

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF THE SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Health 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 X

IF YES, SERIES NUMBER OF RULE BEING AMENDED:

TITLE OF RULE BEING AMENDED:

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 44

TITLE OF RULE BEING PROPOSED: Fire Department Rapid Response Services

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Handwritten signature of Joan E. Ohi, Secretary

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OFFICE OF THE SECRETARY OF HEALTH
DIVISION OF HEALTH SERVICES
JAN 22 8 37 AM '99

**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. Ambulance. -- Any privately or publicly owned vehicle or aircraft which is designed, constructed or modified, equipped or maintained, and operated for the transportation of patients.

2.2. 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, or an EMSA-MD that includes, but is

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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not limited to, basic life support procedures and ALS assessment, supervision, and interventions.

2.3. Attendant. -- A person certified pursuant to this rule responsible for assisting in the care of an incapacitated individual or patient with respect to the provision of emergency medical services.

2.4. 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.

2.5. 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, or an EMSA-LPN.

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

2.7. 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.

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

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

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

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

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

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

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

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

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2.16. 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 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.

2.17. 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.

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

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

2.20. 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.

2.21. 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.

2.22. 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.

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

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

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

2.26. 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

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improve on response times and provide emergency on-scene assessment, intervention and supervision without patient transportation.

2.27. 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.

2.28. 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 and 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.

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

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

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provide patient care shall comply with the following requirements pertaining to the place of operations:

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.

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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 patients in the case of a critical illness or injury.

5.9. Availability. -- All fire department rapid response services shall ensure that the 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 indicated in paragraph 6.2.a.1. - 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 or specific inservice training for individuals or the entire service. The medical director insures that the findings are implemented - ten (10) points.

6.3. Communications.

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6.3.a. System Tracking.

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

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community cardiopulmonary resuscitation training and EMS education program for the population served. - two (2) points.

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.

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

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6.9. Accountability and Stability.

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 subsection 7.4. and subdivision 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

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(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 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 four (4) of this rule and process the request as an application, except as specified in subdivision 7.5.d.

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.

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

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 that is available from the commissioner 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.