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March 15, 1999

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VIA FACSIMILE AND FIRST CLASS MAIL

Margaret E. Trimble
Director
Emergency Medical Services Office
Pennsylvania Department of Health
P.O. Box 90
Harrisburg, PA 17108

RECEIVED
99 MAR 18 AM 9:21
PENNSYLVANIA DEPARTMENT OF HEALTH

Dear Peg:

We write to offer comments regarding the Department's February 13, 1999 proposed rulemaking, which would revise 28 Pa. Code § 1001 *et seq.* Duane, Morris & Heckscher LLP represents numerous ambulance services, hospitals, physicians, health care associations and other members of the EMS system throughout Pennsylvania; however, unless otherwise noted these comments are not submitted on behalf of a particular client or clients and should not necessarily be construed as such.

Section 1001.2 - Definitions

The definition of "Medical command" could be modified to clarify that orders may be given to withhold treatment as well as to administer it. Thus, perhaps this definition could state "an order given by a medical command physician . . . to provide, **withhold or withdraw** immediate medical care . . ." See 20 Pa.C.S.A. § 5413, which authorizes EMS providers to withhold resuscitation when directed by a medical command physician. Please note that there are several other sections of the regulations that should be modified to be consistent with this definition in the event the Department adopts this suggestion.

Section 1001.41 - Data and information requirements.

We have been asked by one of our clients to inform you that it believes it will have substantial difficulty in complying with the requirement that hospitals be given a copy of the run report within 24 hours of the call. A service which inputs data into a computerized call report will be able to print these reports out within 24 hours, but will not necessarily be able to deliver them to the hospital and we are told that our client is not permitted by their hospitals to fax the

Margaret E. Trimble
March 15, 1999
Page 2

reports to the E.R. Perhaps a section could be added expressly authorizing these reports to be sent to the hospital via facsimile and stating that such a practice would not violate patient confidentiality; this would ease the burdens imposed by this section.

Section 1001.42 - Dissemination of information.

We suggest that subsection (a)(3) read "to the patient or to the following authorized persons: the patient's duly-appointed attorney-in-fact; court-appointed guardian of the patient's person and/or estate if the patient has been adjudicated as an incapacitated person; the patient's parent or legal guardian if the patient is a minor; the executor/executrix or administrator/administratrix of the patient's estate; or to such other third party as the patient or other authorized person shall direct in a writing signed by the patient or authorized person."

We suggest that subsection (a)(4) read "under an order, subpoena or other lawful process of a court of competent jurisdiction."

We suggest that subsection (a)(7) be added to state "to a health care provider to whom responsibility for the patient's care has been transferred or to another health care provider insofar as is necessary to facilitate that provider's care or treatment of the patient."

Section 1001.43 - Retention of ambulance call reports.

We suggest that a section by this title be added to clarify a question that we have been frequently asked in our representation of EMS organizations. Similar to the record retention regulations promulgated by the State Board of Medicine, the Department could require ambulance call records to be retained for a period of seven years following the date of service or two years following the patient's attainment of the age of majority, whichever is later. See 49 Pa. Code §16.95 (record retention provision of Medical Board regulations) and 42 Pa. C.S.A. §5524 (two year statute of limitations for personal injury actions).

Section 1001.123 - Responsibilities (of regional EMS councils)

Subsection 3 imposes upon regions the responsibility to advise PSAPs and counties as to "recommended dispatching criteria." Does this term mean "dispatching order" (i.e., primary versus secondary); does it mean "criteria for ALS versus BLS dispatch"; or, does it mean something else altogether? If regions are to make such recommendations, they should be consistent with the regional EMS plan as presented to the public for comment. What criteria are contemplated for one licensed ambulance service to be recommended for dispatch over another, if indeed primary versus secondary recommendations are contemplated by this section? Can an ambulance service affected by the regional dispatch recommendation appeal or be heard on the region's recommendation? Finally, are the dispatch recommendations to be consistent with the

Margaret E. Trimble
March 15, 1999
Page 3

area to which the ambulance service commits to serve as primary responder (i.e., can a region recommend that an ambulance service be dispatched to an area it does not wish to cover)?

On a separate issue -- as you may be aware, the restocking of ambulances by hospitals has been a subject of some concern by the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services. In fact, the OIG has determined that the practice can constitute illegal remuneration under the federal anti-kickback statute, 42 U.S.C. § 1320a - 7b(b), and subject hospitals and ambulance services to criminal and civil penalties if not properly structured. (OIG Advisory Opinion 97-6, October 8, 1997.) In subsequent advisory opinions on the restocking issue, the OIG has indicated it would not sanction arrangements which were instituted through the auspices of a regional EMS council, since the arrangement would be pursuant to a coordinated system of care as opposed to a unilateral offer by one hospital, which could result in improper steering of patients to that particular facility. (OIG Advisory Opinions 98-7, June 11, 1998; 98-13, September 23, 1998; 98-14, October 21, 1998.)

Therefore, it might be worthwhile to add a provision to Section 1001.123 which specifically permits regional EMS councils "to formulate plans, policies, and procedures for the restocking of nonreusable ambulance supplies, medications and/or linens by hospitals to whom patients are brought by licensed ambulance services" or some words to this effect. This would be helpful language in the event any Pennsylvania entities request OIG advisory opinions on the restocking issue in the future.

Section 1005

Though section 1005.2 permits an ambulance service which intends to engage primarily in interfacility transports to so note on their licensure application, section 1005.10 imposes on all ambulance services an obligation to respond to emergencies when dispatched by a PSAP. This might impose undue burdens on some transport services, but, more significantly, there is some logical inconsistency in this regulatory position. The Department is clear regarding its inability to regulate communications centers under the current state of the law. Yet, a licensed ambulance service can be subject to discipline for failing to respond to emergency dispatches when it intends to be solely an interfacility transport service. Neither the Department nor a licensee has any say in when they are or are not placed in a PSAP's dispatch rotation, but the licensee may endanger its license for failing to abide by the will of a PSAP. The same comments apply to section 1005.10(e), which requires an ambulance service to communicate certain information to the PSAP. If a PSAP tells the Department or the region that in its opinion the ambulance service is not communicating with it, the PSAP, which is unregulated by the Department, can jeopardize the status of a licensed ambulance service. Moreover, ambulance services would be required to keep records of times when they were unable to respond to calls and times in which they were out of service. If an ambulance service has insufficient staff to respond to calls or to remain in service, it probably will have insufficient staff to keep these records.

Margaret E. Trimble
March 15, 1999
Page 4

On a final, related note, the provisions of section 1005.10 which require an ambulance service to inform PSAPs when they are unavailable for response also seem to apply to interfacility transport services. PSAPs have no need for this information if an interfacility transport service is having a contractual dispute with a contracted facility and will not respond to requests for assistance for some reason. These requirements should be limited to those times when an ambulance service is unable to respond to emergencies only.

Section 1005.2(e) is unclear. A licensee would be required to secure "an amendment of its license prior to substantively altering the location or operation of its ambulances in an EMS region." There are numerous vague terms and this section potentially imposes significant burdens on ambulance services. The Act and the decisional law of the Commonwealth (see *Medic-9 Paramedic Service, Inc. v. Department of Health*, 683 A.2d 1275 (Pa. Commonwealth Ct. 1996)) suggest that an ambulance service license is not intended to regulate the number of ambulance services in a particular area; the amendments to section 1005.2(e) seem to have that effect. In addition, this provision appears to limit a license to a particular geographic area, something the legislature has not chosen to do and a responsibility it has not delegated to the Department. Of course, an ambulance service would have to meet all equipment, vehicle and crew requirements regardless of where its vehicles were located; perhaps the Department can specifically require this without requiring licensees to "amend their licenses" whenever competitive and business realities lead them to modify their areas of operation.

A licensee would be required under section 1005.10(a)(1) to have available for Department inspection "a process for scheduling staff." The scheduling process at many organizations is to activate pagers and raise a crew at the time of a call. Perhaps this section could state "a process for scheduling or notifying staff." In addition, under section 1005.10(d), minimum staffing standards are met only when two conditions are satisfied: (1) a licensee has duty roster of persons committed to be available and (2) when minimum staff are present during treatment and transport. The first requirement might be burdensome to volunteer services and to others that pay their employees a minimal on-call fee or pay them only on a per-call basis. If the ambulance service is required to have personnel committed to respond at certain times, it is more likely that the personnel would be "engaged to be waiting" rather than "waiting to be engaged" under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and all "standby time" might become compensable hours worked, triggering the minimum wage and overtime provisions of the FLSA. This would pose a significant expense to many licensees.

Section 1005.10(g) appears to lighten the requirements for lights and siren use and this effort should be applauded. However, the language chosen is quite subjective ("in good faith perceived to present") and will likely do little to cure the widespread, negligent overuse of audible and visual warning devices. I have always advocated an approach that "emergency lights and audible warning devices *may not be used unless . . .*" if only to state that the default is

Margaret E. Trimble

March 15, 1999

Page 5

not to use lights and sirens, and that to use them is an exception. The "beyond the capabilities" language at the end of this paragraph is a welcome addition.

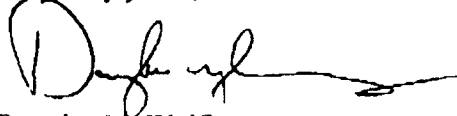
Section 1005.15, which requires licensees to provide 90 days advance notice of discontinuing operations, addresses a praiseworthy goal. Nevertheless, I am unconvinced that this provision and the corresponding provision of the Act, 35 P.S. §6932(q), are constitutional, in that they attempt to force a business to operate for at least 90 days but without public financing of that forced operation. This constitutes a taking of private property for the public good without just compensation and would probably not withstand constitutional challenge in the event an ambulance service's license was disciplined for pulling out of an area with less than 90 days notice.

Section 1009.2 - Recognition process.

Section 1009.2(a) requires a medical command facility to obtain recognition from the Department to qualify for the civil immunity provisions of the Act. While it is true that the Act, 35 P.S. §6931(j)(4) states that "no medical command facility recognized by the Department . . . shall be liable . . ." it is not in the Department's interest to make it more difficult for a hospital to assert statutory immunity as a defense. Please delete this language so that defense attorneys have a fighting chance to assert statutory immunity on behalf of a medical command facility that may substantially comply with the regulations but has not gone through the recognition process. Let the judge decide this issue in the context of specific litigation -- the Department's recognition standards would not at all be affected by the deletion of this language.

Please let us know if you have any questions about these comments. We recognize the Department's hard work in preparing this proposed rulemaking. The Department's commitment to quality EMS systems continues to be apparent through this undertaking, and Pennsylvania continues to be a system in which other states can take substantial pride.

Very truly yours,



Douglas M. Wolfberg
for DUANE, MORRIS & HECKSCHER LLP

DMW:



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FACSIMILE TRANSMITTAL SHEET

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1001.2. Definitions.

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 - page 918
Department of Health Document - page 76

Ambulance call report - A summary of an emergency ambulance response, nonemergency ALS response, interfacility transport, or nonemergency BLS transport that becomes an emergency. The report shall contain information in a format provided by the Department.

Comment/Recommendation:

The Ambulance Association of Pennsylvania respectfully requests a cost analysis be considered to assess the fiscal impact of this transition (paper to electronic data) on small and rural providers in the Commonwealth.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1001.2. Definitions.

Department of Health Document – Page 80

Comment: The definition of *Emergency* should be revised to reflect the American College of Emergency Physician's prudent layperson definition of emergency which is prevalent in other legislation today.

Recommendation:

Emergency—[A combination of circumstances resulting in a need for immediate medical intervention.] The sudden onset of a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) placing the health of the individual, or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy;
- (2) serious impairment to bodily functions, or
- (3) serious dysfunction of any bodily organs or parts.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1001.2. Definitions.

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 921
Department of Health Document – page 85

Comment: The definition of *receiving facility* was revised to specify an organized department with a physician who is trained to manage cardiac, trauma, and pediatric emergencies. There appears to be a void of medical and psychiatric emergencies due to the specificity in the area of management. We believe the Department's intent was to have a physician that is well rounded in all disciplines.

Recommendation:

Receiving facility – A fixed facility that provides an organized emergency department [of emergency medicine], with a [licensed and ACLS certified] physician who is trained to manage cardiac, trauma, pediatric, medical and psychiatric emergencies, and is present in the facility [who is] and available to the emergency department 24 [hours a day] hours-a-day, 7 [hours a week] days-a-week, and a registered nurse who is present in the emergency department 24 [hours a day] hours-a-day, 7 [hours a week] days-a-week. The [facilities] facility shall also comply with Chapter 117 (relating to emergency services).

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1003.23. EMT.

(e) Scope of practice

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 935
Department of Health Document – page 143

Comment: In §1003.23. EMT., (e) Scope of practice, the line **(2)** is a new addition and states:

(2) Transportation of a patient with an indwelling intravenous catheter without medication running.

With the advent of shorter patient inpatient stays and home health care, patients are using a vast array of patient controlled devices and other pumps monitored by visiting nurses. The language in the scope of practice is too specific and may cause potential confusion for an EMT finding a patient on an insulin pump, CADD pump, PCA pump, etc. If the medication is not the result of the problem or part of a normal outpatient treatment plan, it should not matter whether it is running or not.

Recommendation:

(e) Scope of practice

(2) Transportation of a patient with an indwelling intravenous catheter without medication running, unless the medication is part of the patient's normal outpatient treatment plan.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1005.2. Applications.

§§(a), (5)

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 946
Department of Health Document – page 182

Comment: In §1005.2. Applications., (a), (5) has been reworded to state:

(5) [Service] The emergency service area [served – both primary and mutual-aid] the applicant commits to serve, or alternatively, a statement that the applicant intends to engage primarily in interfacility transports.

The Association feels that there is no need for an ambulance service to stipulate its business intent in the application process to become licensed. A licensed ambulance service in the Commonwealth is licensed to engage in whatever activity (emergency/non-emergency transportation and treatment) regardless of the arena they intend to perform in.

Recommendation:

§1005.2. Applications., (a)

(5) [Service] The emergency service area [served – both primary and mutual-aid] the applicant is available to serve in.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1005.2. Applications.

§§(a), (9)

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 946
Department of Health Document – page 182

Comment: In §1005.2. Applications., (a), (9) is a new revision and states:

(9) Primary physical building locations, and other building locations out of which it will operate ambulances or a full description of how its ambulances will be placed and respond to emergency calls if they will not be operated out of other building locations.

The Association feels this question is answered in (a), (5) and an ambulance service should not have to stipulate in the application process to become licensed if they engage in system status management practice.

Recommendation:

§1005.2. Applications., (a)

(9) Primary physical building location, and other building locations out of which it will operate ambulances.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1005.2. Applications.

§§(e)

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 946
Department of Health Document – page 183

Comment: In §1005.2. Applications., (e) is a new revision and states:

(e) An ambulance service shall apply for and secure an amendment to its license prior to substantively altering the location or operation of its ambulances in an EMS region, such as a change in location or operations which would not enable it to timely respond to emergencies in the emergency service area it committed to serve when it applied for a license. The application for an amendment of an ambulance service license shall be submitted to the regional EMS council on a form prescribed by the Department.

The Association feels this entry would be better defined with the addition of physical building in two areas before the word location and deleting committed and replacing it with the word available.

Recommendation:

§1005.2. Applications.

(e) An ambulance service shall apply for and secure an amendment to its license prior to substantively altering the **physical building** location or operation of its ambulances in an EMS region, such as a change in **physical building** location or operations which would not enable it to timely respond to emergencies in the emergency service area it is [committed] **available** to serve when it applied for a license. The application for an amendment of an ambulance service license shall be submitted to the regional EMS council on a form prescribed by the Department.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1005.10. Licensure and general operating standards.

§§(a) *Documentation requirements.*, (4)

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 - page 948
Department of Health Document - page 189

Comment: In §1005.10. Licensure and general operating standards., (a) *Documentation requirements.*, (4) the line has been revised and states:

(a) *Documentation requirements.*

(4) [Copies of mutual-aid agreements with other ambulance services which service the applicant's community or applicant's service area.] A record of the time periods for which the ambulance service notified the PSAP that it would not be available to respond to a call.

The Association would like to know on whom the burden would fall to record a service's unavailability. Some services that may not acknowledge an initial dispatch may never be aware the dispatch was missed creating inaccurate statistics. Additionally, a service may have its resources committed and be unable to respond. We believe the PSAP should be responsible for collecting this information for the unavailability of a service to meet its primary dispatch obligation.

Recommendation:

§1005.10 Licensure and general operating standards.

(a) *Documentation requirements.*

(4) [Copies of mutual aid agreements with other ambulance services which service the applicant's community or applicant's service area.] A record of the time periods or specific dispatches as recorded by the PSAP for which the ambulance service was unable to respond to a primary emergency dispatch in its coverage area.

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1005.10. Licensure and general operating standards.

§§(e) Communicating with PSAPs., (4) Response to dispatch by PSAP.

Pennsylvania Bulletin, Vol. 29, No. 7, February 13, 1999 – page 950
Department of Health Document – page 194

Comment: In §1005.10. Licensure and general operating standards., (e) Communication with PSAPs., line (4) Response to dispatch by PSAP. has been added and states:

(4) Response to dispatch by PSAP. An ambulance service shall respond to a call for emergency assistance as communicated by the PSAP.

The Association feels this line is not needed as this is covered in the previous three line. Additionally, the intent of the word shall lends one to the thought of potential liability.

Recommendation:

§1005.10. Licensure and general operating standards.

(e) Communication with PSAPs.

[(4) Response to dispatch by PSAP. An ambulance shall respond to a call for emergency assistance as communicated by the PSAP.]

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**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

§1001.2. Definitions.

Text discrepancies between the *Pennsylvania Bulletin* and Department of Health Document as retrieved from the Department of Health EMS Office website.

ALS service medical director – the words [set forth] are deleted in the *Pennsylvania Bulletin* but appear in the Department of Health Document.

Air ambulance medical director – the words [set forth] are deleted in the *Pennsylvania Bulletin* but appear in the Department of Health Document.

Critical care specialty receiving facility – including, in one of is present in the *Pennsylvania Bulletin* as opposed to but not limited to, one in the Department of Health Document.

EMSOF – the word under is present in the *Pennsylvania Bulletin* as opposed to pursuant to in the Department of Health Document.

Federal KKK standards – the words [set up] are deleted and replaced with the word adopted in the *Pennsylvania Bulletin*.

Medical [control] coordination – in (iv) [Medical] Transfer and treatment are present in the *Pennsylvania Bulletin* as opposed to Transfer and [M]medical treatment in the Department of Health Document.

Prehospital personnel – the entire line Any one of these individuals is a "prehospital practitioner" is not present in the *Pennsylvania Bulletin* but in the Department of Health Document.

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Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII

COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1004.41

SECTION TITLE: Data and information requirements for ambulance services PG # 925

COMMENT: (31)(d) states in part "it shall provide to the individual at the hospital assuming responsibility for the patient, either verbally, or in writing or other means by which information is recorded, the patient information designated in the ambulance call report as essential for immediate transmission for patient care."

There is no definition of "the patient care information designated in the ambulance call report as essential for immediate transmission for patient care." While all the information included in the ambulance call report is important to some degree, not all is essential for patient care, especially that information collected specifically for data analysis.

RECOMMENDATION: A standard definition of "essential information" needs to be developed.

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ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees

CONTACT PERSON R. Skip Powell, Jr.
ORGANIZATION West Shore EMS
ADDRESS 503 N. 21st St. COUNTY Cumberland
CITY Camp Hill STATE PA ZIP CODE 17011 PHONE (717) 763-2102

RETURN TO: Pennsylvania Department of Health
Emergency Medical Services Office
P.O. Box 90
Harrisburg, PA 17108
FAX: 717-772-0910

Deadline: March 14, 1999

USE EXTRA PAGES IF NECESSARY. PLEASE USE THE SAME FORMAT AND ADDRESS COMMENTS TO THE SPECIFIC SECTIONS OF THE PROPOSED REGULATIONS.



503 North 21st Street Camp Hill, PA 17011-2204 (717) 761-1038

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FROM: R. Skip Powell, Jr.

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Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII

COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1003.4 (1003.1, 1003.2, 1003.3)

SECTION TITLE: Medical Command Physician PG # _____

COMMENT:

The language re. ACLS needs to be changed /clarified since physicians can be current in ACLS by being instructors without "having completed the course within 2 years". Other, more advanced courses in ALS should also be included

RECOMMENDATION:

Change language to read:
... [have successfully completed] "remain ACLS certified or demonstrate CME in other advanced life support courses equal to or exceeding ACLS"

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON: Tony Guard
ORGANIZATION: Director, GSH EAST
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RETURN TO: Pennsylvania Department of Health
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Deadline: March 14, 1999

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COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1005.5

SECTION TITLE: LICENSEE PG# 947

COMMENT:
A LICENSE TO OPERATE AS AN AMBULANCE SERVICE WILL BE
ISSUED BY THE DEPARTMENT WHEN IT DETERMINES THAT REQUIREMENTS
FOR LICENSEE HAVE BEEN MET.

RECOMMENDATION: THAT A CERTIFICATE OF NEED (CON) BE REQUIRED
AS PART OF THIS PROCESS. THE ALLEGATION THAT HAS SURROUNDED THIS ISSUE
IS APPRECIATED, HOWEVER, WE MUST CONSIDER THAT THE OVER DUPLICATION OF
SERVICES RESULTS IN A DILUTION OF THE SKILL BASE & ASSESSMENT RESULTS OF
THE PROVIDERS. THIS RESULTS IN A POSSIBLE LOWER LEVEL OF CARE AND THE
RISK OF EXCESSIVE HEALTH CARE COSTS.

MANY SERVICES HAVE MADE THE COMMITMENT TO FUND THEIR OPERATIONS AND HAVE
PURCHASED AND EQUIPPED AS WELL AS HIRING STAFF TO SERVE THEIR COMMUNITIES
FOR YEARS TO COME. WHEN FACED WITH A LOWER CALL VOLUME, COST.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON KEITH J. GILLESPIE
ORGANIZATION MEMORIAL HOSPITAL - MS01L-102
ADDRESS 325 S. BELMONT STREET COUNTY YORK
CITY YORK STATE PA ZIP CODE 17405 PHONE (717) 849-5765

RETURN TO: Pennsylvania Department of Health
Emergency Medical Services Office
P.O. Box 90
Harrisburg, PA 17108
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Deadline: March 14, 1999

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1005.5 - RECOMMENDATION - CONT.

THESE SERVICES WILL NO LONGER BE ABLE TO PROVIDE
THE LEVEL OF CARE OFFERED PREVIOUSLY.

THE FEAR OF 'RESTRICTION OF TRADE' SHOULD NOT
OUTWEIGH QUALITY PATIENT CARE.

THANK-YOU FOR THE OPPORTUNITY TO COMMENT. IT
WOULD BE A PLEASURE TO PROVIDE TESTIMONY TO ANY
COMMITTEE WHO MAY BE ADDRESSING THIS ISSUE.

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Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII

COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1001.2

SECTION TITLE: Definitions / board certification PG#

COMMENT: Board certification needs to include the
BCEM (Board of Certification in EM). The present
definition is in conflict with ACEP policy

- (1) which "acknowledges" the BCEM & may recognize it soon
- (2) Other states EMS rules (e.g. NY & Colorado)
- (3) Other legal precedents. ALTHOUGH THE DOH and its
medical advisory panels have previously dismissed the BCEM, these
physicians are usually ABEM boarded & unfamiliar with BCEM.

RECOMMENDATION: ~~To avoid a legal challenge or~~
a conflict of policy, the DOH needs to include
the BCEM as a recognized emergency medicine board
since it has standards & policies that meet or exceed those
of the ABMS board (ABEM) or AOA (AOBEM)

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON: Tony Guard, MD

ORGANIZATION: Good Samaritan EMS Director

Home ADDRESS: 5456 Ledge Rd COUNTY: Dauphin

CITY: Elizabethtown STATE: Pa ZIP CODE: 17022 PHONE: (717) 361-8321

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2 Although I am not a BCEM
diplomat I would like to help the
DOH avoid a controversy about this issue

I have served on a national and
state level on several task forces &
work groups focused on these issues
since 1994, including the ACEP
Section of Certification Process, the Pa ACEP
Certification Task Force, the AAEP
advisory panel on EM.

This has been a difficult issue
for emergency medicine and is still the
focus of a class action lawsuit

Pa DOH needs to look to
other precedents such as NY or
national organizations (ACEP, AAEP)
to avoid a legal challenge to the
EMS rules. WITHOUT CLEAR CRITERIA
FOR RECOGNIZING OR EXCLUDING A
CERTIFYING BODY, THE DOH IS AT RISK
OF A POLICY / POSITION THAT IS BASED
ON BIAS - OPINION (usually of ABEM board
physicians) RATHER THAN REASONABLE CRITERIA
OR IMPROVING EMS CARE.

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SECTION NUMBER: _____
 SECTION TITLE: Subchapter B PG# 25/26
 COMMENT: Prehospital and other Personnel

Reference is made to "Red Cross" training alone.

RECOMMENDATION:

Include all other authorized training organizations, ie National Safety Council, American Heart Association etc. these are all as good if not better than "Most" Red Cross classes.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON: Thomas L Cook
 ORGANIZATION: EMT INSTRUCTOR
 ADDRESS: 3225 E Orville Rd COUNTY: Montgomery
 CITY: Hatfield STATE: PA ZIP CODE: 19440 PHONE: (215) 932-6200

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SECTION NUMBER: _____

SECTION TITLE: _____ PG # _____

COMMENT:

See attached Comments

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RECOMMENDATION: **Rick Farrington Ambulance Captain**
Delta Cardiff Ambulance Division
PO Box 208
Delta, PA. 17314
York County
717-456-7080

Rick Farrington

EMERGENCY MED. SVC.
1999 MAR 17 11 07:56

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON: _____

ORGANIZATION: _____

ADDRESS: _____ COUNTY: _____

CITY: _____ STATE: _____ ZIP CODE: _____ PHONE () _____

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I have concerns with the Staffing standards. My company is proud to be Volunteer. If the Department of Health requires a Volunteer company to have guaranteed staffing 24 hours/7 days a week, this would change the Volunteer system. This system of Volunteer would convert into a Paid Ambulance/ALS Squad. My organization saves tax payers over one million dollars annually.

My recommendation is that the local Council work with squads that have a high percentage of response failure. This should be done on a region level. The area we provide a service for is rural. We may not need to meet the standards of a city. Setting standards State wide is a difficult task. Leave some flexibility for different geographical areas. Let the local Council work with the companies that have a poor response. With the Councils aid in the management of a poorly ran squad, new life will be born in this organization. Do not set strict staffing standards.

My second concern is on placing the squad out of service because of staffing. My Ambulance/ALS squad works well with mutual aid companies. If staffing becomes a problem we combine crews. I have members that work at a small business and can leave work. However, they do not want to commit or guarantee 100% they will be able to respond. They would not sign-up on a duty roster because of strict commitment standards. My squad already has a staffing roster. My in house staffing system works great for Volunteers.

Placing the Squad out of service for lack of names on the Staffing roster would be poor management for a Volunteer Company. I would Never place the Ambulance/ALS unit out of service, for roster staffing reasons. What if one person that normally works, took a Vacation day. This person that wants to ride the Ambulance/ALS unit but could not because it's out of service. This individual with combined efforts of a person leaving his work duties could staff the squad, but only if the squad was in service. The Department of Health along with the local Council needs to create more incentive programs for Volunteers. Have each County work on a pension program. This would be a great incentive program. Save Volunteerism in the Commonwealth Of Pennsylvania. Do not destroy Volunteerism. Again, each Council must work with the poorly managed Squads. NO STRICT STATE WIDE STANDARDS ON STAFFING.

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SECTION NUMBER 1005.10

SECTION TITLE Communicating With PSAPs PG# 950

COMMENT: I continue to be perplexed and to not understand the procedure, authority and responsibility for determining primary response, first due or first to be dispatched area. Also second and third etc.

1005.10 (1), (2), (3) certainly do not clarify that matter.

1005.2 Applications (5) Seems to leave it to the applicant. May an applicant establish service in an area already serviced by another ambulance organization, for emergencies? Simply by filing an application otherwise approvable?

This change seems to be reinforced in the summary, Chapter 1005 Licensing on page 911. The applicant would be required to identify an emergency service it commits to serve when called upon. "... and would be required to respond to an emergency if dispatched."

Further, in deleting mutual aid agreements, the language seems to grant the PSAP dispatching agency the authority to dispatch any ambulance they choose. See 1005.10 (e), (1), (2), and (3) on page 950. Also see page 911 in the Summary referred to above.

This is further reinforced in 1005.10 (e) (3) which reads in part "... to enhance the ability of the PSAP to make dispatch decisions"

We have had the experience and are currently experiencing a foreign out of state ambulance service stationing ambulances in our service area in shopping center parking lots and other places, and responding to calls dispatched to us.

We have had the experience of other ambulance services contacting the dispatch center and changing the dispatch sequence approved by our municipal government, and the dispatch center implementing those changes without either the ambulance service or the dispatch center so much as informing us or the municipality, let alone recommending to us or consulting with us and the municipality .

We have had the experience of the dispatch center dispatching other ambulances to the service area designated by our municipal government as our first due area.

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We have had the experience of dispatch center employees, outside their duty as employees of the dispatch center, attempt to persuade municipal authorities to change our first due service area using outright inaccurate or inappropriate data, without our knowledge or involvement.

RECOMMENDATION:

Clarify these sections to provide that local control of service areas rests with the municipal government, as we presently practice, and that the role of the dispatching office is to dispatch in accordance with the plan of the municipality.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committee.

CONTACT PERSON	George C. Weimer Jr.
ORGANIZATION	78 Skyline Drive, Mechanicsburg, PA. 17055 (717) 697-4933
ADDRESS	Silver Spring Ambulance Association, Inc. P. O. Box 177, Cumberland County New Kingstown, Penna. 17072 (717) 697-3131

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER 1005.10 (i)

SECTION TITLE ACCIDENT, INJURY AND FATALITY REPORTING PG# 950

COMMENT: Question: Does this require reporting accidents and injuries to individuals
NOT associated with or resulting from an ambulance vehicle accident?
... or just accidents or injuries to individuals associated with or resulting
from an ambulance vehicle accident?

RECOMMENDATION: Clarify intent

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committee.

CONTACT PERSON George C. Weimer Jr.
78 Skyline Drive, Mechanicsburg, PA. 17055 (717) 697-4933

ORGANIZATION Silver Spring Ambulance and Rescue Association, Inc.
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**COMMENT FORM FOR PROPOSED REGULATIONS
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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER 1001.41 (d)

SECTION TITLE Subchapter C. Collection of Data and Information PG# 925

COMMENT: By what means of transmittal can the ambulance service meet the 24-hour requirement to "complete the full call report and provide a copy or otherwise transmit the data" to the hospital?

We have been told in writing by a hospital that fax is not "confidential" and is not to be used.

US Mail will not arrive in 24 hours.

The complete ambulance call report cannot be data processed at the hospital. Nor can we keep a whole crew at the hospital and unavailable for emergencies to do this work at the hospital, even if there were the appropriate equipment there and available.

RECOMMENDATION: Clarify how this may be accomplished.

Do not establish regulations with which it is impossible to comply.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committee.

CONTACT PERSON George C. Weimer Jr.
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SECTION NUMBER: 1003.29

SECTION TITLE: Continuing Ed. Requirements PG# 941

COMMENT: (a) First Responder...
(1) Sixteen hours...
(b) EMTs
(1) Twenty-four hours...

Ongoing medical and Trauma education is a vital, necessary component of First Responder and EMT training in an everchanging health care environment. Skills need to be maintained and augmented repeatedly.

RECOMMENDATION:

Therefore, for both of these classifications, I would propose that the required amount of medical and Trauma education be a part of each certification period and not just the first certification period.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Susan Ressel RN - EMT
ORGANIZATION BKS - Wakefield Ambulance
ADDRESS 124c Tanning Yard Hollow COUNTY Lancaster
CITY Peach Bottom STATE PA ZIP CODE 17563 PHONE (717) 548-2935

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1005.10

SECTION TITLE: Licensure & general operating standards PG# 950

COMMENT: Under the title "Communicating with PSAP's," (2) reads that "...if it is not ~~practical~~ ^{able to} have an ambulance and required staff immediately en route to an emergency." What exactly is the definition of "immediately?" This is the reason most PSAP's have fail time limits. I know of no ambulance service that can honestly say they can fully staff (with minimum staffing) all of their units 24 hours a day, 7 days a week. The requirement to supply a "process for scheduling staff" as notated in (a) (1) for all of their units is grossly unfair to volunteer departments.

RECOMMENDATION: I'm not sure of other regional councils, but this county has a very active local EMS council that established a fail time of 5 minutes. This was agreed upon in cooperation with the PSAP. It is almost impossible to supply minimum staffing for all of your units 24 hours a day, 7 days a week. The PSAP will get tired of companies reporting their units in or out of service due to staffing requirements. Instead of mandating this, can't you leave this to

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees. *good common sense?*

CONTACT PERSON Robert L. Shearer Jr.
ORGANIZATION Waynesboro Ambulance Squad, Inc.
ADDRESS 0161 Ash Spring Ct. COUNTY Franklin
CITY Waynesboro STATE PA ZIP CODE 17268 PHONE (717) 762-1414

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: Complete Draft Act

SECTION TITLE: _____ PG # _____

COMMENT: The "preamble" or explanatory document that detailed paragraphs in the Act and the Act itself contained "bracketed" paragraphs and "Bold" type paragraphs. The "preamble" nor the Act contained an explanation as to the definition of the "brackets" and the "bold" type.

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RECOMMENDATION: The Act was very difficult to read and assimilate due to the omission of explaining the "brackets" and "bold" type. The Act would have been much easier to understand had it been printed in its entirety as proposed.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Richard S. Holtry

ORGANIZATION Cumberland Valley EMS

ADDRESS 56 W. King St. COUNTY Cumberland

CITY Shippensburg STATE Pa. ZIP CODE 17257 PHONE (717) 532-5182

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DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: Chapter 1001 - Administration of the EMS System

SECTION TITLE: _____ **PG #** _____

COMMENT: The draft EMS Act does not include the protocol adopted by some municipalities for the "Emergency Medical Dispatch". Since there is no mandatory requirement for adoption of such protocol, each county (dispatch center) follows the protocol adopted by that respective county resulting in different ground rules for neighboring EMS providers (Case in point - Shippensburg is physically in two counties - Cumberland and Franklin - Cumberland has adopted the EMD protocol; Franklin at this time has not adopted such a protocol.)

RECOMMENDATION: That "Emergency Medical Dispatch (EMD) protocol be included in the EMS act. Standardization is essential to providing adequate patient care and including this protocol in the EMS Act would provide some degree of standardizing dispatch, response, etc procedures for all EMS providers.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Richard S. Holtry
ORGANIZATION Cumberland Valley EMS
ADDRESS 56 W. King St. **COUNTY** Cumberland
CITY Shippensburg **STATE** PA. **ZIP CODE** 17257 **PHONE** (717) 532-5182

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SECTION NUMBER: 1001.2 - Definitions

SECTION TITLE: PSAP - Public Safety Answering Point PG # 921

COMMENT: This title and abbreviation is new to the EMS system and is believed to be too confusing to be helpful and useful.

RECOMMENDATION: Change the title to: Emergency Operations Center (EOC) - this is currently being used and is recognizable by all concerned in the EMS community and the general public.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Richard S. Holtry
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SECTION NUMBER: Subchapter C - Para 1001.41

SECTION TITLE: Collection of Data and Information PG # 924

COMMENT: Proposed draft deletes all information that should be standard for recording on an ambulance call report.

RECOMMENDATION: Retain in the regulation the identity of information that, as a minimum, should be on an ambulance call report. For continuity, clarity and to eliminate the need to research a secondary regulation, this information should be retained in the revised Act. (Para b(1) thru (31) applies.)

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

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SECTION NUMBER: SubChapter C - Para 1001.41(d)

SECTION TITLE: Collection of Data and Information **PG #** 925

COMMENT: Submission of ambulance call reports within 24 hours following the conclusion of its provision of services to the patient is unrealistic. Extenuating circumstances may preclude this time frame - computer down-time; work schedules of part-time paid and volunteer staff; and back-to-back ambulance responses.

RECOMMENDATION: Assign each EMS Services Manager the responsibility to assure timely submission of ambulance call reports; change the para to read: Insofar as possible, ambulance call reports will be provided the receiving hospital within 24 hours of delivery of the patient to that facility.

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SECTION NUMBER: 1005.10 Licensure and general operating standards

SECTION TITLE: 1005.10(d) Personnel requirements (d) (A)& (B) PG# 949

COMMENT: Para indicates deletion of "Ambulance personnel between 16-18 years of age, etc" and the deletion of Para (B) "Effective July 1, 1990, ambulances, etc".

RECOMMENDATION: Retain these two paragraphs; standardization is necessary for all BLS services; if these paragraphs are omitted, this criteria will be published in a subordinate's regulations, thus necessitating another regulation for all BLS personnel to become familiar with. Volunteers need a minimum of different regulations to research and become knowledgeable with.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

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SECTION NUMBER: Chapter 1005 - Licensing of BLS and ALS Ground Ambulance Services

SECTION TITLE: 1005.10 Licensing and general operating standards PG # 950
(e) - (Coverage agreement)

COMMENT: Para (e) (1) (2) & (3) are "bracketed" which, we've been told, indicates deletion; (if deletion is not the case, these comments can be ignored.

RECOMMENDATION: Retain these three paragraphs; standardization is required to assure that all services are complying with the same end results. Publishing this criteria in another regulation leads to differing standards by those subordinate agencies (PSAPs (EOCs). EMS Regional Councils, etc. who would be charged with dissemination such standards. Where volunteers are involved, including requirements in a single document is more appropriate than fragmenting instructions in multiple regulations.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Richard S. Holtry
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COMMENTS TO THE SPECIFIC SECTIONS OF THE PROPOSED REGULATIONS.

Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: Subchapter B - Prehospital and other Personnel

SECTION TITLE: 1003.21 - Ambulance Attendants (b)(3) PG # 932

COMMENT: Paragraph deletes: Be at least 16 years of age.

RECOMMENDATION: Retain this criteria; the least number of regulations to determine applicability is highly desired. This age limit should be retained.

ALL comments will be responded to by the Department of Health and forwarded to the appropriate committees.

CONTACT PERSON Richard S. Holtry
ORGANIZATION Cumberland Valley EMS
ADDRESS 56 W. King St. COUNTY Cumberland
CITY Shippensburg STATE Pa. ZIP CODE 17257 PHONE (717) 532-5182

RETURN TO: Pennsylvania Department of Health
Emergency Medical Services Office
P.O. Box 90
Harrisburg, PA 17108
FAX: 717-772-0910
Deadline: March 14, 1999

USE EXTRA PAGES IF NECESSARY. PLEASE USE THE SAME FORMAT AND ADDRESS
COMMENTS TO THE SPECIFIC SECTIONS OF THE PROPOSED REGULATIONS.

DATE: March 12, 1999

SUBJECT: Proposed Regulations

TO: Margaret Trimble - Director
EMS Office, PA DOH

FR: Glenn A. Miller - Director Winner EMS Educational Institute
Sharon Regional Health System
(724) 983-3980 or gmiller@srhs-pa.org

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The following is a compilation of comments that were produced from our local "Rules and Regulations" review group. For the sake of brevity, I have limited my commentary / explanation. Please feel free to contact me for any further comment on any individual statement made below.

- 1001.2 Definitions

EMT-Paramedic - at end of paragraph should read "...with the current EMT-paramedic NSC, ..."

Patient - "...and who needs immediate medical attention." should read "...and who is believed to need immediate medical attention."

- 1001.123 (19) Responsibilities Page 928

The word "**employees**" is mis-spelled.

- 1003.5 (a) (1) (ii) ALS Service Medical Direction page 931

should read: "Providing guidance to ALS ambulance **service** ..."

- 1003.21 (b) (1) Ambulance Attendant - qualifications page 932

Should this section not read in a manner similar to 1003.22 (b) (1) (iii) - First Responder. In other words, should we not make this training objective based and eliminate the direct reference to the American Red Cross Course.

- 1003.21 (c) (11) Ambulance Attendant - scope of practice page 932

There is no definition for, or support in act 45 for, a BLS medical director to run such a program.

- 1003.21 (c) (13) Ambulance Attendant - scope of practice page 932

remove direct reference to "American Red Cross"

- 1003.25 (c) (1) Prehospital registered nurse page 938

refers to "other ALS services authorized by The Professional Nursing Law ...". I have been unable to locate any reference to "ALS service" in the Professional Nursing Law (63 PS , 221-225.5). It is our understanding that act 82 set up the PHRN system in order to facilitate RN's serving the role of paramedic in underserved rural areas, not to replace or surpass the scope of paramedics in the prehospital emergency setting. It is our feeling that this paragraph be removed.

- 1003.31 (a) and (b) and (c) Credit for continuing education page 943
- 1005.10 (f) Licensure and general operating standards page 950

reference is made to a "prehospital practitioner". A definition needs added to section 1001.1 for this term. This may be able to be added into the existing definition for prehospital personnel.

- 1005.11 (d) (2) Drug use, control, and security page 951

does this open the door to PHRN's functioning outside the scope of regional ALS protocols / unregulated / on a regular basis?

- 1007.1 Air Ambulance Services - Rotocraft

This entire topic is not addressed at all in Act 45. Should be removed.

- 1009.1 (12) Operational Criteria page 960

Chapter 117.43 (Emergency Services) as referenced sets no standard for length of time to keep these recordings. Clarification on this point is requested.

- 1011.1 (f) (4) BLS and ALS Training Institutes - Instructors

refers to the "Prehospital Practitioner Manual". This document is not defined in section 1001.1.

On behalf of the rules and regulations review committee at Sharon Regional Health System, I would like to thank you for your time and consideration in reviewing our comments.

Sincerely,



Glenn A. Miller BSAS, NREMT-P
Director - Winner EMS Education Institute
Sharon Regional Health System

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**Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 PA Code Part VII
Comment Form**

The attached comments have been forwarded by:

Lancaster General Hospital
555 North Duke St.
PO Box 3555
Lancaster, PA 17604-3555

Contact Person: Jeffrey S. Manning, EMS Manager
Contact Phone: (717) 290-5119

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Amendments to Emergency Medical Services Regulations
28 PA Code Part VII
Comment Form**

Section Number and Page	Section Title	Comment:	Suggestion:
1001.2	Definitions	Better organization and definitions more representative to actual system	None Required
1001.2 Page 920	Definitions—medical command	Better definition of where a prehospital provider can receive medical command. (especially concerning emergency department)	None Required
1004.41 (d) Page 925	Data and information requirements for ambulance services.	Adds requirement for ambulance services personnel to provide either written or verbal reports to receiving facility. It also mandates that the prehospital record be forwarded to the hospital within 24 hours of pt arrival in ED.	Great addition – None Required
1003.23 1003.24 1003.25 Pages 934-938	Scope of practice	Allowing for the provision of extended scope of practice that will be published annually. This is a tremendous advancement to have such language within the act.	Great Addition – Add: paramedic utilization the oxygen powered ventilators to the list. Add: Linkages more directly to national standard curriculum
1003.23 1003.24 1003.25 Pages 934-938	Certification by endorsement.	It is great that the revision makes it easier for those providers coming from other states to be recognized for their level of training through the national standard curriculum	Great addition – None Required

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President

March 12, 1999

DONALD H. SMITH, MD
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Gary Gurian
Acting Secretary
Pennsylvania Department of Health
P.O. Box 90
Harrisburg, PA 17108

CAROL E. ROSE, MD
Vice President

JAMES R. REGAN, MD
Chair

JITENDRA M. DESAI, MD
Secretary

Re: Pennsylvania Bulletin Vol. 29 Proposed amendments to Chapter 28 Pa. Code Part VII
Emergency Medical Services

ROGER F. MECUM
Executive Vice President

Dear Acting Secretary Gurian:

We reviewed the Department of Health's proposal to amend 28 Pa. Code Part VII that relates to emergency medical services. We noted that the proposal contains reasonable and probably necessary revisions to the regulations. Consequently, we see no problem with the proposal and believe it should be adopted.

Very,

John W. Lawrence, MD
President

P/emsltr

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MAR 16 1999

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JOEL P. MILLER, D.O., P.C.
Board Certified in
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3998 RED LION ROAD
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Date: 3/12/99

To: Ms. Margaret E. Trinkle
Company: Director - Emergency Medical Services Office
Fax #: (717) 772-0910

From: Kim Daugherty
Company: Joel P. Miller, D.O.
Fax #: (215) 824-3963

Message: Corrected with attachment.
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March 9, 1999

Ms. Margaret E. Trimble
Director
Emergency Medical Services Office
Department of Health
1027 Health and Welfare Building
P.O. Box 90
Harrisburg, PA 17108

Dear Ms. Trimble:

I am writing to comment on proposed amendments to 28 PA. Code Part VII (relating to emergency medical services) as published in the Pennsylvania Bulletin, Volume 29, Number 7 Part II, dated February 13, 1999. My comment is directed to proposed Chapter 1001, Subchapter A, Section 1001.2 (Definitions) and the effects of the proposed definition of "Board Certification" (page 919 of proposed rulemaking).

Physician board certification has become an essential element in many instances of credentialing for the purposes of reimbursement, hospital and health care organizational accreditation, and physician staff membership. Medical specialty certification of physicians, however, remains a voluntary procedure in the United States. Some physicians have elected to seek formal recognition of their proficiency in their chosen field by presenting themselves for examination before specialty boards comprised of their professional peers. The definition of each specialty, in addition to the education and other requirements leading to acceptance into the certification process are developed by consensus within the medical profession. Specialty certification is separate and distinct from licensure.

I chose to present myself for the American Association of Physician Specialists, Inc. (AAPS) affiliated Board of Certification in Cardiology and Internal Medicine in light of my osteopathic training and non-osteopathic (allopathic) hospital affiliation. AAPS provided me the opportunity for board certification, something not available by the AOA since I am not in an osteopathic hospital or the AMA since I did not have an "M.D." residency. This significantly helped me in my professional career particularly my hospital practice. For this I am extremely grateful.

Ms. Margaret E. Trimble
Page Two
March 9, 1999

The proposed regulatory language will affect my practice directly by reducing my ability to practice in many hospitals and be considered a specialist (i.e. Cardiologist) by many insurances such as Independence Blue Cross (see enclosed letter).

The Department seeks to define "board certification" in a manner that will exclude one private certifying body in preference to other private certifying bodies without having established criteria for recognition of certifying bodies. This preferential use of a particular board certifying organization has been recognized by the United States Congress. In a request to the U.S. General Accounting Office to conduct a study on the professional certification practices and requirements of federal agencies, James M. Talent, Chair of the House of Representatives Committee on Small Business, expressed concern that "diversity of certification has led, in some instances, to an informal system of preferences for one certification over another." The Chair further stated that "these preferences often occur without any objective justification." This is an important issue because these certifications are often a prerequisite for federal or state contracting opportunities or a requirement for compliance with regulations and guidelines.

Representative Robert Stump, Chair of the House Committee on Veterans' Affairs had similar concerns regarding the Department of Veteran Affairs and their recognition of particular board certifying organizations. He was most interested in what criteria were used to evaluate the two organizations the Department of Veteran Affairs chose to recognize in an informational letter (1L10-97-031 dated August 12, 1997).

The American Association of Physician Specialists, Inc. (AAPS) is a national organization established in 1950 and incorporated in 1952 to provide a clinically-recognized mechanism for specialty certification of physicians with advanced training through an examination process. The AAPS is the administrative home for twelve Boards of Certification. Each AAPS affiliated board of certification has established criteria for examination development, examination validation, and candidate admission to the certification process. In recognition of the multiple mechanisms in the health care delivery system that continuously monitor physician performance (the fact that physicians must learn a substantial amount of medicine in a clinical practice setting; the difficulty of physicians in a particular cohort to enter approved residency training programs; the emerging importance of specialty certification in the health care delivery system; and the variety of career paths

Ms. Margaret E. Trimble
Page Three
March 9, 1999

leading physicians to particular emphasis in their practice of medicine), AAPS-affiliated boards provide a measurable, objective mechanism to meet the accreditation requirements of the multitude of organizations involved in accreditation and health care delivery.

The Regional Emergency Medical Services Council of New York City, Inc. and the Regional Emergency Medical Advisory Committee of New York (REMAC) has recognized that the AAPS boards, in particular the Board of Certification in Emergency Medicine (BCEM) is equivalent to the American Board of Emergency Medicine (ABEM) and the American Osteopathic Board of Emergency Medicine (AOBEM). The New York REMAC determined, with the aid of counsel, that the examinations and requirements for admission to the certification process are equivalent, that there were no issues of quality of care provided by BCEM-certified individuals. The REMAC council further stated that, should the REMAC exclude BCEM-certified physicians, similarly certified ABEM physicians (those certified via the practice track) would also have to be excluded.

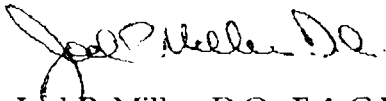
Even though the General Provisions of the Proposed Rulemaking provide that reference to specific certifying bodies would not preclude the Department from considering persons with certifications by other private certifying bodies, the effect of the proposed language in the regulation will effectively exclude a cohort of physicians from participation in the Pennsylvania emergency medical system. Many private organizations, hospital, health care insurers, managed-care organizations, and others generally follow the regulations established by the local governmental body. As such, many of these organizations will exclude those physicians certified by one of the American Association of Physician Specialists, Inc. (AAPS) affiliated boards of certification thinking that they are in compliance with State Regulations.

Therefore, we request that the language in proposed PA. Code Chapter 1001, Subchapter A, Section 1001.2 (Definitions) be amended to include the American Association of Physician Specialists, Inc.

Ms. Margaret E. Trimble
Page Four
March 9, 1999

In the alternative our organization is prepared and willing to work with the Department of Health and the Emergency Medical Services Office in reaching appropriate criteria for recognition of boards of certification, and amending the language of the proposed regulation.

Sincerely,



Joel P. Miller, D.O., F.A.C.P.

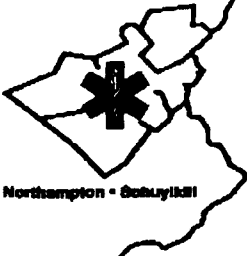
JPM:kad

- cc: Mr. Dennis O'Brien
Chairman of Health and Human Services
Mr. Stewart J. Greenleaf
Chairman of Judiciary, Vice Chairman of Law & Justice
Mr. Frank A. Salvatore
Vice Chairman of Intergovernmental Affairs
Ms. Allyson Y. Schwartz
Minority Chairman of Education
Ms. Christine Tartaglione
Minority Chairman of Aging & Youth

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Everitt F. Binns, Ph.D.
Executive Director

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DATE: March 12, 1999

TO: Peggy Trimble

FROM: Everitt F. Binns, Ph.D.

SUBJECT: Proposed Rules and Regulations

Enclosed you will find our staff comments to the proposed Rules and Regulations. Our staff was impressed with this second draft.

If you have any questions or require any additional information, please contact our office.

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Enclosure

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**Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII**

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1005.10.(c)(3)

SECTION TITLE: Licensure and general operating standards **PG#** 949

COMMENT: This section would allow a BLS service to carry ALS equipment and drugs if it has a physician medical director. Such ALS equipment and drugs might be in addition to those already prescribed for use by a BLS ambulance service. Previous language that specified that this equipment would be for use by a physician affiliated with the service would be deleted in this proposal.

RECOMMENDATION: Recommend that the language deleted regarding "for use by the" (physician), be re-inserted. While it appears that the intent is that such equipment is there for use by the physician medical director, the exact intent is vague and could lead to confusion on the part of BLS ambulance services.

All comments will be responded to by the Department of Health and forwarded to the appropriate committees.

Contact Person James Major, Jr.

Organization: Eastern PA EMS Council

Address: 1405 N. Cedar Crest Boulevard County: Lehigh

City: Allentown State: PA Zip Code: 18104 Phone: (610)820-9212

Return To: **Pennsylvania Department of Health
EMS Office
P.O. Box 90
Harrisburg, PA 17108
Fax: 717-772-0910**

Deadline: **March 14, 1999**

**Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII**

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1005.10.(d)(ii)(D)

SECTION TITLE: Licesnure and general operating procedures **PG#** 949

COMMENT: This particular proposed language addresses staffing on a MICU unit if said unit is responding to a call for BLS assistance exclusively. In such an instance, the service would only need to staff the MICU tp the BLS level of staffing for that particular call. This really does not make sense and could cause confusion at the service level AND with the public. What happens when that MICU, staffed with BLS providers, is finished with that BLS call and receives a dispatch for an ALS call? This could very well create an unacceptable delay in response as the need to "re-staff" to an ALS level would then be necessary.

RECOMMENDATION: STRONGLY recommend that this language be removed. Most ALS services that operate MICU's are staffing an ALS provider and a BLS provider in their responses to calls for assistance. If the patient only requires BLS skills and treatment, then the BLS provider could provide that care. However, when staffed with an ALS and a BLS provider, this unit can then provide either level of care on subsequent calls. This proposed language is just confusing and stands to create delays in responding to a patients needs.

All comments will be responded to by the Department of Health and forwarded to the appropriate committees.

Contact Person James Major, Jr.

Organization: Eastern PA EMS Council

Address: 1405 N. Cedar Crest Boulevard County: Lchigh

City: Allentown State: PA Zip Code: 18104 Phone: (610)820-9212

Return To: **Pennsylvania Department of Health
EMS Office
P.O. Box 90
Harrisburg, PA 17108
Fax: 717-772-0910**

Deadline: **March 14, 1999**

**Department of Health
Proposed Regulations (No. 10-143)
Amendments to Emergency Medical Services Regulations
28 Pa. Code Part VII**

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: March 14, 1999

SECTION NUMBER: 1005.10.(e) _____

SECTION TITLE: Licensure and general operating guidelines Page # 950

COMMENT: Requirements for mutual aid agreements deleted and language regarding PSAP's proposed. This language mandates that ambulance services keep their PSAP apprised of their in or out of service time. The general intent of this proposal is good. However, there is one additional missing step that would provide linkage between the PSAP's, regional council's and the Department.

RECOMMENDATION: As the intent appears to be to allow the PSAP to better handle available resources and make more efficient and timely dispatching decisions, it can be reasonably assumed that the PSAP will need to establish and maintain some sort of record of the in and out of service times for licensed ambulance services. Recommend that language be developed that would allow, or mandate, the regional council's to receive such information for its' review in determining the efficiency of resources within the EMS system.

All comments will be responded to by the Department of Health and forwarded to the appropriate committees.

Contact Person James Major, Jr. _____

Organization: Eastern PA EMS Council _____

Address: 1405 N. Cedar Crest Boulevard County: Lehigh _____

City: Allentown State: PA Zip Code: 18104 Phone: (610)820-9212

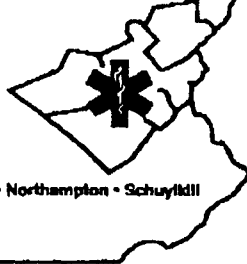
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HAROLD B. HAIRSTON
Commissioner

RALPH A. HALPER
Regional Director
Emergency Medical Services
(215) 686-1316
FAX: 686-1321



MEMORANDUM

TO : Margaret Trimble
Director, Pennsylvania EMS

FROM : Ralph A. Halper
Philadelphia Regional EMS

DATE : 12 March, 1999

SUBJECT : Draft EMS Rules and Regulations

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Philadelphia Regional EMS appreciates the opportunity to comment on the draft EMS Rules and Regulations. Summary comments are enclosed for your review and consideration.

If you have any questions, we will be available to address these comments.

Thank You.

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DEADLINE FOR COMMENTS: MARCH 14, 1999

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SECTION NUMBER: Subchapter A: General Provisions

SECTION TITLE: 1001.2 (relating to definitions) pg# 7

COMMENT:

What is the explanation for the terminology change of name for the Pa EMS Report to the Ambulance Call Report? What is the possibility of "other reporting mechanisms?" Difficult at this time to incur a name change to the "reporting form" when an electronic data mechanism is in the development process..

RECOMMENDATION:

Explain the rationale for name change of "reporting form."

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MEDICAL COMMISSION

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

Contact Person: Ralph A. Halper / Donna M. Lebisly
Organization: Philadelphia Regional EMS
Address: Fire Administration Building
240 Spring Garden Street
Philadelphia, Pennsylvania 19123

R&RF1399 : 299: dml

R&R1

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: MARCH 14, 1999

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SECTION NUMBER: Subchapter A: General Provisions

SECTION TITLE: 1001.2 (relating to definitions) pg# 8

COMMENT:

Direct support of EMS systems is too limited.

RECOMMENDATION:

Need to include research in this definition as a mechanism of evaluation and improvement of EMS systems.

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REVIEW COMMISSION

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

Contact Person: Ralph A. Halper / Donna M. Lebisly
Organization: Philadelphia Regional EMS
Address: Fire Administration Building
240 Spring Garden Street
Philadelphia, Pennsylvania 19123

R&RF1399 : 299: dml
R&R2

**COMMENT FORM FOR PROPOSED REGULATIONS
FEBRUARY 13, 1999**

DEADLINE FOR COMMENTS: MARCH 14, 1999

SECTION NUMBER: Subchapter A: General Definitions

SECTION TITLE: 1001.2 (relating to definitions) pg# 9

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COMMENT:

Who decided on the terminology of "Public Safety Answering Point?" Communication centers operated by departments of municipal governments, such as the Philadelphia Fire Department, Fire Communications Center (FCC), cannot arbitrarily change their name to PSAP! The FCC only communicates with the 9-1-1 service in the City which is the Philadelphia Fire Department.

For special events, mass casualties, etc, the Managing Director's Office (MDO) has a communication van (CP 1) responsible for communication with all city departments.

RECOMMENDATION:

Delete name "Public Safety Answering Point."

Philadelphia will not change the name of the Fire Communication Center.

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

**Contact Person: Ralph A. Halper / Donna M. Lebisly
Organization: Philadelphia Regional EMS
Address: Fire Administration Building
240 Spring Garden Street
Philadelphia, Pennsylvania 19123**

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SECTION NUMBER: Subchapter A: General Definitions

SECTION TITLE: 1001.5(relating to investigations) pg# 11

COMMENT:

Scope of the Department's investigatory activities needs to be clarified. Reads as a unilateral approach to investigations.

RECOMMENDATION:

Include the statement "in conjunction with Regional EMS councils"

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

Contact Person: Ralph A. Halper / Donna M. Lebisly
Organization: Philadelphia Regional EMS
Address: Fire Administration Building
240 Spring Garden Street
Philadelphia, Pennsylvania 19123

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SECTION NUMBER: Subchapter A: General Definitions

SECTION TITLE: 1001.6(relating to developmental plan) pg# 11

COMMENT:

The Statewide EMS Development Plan should serve as a blueprint but should also be correlated to the AWP.

RECOMMENDATION:

Include a statement of developmental plan as AWP, etc.

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

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SECTION NUMBER: Subchapter B: Award & Administration of Funding

**SECTION TITLE: 1001.21/22 (relating to purpose)
(relating to criteria)**

pg# 12

COMMENT:

Funding without contract subject to question.

RECOMMENDATION:

Need an understanding of "funding priorities."

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

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SECTION NUMBER: Subchapter B : Award & Administration of Funding

SECTION TITLE: 1001.28 (relating to funding) pg# 13

COMMENT:

Need to explain the funding, contract and distribution of monies. Insufficient explanation. The Council is designated as a region for funding, ie 1/17.

RECOMMENDATION:

Explanation of the three terms of "funding, contract and distribution" of monies.

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

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SECTION NUMBER: ___ Subchapter C: Collection of Data and Information

SECTION TITLE: _____ 1001.42 (relating to dissemination) ___pg#__15

COMMENT:

Persons...required to prohibit data access to only those data elements.. . This section needs explanation since the central server of electronic data directs information flow. The director should assure confidential standards and flow of information..

RECOMMENDATION:

Explain the advent of electronic data and the central server.

All comments will be responded to by the Department of Health and forwarded to the appropriate committee.

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