WEST VIRGINIA COALITION

July 20, 2017

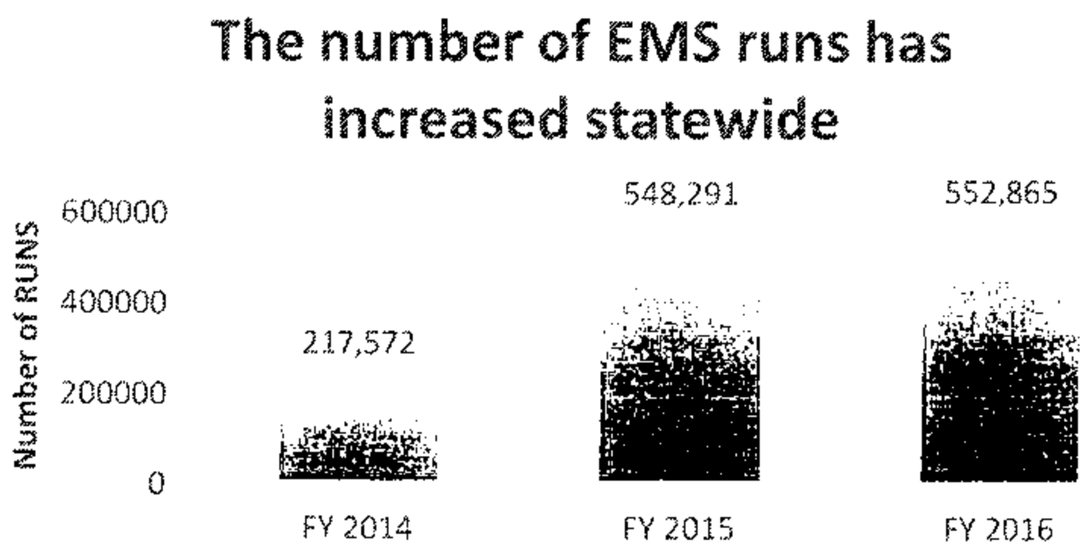
Brian Skinner, General Counsel
Bureau of Public Health
350 Capitol Street, Room 702
Charleston, WV 25301

RE: CSR 64-48 Health – Emergency Medical Services

Dear Mr. Skinner,

The members of the West Virginia EMS Coalition are greatly concerned about the increased fees contained within the proposed revisions to legislative rule CSR 64-48 Health – Emergency Medical Services. Our organization believes these fees represent an irresponsible shifting of the funding burden of the Office of Emergency Medical Services from the State onto West Virginia's ambulance agencies. Many of the state's EMS providers are non-profit and volunteer organizations that can't continue to absorb the costs being imposed upon them under their current funding structures.

The Demands on West Virginia's EMS system have dramatically increased in recent years due to population demographics, health factors and the surge in demand from the statewide drug crisis. According to data from the Office of EMS, the number of EMS runs has more than doubled across the state.



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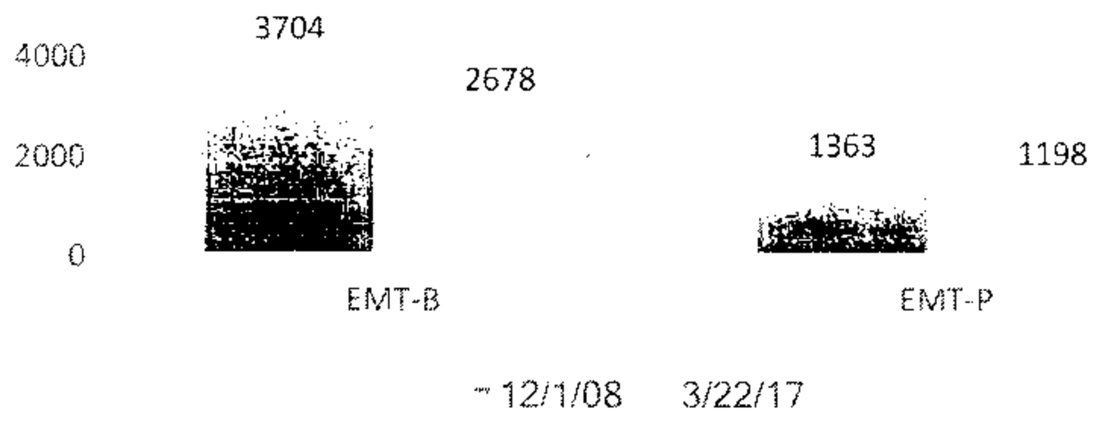
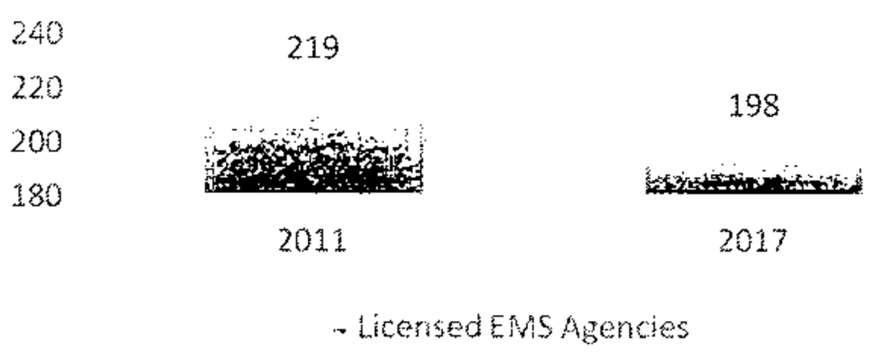
While the demand for EMS patient care has more than doubled, EMS agencies have been challenged by a shrinking workforce.



Increased regulatory compliance costs, rising costs and stagnant reimbursement has contributed to financial struggles for many squads reducing the total number of EMS agencies serving West Virginia communities.



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The financial struggles of ambulance agencies are approaching critical levels. Over the past year, agencies in multiple counties both large and small have all made their budgetary problems known through media reports, service interruptions or layoffs. There are numerous other EMS agencies facing similar problems that have yet to publicly reveal their troubles.

Unlike police and fire departments, *Ambulance squads in West Virginia receive little to no direct funding from state, county and local governments to support their services.* Most squads are entirely dependent of reimbursement from payors such as Medicaid, Medicare and private health insurance to maintain emergency medical coverage in West Virginia. Even the few county ambulance squads that fortunate enough to receive ambulance levy funds are still dependent on reimbursement for the majority of their operating revenue. Additionally, the majority of EMS squads are not affiliated with fire departments and do not receive any share of funding from the insurance premium taxes that are distributed to fire department by code.

Medicaid reimbursements for ambulance services have not increased in over 17 years making it very difficult to keep pace with the rising costs of fuel, wages, insurance, medical supplies, drugs and equipment. With 28 percent of all West Virginians on Medicaid, there aren't enough other sources of reimbursement to compensate for the nearly two decades of stagnant rates.

When the last mileage increase for ambulance services was granted in November 2000, the U.S. average retail diesel prices was $1.61 per gallon. The current national average according to the Energy Information Administration is $2.49 per gallon. This represents over a 50% increase in fuel cost without any increase in mileage rates from the Medicaid program. The impact of the rise in fuel costs are compounded when you consider ambulance are only reimbursed for mileage accrued while transporting patients. This means squads typically drive 2 miles for every mile billed.

Ambulance squads have faced similar rate increases in employee wages. In November 2000, the federal minimum wage was $5.15 per hour. On the federal level, the rate has been increased to $7.25 an hour. And the West Virginia legislature has increased it further to $8.75. This represents a 70 percent increase in minimum hourly wages without any additional funding from Medicaid or the Legislature to support critical EMS services.

Additionally, there is a national shortage of many of the drugs commonly used in emergency medical response. This has resulted in significant price increases for many critical pharmaceuticals require to be stocked on ambulances. The cost of some drugs, like Narcan that is used to save opioid overdose victims, has increased 400% in price. Ambulance squads must absorb this cost because many of the patients receiving the care have no insurance coverage.

West Virginia lacks the types of funding for EMS provided by our surrounding states. Virginia has a Four-for-Life fund, which is used only for EMS purposes and receives $4 per year that is added to vehicle registration fees. Maryland imposes a $17 surcharge on vehicle registrations to support EMS. Pennsylvania has an Emergency Medical Services Operating Fund, which provided $10 million in support for EMS in fiscal year 2011-2012. Funding comes from a $10 fine assessed on all traffic violations and a $25 fee assessed on all accelerated rehabilitation disposition admissions. Ohio operates a grant program funded by seat belt fines to assist EMS operations.

While acknowledging a notable improvement in service by the Office of EMS in recent years and their need for additional funding following multiple years of across the board budget cuts being imposed upon them, the EMS community has concerns about the continued efforts of policymakers to shift the funding the Office of EMS onto backs of critical public safety agencies that receive limited support from state or local government.

Based upon our review of the historic rules, the Office of EMS received no fees for certification and recertification of EMS personnel prior to the 2011 revision of the rule. The Office of EMS had historically operated on federal and state funding and some limited fees on ambulance agencies for the inspection and licensing of ambulances.

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The summary of the rule states the proposed fee increases are being proposed to off-set a legislative change from the 2016 regular session extending the certification period for EMS personnel from 2 years to 4 years. However, our members have raised a number of questions concerning the budgetary neutrality of the proposed rates and believe they in fact represent an increase.

1. The amount of the fee increases does not appear to be proportional to the length of the certification was extended. The changes in the certification periods extended the lengths from the previous 2 or 3 years to the current 4 years. This represents either a 100% increase or a 33% in the length of the certification period. But the fees for all initial certifications in 6.8.a are increasing 100% from $50 to $100. And the fees for recertification in 6.8.b are increasing 200% from $25.00 to $75.00.

2. Increasing fees 100% to 200% due to the extended certification period fails to acknowledge the reduced workload of the office created by the legislative changes. By extending certifications from the previous 2 or 3 years to the current 4 years should reduce the number of applications processed annually by the office and result in lower operating costs for the office.

3. The summary documents accompanying the rule attempt to characterize the fees as being a budget neutral change to offset the cost of the extended certification periods. But the Office of EMS did not object during the legislative process to the certification changes made in 2016 on a financial basis. And the Office of EMS was able to operate through the 2016-2017 fiscal year without increase the fees. And the proposed fees will not go into effect until the 2018-2019 fiscal year if the proposed increase are approved by the 2018 legislature. This means the extended certification periods would have be in place for two full fiscal years without the imposition of any fee increases. Given the 2-year gap between the extension of certification and implementation of higher fees, the proposed changes would represent an increase and negative financial impact on most ambulance agencies and EMS personnel.

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4. Our members have also expressed concern with the statement in the fiscal note that, "This fee structure is consistent with other professional certifications such as radiology technicians, dental hygienist, etc." It is the belief of several paramedics and EMTs that contacted our organization the statement demonstrates a lack of understand of EMS wages and cost structure. And the proposed fees are not proportional to the wages of EMS personnel compared to those of the other professions noted.

5. It is our belief the fee increases would be completely unnecessary if it weren't for the multiple budgets cuts imposed upon OEMS in recent years by the Governor and Legislature in budget process and multiple unfunded mandates imposed on OEMS for statutory duties unrelated to the agency's core functions. In fact, the fees imposed in 2011 have helped to offset the impact of those cuts and mandates.

   OEMS does provide critical licensure and certification services for the EMS community that aid in ensuring the residents of West Virginia receive quality emergency medical services. We would encourage the Legislature and Governor to adequately fund OEMS so it is capable of fulfilling its statutory duties rather than shifting the burden onto a financially struggling industry. If one ambulance agency in a rural community collapses, it will cost state and local government considerably more to re-establish the availability of emergency medical services in that area than the entire revenue gains collected from the proposed fee increases.

In raising these concerns related to the fees, the West Virginia EMS Coalition wants to note its support for the other provisions contained in the rule. The modifications to the Local EMS Systems and vehicle striping requirements represent improvements to the rule and we greatly appreciate the consideration that went into the revisions to these areas of the rule.

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The West Virginia EMS Coalition welcomes the improved communication it has experience with the Office of EMS and its efforts to better the license and certification processes. But the adage "you can't squeeze blood from a turnip" is applicable to these proposed fee increases. We object to the continuation of policy that shifts the burden of funding key government functions onto the backs of our state's public safety agencies that are already lacking adequate financial support for essential emergency services from the state. The adoption of these increased fees would have a negative impact on the availability of emergency medical care for the residents of West Virginia.

Sincerely,

Chris Hall, Executive Director
WV EMS Coalition

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HealthNet Aeromedical Services

July 21, 2017

Brian Skinner, Esq.
General Counsel
WV Bureau of Public Health
350 Capitol Street, Room 702
Charleston, WV 25301

Mr. Skinner,

By way of introduction, HealthNet Aeromedical Services, Inc. is a West Virginia based 501(c)3 organization cooperatively owned and operated by West Virginia University Medicine, Cabell Huntington Hospital and Charleston Area Medical Center. In addition to air medical resources, the organization operates ground ambulances through our HealthTeam Critical Care Transport subsidiary.

I write to provide comment on proposed revisions to CSR 64-48, the legislative rule governing the delivery of emergency medical services in our state. More specifically, I wish to comment on 64-48-5.1.k.1 through 64-48-5.1.k.4. This section of the rule relates to exterior markings required on ambulance vehicles.

As presently written, the rule requires specific reflective markings on all sides of an ambulance. Additionally, it requires the name of the licensed EMS agency operating the vehicle to be visible as well.

The revision will eliminate required reflective markings and mandate the use of standards written by the Commission on Accreditation of Ambulance Services. This is very problematic as the Commission's standards for vehicle marking are vague at best and do not require reflective markings. Presently the state standard on vehicle marking exceed those of accrediting body.

In an era where state and national EMS leaders are rightly focused on the safety of clinical providers on scene, the removal of required reflective striping for increased nighttime visibility is counterintuitive and increases risk for clinical providers. National standards for fire and marked law enforcement vehicles require reflective striping, yet it is proposed that they not be required on ambulances in this state. We should be moving forward with on-scene vehicle safety, not stepping back. Undoubtedly, this is a step back.

Related to the removal of the requirement for the agency name to be visible on ambulance, I believe this too is a step back. Simply put, this is a consumer protection issue. Consumers of service deserve to know which agency is on-scene providing care. Additionally, drivers along our state's roadways deserve to know the name of the agency that may have a driver operating a vehicle in a less than safe manner. Why would this opportunity be taken from them? Again, it is counterintuitive.

I request that serious consideration be given to allowing the current vehicle marking requirements to remain in effect within the rule without modification. It is my view that doing otherwise is not in the best interest of clinical providers or consumers.

Should questions arise please do not hesitate to contact me for I am at your service.

With best wishes, I am,

Respectfully,

Clinton Burley
President and CEO

cc: Melissa Raynes
Michael Mills, DO
L. Michael Peterson, DO

CB/ks