

DEPARTMENT OF HEALTH, CENTER FOR HEALTH PROTECTION

SUBJECT: Emergency Medical Services

DESCRIPTION: This is a revision to the Rules and Regulations for Emergency Medical Services in Arkansas. The proposed revisions to the EMS Rules and Regulations are extensive due to the last substantive revision having occurred over ten years ago. Also, sections have been moved to increase ease of use.

The revisions follow:

1. Require all Arkansas licensed EMS Services have an active Medical Director.
2. Require a quality assurance/quality improvement process for all services to include service Medical Director.
3. Specify the number of continuing education units (CEUs) and clinical activities required for license renewal.
4. Update license levels of providers to nationally recognized standards.
5. Update definitions to better define terms and updated language.
6. Change vehicle permit levels for better clarity.
7. Update EMS provider's scope of practice to reflect national standards.
8. Add air ambulance training requirements.
9. Update educational standards to reflect national standards.
10. Add urgent trauma transfer language.

PUBLIC COMMENT: A public hearing on this rule was scheduled for December 6, 2013. Due to inclement weather, the Governor closed state offices that day. The Department left open the public comment period, which was scheduled to expire December 6, until December 9, and notified all EMS services and interested parties of the hearing's cancellation and extended public comment period. The Department also posted this information on its website. The Department did not receive any public comments.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions:

QUESTION #1: In Section I. Definitions, P., why are the phrases "prior to arrival at a medical facility" and "continuation of the initial" being repealed from the definition of "Emergency Medical Services"? The statutory definition of "emergency medical services", found at § 20-13-202, retains these phrases. In addition, there appears to be a grammatical error in the latter half of the definition, as "provide emergency care within" should probably read "provision of emergency care within". **RESPONSE:** The Definition in the Rules will be changed to track the statutory definition. Specifically, the definition will now read: "The transportation and medical care provided to the ill or injured prior to arrival at a medical facility by a licensed emergency medical technician (EMT) or other healthcare provider and continuation of the initial emergency care within a medical facility subject to the approval of the medical staff and governing board of the that facility." The Division does not feel this is a substantive change, as it does not change the definition of Emergency Medical Services in the Rules. Specifically, the

phrases that were omitted are implied in the original rule definition. The definition refers to the *transportation* and medical care provided to the ill or injured. The 'transportation' specifically refers to the time period prior to arrival at a medical facility. Also, the rule applies to healthcare within a facility. This would have to be a continuation of the care that was administered during transportation. Therefore, we do not feel that the addition of the omitted phrases changes the definition of emergency medical services substantively, but rather clarifies the original intent and meaning of the Rule definition.

QUESTION #2: In Section I. Definitions, V., why does the defined term in the rule use the word "Professional" while the statutory definition, found at § 20-13-202, uses the word "personnel"? Despite the definition, there is little consistency throughout the rules and the terms "emergency medical services professional", "emergency medical services personnel", and "emergency medical services provider" appear to be used interchangeably, creating confusion. See for example, Section I. Definitions, U. the word "provider" is used; Section III. Licensure of Ambulance Services, A.12., the word "personnel" is used; the word "provider" is used in several places in Section IV and other places in the rule. **RESPONSE:** The language of the rule will be changed to say "emergency medical services personnel." Additionally, all other references to individual EMS personnel in the Rules will be changed to the term "emergency medical services personnel."

QUESTION #3: In Section I. Definitions, PP., the definition of "Of Unsound Mind" is derived from Ark. Code Ann. § 20-9-601(a). However, Ark. Code Ann. § 20-9-601(b) is also part of the statutory definition but was omitted from the definition in the rule. Can you please explain why subsection (b) was omitted? **RESPONSE:** The Division does not feel that adding subsection (b) is necessary at this time. It is our opinion that the addition of subsection (b) confuses the issue of how to determine when a patient is "of unsound mind." The definition already cited in the rules lists the factors that must be considered by the EMT when making that determination. Specifically that definition states: "of unsound mind: means and includes the inability to perceive all relevant facts related to one's condition and proposed treatment whether the inability is only temporary or has existed for an extended period of time or occurs or has occurred only intermittently and whether or not it is due to *natural state, age, shock or anxiety, illness, injury, drugs or sedation, intoxication, or other cause of whatever nature.*" This list does not allow an EMT to consider the refusal of medical treatment as a factor in making the determination of whether a person is "of unsound mind." It is believed that adding in the language of Subsection (b) (an individual shall not be considered to be of unsound mind based solely upon his or her refusal of medical care or treatment") is confusing in that it seems to imply that refusal of medical care can be considered as a factor in making that determination, when in fact it should not be considered.

QUESTION #4: In Section II. Purpose, the rule states that its purpose is to enhance "out-of-hospital emergency care", but the definition of "emergency medical services" in Section I. Definitions, P., includes the provision of medical care within a "health facility" and Section X. Hospital Staffing, concerns the procedures for the provision of emergency medical services in a hospital. This appears to be contradictory. Can you explain? **RESPONSE:** The purpose will be changed to read "The purpose of these Rules and

Regulations is to provide a framework to enhance care provided to the ill or injured by licensed emergency medical services personnel.” This change tracks the changes made in response to Question #1 and therefore is also not a substantive change.

QUESTION #5: In Section XVI. Violations, A.1.b., it appears that the citation to § 20-13-2005 is incorrect since that section does not exist. **RESPONSE:** This typographical error will be fixed and the section will read § 20-13-1005

The proposed effective date for the rule is February 24, 2014.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Ark. Code Ann. § 20-13-208 empowers the Department of Health to promulgate regulations to carry out the Emergency Medical Services Act, § 20-13-201 et seq. Ark. Code Ann. § 20-13-207 directs that these rules relate to emergency medical services that may include personnel licensure requirements, operational standards, and equipment, vehicle, and communication standards.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Department of Health/ Section of Emergency Medical Services
DIVISION Center for Health Protection
DIVISION DIRECTOR Donnie Smith
CONTACT PERSON Robert Brech
4815 West Markham Street
Slot #31
ADDRESS Little Rock, Arkansas 72205
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NAME OF PRESENTER AT COMMITTEE MEETING Robert Brech
PRESENTER E-MAIL robert.brech@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? Proposed Revisions to the Arkansas Rules and Regulations for Emergency Medical Services

2. What is the subject of the proposed rule? Revisions, additions and/or deletions to existing regulations for Emergency Medical Services

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? -N/A-

When does the emergency rule expire? -N/A-

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. -N/A-

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. -N/A-

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Authority for this set of regulations was given through Act 435 of 1975, as amended. ALSO, see A.C.A. § 20-13-200 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? The purpose of the proposed adoption of these rules is for emergency medical service to ensure the EMS rules are kept up to date and stay with current industry standards. The additions and deletions will strengthen the emergency medical service regulations ensuring the citizens and visitors of Arkansas receive the best possible health treatment and care.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
<http://www.healthy.arkansas.gov/programsServices/hsLicensingRegulation/EmsandTraumaSystems/Pages/Regulations.aspx> "Proposed Rules & Regs"

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:
Date: December 6th, 2013
Time: 10:00
Place: Freeway Medical Building, Suite 801

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
December 6th, 2013

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
February 24th, 2013

12. Do you expect this rule to be controversial? Yes No

If yes, please
explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?

Please provide their position (for or against) if known.

Arkansas Emergency Medical Technician Association - For

Arkansas Ambulance Association - For

Governor's Advisory Council for Emergency Medical Services - For

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Health
DIVISION Center for Health Protection / Emergency Medical Services
PERSON COMPLETING THIS STATEMENT Robert Brech
TELEPHONE NO. 661-2297 **FAX NO.** 661-2357 **EMAIL:** robert.brech@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Proposed Revisions to the Arkansas Rules and Regulations for Emergency Medical Service

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
-N/A-
- (b) The reason for adoption of the more costly rule;
-N/A-
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
-N/A-
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
-N/A-

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) -N/A-

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) -N/A-

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total -N/A- _____

Total -N/A- _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 000 _____

\$ 000 _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 000 _____

\$ 000 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

