



New York State
Department of Health
Bureau of Emergency Medical Services

POLICY STATEMENT

Supercedes/Updates:

No. 93-09

Date: 12/01/93

**Re: Transferring
EMS Service
Operating Authority**

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Article 30, Section 3010 as amended July 1, 1993 permits EMS services to transfer operating authority to a new owner(s) or operator(s) following a review of the competency and fitness of the new operator and with the approval of the appropriate Regional EMS Council (REMSC) **and** the Department.

This policy statement describes the requirements and application procedures the holder and prospective new owner/operator of an EMS service registration or certificate must meet in seeking REMSC and Department approval.

If a new certificate will be added to the total in existence or if new geography is to be added to an existing primary operating territory, this procedure is not applicable and the applicant is referred to the procedures for a new or expanded service application found in DOH Policy 93-10. This approval process assumes that the original holder of a registration or certificate surrenders all rights to operate an EMS service in the future following approval under this section without REMSC approval as a new service.

ALLOWABLE TRANSFER CIRCUMSTANCES

Transfers of operating authority are allowable in the following circumstances with approval of the appropriate REMSC and the Department:

1. any change in the individual who is the sole proprietor (3010.2(a))
2. any change that results in adding new partners (3010.2(b))
3. any transfer, assignment or other disposition of ten percent or more of a corporation's stock (3010.2(c))
4. any transfer of all or substantially all of the assets of a corporation to a new corporation or owner (3010.2(d))

Examples: the change in an operator without changing the territory of a sole proprietor, a sole proprietor incorporating for the first time or a fire department service and assets being assumed by a volunteer ambulance corp.

Individual questions and circumstances should be directed to the Department,

early, for assistance and guidance.

APPLICATION PROCEDURES

The applicant shall submit to the appropriate Regional EMS Council two original copies of the following documents:

- * A completed Application for New EMS Service, Expansion of Primary Territory or Transfer of Ownership (DOH 3777).
- * Completed, notarized and sworn Affirmation of Competency and Fitness (DOH 3778).
- * A statement of purpose and intent, signed by both parties that explains in common terms what is being proposed and including the end effect on both individuals, partnerships or corporations.
- * A complete resume for the new owner(s)/operator(s) that includes all health related licenses and a history of all employment and/or activities in any regulated health care facility or activity for the past 10 years.
- * A list and/or copy of orders or deficiency notices issued within the past 10 years from any NYS Department or equivalent out of state agency listed that have deficiencies identified (singular or repetitive) that did or could have caused patient harm or were repetitive and uncorrected.
- * A list of any malpractice actions within the past 10 years that relate to patient care or harm and the outcome of each.
- * A copy of any stock sale and/or transfer agreement or other contract or legal agreement.
- * A listing of all capital, property, plant, equipment, receivables and stock owned by the certificate holder or involved in the transfer.

Note: Disclosure of the financial values of each is not required.

- * A complete listing of the final owner(s).

REVIEW AND APPROVAL PROCESS

- * REMSC receives the application and insures that all requirements are met and that all documents are complete. REMSC contacts the applicant to acknowledge receipt, obtain any missing items, clarify any information and inform the applicant when the application is complete and the date the application will be considered.
- * If the new owner meets any of the criteria stated in 3005(8), REMSC contacts DOH Area Office for review of any history of patient harm or uncorrected deficiencies in any regulated facility specified in the

statute. If the new owner(s) has no involvement in a specified area, such will be noted to the REMSC.

* REMSC staff will forward a copy of the application and affirmation to the DOH Area Office within five (5) working days of the application being deemed complete. The DOH Area Office and REMSC staff will jointly develop the information required to determine if a new operator has provided a consistently high level of care and therefore is competent to operate the service. Since approval of both the REMSC and Department are required, joint development of all required information is essential to expedite the process.

A new operator may not be found to be competent if there have been multiple, repeated or uncorrected violations of the State EMS Code or other applicable rules and regulations that have directly threatened the health, safety or welfare of a patient.

Definitions for substantially consistent high level of care will be developed and codified by the State EMS Council. A operator cannot be found to have provided this level of care if the/any Department has/had instituted license revocation proceedings for a service the operator was a principle in within the last 10 years.

* The REMSC and the Department have an obligation to act expediently to review and act on an application to prevent unnecessary hardship to individuals or corporations. The REMSC shall render a decision at its next scheduled meeting or no later than sixty(60) days following receipt of a complete application and all fitness and competency review information. The Department's Area Office will strive to have their information available to the REMSC at least two(2) weeks prior to the scheduled REMSC meeting.

* There are NO mailing, notice, hearing or time requirements posed by the statute. If a council sub-committee review is conducted, the committee shall focus on reviewing fitness and competency only. There is no intent for a hearing and a committee review to delay the process.

* The REMSC meeting is an open meeting and the vote for the review of fitness and competency shall be conducted by roll call vote, using the definition of majority from the Council's by-laws.

* The REMSC shall forward to the Department within seven(7) business days, one complete original application and competency affirmation and the written REMSC decision. A complete record of the proceedings will be maintained including the meeting's minutes and a record of the roll call vote and any committee recommendations and vote record. The REMSC needs to include a detailed rationale and

explanation for any negative decision.

* The EMS Program will review the application and REMSC decision and within ten(10) business days of receiving the decision, confirm or deny the REMSC decision and notify the applicant and REMSC accordingly.

* Approval of the application and subsequent transfer of operating authority will be granted only upon approval of both the REMSC and the Department.

* Following approval of both the REMSC and the Department an application for EMS Operating Certificate will be completed and a site inspection scheduled with the appropriate DOH Area Office.

TRANSFERRING EMS SERVICE OPERATING AUTHORITY TO PUBLICLY HELD ENTITIES

This section defines additional requirements needed to transfer the operating authority of an EMS service where the new owner/operator will be a publicly traded corporation, typically with ownership widely distributed among numerous and constantly changing stockholders.

I. The requirements for fitness and competency reviews will apply to:

* The Corporate entity and any parent or health related subsidiaries

* Any/All Directors of the Corporation

* Any/All Officers of the Corporation

* Any/All stockholder(s) holding 10 or more percent of the stock of the corporate applicant as of the filing date of the application to transfer.

The review will include any operations in other states where the service is licensed to conduct EMS or health care related business.

II. The Application to transfer EMS Service Operating Authority shall include a photocopy of the executed existing or proposed applicable corporate certificate which shall, in all respects conform to the applicable provisions of the New York Business law, and which, if the applicant is a foreign corporation, shall include a photocopy of the executed existing or proposed Application for Authority to do business in NY as a Foreign Corporation, which in all respects conforms to the requirements for filing with the NY Secretary of State.

III. The proposed new owner/operator agrees (prior to a regulatory requirement) to identify and maintain current a principal location of the business within the state *and* the name of the individual empowered to conduct business and implement NYS DOH statutes, rules &

regulations and policies relating to the conduct of its EMS business in the state. This individual will be empowered to make routine decisions on behalf of the owner/operator with regard to the conduct of its EMS business.

AUTHORIZED BY:

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