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November 22, 2011

VIA FEDERAL EXPRESS

Joseph W. Schmider,
Director, Bureau of Emergency Medical Services
Department of Health, Room 606
Health and Welfare Building,
625 Forster Street
Harrisburg, PA 17120-0701

Re: The National Ski Patrol System, Inc. and the Pennsylvania Ski Areas
Association's Comments on the Proposed Rulemaking to facilitate
implementation of 35 Pa.C.S. §§ 8101-8157

Dear Mr. Schmider:

Please consider this letter the National Ski Patrol's and the Pennsylvania Ski Area Association's joint comments on the proposed draft of Proposed Rulemaking to facilitate implementation of 35 Pa.C.S. §§ 8101-8157, as set forth in the Pennsylvania Bulletin, Vol. 41, No. 44, October 29, 2011 (the "Bulletin:") as that draft deals with ski patrollers in the Commonwealth of Pennsylvania. Before directly providing these comments, I just wanted personally thank you for all your efforts to help the patrollers in Pennsylvania. Please be assured that all of the individual patrollers in Pennsylvania appreciate your efforts.

The explanatory comments to Section 1027.38 of these draft regulations, as this section relates to "special operations" EMS services, sets forth, in the second paragraph, the following:

In drafting the proposed rulemaking, the Department also considered proposing the regulation of Ski Patrol EMS services. The Department met with and continues to meet with stakeholders, including representatives of the Pennsylvania Ski Areas Association and National Ski Patrol, concerning the appropriate oversight of EMS provided in ski areas in this Commonwealth. The Department is currently working with stakeholders to establish a voluntary program in which ski patrol EMS services may participate. The Department encourages comments on this matter. Bulletin §1027.38 p. 5878.

NATIONAL SKI PATROL SYSTEM, INC.
133 South Van Gordon Street, Suite 100 • Lakewood, Colorado 80228 • (303) 988-1111 • FAX (303) 988-3005
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In reviewing the proposed language, NSP and the Pennsylvania Ski Areas Association believe that the language should reflect the understanding reached at our stakeholders' meeting and the follow-up discussions, as that understanding was set forth by Aaron Shenck, Committee Director, Office of Senator Lisa Baker, in an email dated October 12, 2010. (See Exhibit 1) Therefore, NSP and the Pennsylvania Ski Areas Association suggest the following changes to this section:

In drafting this proposed rulemaking, the Department also considered proposing the regulation of Ski Patrol as EMS services. The Department met with stakeholders, including representatives of the Pennsylvania Ski Areas Association and National Ski Patrol System, Inc., concerning this matter. From those meetings, it was decided that the regulation of Pennsylvania ski patrols will not be included in Act 37 and Pennsylvania ski patrols will operate "status quo" with no changes as a result of Act 37 regulations. The Department of Health will continue to work with the stakeholders to discuss the possibility of a future voluntary system.

Finally, we just want to extend our continued appreciation for your assistance and we look forward to working with you to reach the objectives agreed upon.


Very truly yours,



Timothy G. White,
Executive Director

JOINED IN AND SUPPORTED BY:

PENNSYLVANIA SKI AREAS ASSOCIATION

By: 

Barb Green,
President

NATIONAL SKI PATROL SYSTEM, INC.

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cc: Robert B. Scarlett, Esquire, Volunteer NSP Legal Counsel (via email)
Burt Mitchell, NSP National Chairman (via email)
John Shipman, Eastern Division Director (via email)
William Cline, Esquire, Eastern Division Legal Advisor (via email)
Edward McNamara, OEC Director (via email)
David Johe, M.S., NSP Medical Director (via email)
Eric Flynn, Chairman of the National Ski Areas Association (via email
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Butch Potter, EMS Systems Specialist (via email)
Gerit J. Lewisch, Eastern Pennsylvania Region Director (via email)
Marty Silverman, Western Pennsylvania Region Director (via email)
Linda Irvin, Pennsylvania Ski Areas Association (via email ewsra@uplink.net)
Deb Suder, Pennsylvania Ski Areas Association counsel (via email
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Aaron Shenck, Committee Director, Office of Senator Lisa Baker (via email
ashenck@pasen.gov)
John Lawson, NSP Assistant National Chairman (via email)
Barb Green, President of the Pennsylvania (via email BGreen@skibluemt.com)

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Exhibit 1
(Email from Aaron Shenck)

From: Shenck, Aaron [<mailto:ashenck@pasen.gov>]
Sent: Tuesday, October 12, 2010 8:35 AM
To: Timothy White; Eric Flynn; Schmider, Joseph
Cc: deborah.suder@bipc.com; Sokoloski, Kimberly
Subject: Act 37/Ski Patrol

Hello everybody. Per my e-mail last week, here is an updated proposed agreement for DOH, Ski Patrol and the PA Ski Areas Association after receiving feedback from each party. The only changes to what was sent last are underlined and highlighted below. Also, the PA Ski Areas Association issued a concern with the last bullet point highlighted below and whether this should be formally stated. They requested further information from DOH on this issue before they can agree to putting this into whatever information is made public. Joe from DOH is attending a national conference this week and will not be able to provide a response until later next week, but has assured us he will do so upon his return.

- The Ski Patrol are currently out of the Act 37 regs and would remain out in all subsequent drafts of the regs.
- Ski Patrol in Pennsylvania will operate "status quo" with no changes as a result of Act 37 regs.
- In addition, no changes are made in the individual ski patroller's ability to gain state certification as a First Responder. This is voluntary right now and currently about half of the patrollers in PA do this. All sides will continue to encourage patrollers to consider certification as a First Responder, but there are no mandates to do so.
- In the Preamble to the Act 37 regs there will be a one sentence statement indicating the DOH will continue to work with National Ski Patrol outside the regulatory process to try and develop a future voluntary system like the current Volunteer Quick Response Services (DOH requested change). This statement will initially be drafted by DOH and will be reviewed and edited (PA Ski Areas Association change) by Ski Patrol and the PA Ski Areas Association.
- Discussions will continue outside the regulatory process between the DOH, National Ski Patrol and the PA Ski Areas Association through the current administration and most likely into the next administration on how a voluntary system could potentially be set up.
- There is no timeline or time limit on the process of setting up a voluntary system, nor is there a mandate that a system must be set up in the future. Parties will however agree to continue discussion on the concept.
- For the voluntary system to be established in the future it will only be done through discussion and agreement from all primary stakeholders: DOH, National Ski Patrol and PA Ski Areas Association.
- If a voluntary system is set up in the future, it would most likely provide additional liability protection to participating patrollers. It would also potentially make Ski Patrol and/or the

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mountains eligible for EMSOF grant funding (pending DOH response on the additional liability protections offered to First Responders).

I hope this information is helpful. Please let me know if you have any further questions in the interim.

Aaron Shenck, Committee Director
Office of Senator Lisa Baker
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