

**STATEMENT OF EMERGENCY**  
**202 KAR 7:545E.**

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, and welfare. Specifically, this emergency amendment is necessary to ensure ambulance services remain eligible to obtain a license from the Board more than 90 days after being issued a Certificate of Need ("CON") from the Cabinet for Health and Family Services (the "Cabinet").

Senate Bill 150 (Regular Session 2020) ("SB 150") granted the Kentucky Board of Emergency Medical Services (the "Board") the authority to waive or modify certain statutes and regulations related to the EMS profession during the State of Emergency declared by the Governor in Executive Order 2020-215. See SB 150 § 1(13). On or about October 11, 2021, the Board filed an emergency waiver and modification of 202 KAR 7:545 with the Secretary of State, which waived the requirement that ambulance services obtain a license from the Board within 90 days of being issued a CON from the Cabinet. This waiver and modification was necessary because ambulance services were not able to meet the 90-day requirement due in part to staffing shortages and supply chain delays.

The Board's modification and waiver of 202 KAR 7:545 was ratified and approved by the General Assembly. See Senate Bill 25 (Regular Session 2022) § 4(27)(h). Due to the continued impracticability of obtaining a license from the Board within 90 days of the agency being issued a CON, the Board filed an ordinary regulation amendment to 202 KAR 7:545 on February 8, 2022. The amendment would have required agencies to "apply for" rather than "obtain" a license from the Board within 90 days of issuance of a CON and to request a final inspection for licensure within 180 days after applying for a license. However, on January 14, 2022, Senate Bill 25 (Regular Session 2022) ("SB 25") became law. Pursuant to Section 4 of SB 25, the Board's modification and waiver of 202 KAR 7:545 will expire on April 14, 2022. Therefore, an ordinary administrative regulation is not sufficient to address the imminent threat to public health, safety, and welfare because the Board's ordinary amendment to 202 KAR 7:545 filed on February 8, 2022 could not become effective before the Board's modification and waiver expires on April 14, 2022.

EMS agencies seeking a license from the Board continue to experience staffing shortages and supply chain delays, and it remains impractical to satisfy the 90-day requirement. Therefore, the continued ability for EMS agencies to obtain a license from the Board more than 90 days after being issued a CON from the Cabinet is critical to ensuring that new agencies can be licensed by the Board and can begin providing EMS services to underserved communities. Accordingly, EMS staffing shortages, supply chain delays, and the April 14, 2022 expiration of the Board's modification and waiver of 202 KAR 7:545 (which would have the effect of reimposing the 90-day requirement) present an imminent threat to public health, safety, and welfare and this emergency administrative regulation is necessary.

This emergency administrative regulation will be replaced by an ordinary administrative regulation because EMS staffing shortages, supply chain delays, and the impracticability of satisfying the 90-day requirement are expected to continue. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

*ANDY BESHEAR, Governor*  
*PHILIP DIETZ, Chair*

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM**  
**Kentucky Board of Emergency Medical Services**  
**(Emergency Amendment)**

**202 KAR 7:545E. License classifications.**

RELATES TO: KRS 311A.030, 311A.190

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations to establish requirements for various classes of ambulance and emergency medical service agencies. This administrative regulation establishes requirements for each class of ambulance service and medical first response agencies.

Section 1. License Classifications.

(1) In accordance with KRS 311A.030(1), license classifications for ambulance providers shall include:

(a) A Class I ground ambulance agency operating at the Advanced Life Support (ALS), Basic Life Support (BLS), or Adult Critical Care Transport level to provide emergency and nonemergency care and transportation.

(b) A Class II ground ambulance agency operating at the BLS level only to provide nonemergency care and transportation.

(c) A Class III ground ambulance agency operating at the ALS level to provide critical care, specialty care, emergency or nonemergency care, and transportation between health care facilities. Based on the Certificate of Need and scope of care policy, a Class III ground ambulance agency shall be designated as one (1) or more of the following types:

1. A Class III Adult Critical Care agency providing critical care transport services to patients ages twelve (12) and above;

2. A Class III Pediatric Specialty Care agency providing specialty care transport services to patients under the age of twenty-one (21); or

3. A Class III Neonatal Specialty Care agency providing specialty care transport services to patients less than twenty-nine (29) days of age.

(d) A Class IV ground ambulance agency operating at the ALS or BLS level to provide emergency and nonemergency care and transportation for restricted locations, such as industrial sites or other sites that do not provide services outside the designated geographic service area.

(e) A Class VI agency providing medical first response without patient transport at the BLS or ALS level.

1. Each BLS First Response agency shall be licensed separately as a Class VI BLS agency unless a mutual aid agreement is executed with a licensed Class I ambulance agency that provides 911 response services for the geographic service area.

2. A nonlicensed BLS First Response Agency may execute a mutual aid agreement with multiple nonlicensed BLS First Response Agencies that serve the same geographic service area.

3. A mutual aid agreement shall automatically renew at the conclusion of a calendar year.

4. A nonlicensed BLS First Response Agency or a Class I ALS agency may terminate a mutual aid agreement thirty (30) days after written notice is provided to

the other party.

5. A mutual aid agreement between a Class I ALS agency and a nonlicensed BLS First Response agency serving the same geographic area shall be updated as changes to the agreement occur and shall include provisions for:

- a. Medical direction;
- b. BLS protocols;
- c. Response protocol;
- d. Geographic service areas to be served;
- e. Circumstances causing dispatch of the nonlicensed BLS first response agency;
- f. Training;
- g. Quality assurance processes; and
- h. Liability Insurance if applicable.

6. A nonlicensed BLS First Response agency shall not provide BLS care outside of the geographic service area of the Class I ALS agency.

7. A nonlicensed BLS First Response agency unable to secure a written mutual aid agreement with a Class I ALS agency within its geographic service area, may operate within the jurisdiction as a nonlicensed BLS First Response agency if the agency has written correspondence from at least one (1) Class I 911 agency within its geographic service area denying the agency's request to enter into a mutual aid agreement. The correspondence denying the mutual aid request shall be maintained on file at the agency.

8. A license to provide BLS care shall not be issued solely through the execution of a mutual aid agreement between a Class I agency and a nonlicensed BLS First Response agency;

(f) A Class VII rotor wing air ambulance service providing ALS emergency or nonemergency air transportation;

(g) A fixed wing class VII service provides ALS or BLS emergency or nonemergency air transportation; and

(h) A Class VIII agency providing BLS or ALS pre-hospital care above the first-aid level at special events, sports events, concerts, or large social gatherings.

1. A Class VIII agency shall not transport patients beyond the grounds of an event and shall be bound by the geographic service area of its Certificate of Need.

2. A Class VIII agency shall not transport patients independently to a hospital.

3. If transport of a patient is required, a Class VIII agency shall contact 911 for transport by a Class I agency licensed for the geographic service area.

(2) The KBEMS office shall license agencies in accordance with subsection (1) of this section.

(3) An agency shall apply for a license from the board within ninety (90) days of issuance of a Certificate of Need from the Cabinet for Health and Family Services.

(4) An agency that does not apply for a license within ninety (90) days of the issuance of its Certification of Need shall not be granted a license by the board.

(5) An agency shall request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board.

(6) An agency that does not request a final inspection for licensure from the board, in writing, within 180 days after applying for a license from the board shall not be granted a license by the board.

(7) An agency shall not hold more than one (1) license per level of classification in one (1) defined geographic service area unless each license was obtained prior to January 1, 2018.

Section 2. Public Notice of Negative Action. The board office shall publish on the KBEMS Web site or similar publication of the board, the name of any licensed agency that is fined,

placed on probationary status, placed on restricted status, suspended, or had a license revoked.

*PHILIP DIETZ, Chair*

APPROVED BY AGENCY: March 24, 2022

FILED WITH LRC: March 30, 2022 at 2 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 25, 2022 at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Poynter, Executive Director, Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509, phone (859) 256-3584, email [michael.poynter@kctcs.edu](mailto:michael.poynter@kctcs.edu).