

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER**

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In This Box

APR 3 3 39 PM '99

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

Division of Health

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code §§16-4C-23 and 16-1-7

AMENDMENT TO AN EXISTING RULE: YES NO

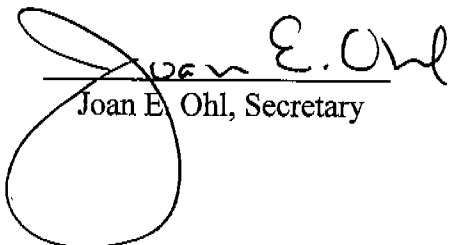
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 44

TITLE OF RULE BEING PROPOSED: Fire Department Rapid Response Services

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Joan E. Ohl, Secretary

\$7.60

BRIEF SUMMARY OF THE RULE

This rule addresses W.Va. Code §16-4C-23, enacted as H.B. 3040 during the 1999 regular legislative session. It establishes a process for the certification and licensure of fire department rapid response services that do not charge for their services or transport patients.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE

This rule has been legislatively mandated by H.B. 3040 that was passed on March 12, 1999. The state fire associations identified the need for fire department rapid response services that do not charge for their services or transport patients to be certified and licensed by an alternative process to the licensure process provided for in the Division of Health Rule, "Emergency Medical Services," 64 CSR 48.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 4, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Division of Health

FROM: (Agency name, Address & Phone No.) Department of Health and Human Resources

State Capitol Complex, Building 3, Room 265, Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Fire Department Rapid Response Services Licensure,

64CSR44

1. Authorizing statute(s) citation: WV Code Sections 16-4C-23 and 16-1-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 29, 1999

b. What other notice, including advertising, did you give of the hearing?

Draft copies of the rule will be distributed to each state fire and EMS association,

as well as to each fire department recognized by the West Virginia State Fire

Commission.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 29, 1999

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

August 4, 1999

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Beth Marquart, Director, Office of Regulatory Development

Department of Health and Human Resources

Building 3, Room 265, Capitol Complex

Charleston, West Virginia 25305

(304) 558-5598 FAX: (304) 558-6051 bethmarquart@wvdhhr.org

g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Jerry Rhodes, Assistant Director

Emergency Medical Services

Department of Health and Human Resources

1411 Virginia St., E.

Charleston, West Virginia 25301-3013 (304) 558-3956

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general

description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fire Department Rapid Response Services, 64CSR44

Type of Rule: x **Legislative** **Interpretive** **Procedural**

Agency: Division of Health
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$ 37,920	\$ 32,420
Personal Services				24,720	24,720
Current Expense				6,700	6,700
Repairs & Alterations				1,000	1,000
Equipment				5,500	-0-
Other					
Revenue				-0-	-0-

2. Explanation of above estimates.

Personal Services

1.0 FTE - Office Assistant II **\$16,146**

Employee Benefits

Admin. Fees, FICA, PEIA
Work. Comp., PERS 8,574
Total Personal Services \$24,720

Current Expense

Office Supplies **\$ 1,050**
Printing/Binding **1,000**
Building Rent **1,000**
Utilities **100**
Telecommunications **1,600**
Travel **250**

Postage **400**
Computer Supplies **1,000**
Training Development 300
Total Current Expense \$6,700

Repairs & Alterations

Office/Communications
equipment repairs **\$1,000**

Equipment

Computer & Modular Furniture **\$5,500**

These costs represent the funding needed to staff a clerical position necessary for processing of license applications, inspection forms, and licenses for each fire department rapid response services. A database will be developed, data supplied and maintained by this person. Employee benefits, current expenses, repairs and alterations, and equipment are specified in the cost analysis of this program.

3. Objectives of this rule:

This rule provides a method for fire department rapid response services that do not charge a fee for medical services to obtain licensure that is separate and unique from methods available for other rapid response services.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Other than the cost associated with staffing a support clerical support addressed in sections 1 and 2, there should be no economic impact on state government. However, if incidents arise in which a fire department rapid response service violates this rule in some manner, then subsequent costs will ensue for the investigation and disposition of the case.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.


Minor cost for mailing documents; negligible economic impact.

C. Economic Impact on Citizens/Public at Large.

None

Date: 6/29/99

Signature of Agency Head or Authorized Representative



Joan E. Ohl, Secretary
Department of Health and Human Resources

REC'D
AUG 11 3 33 PM '99
OFFICE OF THE SECRETARY OF HEALTH

**TITLE 64
LEGISLATIVE RULES
DIVISION OF HEALTH**

**SERIES 44
FIRE DEPARTMENT RAPID RESPONSE SERVICES LICENSURE**

§ 64-44-1. General.

1.1. Scope. -- This rule is intended to: help ensure adequate provision of fire department rapid response services to the citizens of West Virginia; help meet the needs and goals set out in W. Va. Code §16-4C-2; and provide for the licensure of some fire department rapid response services.

1.2. Authority. -- W.Va. Code §§16-4C-23 and 16-1-7.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Applicability. -- This rule applies to recognized fire departments that provide rapid response service and that do not charge a fee for their medical services or transport patients.

1.6. Enforcement. -- This rule is enforced by the commissioner of the bureau for public health¹.

§ 64-44-2. Definitions.

2.1. Advanced Life Support (ALS). -- A sophisticated level of out-of-hospital emergency medical services provided by the following levels of EMS personnel: EMT-P, EMSA-RN, EMSA-PA, EMSA-FN, EMSA-DO, EMSA-MD, or as stated in this rule, that includes, but is not limited to, basic life support procedures and ALS assessment, supervision, and interventions.

2.2. Attendant. -- A person certified pursuant to this rule responsible for assisting

¹The department of health and human resources (DHHR) was created by the legislature's reorganization of the executive branch of state government in 1989. The department of health was renamed the division of health and made a part of the DHHR (W. Va. Code § 5F-1-1 et seq.). Administratively within the DHHR, the bureau for public health through its commissioner carries out the public health function of the division of health.

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in the care of an incapacitated individual or patient with respect to the provision of emergency medical services.

2.3. Attendant-in-Charge. -- A person certified pursuant to this rule to have the ultimate responsibility for the care of a patient with respect to the provision of emergency medical services.

2.4. Basic Life Support (BLS). -- A basic level of out-of-hospital emergency medical services provided when a patient requires BLS services or continual medical supervision. Basic life support can be performed by ALS personnel as well as an EMSA-FR, EMT-B, EMSA-LPN, or as stated in this rule.

2.5. Commissioner. -- The commissioner of the bureau for public health, or his or her designee.

2.6. Disaster. -- A natural or man-made occurrence that creates needs for the provision of EMS that exceeds the capacity of prompt provision of care or transportation by the EMS providers in the immediate area of the occurrence.

2.7. Emergency Medical Service Agency. -- Any agency licensed under W. Va. Code §16-4C-6a and this rule to provide emergency medical services.

2.8. EMSA-DO. -- A person certified as an emergency medical services attendant - doctor of osteopathic medicine.

2.9. EMSA-FN. -- A person certified as an emergency medical services attendant - flight nurse.

2.10. EMSA-FR. -- A person certified as an emergency medical services attendant - first responder.

2.11. EMSA-LPN. -- A person certified as an emergency medical technician - licensed practical nurse.

2.12. EMSA-MD. -- A person certified as an emergency medical services attendant - medical doctor.

2.13. EMSA-PA. -- A person certified as an emergency medical services attendant - physician's assistant.

2.14. EMSA-RN. -- A person certified as an emergency medical services attendant - registered nurse.

2.15. Emergency Medical Services (EMS). -- All services that are set forth in W. Va. Code §16-4C-1 et seq., "The Emergency Medical Services Act of 1996," and those services included in and made part of the emergency medical services plan of the

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department of health and human resources including, but not limited to, responding to the medical needs of an individual to prevent the loss of life or aggravation of illness or injury.

2.16. **Emergency Medical Services Vehicle (EMS vehicle).** -- EMS transportation vehicles including ambulances, air ambulances and non-transporting rapid response vehicles as described in this rule. In addition, non-transporting EMS vehicles may include any private or publicly owned vehicle or craft that is designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated to provide on-scene emergency medical services.

2.17. **EMT-B.** -- A person certified as an emergency medical technician - basic.

2.18. **EMT-P.** -- A person certified as an emergency medical technician - paramedic.

2.19. **Fire Department Rapid Response Service.** -- A recognized fire department required to be licensed under this rule for the provision of rapid response BLS or rapid response ALS.

2.20. **Medical Command.** -- A designated facility staffed by trained personnel, operating under medical supervision, who, in conjunction with patient wishes, have ultimate authority and responsibility over patient care and facility destination decisions. The medical command supplies professional support through radio or telephone communications for the on-site and in-transit basic and advanced life support services administered by EMS personnel.

2.21. **Medical Facility.** -- Any hospital, medical clinic, physician's office, or other similar facility, licensed or certified by the appropriate state agency, at which medical care and treatment is available.

2.22. **Operator.** -- A person certified pursuant to this rule as responsible for the operation of an emergency medical services vehicle.

2.23. **Patient.** -- Any person who is a recipient of the services provided by emergency medical services personnel.

2.24. **Patient Transportation.** -- Movement or transfer of a patient from one (1) location to another by an approved and designated ambulance.

2.25. **Rapid Response.** -- A form of emergency medical services where the lead fire department rapid response service or an associated organization provides an initial response service in an area that may be remote from regularly staffed ambulances to improve on response times and provide emergency on-scene assessment, intervention and supervision without patient transportation.

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2.26. Recognized Fire Department. -- Any organization established for the purposes of providing fire suppression, fire protection and other emergencies that is recognized by the West Virginia state fire commission.

2.27. Squad or County Medical Director. -- A physician licensed in this state who provides medical oversight, quality assurance, medical audits, and advice for a fire department rapid response service or a group of fire department rapid response services within a county.

§ 64-44-3. When Licensure Is Required.

3.1. A fire department rapid response service that charges a fee for its medical services or transports patients is subject to licensure under the division of health rule, "Emergency Medical Services," 64 CSR 48.

3.2. A fire department rapid response service that will not charge a fee for its medical services or transport patients shall obtain one of the following:

3.2.a. Licensure under the division of health rule, "Emergency Medical Services," 64 CSR 48;

3.2.b. Licensure under this rule; or

3.2.c. An agreement with an EMS agency addressing medical direction, training, quality assurance and liability insurance.

3.3. A recognized fire department is not subject to licensure as described in subsections 3.1 and 3.2 of this section if it only provides basic response services of first aid, cardiopulmonary resuscitation or provides manpower or assistance in time of emergency.

3.4. The commissioner may provide technical assistance to fire department rapid response services to help with compliance with this rule.

§ 64-44-4. Application and Inspections.

4.1. Application. -- A fire department rapid response service seeking licensure under this rule shall file an application with the commissioner on forms specified by the commissioner. The applicant shall apply to provide one or both of the following levels of emergency medical services: rapid response BLS; or rapid response ALS. The application shall be signed by the official representative or representatives of the applicant and be attested to before a notary public.

4.2. Verification. -- The commissioner may use lawful investigatory means to verify information in the application.

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4.3. Inspections. –

4.3.a. The official representative or representatives of the applicant, as indicated on the application, shall verify the applicant's compliance with the requirements of this rule and sign and attest to the compliance before a notary public.

4.3.b. The commissioner may make inspections of all places of operation of an existing or proposed fire department rapid response service for compliance with this rule. The inspections shall be in addition to other federal, state, or local inspections required by law.

4.3.b.1. The inspection may include all places of operations and all operational policies and procedures and records and reports of an existing or proposed fire department rapid response service. Confidential records may be inspected but not copied or maintained by the commissioner.

4.3.b.2. The official representative or representatives, as indicated on the application, of an existing or proposed fire department rapid response service, shall provide information for the commissioner to verify compliance with this rule.

4.3.b.3. Inspections shall be conducted at no cost to the applicant.

§ 64-44-5. Licensure Requirements.

5.1. Determination of License Entitlement. -- The commissioner shall determine whether an applicant is entitled to licensure based upon its compliance with this rule including the applicant's previous record of performance in the provision of the proposed services or a similar service, the adequacy of resources available to it for the provision of the proposed services and the evidence of its current compliance with all state, local, and federal tax obligations.

5.2. Personnel and Vehicles. – A fire department rapid response service shall maintain its vehicles and assure that its personnel operate in accordance with this rule.

5.3. Medical Direction. – Fire department rapid response services shall operate under the existing medical direction structure of the West Virginia office of emergency medical services. This includes the state medical director, the regional medical director, and the squad or county medical directors as specified in the division of health rule "Emergency Medical Services," 64 CSR 48, section 17. The state medical director, with advice from the state critical care committee, shall provide specific medical direction guidelines for fire department rapid response services.

5.4. Place of Operations. -- All fire department rapid response services that provide patient care shall comply with the following requirements pertaining to the place of operations:

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5.4.a. Storage Space. -- The fire department rapid response service shall provide adequate and clean enclosed storage space for rapid response equipment and supplies. These storage spaces shall be constructed to permit thorough cleaning;

5.4.b. Supplies. -- The fire department rapid response service shall have access to medical supplies;

5.4.c. Sanitary Requirements. -- All areas used for storage of equipment and supplies shall be kept neat, clean, and sanitary; and

5.4.d. Medical Waste. -- All forms of medical waste shall be stored and disposed of according to W. Va. Code § 20-5J-1 et seq. and the division of health rule "Infectious Medical Waste," 64 CSR 56.

5.5. Operational Policies and Procedures. -- All fire department rapid response services shall have written operational policies and procedures that establish: methods for the operation and maintenance of the services provided by the fire department rapid response service including equipment and facilities; and the responsibilities of personnel associated with the service as limited by the licensure level of the service.

5.6. Records and Reports. -- All fire department rapid response services shall prepare and maintain records. Records and reports shall be stored in a manner to provide reasonable safety from water and fire damage and from disclosure to persons other than those authorized by law. Secure storage shall be provided for medical records. The fire department rapid response service shall prepare and maintain the following records for not less than five (5) years:

5.6.a. Current personnel records of each fire department rapid response service member or employee, including documentation of training, qualifications and certifications for the position held;

5.6.b. Records for each vehicle currently in use including records regarding maintenance, registration, safety inspections, insurance and accidents; and

5.6.c. Records of fire department rapid response service activity including state office of emergency medical services run reports that specifically identify the vehicle operator and attendant-in-charge, dispatch records, and other information. The fire department rapid response service run report minimum data set as defined by the commissioner shall be provided to the transporting EMS agency.

5.7. Insurance. -- Each fire department rapid response service shall have proof of insurance in effect as required by W. Va. Code §16-4C-16.

5.8. System Requirements. -- All fire department rapid response services shall provide rapid response basic life support or advanced life support, or both. Fire department rapid response services shall not refuse treatment or other services to

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patients in the case of a critical illness or injury.

5.9. Availability. -- All fire department rapid response services shall ensure that service for which they are licensed is available to the population within their regular operating area on a twenty-four (24) hour continuous basis either by providing the service themselves or by written arrangement with another fire department rapid response service.

§ 64-44-6. Licensure Requirements -- Point Standards.

6.1. In addition to the requirements set forth in sections 4 and 5 of this rule for licensure as a fire department rapid response service, an applicant shall meet the standards of this section with a minimum of sixty-three (63) points.

6.2. Medical Accountability.

6.2.a. Off-Line Physician Medical Direction.

6.2.a.1. The medical director has a written contract with the service outlining his or her duties and responsibilities and is actively involved with the service as demonstrated by direct participation in oversight of training and recertification, equipment selection, and clinical performance - six (6) points; or

6.2.a.2. The medical director is minimally involved with clinical performance, training or equipment selection as above - four (4) points.

6.2.b. Quality Review

6.2.b.1. The fire department rapid response service has a current, written plan of medical quality review regularly conducted by the medical director - six (6) points; or

6.2.b.2. The fire department rapid response service participates in a minimal quality review process established by the state - four (4) points.

6.2.c. Quality Assurance. -- The fire department rapid response service regularly provides findings from quality reviews to those involved in the activities reviewed. The findings may call for change in operations, specific inservice training for individuals or the entire service. The medical director insures such findings are implemented - ten (10) points.

6.3. Communications.

6.3.a. System Tracking.

6.3.a.1. All fire department rapid response service vehicles are

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tracked as to their availability, location and status by a single communications center that may be a 911 center or a fire department rapid response service dispatch center - three (3) points; or

6.3.a.2. The fire department rapid response service has a single communication center but the center does not consistently track vehicle availability, location and status - one (1) point.

6.3.b. Expertise and Consistency.

6.3.b.1. The dispatch center for the fire department rapid response service has current, written, standard operating policies and procedures for communications personnel with documented training in the federal department of transportation's national standard curriculum-EMS dispatcher training program - three (3) points; or

6.3.b.2. The dispatch center for the fire department rapid response service has orientation training for dispatchers offered, but there is no current written standard operating policies and procedures - one (1) point.

6.3.c. Pre-arrival Instructions.

6.3.c.1. The dispatch center for the fire department rapid response service has a standard, written format for questioning and information gathering, as well as approved pre-arrival instructions for communications personnel - two (2) points; or

6.3.c.2. The dispatch center for the fire department rapid response service uses a uniform but unwritten format for caller questioning and appropriate ambulance dispatching - one (1) point.

6.3.d. Logging.

6.3.d.1. The dispatch center for the fire department rapid response service uses dedicated, recorded lines for phone and radio conversations, and they are automatically recorded at all times - three (3) points; or

6.3.d.2. The dispatch center for the fire department rapid response service has telephone and radio conversations that are not recorded, but consistent, current written logs are created - one (1) point.

6.4. Public Information and Education.

6.4.a. The fire department rapid response service has a functional community cardiopulmonary resuscitation training and EMS education program for the population served. - two (2) points;

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6.5. Disaster Capability.

6.5.a. Communications and Control.

6.5.a.1. The fire department rapid response service has a normal operational communications and control system that is capable of producing and coordinating a system-wide response to a single disaster without any change in personnel or operations - three (3) points; or

6.5.a.2. The fire department rapid response service has a communications and control system that must be dramatically altered to respond to a disaster situation, with associated time delays - two (2) points.

6.5.b. Disaster Plan.

6.5.b.1. The fire department rapid response service has a current, written, widely-distributed, acceptable and annually practiced plan for disaster response within the fire department rapid response service and between adjacent providers - three (3) points; or

6.5.b.2. The fire department rapid response service has a disaster response plan that is available to local providers, and the fire department rapid response service occasionally participates in disaster drills. - two (2) points.

6.5.c. Mutual Aid.

6.5.c.1. The fire department rapid response service has written mutual aid agreements that address adjacent providers, common communication frequencies, equipment, and cross-training to allow personnel to adequately function together during a disaster - three (3) points; or

6.5.c.2. The fire department rapid response service has written mutual aid agreements with selected adjacent providers that cover disaster operations but has little cross-training or drills - two (2) points.

6.6. Personnel.

6.6.a. Job Description. -- The fire department rapid response service has current written job descriptions for all personnel - three (3) points.

6.6.b. Orientation. -- The fire department rapid response service has a formal orientation process documenting employee completion of specific stated objectives. - three (3) points.

6.6.c. Recruitment. -- The fire department rapid response service actively recruits qualified personnel and has measures in place to retain and maintain adequate

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personnel - three (3) points.

6.6.d. Personnel Screening. -- The fire department rapid response service screens applicants, and they are selected with a formal process. - three (3) points.

6.6.e. Personnel Policies and Procedures. -- The fire department rapid response service has, and distributes to all personnel, written personnel policies and procedures that address appropriate areas of qualifications, job performance, and other employment practices. The personnel policies and procedures shall be in accordance with all applicable state and federal requirements - three (3) points.

6.7. Training.

6.7.a. Continuing Education. -- The fire department rapid response service encourages personnel to obtain continuing education. The service provides adequate opportunity for regularly scheduled in-house and other training activities - six (6) points.

6.7.b. Squad Training Officer's Program.

6.7.b.1. The fire department rapid response service's state designated squad training officer participates in the state squad training officers program, maintains accurate and current training records of personnel and coordinates training activities on a regular basis - ten (10) points.

6.8. Facilities and Equipment.

6.8.a Facilities. -- The fire department rapid response service facilities, stations and quarters are adequate for the needs of all personnel and are maintained in a clean and sanitary fashion. Supplies and cleansing agents are provided to allow for proper decontamination of personnel and equipment contaminated with blood and body fluids. Contaminated waste and equipment are stored according to any applicable state and federal occupational safety and health administration requirements - three (3) points

6.8.b. Equipment. -- The fire department rapid response service has medical equipment that functions correctly, is clean, and is compliant with current standards and protocols - three (3) points.

6.8.c. Supplies. -- The fire department rapid response service has supplies that are available in adequate quantities to meet its anticipated needs, and there is a process for replenishment or replacement of supplies and equipment in a convenient, timely manner - three (3) points.

6.9. Accountability and Stability.

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6.9.a. Mission and Organization. -- The fire department rapid response service has a written mission statement that is known to personnel, and the service is formally and legally organized with clear lines of managerial authority and responsibility - three (3) points.

6.9.b. Management Training. -- The fire department rapid response service managers are trained in EMS management practices and procedures. Continuing education in management practice is available, and participation for managers is documented - three (3) points.

§ 64-44-7. License Issuance, Renewal, Modification, Denial, Suspension and Revocation.

7.1. When the commissioner determines that an application is complete and correct and the applicant is in compliance with this rule, he or she shall issue a license at no cost.

7.2. The commissioner shall notify the applicant of the approval or denial of a license within sixty (60) days of receipt of a complete application and supporting documentation, except as provided in subdivisions 7.4. and 7.5.c. of this rule.

7.3. The fire department rapid response service license shall include the following information:

7.3.a. The name and address of the fire department rapid response service;

7.3.b. The name and address of the designated representative or representatives of the fire department rapid response service;

7.3.c. The expiration date of the license two (2) years from the date of issuance;

7.3.d. The levels of services for which the fire department rapid response service is licensed;

7.3.e. The number and classification of EMS vehicles the fire department rapid response service is licensed to operate; and

7.3.f. The point standard score of the fire department rapid response service under section 6 of this rule.

7.4. Renewal of a License. -- The fire department rapid response service may apply for renewal of its license during the last year of licensure but no later than ninety (90) days prior to the license renewal date. If the commissioner is unable to take action on an application for the renewal of a license prior to its expiration, the license shall

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remain in effect until such time as he or she approves or denies the application.

7.5. Modification of a License. -- If the fire department rapid response service proposes to add a service, modification of the fire department rapid response service license is required before the service is provided. The procedure for modification of a license is as follows:

7.5.a. The licensee shall request in writing the modifications desired;

7.5.b. The commissioner shall utilize the provisions of section 4 of this rule and process such request as an application, except as specified below.

7.5.c. The fire department rapid response service shall be notified in writing by the commissioner of the approval or denial of the modification within thirty (30) days of receipt of the request and completion of applicable inspections. If approved, the commissioner shall issue a modified fire department rapid response service license.

7.5.d. The fire department rapid response service shall return the unmodified license to the commissioner within thirty (30) days of receipt of the modified license;

7.5.e. The issuance of a modified license does not authorize a fire department rapid response service to provide emergency medical services or to operate any EMS vehicle without a franchise in any county or municipality that has enacted an ordinance requiring a franchise.

7.6. Denial, Revocation or Suspension of a License. -- The commissioner shall deny, revoke or suspend a license as appropriate for fraud or failure to obtain or maintain compliance with this rule.

§ 64-44-8. Licensee Conduct.

8.1. Continued Compliance. -- A fire department rapid response service shall maintain compliance with this rule during the term of its license.

8.2. Display of License. -- The fire department rapid response service shall publicly display its license in its headquarters.

8.3. Advertising. -- A fire department rapid response service shall not advertise, or imply the availability of, services other than those for which it is licensed.

§ 64-44-9. Fire Department Rapid Response Vehicles.

9.1 Class A. -- A fire department owned and operated rapid response vehicle is classified as a class A EMS vehicle.

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9.1.a. The fire department rapid response service may employ a class A EMS vehicle solely for the immediate response to a call for the delivery of life support.

9.1.b. If the fire department rapid response service employs a class A EMS vehicle equipped and staffed for delivery of basic or advanced life support, it may be used for that purpose until the arrival of a class of EMS vehicle that is designed for patient transportation.

9.1.c. The class A EMS vehicle shall not be utilized for the transportation of patients except in the case of a disaster.

9.1.d. All front seat safety belts shall be operable for individuals riding in front seats.

9.1.e. If the EMS vehicle is utilized for the delivery of advanced life support, it shall have a lockable storage compartment for a medication kit and its supplies.

9.1.f. Emergency warning lights shall be installed in accordance with the national fire protection association (NFPA) 1901 lighting standard. If the fire department rapid response service vehicle is used for the delivery of advanced life support, the communications capabilities shall include radio communications between the attendant-in-charge and the regional medical command or the receiving medical facility where regional medical command is not available.

9.1.g. Equipment and Supplies. -- The recommended class A vehicle equipment and supplies list should be utilized as a guideline.

§64-44-10. Administrative Due Process.

Those persons aggrieved by the enforcement of this rule may request a contested case hearing in accordance with the division of health rule, "Rules and Procedures for Contested Case Hearings and Declaratory Rulings," 64CSR1.

PUBLIC COMMENTS AND DEPARTMENT RESPONSES

FIRE DEPARTMENT RAPID RESPONSE SERVICE LICENSURE, 64 CSR 44

A public comment period on the proposed rule, Fire Department Rapid Response Service Service Licensure, 64 CSR 44, was held beginning June 29, 1999 and ending July 29, 1999. There were two commenters. Comments are summarized below, and the Department's responses are detailed. There are no changes to the proposed rule necessitated by these comments.

General Comment: Both commenters frequently questioned specific language in the proposed rule.

Response: The language used in this proposed rule remains relatively consistent with existing language in Division of Health EMS Rule, 64 CSR 48. This rule references 64 CSR 48, as well as WV Code §16-4C (EMS Act) and both were used in its development. The WV Office of EMS, through the Bureau for Public Health, has regulatory authority over the provision of emergency medical services, including any form of rapid response service. Maintaining consistency of language with existing and associated legislative rules and state code is critical to ensuring a nationally recognized standard of care that provides optimal emergency treatment to the sick and injured, stands up to industry scrutiny, is most defensible in court, and meets the needs of the fire and EMS community in West Virginia. This consistency of language is referenced throughout this document.

§2.16. Comment: This definition needs to include multi-passenger transport vans, wheelchair vans, etc. so that all vehicles are covered.

Response: The definition of EMS vehicle currently includes all the vehicles listed in this comment, and is consistent with the existing definition in the Division of Health EMS Rule, 64 CSR 48 - 2.24. The definition of ambulance (one type of EMS vehicle) was amended in the EMS Act (WV Code 16-4C-3.a) in 1999 by Senate Bill 612 to include Specialized Multi-Patient Medical Transport (SMPMT) vehicles, which the commenter refers to as an MPT van.

§2.24. Comment: Strike "an approved and designated" or provide definition as to what constitutes "an approved and designated ambulance".

Response: The phrase "approved and designated" is a descriptor used to delineate and identify an ambulance, which is defined in WV Code §16-4C-3(a). This language parallels and remains consistent with its use in the same definition in Division of Health EMS Rule, 64 CSR 48 - 2.38.

§2.25. Comment: This definition of Rapid Response refers to response in "areas that may be remote from regularly staffed ambulances". Our jurisdiction is practically flooded by ambulances but we are called on when ambulances are on responses and cannot respond

immediately. How does this definition affect cases such as this?

Response: The term “remote” is a relative term, and this definition is preceded by the words “...may be...” Much stronger significance is weighted on the last part of the definition “...to improve on response times and provide emergency on-scene assessment, intervention, ...” Depending on the number of EMS calls, any location could be remote from a regularly staffed ambulance, at least on a temporary basis. The number of ambulances or squads in a particular region does not limit or determine whether or not a fire department will be granted licensure as a rapid response service. This definition is consistent with the equivalent existing definition in Division of Health EMS Rules, 64 CSR 48 - 2.39.

§3.3. Comment: This rule should provide a definition of what your agency considers “basic response services of first aid”.

Response: The phrase “basic response services of first aid” is not a term in and of itself. The generic meaning of “first aid”, as used in this section, is the provision of assistance until more sophisticated medical care is obtained. In this case, more sophisticated medical care would include those levels of prehospital care that are licensed by OEMS (ALS and BLS) and whose personnel have a definable scope of practice. The “basic response services” terminology is a descriptor to aid the reader in clearly delineating the term “first aid” and its use by fire departments who chose not to be licensed as a rapid response agency.

§4.3.b. Comment: Since this emergency rule affects only inspections dealing with the compliance of “rapid response services”, I see no reason to have the last sentence in the section. Any additional inspections whether federal, state or local would not be under the purview of your agency.

Response: This section is intended to separate the authority vested in the Commissioner of the Bureau for Public Health from that of other authorities that may be mandated to conduct inspections. Secondly, the intent is to clarify that the Commissioner’s authority to inspect does not supercede or replace the authority of these other agencies (e.g. building inspectors, OSHA, etc.) to perform inspections within their purview. This language is also consistent with existing language in Division of Health EMS Rule, 64 CSR 48 - 4.8.

§4.3.b.1. Comment: Certain laws mandate that health records be kept confidential. This is most evident when exposures to either hazardous materials and/or infectious disease has occurred. In fact it is not possible for a fire department to obtain medical records of victims with which we come into contact. In addition, any disciplinary records are also to be kept confidential. The very act of allowing these records to be inspected breaks the confidentiality even though they are not copied. To agree to this section would seem to place the fire department in a position of ignoring one aspect of the law and opening us to a lawsuit by another party involved.

Response: Section 6, Article 4C, Chapter 16 of the Code of West Virginia details the

powers and duties of the Commissioner of the Bureau for Public Health, which includes licensure of EMS Agencies (Section 6a). The Commissioner must have access to any records that are deemed pertinent to carrying out his duty and authority. The last sentence in Section 3.b.a. of this rule (“confidential records may be inspected but not copied or maintained by the commissioner”) provides a resolution for the rapid response service’s dilemma regarding confidentiality. Section 6 (f) of the Code identifies the commissioner’s duty “to cooperate with federal, state, and local governmental agencies to carry out the purposes of this article”. This would include confidentiality rules associated with these agencies. Since any inspections would be conducted in conjunction with fire department rapid response service officials, any concern over breach of confidentiality could be mitigated immediately to everyone’s satisfaction. This language is consistent with the existing language of Division of Health EMS Rule, 64 CSR 48 - 4.8.

§5.9. Comment: This section puts a requirement on the fire department rapid response service that I have not seen in all private ambulance companies. In a volunteer organization, which encompasses most WV fire departments, it is impossible to ensure 24-hour continuous service, hence mutual-aid agreements. But this section requires a “written arrangement with another fire department rapid response service”. What if there are no other “fire department rapid response services” near our department? Since one reason to provide “fire department rapid response” is the unavailability of an ambulance service this section seems to hold the fire service to a higher standard than the fully staffed ambulance services.

Response: All licensed EMS agencies are required to ensure their services are available on a continuous 24-hour basis (including private companies and volunteer squads). See similar language in Division of Health EMS Rule, 64 CSR 48 - 3.10. The intent is to restrict EMS agencies, including fire department rapid response services from providing their services for which they are licensed for a limited time frame (e.g. 8:00 a.m. - 5:00 p.m.). If a fire department has stations, vehicles and personnel in a geographic region and continuously provides service within the environment of 24-hour “volunteer” coverage, then that service meets the requirements of this section of the rule. The standard is equitable for EMS squads and fire department rapid response services.

§6.3. Comment: The entire communications section should refer to “911” or “PSAP” (public safety answering point) instead of “service dispatch center” or “dispatch center”, in order to incorporate proper terms.

Response: The term “dispatch center” is used frequently within this entire section and is consistent with its use in the corresponding section of the Division of Health EMS Rule, 64 CSR 48 - 5.4. There are small dispatching systems in West Virginia that don’t meet the definition of a 911 center or PSAP. “Dispatch Center” is a generic term that encompasses all systems that receive incoming calls and dispatch emergency equipment, either by radio or phone.

§6.9.b. Comment: Since this document refers to fire departments, does training have to be “EMS management” or would “fire management” courses be acceptable?

Response: This language is consistent with language used in Division of Health EMS Rule, 64 CSR 48 - 5.12.c. It refers to a portion of the licensing process where by a fire department rapid response service can earn points to boost their score in the grading process (as does any EMS agency applying for licensure under 64 CSR 48). Rapid response supplied by a fire department is in reality an EMS function (see sections 2.19, 3.1, 3.2, and 4.1 of this rule, and sections 2.29 and 2.39 of 64 CSR 48), and as such, should be augmented by training in EMS management practices and procedures. This specialized training will aid in the efficient, appropriate and standardized delivery of emergency medical care. However, fire training that encompasses some form of EMS management (e.g. strategical and tactical operations, integration guidelines, etc.) could be used to meet the requirements of this section. This would not require a change to the language of this section of the rule.

§9.1.f. Comment: “Regional medical command” CENTER (“add center”).

Response: The term “center” is an extraneous term as applied within the context of this section, and is not necessary to clarify or add credence to the phrase “regional medical command”. Its absence is also consistent with existing language found in Division of Health EMS Rule, 64 CSR 48 - 8.1.k.

FAYETTEVILLE FIRE DEPARTMENT
P.O. BOX 812—150 LIVELY ST.
FAYETTEVILLE, WEST VIRGINIA 25840

Beth Marquart, Director
Regulatory Development
Dept. of Health and Human Resources
Building 3, Room 265
Charleston, WV 25305

July 24, 1999

Dear Ms. Marquart,

These comments are in response to the letter from Mark King of 6/30/99 received on 7/2/99. He requested comments concerning Emergency Rule per H.B. 3040, 64CSR44.

64-44-2:

2.25- This definition of Rapid Response refers to response in "areas that may be remote from regularly staffed ambulances". Our jurisdiction is practically flooded by ambulances but we are called upon when ambulances are on other responses and cannot respond immediately. How does this definition affect cases such as this?

64-44-3:

3.3- This rule should provide a definition of what your agency considers "basic response services of first aid".

64-44-4:

4.3.b- Since this emergency rule affects only inspections dealing with the compliance of "rapid response services" I see no reason to have the last sentence in this section. Any additional inspections whether federal, state, or local would not be under the purview of your agency.

4.3.b.1- Certain laws mandate that health records be kept confidential. This is most evident when exposures to either hazardous materials and/or infectious disease has occurred. In fact it is not possible for a fire department to obtain medical records of victims with which we come into contact. In addition, any disciplinary records are also to be kept confidential. The very act of allowing these records to be inspected breaks the confidentiality even though they are not copied. To agree to this section would seem to place the fire department in a position of ignoring one aspect of the law and opening us to a lawsuit by another party involved.

CLERK
99 JUL 27 11:12:00
WV DEPT OF HEALTH & HUMAN RESOURCES

FAYETTEVILLE FIRE DEPARTMENT

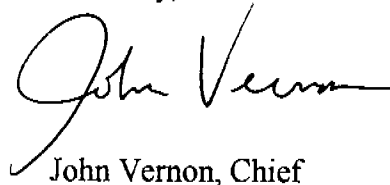
P.O. BOX 812---150 LIVELY ST.

FAYETTEVILLE, WEST VIRGINIA 25840

64-44-5:

5.9- This section puts a requirement on the fire department rapid response service that I have not seen in all private ambulance companies. In a volunteer organization, which encompasses most WV fire departments, it is impossible to ensure 24-hour continuous service, hence mutual-aid agreements. But this section requires a "written arrangement with another fire department rapid response service". What if there are no other "fire department rapid response services" near our department? Since one reason to provide "fire department rapid response" is the unavailability of an ambulance service this section seems to hold the fire service to a higher standard than the fully staffed ambulance services.

Sincerely,

A handwritten signature in black ink that reads "John Vernon". The signature is written in a cursive, flowing style.

John Vernon, Chief

Cc: State Senator Shirley Love
State Delegate William Laird
State Delegate John Pino
State Delegate Tom Louisos



Mountain State EMS

Association, Inc.

200 Fairmont Ave., Suite 205

Fairmont, WV 26554

(304) 366-8764

July 23, 1999

Beth Marquart, Director
Regulatory Development
Department of Health/Human Resources
Building 3, Room 265
Charleston, WV 25305

Dear Ms. Marquart:

Below are my comments concerning Division of Health Rule 64 CSR 44, "Fire Department Rapid Response Licensure".

- 64-44-2.16 This definition needs to include MPT vans, wheelchair, vans, etc., so that all vehicles are covered.
- 64-44-2.24 Strike "an approved and designated", or provide definition as to what constitutes "an approved and designated ambulance."
- 64-44-6.3 The entire communications section should refer to "911 or PSAP" (public safety answering point) instead of "service dispatch center" or "dispatch center", in order to incorporate proper terms.
- 64-44-6.9.b Since this document refers to fire departments, does training have to be "EMS management", or would "fire management" or "general management" courses be acceptable?
- 64-44-9.1.f "regional medical command **CENTER**" ("add center").
Line #5

Thank you for the opportunity to comment.

Sincerely,

Gail M. Dragoo

Gail M. Dragoo
President

GMD/misclett.let

cc: Mark E. King, Director
Office of EMS
WV DHHR
1411 Virginia St. East #208
Charleston, WV 25301-3013

faxed to Jerry R.

99 JUL 23 11 09:25
CLERK