

AMBULANCES:
DIVISION OF HEALTH:
REORGANIZATION ACT:

The State Board of Health has authority to determine policy for the Division of Health.

OPINION NO. 20

December 21, 1979

The Honorable Ralph Uthlaut, Jr.
State Senator, 23rd District
Route #1
New Florence, Missouri 63363

Dear Senator Uthlaut:

This opinion is in response to your question asking whether under the Omnibus State Reorganization Act of 1974 the State Board of Health has authority to make policy for the Division of Health and, if so, whether the Board of Health has the authority to set policy for the Bureau of Emergency Medical Services of the Division of Health which administers the provisions of Sections 190.090 through 190.195, RSMo 1978.

The State Board of Health was established pursuant to the provisions of Section 191.400.

Further, Section 191.410 provides in pertinent part:

The state board of health shall:

* * *

(2) Be vested with all statutory responsibilities of the division of health other than those of an administrative nature;

* * *

(4) Advise the director in the planning for and operation of the division of health.

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Section 190.185, provides:

The state board of health of Missouri shall adopt, amend, promulgate, and enforce such rules, regulations and standards with respect to all ambulances, ambulance service, attendant mobile emergency medical technicians, attendant-drivers and certificated apprentices to be licensed hereunder as may be designed to further the accomplishment of the purpose of this law in promoting safe and adequate ambulance services in the interest of public health, safety and welfare.

Subsection 3 of Section 13 of the Omnibus State Reorganization Act of 1974 provides:

All the powers, duties and functions of the division of health, chapters 191 and 192, RSMo, and others, are transferred by type II transfer to the division of health of the department of social services which is hereby created. The state board of health shall be vested with all the statutory duties and responsibilities assigned to it by law. The director of the division of health shall be appointed by the department director.

Subsection 7(b) of Section 1 of the Reorganization Act provides in part:

. . . Supervision by the director of the department under a type II transfer shall not extend to substantive matters relative to policies . . . of the transferred . . . division . . . board . . . unit or program, unless specifically provided by law.

The Reorganization Act became effective May 2, 1974. Section 190.185, became effective July 1, 1974. Section 191.410 became effective in 1967.

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It is our view that the effect of the provisions which we have quoted from the Reorganization Act is to preserve the authority of the State Board of Health under the provisions which we have quoted from Section 191.410 and that such provisions of the Reorganization Act were clearly not intended to nullify the subsequently effective provisions of Section 190.185, which we have quoted above.

We thus conclude that the State Board of Health has authority to determine policy for the Division of Health and that such authority obviously includes determining policy for the Bureau of Emergency Medical Services of the Division of Health.

CONCLUSION

It is the opinion of this office that the State Board of Health has authority to determine policy for the Division of Health.

The foregoing opinion which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in black ink, reading "John Ashcroft". The signature is written in a cursive style with a long horizontal stroke at the end.

JOHN ASHCROFT
Attorney General