

STATEMENT OF EMERGENCY

202 KAR 7:560E.

This emergency amendment is necessary to prevent certain Class I agencies from having to downgrade from an advanced life support (ALS) license to a basic life support (BLS) license. The risk of such downgrades, which would be required without this emergency amendment, poses an imminent threat to public health, safety, and welfare. There are not enough paramedics in Kentucky working for EMS services. EMS agencies throughout the Commonwealth are having difficulty staffing paramedics. Pursuant to the current version of this administrative regulation, Class I ALS agencies are required to have at least one paramedic on-duty at all times. Due to the shortage of paramedics, multiple Class I ALS agencies (particularly small, rural ones) have been unable to meet that regulatory requirement. Without this emergency amendment, such agencies will have to either voluntarily downgrade their Class I license and begin providing only BLS services or the board will have to initiate disciplinary actions pursuant to KRS 311A.055 against the agencies for violating the regulatory requirement to have a paramedic on duty at all times. Ground ambulance services in Kentucky are licensed to provide either ALS or BLS care. The ALS services are trained and permitted to provide advanced care to patients whose conditions may worsen or who may succumb to their injury or illness if life-saving measures are not immediately provided. Such procedures include cardioversion, arrhythmia recognitions and treatment, extreme hypovolemia or hypertension, hyperglycemia, hypoglycemia, advanced airway management, and thoracic trauma. The BLS services may provide basic care to all conditions and transport, but are not permitted to provide the potentially life-saving advanced treatment often required. If the non-compliant agencies downgrade to provide only BLS services, but are later able to hire a sufficient number of paramedics to meet the ALS staffing requirement, such agencies would be required to seek and acquire a new Certificate of Need before resuming ALS services. This emergency amendment would permit qualifying agencies to temporarily minimally staff AEMTs to provide some, but not all, of the aforementioned advanced procedures and care while maintaining their ALS license. Specifically, Class I ALS services that have been unable to have a paramedic on duty at all times, but have demonstrated a good faith effort to meet the requirement, would be granted a temporary waiver allowing the agency to keep its ALS license so long as it has an AEMT or a paramedic on duty at all times. If the Board has probable cause to believe that an agency requesting a temporary waiver has not attempted to meet the regulatory requirement in good faith, the agency will be entitled to a hearing in accordance with KRS Chapter 13B to determine whether a waiver should or should not be granted. All temporary waivers issued under this emergency amendment and the identical ordinary amendment will expire on December 31, 2026. Thereafter, all Class I ALS agencies will again be required to have a paramedic on duty at all times. Throughout the temporary waiver period, agencies issued a waiver will be required to submit quarterly reports to the Board providing a status update on the agency's efforts to staff paramedics. If an agency fails to submit a required report, the agency's temporary waiver will expire seven (7) days after the report is due if it still has not been received by the board. The board will publish on its website all agencies granted a temporary waiver under this amendment. This emergency amendment and the identical ordinary amendment also clarify the paramedic staffing requirements for Class III Adult Critical Care, Class IV ALS, and Class VI ALS agencies. Class III Adult Critical Care agencies will be required to staff an attendant licensed as a paramedic. Class IV ALS agencies will be required to have a paramedic on duty at all times. Class VI ALS agencies will be required to staff either an AEMT or a paramedic. An ordinary administrative regulation is not sufficient to address the imminent risk of certain Class I ALS services having to downgrade to a BLS license. By allowing

such agencies to retain their ALS license and to temporarily operate with at least one AEMT or one (1) paramedic on duty, the agencies will be able to continue to provide some ALS services to their communities. Additionally, once the agencies are able to staff a sufficient number of paramedics, the temporary waivers would avoid the potentially lengthy process for an agency to regain its ALS license. The Commonwealth's shortage of paramedics continues to pose an imminent threat to public health, safety, and welfare. This emergency amendment is an attempt to provide agencies a path to maintain their ALS license and to continue to provide advanced care to their communities. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

JOHN R. HOLDER, Chair

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
(Emergency Amendment)

202 KAR 7:560E. Ground vehicle staff.

RELATES TO: KRS 189.910-189.950, 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 the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Emergency Medical Services or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

Section 1. Staffing Requirements.

- (1) Each Class I agency BLS ambulance shall at minimum, be staffed by:
 - (a) A driver certified as an emergency medical responder (EMR); and
 - (b) An attendant certified as an emergency medical technician (EMT).
- (2) Each Class I agency ALS ambulance shall at minimum be staffed by:
 - (a) A driver certified as an emergency medical responder (EMR); and
 - (b) An attendant certified as an Advanced EMT or licensed as a paramedic.
 1. Each Class I ALS agency shall ensure that it has at least one (1) paramedic on-duty at all times.
 2. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.
- (3) Each Class I agency operating an ALS ambulance providing a BLS level of care shall at minimum be staffed by:
 - (a) A driver certified as an emergency medical responder (EMR); and
 - (b) An attendant certified as an emergency medical technician (EMT).
- (4) Each Class II agency shall at minimum be staffed by:
 - (a) A driver certified as an emergency medical responder (EMR); and
 - (b) An attendant certified as an emergency medical technician (EMT).
- (5) A Class III Adult Critical Care ambulance agency shall at minimum be staffed by:
 - (a) A driver certified as an emergency medical responder (EMR);
 - (b) An attendant licensed as a paramedic; and
 - (c) One (1) licensed:
 1. Registered nurse;
 2. Advanced practice registered nurse;
 3. Respiratory therapist;
 4. Physician assistant;
 5. Physician; or
 6. Additional paramedic.
- (6)
 - (a) Each Class III Pediatric Specialty Care Ambulance Agency shall at minimum be staffed by:
 1. A driver certified as an emergency medical responder (EMR);
 2. A primary attendant licensed as a registered nurse; and
 3. One (1) additional attendant licensed as a:
 - a. Registered nurse;
 - b. Advanced practice registered nurse;

- c. Respiratory therapist;
- d. Physician assistant;
- e. Physician; or
- f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(7)

(a) Each Class III Neonatal Specialty Care Ambulance Agency shall at minimum be staffed by:

- 1. A driver certified as an emergency medical responder (EMR);
- 2. A primary attendant licensed as a registered nurse; and
- 3. One (1) additional attendant licensed as:
 - a. An advanced practice registered nurse;
 - b. A respiratory therapist;
 - c. A physician assistant;
 - d. A physician;
 - e. A registered nurse; or
 - f. Paramedic.

(b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1) year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired through successful completion of a validated examination administered by an independent entity not associated with a specific course or program of education.

(8) Each Class IV agency operating a BLS ambulance shall at minimum be staffed by:

- (a) A driver certified as an emergency medical responder (EMR); and
- (b) An attendant certified as an emergency medical technician (EMT).

(9) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

- (a) A driver certified as an emergency medical technician (EMT); and
- (b) An attendant certified as an Advanced EMT or licensed as a paramedic.

(c) Each Class IV ALS agency shall have at least one (1) licensed paramedic on duty at all times. To ensure compliance, each agency shall maintain its work schedules from the previous twelve (12) months until reviewed by board staff during its annual inspection.

(10) Each Class VI BLS medical first response agency shall at minimum be staffed by a certified:

- (a) Emergency medical responder (EMR); or
- (b) Emergency medical technician (EMT).

(11) Each Class VI ALS medical first response agency shall at minimum be staffed by:

- (a) A certified Advanced EMT; or
- (b) A licensed paramedic.

(12) Each Class VIII BLS agency shall be minimally staffed by a certified:

- (a) Emergency medical responder (EMR); or
- (b) Emergency medical technician (EMT).

(13) Each Class VIII ALS agency shall be minimally staffed by:

- (a) A certified Advanced EMT; or
- (b) A licensed paramedic.

(14) At all times, the attendant shall monitor the patient and remain with the patient in the patient compartment.

(15) This administrative regulation shall not prevent an agency from utilizing staff other than those required by this administrative regulation in:

- (a) Disasters;

- (b) Mass casualty incidents; or
 - (c) Extraordinary scene conditions that would impair the safety of the patient or personnel operating at the scene.
- (16) Alternative staff shall not operate a licensed vehicle unless the:
- (a) Agency administrator so directs; and
 - (b) Vehicle is out of service and not subject to an emergency response.

Section 2. Temporary Waiver of Paramedic Staffing Requirement.

- (1) Notwithstanding Section 1(2)(b)1. of this administrative regulation or 202 KAR 7:550, Section 10(5), if the board grants a temporary waiver to a Class I ALS agency pursuant to this section, the agency shall ensure that it has at least one (1) AEMT or one (1) paramedic on duty at all times.
- (2) A Class I ALS agency may request a temporary waiver by submitting to the office of the board a sworn and notarized affidavit from the agency's chief operations or service director. In the affidavit, the chief operations or service director shall:
- (a) Explain why the agency is unable to have at least one (1) paramedic on duty at all times;
 - (b) Explain the steps the agency has taken to have at least one (1) paramedic on duty at all times;
 - (c) Identify the number of paramedics the agency has on staff;
 - (d) Identify the compensation the agency pays paramedics;
 - (e) Identify the additional steps the agency will take to hire paramedics;
 - (f) Identify the number of ambulances the agency has staffed each day; and
 - (g) Certify that the chief local elected official of the agency's geographic service area has been notified, in writing, that the agency is requesting a temporary waiver pursuant to this section.
- (3) The chief operations or service director shall attach to the affidavit any documentation supporting the statements made in the affidavit.
- (4) In addition to the affidavit and any supporting documentation submitted pursuant to subsections (2) and (3) of this section, the board may consider any other relevant information in determining whether to grant a temporary waiver.
- (5) The board shall grant a request for a temporary waiver if it determines that the agency has made a good faith effort to have at least one (1) paramedic on duty at all times but has been unable to do so.
- (6) If the board has probable cause to believe that the agency has not made a good faith effort to have at least one (1) paramedic on duty at all times, the board shall refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether a temporary waiver should be granted to the agency.
- (7) An agency granted a temporary waiver pursuant to this section shall submit a report to the office of the board on January 1, April 1, July 1, and October 1 of each year. Each report shall include:
- (a) The additional steps the agency has taken to hire paramedics since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;
 - (b) The number of paramedics on staff;
 - (c) The number of days that the agency was without at least one (1) paramedic on duty at all times since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted;
 - (d) The number of paramedic employment applications received by the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was granted; and
 - (e) For each paramedic who applied for employment with the agency since the last report deadline or, if no report deadline has passed, since the temporary waiver was

- granted, but was not hired by the agency, the reasons why the paramedic was not hired.
- (8) An agency granted a temporary waiver in the month preceding a report deadline is not required to submit the next month's report. (For example, if the temporary waiver is granted in March 2025, the agency is not required to submit the April 1, 2025 report.)
- (9) All temporary waivers granted pursuant to this section shall expire on December 31, 2026.
- (10) Notwithstanding subsection (9) of this section, if an agency fails to submit a report required by subsection (7) of this section, the agency's temporary waiver shall expire seven (7) days after the report deadline if the report still has not been received by the office of the board by that date.
- (11) The board shall publish on its Web site all agencies that have been granted a temporary waiver pursuant to this section.

Section 3. Motor Vehicle Operator Requirements.

- (1) Each person operating a vehicle shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Hold a valid driver's license in any state or territory of the United States; and
 - (c) Complete at least four (4) hours of driver training and education every two (2) years.
- (2) The driver training and education shall consist of a:
- (a) Review of driving a vehicle under emergency conditions;
 - (b) Review of KRS 189.910 through 189.950 regarding operation of emergency vehicles;
 - (c) Demonstration by the student of forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and
 - (d) Review of defensive driving techniques and procedures with hands-on experience or exposure by visual aids or planned demonstrations.

Section 4. Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

JOHN R. HOLDER, Chair

APPROVED BY AGENCY: August 8, 2024

FILED WITH LRC: September 3, 2024 at 3 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2024, at 1:00 p.m. ET at the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor 5SE32, Frankfort, Kentucky 40601. 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 October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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