermediate/85;

29 (b) An emergency medical technician-intermediate/99;

30 (c) An advanced emergency medical technician; and

31 (d) A paramedic; and

32 (2) Provide an application form for use in requesting licensure; and

33 (3) Establish an application fee, which may not exceed fifty dollars.

1 **Section 16. That § 36-4B-13.1 be AMENDED:**

2 **36-4B-13.1.** In addition to the requirements ~~of set forth in § 36-4B-13, each an~~
 3 applicant ~~for licensure as an advanced life support personnel must~~ shall submit to a state
 4 and federal criminal background check. The applicant ~~must submit~~ shall provide a full set
 5 of the applicant's fingerprints to the ~~board~~ Department of Health, in a ~~the~~ form and manner
 6 prescribed by the ~~board~~ department. The ~~board~~ department shall submit the applicant's
 7 fingerprints to the Division of Criminal Investigation ~~to conduct~~ for a criminal background
 8 check by the division and the Federal Bureau of Investigation. The applicant ~~must~~ shall
 9 sign a release of information to the ~~board~~ department and pay any fee charged for the ~~cost~~
 10 of fingerprinting or ~~conducting~~ the background check.

11 Upon completion of the background check, the division shall deliver ~~to the board~~
 12 ~~all the applicant's criminal history record information regarding the applicant, and the~~
 13 ~~board~~ to the department. The department shall consider this information in its
 14 ~~determination~~ determining whether to issue a license to the applicant.

15 The ~~board~~ department may not issue a license to an applicant before receiving this
 16 information.

17 The ~~board~~ department may ~~only not~~ disseminate an applicant's ~~any~~ information
 18 obtained under this section to a person ~~on or not~~ employed by the ~~board~~.

19 ~~The board may require any licensee who is the subject of a disciplinary~~
 20 ~~investigation to submit to a state and federal background check. The board may deny the~~
 21 ~~issuance of, suspend, or revoke a license for failure to submit to or cooperate with a~~
 22 ~~background check~~ department.

23 **Section 17. That chapter 36-4B be amended with a NEW SECTION:**

24 The Department of Health may require a licensee who is the subject of a
 25 disciplinary investigation to submit to a fingerprint-based state and federal criminal
 26 background check.

27 The department may suspend or revoke a license for failure to submit to or
 28 cooperate with a background check.

29 **Section 18. That § 36-4B-15 be AMENDED:**

30 **36-4B-15.** Advanced life support personnel ~~shall~~ must be supervised by a
 31 physician who directs and reviews the work records and practice permitted by ~~§§ 36-4B-~~
 32 ~~16 and 36-4B-17, to ensure that the patient is given proper treatment~~ this chapter.

1 **Section 19. That § 36-4B-18.1 be AMENDED:**

2 **36-4B-18.1.** A critical care endorsement is hereby created. The ~~board~~ Department
3 of Health shall issue the endorsement to any person who is licensed as an emergency
4 medical technician-paramedic and:

- 5 (1) Completes the educational requirements and training, in critical care transport,
6 approved by the ~~board~~ department and promulgated in accordance with ~~section §~~
7 36-4B-35; or
8 (2) Is certified as a critical care paramedic or a flight paramedic by the International
9 Board of Specialty Certification.

10 **Section 20. That § 36-4B-20 be AMENDED:**

11 **36-4B-20.** If advanced life support personnel ~~should~~ render services in a hospital
12 and related institutions as or other healthcare facility licensed pursuant to chapter 34-12,
13 ~~said advanced life support personnel shall be~~ they are subject to the rules and regulations
14 policies and protocols of that hospital ~~and related institutions~~ or facility.

15 **Section 21. That § 36-4B-26 be AMENDED:**

16 **36-4B-26.** ~~A person holding an~~ An initial license issued to advanced life support
17 ~~personnel license under the provisions of~~ in accordance with this chapter shall renew the
18 ~~license annually on or before~~ expires on the fifteenth day of July. ~~A person licensed as an~~
19 ~~emergency — medical — technician intermediate/85, — an — emergency — medical~~
20 ~~technician intermediate/99, or an emergency medical technician-paramedic shall renew~~
21 ~~the license upon a form furnished to the person by the board, during the second calendar~~
22 year after issuance and every two years thereafter.

23 In order to renew a license, advanced life support personnel shall submit to the
24 Department of Health, prior to the expiration date:

- 25 (1) An application for renewal, as prescribed by the department;
26 (2) The renewal fee in the amount set forth in § 36-4B-35; and
27 (3) Verification of having met the continuing education requirements, as set forth in
28 rules authorized under § 36-4B-35.

29 **Section 22. That § 36-4B-28 be AMENDED:**

1 **36-4B-28.** ~~Any~~ The Department of Health shall suspend any license not renewed
 2 pursuant to ~~§ 36-4B-27~~ shall be suspended. A license so suspended may be
 3 reinstated within the time required, as set forth in § 36-4B-26.

4 The department may reinstate the license, during the following twelve months by
 5 month period following the date of expiration, upon receiving proof of that the person who
 6 held the license:

7 (1) Complied with the requirements met set forth in § 36-4B-27, 36-4B-26; and by
 8 payment of the renewal fee and a reinstatement fee as fixed by the board.

9 ~~Thereafter, a suspended license may be reinstated upon payment of a~~

10 (2) Paid the reinstatement fee fixed established by the board department pursuant to
 11 § 36-4B-29 following specific approval by the board.

12 **Section 23. That § 36-4B-29 be AMENDED:**

13 **36-4B-29.** ~~The board~~ Department of Health shall promulgate rules, pursuant to
 14 chapter 1-26, ~~to set fees in each of the following categories establish fees,~~ in an amount
 15 ~~which that~~ will produce sufficient revenue for the ensuing fiscal year, but not to exceed
 16 one hundred twenty percent of the department's anticipated expenses of the board for
 17 the operation of for administering the advanced life support program by the board for that
 18 year.

19 ~~The license fees for all advanced life support personnel shall be as follows:~~

20 (1) ~~Licensure by examination, not less than fifteen dollars nor more than fifty dollars;~~

21 (2) ~~Reexamination within one year, not less than fifteen dollars nor more than fifty~~
 22 ~~dollars;~~

23 (3) ~~Licensure by reciprocity, not less than twenty-five dollars nor more than,~~ provided
 24 the fee for:

25 (1) Initial licensure may not exceed seventy-five dollars;

26 (2) Licensure by reciprocity may not exceed seventy-five dollars;

27 (4)(3) ~~Renewal of a license, not less than ten dollars, nor more than~~ Licensure renewal
 28 may not exceed twenty-five dollars; and

29 (5)(4) ~~Reissuance of a lost or destroyed license, following approval of the board, may not~~
 30 ~~more than exceed ten dollars.~~

31 **Section 24. That § 36-4B-30 be AMENDED:**

32 **36-4B-30.** Any money coming in to the board each calendar month, including
 33 license fees, renewal fees, penalty fees, and any other payments, shall received by the

1 Department of Health for administration of the advanced life support program must be
 2 paid by the board-department to the state treasurer by the tenth day of the next month.
 3 The state treasurer shall credit the money to the South Dakota Board of Medical and
 4 Osteopathic Examiners for deposit in the advanced life support fund, which fund is hereby
 5 created. The moneyMoney in the South Dakota Board of Medical and Osteopathic
 6 Examiners fund is herebycontinuously appropriated to the board-department for the
 7 purpose of paying the expenses of administering and enforcing the provisions of this
 8 chapter.~~However, the total expense incurred may not exceed the total money collected by~~
 9 ~~the board under the provisions of this chapter.~~

10 **Section 25. That § 36-4B-31 be AMENDED:**

11 **36-4B-31.** ~~The board~~Department of Health may deny the issuance or renewal of
 12 a license ~~or issued to any advanced life personnel under this chapter, and may suspend~~
 13 ~~or revoke the a license of any issued to any advanced life support personnel issued under~~
 14 ~~this chapter, upon satisfactory proof of the person's incompetence, or that the person:~~
 15 (1) Is incompetent;
 16 (2) Has engaged in unprofessional or dishonorable conduct as defined in § 36-4-30;
 17 ~~or proof of a violation of~~
 18 (3) Has violated this chapter or any rules adopted under this chapter.

19 **Section 26. That § 36-4B-35 be AMENDED:**

20 **36-4B-35.** ~~The board~~Department of Health shall adopt, in accordance with chapter
 21 1-26, promulgate rules to:
 22 (1) Establish the educational and training ~~curriculum—requirements,~~ and the
 23 ~~examination-National Registry of Emergency Medical Technicians requirements,~~ for
 24 ~~applicants to become licensed~~seeking licensure as advanced life support personnel;
 25 (2) ~~Establish the procedure~~ procedures for the administration of the advanced life
 26 support program ~~and designate the responsibilities of the department and the~~
 27 ~~board;~~
 28 (3) Regulate the professional conduct of ~~licensees~~advanced life support personnel; and
 29 (4) Establish the educational and training requirements, and conditions for issuance of
 30 a critical care endorsement, as provided for in § 36-4B-18.1.

31 **Section 27. That chapter 36-4B be amended with a NEW SECTION:**

- 1 It is a Class 2 misdemeanor for any person to practice or hold oneself out as being:
 2 (1) An emergency medical technician-intermediate/85, unless that person is so
 3 licensed, in accordance with this chapter;
 4 (2) An emergency medical technician-intermediate/99, unless that person is so
 5 licensed, in accordance with this chapter;
 6 (3) An advanced emergency medical technician, unless that person is so licensed, in
 7 accordance with this chapter; or
 8 (4) A paramedic, unless that person is so licensed, in accordance with this chapter.
 9 Each violation is a separate offense.

10 **Section 28. That § 36-4B-37 be AMENDED:**

11 ~~36-4B-37. The board shall appoint~~There is hereby created an advanced life
 12 support personnel advisory committee. The committee is composed of four members as
 13 follows:

- 14 (1) One emergency medical technician-intermediate/85;
 15 (2) One emergency medical technician-intermediate/99;
 16 (3) ~~One emergency medical technician-paramedic~~Two paramedics; and
 17 (4) One physician who is board certified in emergency room physician medicine.

18 ~~Each committee member shall serve a term of three years. No committee member~~
 19 ~~may be appointed to more than three consecutive full terms.~~

20 ~~If a vacancy occurs~~must be appointed by the Governor from a list consisting of
 21 three names submitted by the South Dakota Emergency Medical Services Association and
 22 three names submitted by the South Dakota Ambulance Association.

23 The term of office is three years and begins on July first, except that the initial
 24 terms may be staggered by lot so that no more than two terms expire in any one year.

25 A member may not serve more than two consecutive three year terms.

26 In the event of a vacancy, the board~~Governor~~ shall appoint a person to fill the
 27 unexpired term, in the same manner as an initial appointment. The appointment of a
 28 person to an unexpired term is not considered to be a full term.

29 ~~The committee shall meet at least annually or as necessary to conduct~~
 30 ~~business.~~~~The committee shall assist the board in evaluating standards of care for~~
 31 ~~advanced life support personnel and the regulation of advanced life support personnel~~
 32 ~~pursuant to this chapter.~~~~The committee shall also make recommendations to the board~~
 33 ~~regarding rules promulgated~~~~pursuant to this chapter.~~~~The committee shall meet the~~
 34 ~~requirements of chapter 1-25 regarding open meetings.~~

1 **Section 29. That chapter 36-4B be amended with a NEW SECTION:**

2 The initial meeting of the advanced life support personnel advisory committee must
3 be called by the Department of Health. At the initial meeting, the committee shall select
4 one from among its members to serve as the chair and another to serve as the vice-chair.

5 All subsequent meetings must be called by the chair or by a majority of the
6 members.

7 The committee shall meet at least annually.

8 **Section 30. That chapter 36-4B be amended with a NEW SECTION:**

9 The advanced life support personnel advisory committee shall advise the
10 Department of Health regarding all matters pertaining to:

11 (1) The education, training, licensure, and performance of advanced life support
12 personnel;

13 (2) The acquisition and use of required and optional equipment;

14 (3) The evaluation and delivery of emergency medical services throughout this state;
15 and

16 (4) The promulgation of rules, as authorized by this chapter.

17 **Section 31. That chapter 36-4B be amended with a NEW SECTION:**

18 The Department of Health shall administer a program, separate from the advanced
19 life support program set forth in sections 12 to 30, inclusive, of this Act, to provide for the
20 certification of emergency medical responders and emergency medical technicians.

21 An emergency medical responder may provide initial emergency care, consisting
22 of first aid and basic life support to a patient at the scene of an emergency, and assist
23 advanced life support personnel both at the scene and during the transport of a patient to
24 a medical facility.

25 An emergency medical technician may, in addition to any services provided by an
26 emergency medical responder, provide pre-hospital emergency care that includes
27 interventions using basic equipment, typically found in an ambulance, and necessary to
28 stabilize and safely transport patients.

29 The department shall, by rule promulgated in accordance with chapter 1-26:

30 (1) Provide for an application form and process;

31 (2) Establish the educational and training criteria for certification;

32 (3) Provide for the approval of educational and training programs; and

1 (4) Provide for the issuance, renewal, suspension, and revocation of certification.

2 **Section 32. That chapter 36-4B be amended with a NEW SECTION:**

3 In addition to the requirements set forth in section 31 of this Act, an applicant for
4 certification as an emergency medical responder or as an emergency medical technician
5 shall submit to a state and federal criminal background check. The applicant shall provide
6 a full set of fingerprints to the Department of Health, in the form and manner prescribed
7 by the department. The department shall submit the fingerprints to the Division of Criminal
8 Investigation for a criminal background check by the division and the Federal Bureau of
9 Investigation. The applicant shall sign a release of information to the department and pay
10 any fee charged for the fingerprinting or the background check.

11 Upon completion of the background check, the division shall deliver the applicant's
12 criminal history information to the department. The department shall consider this
13 information in determining whether to issue a certificate to the applicant.

14 The department may not issue a certificate to an applicant before receiving this
15 information.

16 The department may not disseminate any information obtained under this section
17 to a person not employed by the department.

18 **Section 33. That chapter 36-4B be amended with a NEW SECTION:**

19 It is a Class 2 misdemeanor for any person to practice or hold oneself out as being
20 an emergency medical responder or an emergency medical technician, unless the person
21 is so certified, in accordance with sections 31 and 32 of this Act.

22 **Section 34. That § 34-11-4 be REPEALED:**

23 ~~The licensing agency shall provide application forms for the providing of ambulance~~
24 ~~service. A fee of not more than twenty five dollars shall accompany each application,~~
25 ~~except for applications from state agencies. The licensing agency shall issue a license to~~
26 ~~any ambulance service which makes application to the agency providing such service~~
27 ~~complies with §§ 34-11-2 to 34-11-10, inclusive. A license shall be valid for a period of~~
28 ~~not more than two years.~~

29 **Section 35. That § 34-11-5.1 be REPEALED:**

1 ~~Any patient information identifying the patient's name, address, diagnosis, or~~
2 ~~treatment received by an ambulance service under the authority of this chapter is not a~~
3 ~~public record and is confidential, except for official purposes, and may not be published or~~
4 ~~disclosed without authorization from the patient or the patient's designee.~~

5 **Section 36. That § 34-11-5.2 be REPEALED:**

6 ~~No person may practice as an emergency medical responder or represent oneself~~
7 ~~as an emergency medical responder unless the person possesses a certification from the~~
8 ~~department or holds a privilege to practice. The department shall promulgate rules,~~
9 ~~pursuant to chapter 1-26, for the application, qualifications, issuance, and renewal of a~~
10 ~~certification of an emergency medical responder. A certification issued under this section~~
11 ~~shall be renewed every two years.~~

12 **Section 37. That § 34-11-6.2 be REPEALED:**

13 ~~Any party feeling aggrieved by any act, ruling, or decision of the Department of~~
14 ~~Health acting pursuant to § 34-11-6.1 may appeal such act, ruling, or decision under the~~
15 ~~provisions of chapter 1-26.~~

16 **Section 38. That § 34-11-6.3 be REPEALED:**

17 ~~If a person holding a certification pursuant to § 34-11-6 is adjudged to be mentally~~
18 ~~incompetent by final order or adjudication of a court of competent jurisdiction, the~~
19 ~~Department of Health shall suspend such person's certification pursuant to chapter 1-26.~~
20 ~~The suspension shall continue until the person holding the certification is found or~~
21 ~~adjudged by such court to be restored to reason. The Department of Health may establish,~~
22 ~~by rules promulgated pursuant to chapter 1-26, probationary conditions that it deems~~
23 ~~necessary for the best interest of the person holding the certification.~~

24 **Section 39. That § 34-11-6.4 be REPEALED:**

25 ~~Upon application, the Department of Health may reissue a certification issued~~
26 ~~pursuant to § 34-11-6 that has been cancelled, suspended, or revoked. A reissuance of a~~
27 ~~certification that has been cancelled, suspended, or revoked may not be made prior to~~
28 ~~one year after the cancellation, suspension, or revocation. The Department of Health may,~~
29 ~~by rules promulgated pursuant to chapter 1-26, provide for the manner, form, and~~
30 ~~condition for the reissuance of any certification pursuant to this section.~~

1 **Section 40. That § 34-11-6.5 be REPEALED:**

2 ~~In addition to the requirements of § 34-11-6, each applicant for emergency medical~~
3 ~~technician certification must submit to a state and federal criminal background check. The~~
4 ~~applicant must submit a full set of the applicant's fingerprints to the department in a form~~
5 ~~and manner prescribed by the department. The department shall submit the applicant's~~
6 ~~fingerprints to the Division of Criminal Investigation to conduct a criminal background~~
7 ~~check by the division and the Federal Bureau of Investigation. The applicant must sign a~~
8 ~~release of information to the department, and pay any fee charged for the cost of~~
9 ~~fingerprinting or conducting the background check.~~

10 ~~Upon completion of the background check, the division shall deliver to the~~
11 ~~department all criminal history record information regarding the applicant, and the~~
12 ~~department shall consider this information in its determination to issue a certification to~~
13 ~~the applicant. The department may not issue a certification to an applicant before receiving~~
14 ~~this information. The department may only disseminate an applicant's information to a~~
15 ~~person employed by the department.~~

16 ~~The department may require any certified emergency medical technician who is~~
17 ~~the subject of a disciplinary investigation to submit to a state and federal background~~
18 ~~check. The department may deny the issuance of, suspend, or revoke a certification for~~
19 ~~failure to submit to or cooperate with a background check.~~

20 **Section 41. That § 34-11-11 be REPEALED:**

21 ~~Any ambulance service that provides advanced life support shall conduct a quality~~
22 ~~assurance program. The quality assurance program shall include, at a minimum, a review~~
23 ~~of the appropriate use of oxygen therapy, the appropriate use of intravenous therapy,~~
24 ~~medication administration, and the appropriate use of cardiac monitors. The Department~~
25 ~~of Health shall develop a quality assurance program that meets the requirements of this~~
26 ~~section. The ambulance service may use the program developed by the department or the~~
27 ~~ambulance service may develop its own quality assurance program. The ambulance~~
28 ~~service shall compile the quality assurance reviews into an annual report, which shall be~~
29 ~~kept on file for at least three years and made available to the Department of Health upon~~
30 ~~request.~~

31 **Section 42. That § 34-11-12 be REPEALED:**

32 ~~The minimum personnel required on each ambulance run includes:~~

- 1 ~~(1) One emergency medical technician certified by the Department of Health or an~~
2 ~~advanced life support personnel licensed pursuant to chapter 36-4B; and~~
3 ~~(2) One driver who meets the requirements established by the Department of Health~~
4 ~~pursuant to rules promulgated pursuant to § 34-11-5.~~

5 **Section 43. That § 34-11-13 be REPEALED:**

6 ~~Any ambulance service licensed pursuant to this chapter may be equipped with~~
7 ~~single-dose epinephrine. The department shall adopt statewide protocols for the~~
8 ~~administration of epinephrine. A copy of the protocols, signed by the medical director of~~
9 ~~the ambulance service, must be carried in any ambulance equipped with epinephrine. Any~~
10 ~~emergency medical technician who has received training approved by the department~~
11 ~~may, pursuant to the protocols, administer epinephrine.~~

12 **Section 44. That § 34-11-14 be REPEALED:**

13 ~~Any ambulance service licensed pursuant to this chapter may be equipped with a~~
14 ~~supraglottic airway device. The department shall adopt statewide protocols for the use of~~
15 ~~supraglottic airway devices. A copy of the protocols, signed by the medical director of the~~
16 ~~ambulance service, must be carried in any ambulance equipped with a supraglottic airway~~
17 ~~device. Any emergency medical technician who has received training approved by the~~
18 ~~department may, pursuant to the protocols, utilize a supraglottic airway device.~~

19 **Section 45. That § 36-4B-3 be REPEALED:**

20 ~~It is a Class 2 misdemeanor for any person not licensed under this chapter to hold~~
21 ~~herself or himself out or practice as an emergency medical technician intermediate/85,~~
22 ~~emergency medical technician intermediate/99, or an emergency medical~~
23 ~~technician-paramedic. Each violation is a separate offense.~~

24 **Section 46. That § 36-4B-5 be REPEALED:**

25 ~~Nothing in this chapter shall limit the activities of employees of the United States~~
26 ~~Army, Air Force, Navy, or Marine Hospitals or of the United States Veterans'~~
27 ~~Administration, or the United States Public Health Service Hospitals or military medical~~
28 ~~personnel in the performance of their duties, nor to the religious groups as such who do~~
29 ~~not practice medicine, surgery, or obstetrics by the use of any material remedies or~~
30 ~~agencies.~~

1 **Section 47. That § 36-4B-10 be REPEALED:**

2 ~~Educational programs for instruction of advanced life support personnel shall be~~
3 ~~implemented by the Department of Health and approved by the board. Schools or~~
4 ~~institutions offering such programs shall submit applications for approval on forms~~
5 ~~provided by the board.~~

6 **Section 48. That § 36-4B-11 be REPEALED:**

7 ~~The medical director of an educational program approved by the board shall notify~~
8 ~~the board if a change occurs in the directorship of the educational program or if major~~
9 ~~modifications in the curriculum are anticipated.~~

10 **Section 49. That § 36-4B-12 be REPEALED:**

11 ~~Failure of an educational program to comply with the general and specific~~
12 ~~curriculum requirements of this chapter shall result in withdrawal of the board's approval.~~

13 **Section 50. That § 36-4B-14 be REPEALED:**

14 ~~The board may license advanced life support personnel in this state, without~~
15 ~~examination, if the person has passed the national registry written and practical~~
16 ~~examination and meets all other requirements of this chapter. Applicants shall hold current~~
17 ~~licensure in another state or current certification by the national registry for the license~~
18 ~~sought.~~

19 **Section 51. That § 36-4B-16 be REPEALED:**

20 ~~An emergency medical technician intermediate/99 may perform basic life support~~
21 ~~techniques and while under proper medical supervision intermediate skills, special skills~~
22 ~~techniques, and other advanced life support skills for which they are licensed by the board.~~

23 **Section 52. That § 36-4B-16.1 be REPEALED:**

24 ~~An emergency medical technician intermediate/85 may perform basic life support~~
25 ~~techniques as set forth in chapter 34-11 and while under proper medical supervision~~
26 ~~advanced life support techniques listed in § 36-4B-1 and other advanced life support skills~~
27 ~~for which they are licensed by the board.~~

1 **Section 53. That § 36-4B-16.2 be REPEALED:**

2 ~~An emergency medical technician advanced may perform placement of esophageal~~
3 ~~and supraglottic airways, intravenous cannulations, shock management, administration of~~
4 ~~specific medications, and other advanced skills approved by the board.~~

5 **Section 54. That § 36-4B-17 be REPEALED:**

6 ~~An emergency medical technician paramedic may perform basic life support~~
7 ~~techniques as set forth in chapter 34-11 and while under proper medical supervision all~~
8 ~~intermediate and special skills. A paramedic may also perform other advanced life support~~
9 ~~skills for which he is licensed by the board.~~

10 **Section 55. That § 36-4B-18 be REPEALED:**

11 ~~In addition to tasks listed in §§ 36-4B-16 and 36-4B-17, an emergency medical~~
12 ~~technician intermediate/85, emergency medical technician intermediate/99, or an~~
13 ~~emergency medical technician paramedic may be permitted to perform, under direct or~~
14 ~~indirect medical control, such other tasks approved by the board, and for which adequate~~
15 ~~training and proficiency can be demonstrated.~~

16 **Section 56. That § 36-4B-19 be REPEALED:**

17 ~~Nothing in this chapter shall authorize advanced life support personnel to perform~~
18 ~~those specific functions and duties delegated by law to those persons licensed as~~
19 ~~chiropractors under chapter 36-5, optometrists under chapter 36-7, podiatrists under~~
20 ~~chapter 36-8 or pharmacists under chapter 36-11.~~

21 **Section 57. That § 36-4B-21 be REPEALED:**

22 ~~No person, licensed and authorized pursuant to this chapter may be liable for any~~
23 ~~civil damages for any act or omission in connection with services given outside a hospital~~
24 ~~where the life of a patient is in immediate danger, unless the act or omission is inconsistent~~
25 ~~with the person's training, or the act or omission was the result of gross negligence or~~
26 ~~willful misconduct.~~

27 **Section 58. That § 36-4B-22 be REPEALED:**

1 ~~No agency, organization, institution, corporation, or entity of state or local~~
 2 ~~government which sponsors, authorizes, supports, finances or supervises the functions of~~
 3 ~~emergency medical service personnel licensed and authorized pursuant to this chapter,~~
 4 ~~including advanced life support personnel, may be liable for any civil damages for any act~~
 5 ~~or omission in connection with sponsorship, authorization, support, finance, or supervision~~
 6 ~~of such emergency medical services personnel, where the act or omission occurs in~~
 7 ~~connection with their training or with services rendered outside a hospital and where life~~
 8 ~~of a patient is in immediate danger, unless the act or omission is inconsistent with the~~
 9 ~~training of the emergency medical services personnel or the act or omission was the result~~
 10 ~~of gross negligence or willful misconduct.~~

11 **Section 59. That § 36-4B-23 be REPEALED:**

12 ~~No principal, agent, contractor, employee or representative of an agency,~~
 13 ~~organization, institution, corporation, or entity of state or local government which~~
 14 ~~sponsors, authorizes, supports, finances or supervises the functions of emergency medical~~
 15 ~~services personnel licensed and authorized pursuant to this chapter, including advanced~~
 16 ~~life support personnel, may be liable for any civil damages for any act or omission in~~
 17 ~~connection with such sponsorship, authorization, support, finance or supervision of such~~
 18 ~~emergency medical services personnel, where the act or omission occurs in connection~~
 19 ~~with their training, or occurs outside a hospital where the life of a patient is in immediate~~
 20 ~~danger, unless the act or omission is inconsistent with the training of the emergency~~
 21 ~~medical services personnel or the act or omission was the result of gross negligence or~~
 22 ~~willful misconduct.~~

23 **Section 60. That § 36-4B-24 be REPEALED:**

24 ~~No physician who supervises the functions of emergency medical services~~
 25 ~~personnel licensed and authorized pursuant to this chapter, including advanced life~~
 26 ~~support personnel, may be liable for any civil damages for any emergency medical services~~
 27 ~~personnel, where the life of a patient is in immediate danger, unless the act or omission~~
 28 ~~was the result of gross negligence or willful misconduct.~~

29 **Section 61. That § 36-4B-25 be REPEALED:**

30 ~~No physician, who in good faith arranges for, requests, recommends or initiates~~
 31 ~~the transfer of a patient from a hospital to a critical medical care facility in another~~

1 ~~hospital, may be liable for any civil damages as a result of such transfer where sound~~
2 ~~medical judgment indicates that the patient's medical condition is beyond the care~~
3 ~~capability of the transferring hospital, or the medical community in which that hospital is~~
4 ~~located, and where the physician has confirmed that the transferee facility possesses a~~
5 ~~more appropriate level of capability for treating the patient's medical needs, and where~~
6 ~~the physician has secured a prior agreement from the transferee facility to accept and~~
7 ~~give necessary treatment to the patient.~~

8 **Section 62. That § 36-4B-27 be REPEALED:**

9 ~~A request for emergency medical technician paramedic or emergency medical~~
10 ~~technician intermediate/99 license renewal shall be accompanied annually by the~~
11 ~~prescribed fee and accompanied in odd numbered years by satisfactory evidence of sixty~~
12 ~~hours of advanced life support studies during the preceding two years. A request for~~
13 ~~emergency medical technician intermediate/85 license renewal shall be accompanied~~
14 ~~annually by the prescribed fee and accompanied in odd numbered years by satisfactory~~
15 ~~evidence of forty hours of advanced life support studies during the preceding two years.~~
16 ~~The request shall also be accompanied by a letter from the supervising physician and the~~
17 ~~employer of the advanced life support personnel. If the advanced life support personnel~~
18 ~~is terminated the reasons shall be submitted to the board, in writing, by both the~~
19 ~~ambulance service and supervising physician, within seventy two hours of termination of~~
20 ~~any such working contract.~~

21 **Section 63. That § 36-4B-32 be REPEALED:**

22 ~~Any party feeling aggrieved by any act, ruling or decision of the board acting~~
23 ~~pursuant to § 36-4B-31 may appeal the same under the provisions of chapter 1-26.~~

24 **Section 64. That § 36-4B-33 be REPEALED:**

25 ~~If a person holding a license to practice advanced life support shall by final order~~
26 ~~or adjudication of a court of competent jurisdiction be adjudged to be mentally~~
27 ~~incompetent or insane, that person's license shall be suspended by the board after~~
28 ~~proceedings in compliance with chapter 1-26. Such suspension shall continue until the~~
29 ~~licensee is found or adjudged by such court to be restored to reason. The board may~~
30 ~~establish probationary conditions which it deems necessary for the best interest of the~~
31 ~~licensee.~~

1 **Section 65. That § 36-4B-34 be REPEALED:**

2 ~~Upon application, the board may reissue a license to practice advanced life support~~
3 ~~to a person whose license has been canceled, suspended, or revoked. A reissuance of a~~
4 ~~license which has been canceled or revoked may not be made prior to one year after the~~
5 ~~cancellation or revocation and the reissuance of any license may be made in such manner,~~
6 ~~form, and conditions as the board may require.~~

7 **Section 66. That § 36-4B-34.1 be REPEALED:**

8 ~~For the purposes of §§ 36-4B-34.1 to 36-4B-34.4, inclusive, a peer review~~
9 ~~committee is one or more persons, including an emergency medical technician at any level~~
10 ~~as described in this chapter, acting as an administrative or medical committee of a licensed~~
11 ~~health care facility or a licensed ambulance service, that engages in peer review activity.~~
12 ~~There is no monetary liability on the part of, and no cause of action for damages may~~
13 ~~arise against, any member of a peer review committee or against any consultant to that~~
14 ~~committee engaging in peer review activity as provided in §§ 36-4B-34.1 to 36-4B-34.4,~~
15 ~~inclusive, if the committee member or consultant acts without malice, has made a~~
16 ~~reasonable effort to obtain the facts of the matter under consideration, and acts in a~~
17 ~~reasonable belief that the action taken is warranted by those facts. The provisions of this~~
18 ~~section do not affect the official immunity of an officer or employee of a public corporation.~~

19 **Section 67. That § 36-4B-34.2 be REPEALED:**

20 ~~The proceedings, records, reports, statements, minutes, or any other data~~
21 ~~whatsoever of any committee described in § 36-4B-34.1 relating to peer review activities~~
22 ~~defined in § 36-4B-34.4, are not subject to discovery or disclosure under chapter 15-6 or~~
23 ~~any other provision of law, and are not admissible as evidence in any action of any kind~~
24 ~~in any court or arbitration forum, except as provided in this section. No person in~~
25 ~~attendance at any meeting described in § 36-4B-34.1 is required to testify as to what~~
26 ~~transpired at such meeting. The prohibition relating to discovery of evidence does not~~
27 ~~apply to deny an emergency medical technician at any level access to, or use of,~~
28 ~~information upon which a decision regarding the person's staff privileges or employment~~
29 ~~are based. The prohibition relating to discovery of evidence does not apply to deny any~~
30 ~~person or the person's counsel in defense of an action against that person access to the~~
31 ~~materials covered under this section.~~

1 **Section 68. That § 36-4B-34.3 be REPEALED:**

2 ~~The provisions of § 36-4B-34.2 do not apply to any observation made at the time~~
3 ~~of treatment by a health care professional present during a patient's treatment or to~~
4 ~~patient records prepared during the treatment and care rendered to a patient who is~~
5 ~~personally or by personal representative a party to an action or proceeding, the subject~~
6 ~~matter of which is the care and treatment of the patient. Furthermore, no member of any~~
7 ~~committee covered by § 36-4B-34.1 who has participated in deliberations under that~~
8 ~~section involving the subject matter of the action, may testify as an expert witness for~~
9 ~~any party in any action for personal injury or wrongful death, the subject matter of which~~
10 ~~is the care and treatment of the patient. Notwithstanding membership on any committee~~
11 ~~covered by § 36-4B-34.1, a health care professional observing or participating in the~~
12 ~~patient's treatment and care may testify as a fact or expert witness concerning that~~
13 ~~treatment and care, but may not be required to testify as to anything protected by § 36-~~
14 ~~4B-34.1.~~

15 **Section 69. That § 36-4B-34.4 be REPEALED:**

16 ~~For the purposes of §§ 36-4B-34.1 to 36-4B-34.4, inclusive, peer review activity is~~
17 ~~the procedure by which a peer review committee monitors, evaluates, and recommends~~
18 ~~actions to improve the delivery and quality of services within its respective facility, agency,~~
19 ~~and profession, including any recommendation, consideration of recommendations, action~~
20 ~~with regard to recommendations, and implementation of actions. Peer review activity and~~
21 ~~acts or proceedings undertaken or performed within the scope of the functions of a peer~~
22 ~~review committee include:~~

- 23 ~~(1) Matters affecting employment and terms of employment of an emergency medical~~
24 ~~technician at any level by a health care facility or a licensed ambulance service;~~
25 ~~(2) Matters affecting the membership and terms of membership in a health~~
26 ~~professional association composed of emergency medical technicians at any level,~~
27 ~~including decisions to suspend membership privileges, expel from membership,~~
28 ~~reprimand, or censure a member, or other disciplinary actions;~~
29 ~~(3) Review and evaluation of qualifications, competency, character, experience,~~
30 ~~activities, conduct, or performance of an emergency medical technician at any level~~
31 ~~by a licensed health care facility or a licensed ambulance service; and~~

1 ~~(4) — Review of the quality, type, or necessity of services provided by any emergency~~
 2 ~~medical technician at any level employed by a licensed health care facility or a~~
 3 ~~licensed ambulance service.~~

4 **Section 70. That § 36-4B-36 be REPEALED:**

5 ~~The board may not pass any rules which:~~

6 ~~(1) — Are not authorized by § 36-4B-35 or are not designated to meet the intent of this~~
 7 ~~chapter;~~

8 ~~(2) — Discriminate between licensees of the same class;~~

9 ~~(3) — Attempt to regulate persons, schools, or other institutions not licensed under this~~
 10 ~~chapter;~~

11 ~~(4) — Have as their primary purpose the promotion or protection of the economic~~
 12 ~~interests of licensees;~~

13 ~~(5) — Restrict the number of licensees for reasons other than their qualifications;~~

14 ~~(6) — Discriminate between programs approved under this chapter which train~~
 15 ~~prospective licensees, whether in or out of the state.~~

16 **Section 71. TRANSFER. The state treasurer shall, on the effective date of this Act,**
 17 **transfer any money remaining in the South Dakota Board of Medical and Osteopathic**
 18 **Examiners fund to the advanced life support fund, created in accordance with this Act.**