

## **CHAPTER 23-27**

### **EMERGENCY MEDICAL SERVICES OPERATIONS LICENSES**

#### **23-27-01. License required - Licensing of emergency medical services operations - Exception - Waiver.**

1. The department of health and human services shall license emergency medical services operations and may designate their service areas. The department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area. A license for an emergency medical services operation is transferable upon approval of the department.
2. Emergency medical services may not be advertised, offered, or provided to the public except by an emergency medical services operator that provides the emergency medical services through emergency medical services personnel.
3. An emergency medical services operation must be separately licensed for each of the designated service area of the operation. Under this subsection, an operation may position vehicles and emergency medical services personnel at more than one location within the designated service area of an emergency medical services operation.
4. Notwithstanding subsection 3, an operator of an emergency medical services operation may operate one or more substation ambulance services operations under a single license if:
  - a. The substation ambulance services operation was designated before December 31, 2024, and remains continuously designated;
  - b. The headquarters ambulance services operation is not a substation ambulance services operation of another emergency medical services operation;
  - c. The substation ambulance services operation area borders the headquarters ambulance services operation area or borders another substation of the headquarters ambulance services operation;
  - d. The headquarters ambulance services operation and the substation ambulance services operation are dispatched by the same entity; and
  - e. The operator of the emergency medical services operation pays a license fee for each of its substation ambulance services operations.
5. The provisions of this chapter do not apply to an operator from another state which is headquartered at a location outside of this state and transports patients across state lines, but the operator may not treat patients within this state or pick up patients within this state for transportation to locations within this state, except as provided by rule.
6. The department of health and human services shall adopt rules for special licenses and waiver provisions for an operator of an emergency medical services operation intended for industrial sites not available to the general public.

#### **23-27-02. Definitions.**

For the purpose of this chapter, unless the context otherwise requires:

1. "Department" means the department of health and human services.
2. "Emergency medical services" means the prehospital medical stabilization or transportation, including interfacility transportation, of an individual who is sick, injured, wounded, or otherwise incapacitated or helpless, or in a real or perceived acute medical condition, by a person that holds oneself out to the public as being in that service or that regularly provides that service. The term includes:
  - a. Assessing, stabilizing, and treating life-threatening and non-life-threatening medical conditions; or
  - b. Transporting a patient who is in a real or perceived acute medical condition to a hospital emergency room or other appropriate medical destination.
3. "Emergency medical services operation" means an entity licensed to offer and provide emergency medical services by emergency medical services personnel with physician oversight. The term includes basic life support ambulance services, advanced life

support ambulance services, air ambulance services, and quick response unit services.

4. "Emergency medical services personnel" means individuals who provide emergency medical services for emergency medical services operations. The term includes emergency medical services professionals, drivers, and department-certified emergency medical services providers, such as cardiopulmonary resuscitation drivers and first responders.
5. "Emergency medical services professional" means an individual licensed by the department under this chapter.
6. "Substation ambulance services" means an ambulance station that has its own service area designated by the department and is not individually licensed as an emergency medical services operation.

#### **23-27-03. License fees.**

The fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set at a sum of not more than twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. This operation license fee does not apply to licensure or certification of emergency medical services personnel. All license fees must be paid to the department of health and human services and deposited with the state treasurer and credited to the state general fund.

#### **23-27-04. Standards for operators.**

1. An emergency medical services operation may not operate unless licensed under this chapter. The department shall adopt rules for standards for operators which must include:
  - a. Time when operator's services must be available;
  - b. Requirements for services to ensure a reliable response to 911 and emergent interfacility transports, while providing nonemergent services;
  - c. Type of motor vehicle operator's license needed for drivers of ground vehicles;
  - d. Training standards for personnel;
  - e. Equipment and ground vehicle standards;
  - f. Annual license fees;
  - g. Number of personnel required for each run;
  - h. The scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals;
  - i. Performance standards, which may include response time standards; and
  - j. Other requirements as necessary to carry out the requirements of this chapter.
2. An officer, employee, or agent of any prehospital emergency medical services operation may refuse to transport an individual for which transport is not medically necessary and may recommend an alternative course of action to that individual if the prehospital emergency medical service has developed protocols to refuse transport of an individual.

#### **23-27-04.1. Emergency care or services rendered by officers, employees, or agents of emergency medical services operations - Physician medical direction.**

1. An officer, employee, or agent of an emergency medical services operation and a physician licensed in this state who provides medical direction to an emergency medical services operation, who is a volunteer, who in good faith renders emergency care, services, or medical direction, is not liable to the recipient of the emergency care, services, or medical direction for any civil damages resulting from any acts or omissions by the person in rendering the emergency care, services, or medical direction provided the person is properly trained according to law.
2. For the purpose of this section, "volunteer" means an individual who receives no compensation or who is paid expenses, reasonable benefits, nominal fees, or a

combination of expenses, reasonable benefits, and nominal fees to perform the services for which the individual volunteered, provided that the fees do not exceed ten thousand dollars in any calendar year.

3. For a volunteer physician providing medical overview to an emergency medical services operation and the operation's personnel, the ten thousand dollar maximum fees amount is calculated separately for each emergency medical services operation for which the physician volunteered medical overview. This section does not relieve a person from liability for damages resulting from the intoxication, willful misconduct, or gross negligence of the person rendering the emergency care or services.
4. An officer, employee, or agent of any emergency medical services operation and a physician licensed in this state who provides medical direction to any emergency medical services operation who in good faith does not render emergency care, service, or medical direction to an individual based on a determination that transport of that individual to a hospital is not medically necessary is not liable to that individual for damages unless the damages resulted from intoxication, willful misconduct, or gross negligence.

#### **23-27-04.2. Emergency medical services - State assistance.**

The department of health and human services shall assist in the training of emergency medical services personnel of certain emergency medical services operations as determined by the department and financially shall assist certain emergency medical services operations as determined by the department. Assistance provided under this section must be within the limits of legislative appropriation. The department shall adopt criteria for eligibility for assistance in the training of emergency medical services personnel of various types of emergency medical services operations. The department may establish minimum and maximum amounts of financial assistance to be provided to an emergency medical services operation under this section. If applications for financial assistance exceed the amount of allocated and available funds, the department may prorate the funds among the applicants in accordance with criteria adopted by the department. No more than one-half of the funds appropriated by the legislative assembly each biennium and allocated for training assistance may be distributed in the first year of the biennium. For emergency medical service operations subject to section 23-27-07, after June 30, 2025, financial assistance provided by this section must be distributed to the political subdivision having ownership of the licensed ambulance service or the political subdivision responsible for the emergency medical service program for the service area.

#### **23-27-04.3. Emergency medical services personnel training, testing, certification, licensure, and quality review - Penalty.**

1. The department shall adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, including community emergency medical services personnel, instructors, and training institutions.
2. Rules adopted must include a definition of minimum applicable standards, a definition of emergency medical services personnel, provide for a mechanism for certifying or licensing persons who have met the required standards, provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel, and define minimum standards for emergency medical services training institutions.
3. Rules adopted must allow emergency medical services instructors to provide direct, entry-level certification training for the levels of emergency medical responder and emergency medical technician, under the oversight of the department and without the requirements of an emergency medical services training institute.
4. Licensing as an emergency medical services training institution is optional.
5. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel.
6. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

**23-27-04.4. Supervision of emergency medical services professionals - Scope of practice.**

Emergency medical services professionals who are employed by a hospital may provide patient care within a scope of practice established by the department. Under this section, these emergency medical services professionals must be supervised by a hospital designated physician, physician assistant, advanced practice registered nurse, or registered nurse.

**23-27-04.5. Quick response unit service pilot program.**

Expired under S.L. 2001, ch. 246, § 14.

**23-27-04.6. Quick response units.**

Department licensure as a quick response unit is not optional. The department's standards under section 23-27-04 for the time when a quick response unit's services must be available may not require twenty-four hour availability.

**23-27-04.7. County reporting - Use of property tax levies.**

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report in a format approved by the department of health and human services. A taxing district that levies a special emergency medical services or ambulance service levy shall allocate all of the special tax levy revenue collected in a particular township to the ambulance service that serves the largest area within that township.

**23-27-04.8. Emergency medical services operation communications.**

The department may regulate the primary communications methods and protocols for emergency medical services operations while permitting secondary communications through other devices, including cell phones. The regulations must be consistent with the protocols established by the department of emergency services.

**23-27-04.9. Administration of vaccinations - Laboratory testing.**

1. A licensed or certified emergency medical services personnel working for a hospital or an emergency medical services operation may administer a vaccine to an individual who is at least eighteen years of age if:
  - a. The physician providing oversight for the emergency medical services operation or the hospital medical director has established protocols that meet department standards that may be based on the advisory committee on immunization practices of the federal centers for disease control and prevention; and
  - b. The emergency medical services personnel has satisfactorily completed a department-approved course on administering vaccines.
2. If a hospital or emergency medical services operation allows the administration of vaccines under this section, the hospital or emergency medical services operation shall maintain records documenting the emergency medical services personnel's completion of the training required under subsection 1. These records are subject to review by the department.
3. Licensed or certified emergency medical services personnel may perform laboratory testing authorized by rule adopted by the department.

**23-27-04.10. Air ambulance services.**

1. The department shall create and maintain a primary call list and a secondary call list of air ambulance service providers operating in this state.
2. To qualify to be listed on the primary call list, an air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state which collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.

3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in this state to all emergency medical services personnel, each hospital licensed under chapter 23-16, each 911 coordinator in this state, and each public safety answering point operating in this state.
4. The department shall establish air ambulance service response zones for rotary wing aircraft which are based on response times and patient health and safety.
  - a. Upon receipt of a request for air ambulance services, emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state, shall make a reasonable effort to inform the requesting party of the estimated response time for the requested air transport versus the ground transport for that designated response zone. If at any point during the request for air ambulance services the requester withdraws the request, the receiving party is not required to complete that call for air ambulance services.
  - b. If emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state receives a request from emergency medical services personnel for air ambulance services, the recipient of the request shall comply with the call priority under this subdivision in responding to the request.
    - (1) First, the recipient of the request shall call an air ambulance service provider listed on the primary call list which is within the designated response zone.
    - (2) Second, if each of the air ambulance service providers listed on the primary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall call an air ambulance provider listed on the secondary call list within the designated response zone.
    - (3) Third, if each of the air ambulance service providers listed on the secondary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall inform the requester of primary and secondary air ambulance service provider options outside the designated response zone.
5. Upon request of the department, a potential patient, or a potential patient's legal guardian, an air ambulance service provider shall provide that provider's fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges.
  - a. The department shall compile and distribute this fee information to each hospital licensed under chapter 23-16, each hospital emergency department in the state, each physician the department determines is likely to generate an air ambulance transport, each emergency medical services operation, each emergency medical services professional, each emergency medical services personnel, each public safety answering point in this state, and each 911 coordinator in this state.
  - b. Before a hospital refers a patient to an air ambulance service provider, the hospital shall make a reasonable effort to inform the patient or the patient's legal guardian of the fees for the air ambulance service providers licensed under this chapter, for the purpose of allowing the patient or legal guardian to make an informed decision on choosing an air ambulance service provider. A hospital is exempt from complying with this subdivision if the hospital determines compliance might jeopardize the health or safety of the patient.
6. The department of health and human services shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the department of health and human services shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers.

**23-27-05. Penalty.**

Any person violating the provisions of this chapter is guilty of an infraction.

**23-27-06. Criminal history record check.**

The department may require an applicant for emergency medical services personnel licensure to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the applicant.

**23-27-07. Required formation of rural ambulance service district - Organizational meeting - Exemption - Eligibility for relicensure.**

1. Emergency medical service operations licensed under this chapter as a basic life support or advanced life support ambulance service for which a territory has been assigned pursuant to this chapter does not include a city with a population greater than six thousand five hundred according to the 2020 census data published by the United States census bureau, and is not otherwise exempted, must conduct a rural ambulance service district organizational meeting pursuant to the procedure in section 11-28.3-06 prior to June 30, 2025. After such organizational meeting the district shall be deemed organized and operating under the provisions of chapter 11-28.3.
2. The following licensed ambulance services are exempt from this section:
  - a. Licensed ambulance services that are county owned.
  - b. Licensed ambulance services that are city owned.
  - c. Licensed ambulance services that are part of a joint powers agreement with a city or county-owned ambulance.
  - d. Licensed ambulance services owned by tribal or federal government.
  - e. Existing rural ambulance service districts organized pursuant to chapter 11-28.3.
3. Ambulance services not in compliance with this section may not be eligible for relicensure under this chapter.

**23-27-08. Balance billing prohibited - Enforcement.**

1. For purposes of this section, "ambulance service provider" means a service entity licensed under chapter 23-27 as a basic life support or advanced life support ambulance service. The term does not include an air ambulance provider.
2. An ambulance service provider may not collect or bill more than the covered individual's deductible, coinsurance, copayment, or other cost-sharing amount the covered individual would be responsible for if services were provided by a participating ambulance service provider.