

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES
(Amendment)

202 KAR 7:560. 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 ~~providing primary 911 emergency ambulance service~~ shall ensure that it has at least one (1) ~~there is a~~ 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 ~~minimally~~ 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)] [Each Class I ALS, Class III ACC, Class IV ALS, and Class VI ALS agency shall have a licensed paramedic on duty at all times.]~~

~~(14)~~ ~~((15))~~ At all times, the attendant shall monitor the patient and remain with the patient in the patient compartment.

~~(15)~~ ~~((16))~~ 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)~~ ~~((17))~~ 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. [Section 3.] 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 November 27, 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 November 30, 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.

CONTACT PERSON: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the minimum staffing requirements for EMS ground vehicles.

(b) The necessity of this administrative regulation:

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 EMS ground vehicles.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

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 assists in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

Class I ALS services are required to have at least one (1) paramedic on duty at all times. Under this amendment, Class I ALS agencies can request a temporary waiver of the one-paramedic-on-duty requirement from the Board. Agencies issued a temporary waiver will be required to have either an AEMT or a paramedic on duty at all times. The Board will issue a temporary waiver to any Class I ALS agency that demonstrates that it has attempted to meet minimum paramedic staffing requirement in good faith, but has been unable to do so. If the Board has probable cause to believe that an agency requesting a waiver has not made a good faith effort to meet the staffing requirement, the Board will refer the matter for a hearing in accordance with KRS Chapter 13B to determine whether the agency should be granted a temporary waiver. All temporary waivers issued under this 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. Agencies issued a temporary waiver will be required to submit quarterly reports to the Board providing a status update of the agency's efforts to hire paramedics. If an agency fails to submit a required report, the agency's temporary waiver will expire seven (7) days after the report deadline if the report still has not been received by the Board by that date.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to prevent certain Class I ALS agencies from downgrading to Class I BLS services.

(c) How the amendment conforms to the content of the authorizing statutes:

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.

(d) How the amendment will assist in the effective administration of the statutes:

This administrative regulation will assist in the effective administration of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All Class I ALS services, cities and counties, and the public will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Any Class I ALS that cannot meet the requirement to have at least one (1) paramedic on duty at all times may apply for a temporary waiver of that requirement under this amendment. The agency's chief operations or service director will have to submit an affidavit providing information regarding the agency's paramedic staffing and its efforts to hire paramedics. The agency is required to notify the chief local elected official of the agency's geographic service area that the agency is applying for a temporary waiver pursuant to this amendment. Agencies issued a temporary waiver will be required have either an AEMT or a paramedic on duty at all times. Agencies granted a temporary waiver must submit quarterly reports to the Board providing an update on their efforts to hire paramedics. Class I ALS agencies granted a temporary waiver pursuant to this amendment should be prepared for the expiration of the waivers on December 31, 2026.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Patients served by Class I ALS agencies that cannot meet the requirement to have at least one (1) paramedic on duty at all times will benefit from this amendment by retaining access to some ALS services. Without this amendment, certain agencies would be required to downgrade to a BLS license, under which the agency could not provide ALS services. Class I ALS agencies struggling to meet the paramedic staffing requirement will benefit from this amendment by not having to downgrade their license and thereby avoid the need to obtain a new Certificate of Need once the agency is able to hire a sufficient number of paramedics.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(b) On a continuing basis:

Other than administrative costs, there will be no costs to the Board in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not establish any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied to this administrative regulation because the amendment establishes minimum staffing requirements for all EMS services.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 311A.030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

Kentucky Board of Emergency Medical Services.

(a) Estimate the following for the first year:

Expenditures:None.

Revenues:None.

Cost Savings:None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

This amendment should not affect the Board's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

All cities and counties with Class I ALS ambulance services that cannot meet the current minimum staffing requirements will be affected by this amendment.

(a) Estimate the following for the first year:

Expenditures:There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues:None

Cost Savings:None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(4) Identify additional regulated entities not listed in questions (2) or (3):

All Class I ALS services.

(a) Estimate the following for the first year:

Expenditures:There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

Revenues:None

Cost Savings:None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

There will be no costs to affected entities other than administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(b) Methodology and resources used to determine the fiscal impact:

No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This administrative regulation will not have an overall negative or adverse major economic impact to the affected entities.

(b) The methodology and resources used to reach this conclusion:

No fiscal impact is anticipated as a result of this administrative regulation, other than the administrative costs that may be incurred in recruiting and maintaining required personnel and in submitting required reports.