

## ***Information Relating to Requesting an Exception to the BLS Ambulance Staffing Standard***

### **General**

Thank you for your interest in applying for an exception to the BLS ambulance staffing standard, as permitted under Act 17 of 2020. This act amended the EMS System Act to permit the Department of Health to grant exceptions from 35 Pa.C.S. §8133 and 28 Pa. Code §1027.33(c)(1). **Please read all this information carefully.**

Please note that the granting of exceptions **is not automatic**. In accordance with Act 17, the Department will only authorize exceptions to the above-referenced sections in instances of “***extraordinary reasons as determined by the department on a case-by-case basis and in the best interest of the EMS System and patient care.***”

The Bureau of EMS (Bureau) is setting forth criteria that will be utilized in the initial review of all exception requests. The Bureau retains the right to consider additional information outside these criteria, during the case-by-case review process. Including any additional information submitted by the applicant.

This exception process is not to be utilized as a permanent solution. EMS agencies are expected to take corrective action to be able to meet the minimum staffing standard as written (1 EMT & 1 EMR/EMSVO). To that end and as part of the application process, the EMS agency must submit a corrective action plan, which details steps the agency will take to be able to meet the standard in the future. The Bureau of EMS in addition to your Regional EMS Council are available to assist you in crafting these plans, and to address any questions you might have.

### **General Eligibility**

The following are the criteria in order to be eligible to apply for an exception under Act 17:

1. The EMS agency must not be licensed to provide service above the BLS level.
2. The EMS agency must submit the attached application in its entirety. Incomplete applications will not be considered.
3. The EMS agency must submit documentation demonstrating notification to all municipalities for whom the agency provides primary service of the agency’s intent to file an exception request with the department. This requirement does not apply to municipalities where mutual aid is provided.
4. The EMS agency medical director must support the application for exception by signing the application and commit to reviewing charts and cases for quality assurance issues and referring issues to the regional EMS council quality improvement committee for review. This requirement exists to ensure that the granted exception is in the best interests of patient care.

### **Process**

EMS agencies who wish to file an exception request to the BLS ambulance staffing standard shall initiate the process by completing the attached application. This form should be mailed directly to the Bureau, following the instructions listed on the application.

Applicants for exception may also submit additional documentation supporting that the exception is for an extraordinary reason and/or is in the best interest of the EMS System overall and patient care.

Once the exception request is received by the Bureau, it will be reviewed by Bureau staff, and the applicant will be notified in writing of the decision. This decision will be considered an agency final

determination pursuant to 1 Pa. Code § 35.20. As such, if the decision is unfavorable, the applicant has the right to due process, to appeal the determination, and to request a hearing in front of an administrative hearing officer pursuant to 1 Pa. Code § 35.20.

This exception request process is designed to ensure compliance and adherence to 28 Pa. Code §1021.4 (a-d)

### **Conditions of Exception**

If an exception is granted, the following conditions will apply to that exception:

1. The EMS agency will receive a letter outlining the terms and duration of the granted exception. Until the exception letter is received the EMS agency must continue to operate under the minimum staffing requirements as outlined in regulation.
2. The exception will be granted for the period of time stated in the determination letter. Agencies are advised to submit exception renewals at least 60 days prior to the expiration of an existing exception.
3. At the time of patient transport, the ambulance must be operated by a certified Emergency Medical Services Vehicle Operator, and the patient must be attended by an Emergency Medical Technician or higher.
4. The EMS agency medical director must perform quality assurance reviews on a minimum of 20% of total incidents in which the staffing exception is utilized. On a quarterly basis the EMS agency shall forward all calls reviewed, along with any deficiencies noted by the medical director to the Regional Council QA/QI committee in a manner and form prescribed by the Department.
5. The EMS agency must submit requested data in a manner prescribed by the department on a quarterly basis.

Based on individual circumstances, the Department reserves the right to impose additional conditions on the issuance of an exception.

Violation of any of the conditions of the exception shall constitute violation of the granted exception and the Department may take action including, but not limited to, revocation of the exception.

### **Initial Evaluation Criteria for Exception Requests**

Outlined below are the criteria and rationales that will be used in the initial review of all applications for exceptions to the BLS ambulance staffing standard. All aspects of the application for an exception will be thoroughly evaluated and considered in totality. This information will help the Department to determine whether granting the exception is in the best interest of the EMS system and does not adversely affect patient care.

### **Affiliated EMS Workforce**

Based on the county of headquarters for the EMS agency, the Bureau will evaluate the total distinct number of certified Emergency Medical Responders (EMR) and Emergency Medical Technicians appearing on a licensed EMS agencies electronic roster. Rosters of agencies holding only a Quick Response Squad (QRS) license are excluded from this analysis. Counts will be reported by the county of residence reported by the certification holder to the Bureau via the EMS Electronic Registry. Higher priority for exceptions will be given to EMS agencies based in counties with smaller available workforces.

**Rationale:** The Commonwealth is diverse in the overall availability of certified EMS providers who are actively engaged in the practice of pre-hospital medicine. EMS agencies based in counties with a smaller affiliated and engaged workforce face additional challenges in being able to provide EMS services. Attached is Appendix A, which is a map that breaks the commonwealth down into four color coded tiers, based on the number of affiliated providers residing in that county.

### **Corrective Action Plan**

As part of the application process, EMS agencies are required to submit a detailed corrective action plan. This plan should lay out detailed, actionable, and time bound steps in addressing the structural workforce issues of the EMS agency.

Exceptions are not meant to be permanent solutions, but rather to relieve an entity of a temporary hardship. It is in the best interest of the EMS system and the patients that system serves for EMS agencies to continue to work to improve and ultimately meet the staffing standard as written. This criterion encourages EMS agencies to continue to improve recruitment and retention of competent and qualified EMS professionals.

A template is provided in Appendix B to provide a framework for this plan. This format is not required, but it is available as a resource. EMS agencies who need assistance in crafting their corrective action plan should contact their Regional EMS Council for technical assistance.

A corrective action plan that contains significant detail and offer specific solutions and timelines to implement those solutions will be given more weight during evaluation.

**Rationale:** In large part, exceptions will be granted, because an agency is able to comprehensively describe operational and human resources challenges. A detailed and actionable plan is necessary to ensure EMS agency improvement and future sustainability.

### **EMS Call Volume**

Call volume will be calculated by utilizing a two-year average of all types of EMS responses (911 and interfacility transfers). The average shall be calculated by utilizing the number of EMS responses for the two preceding calendar years (i.e. if applying for an exception in 2020, call volume from 2018 and 2019 would be averaged together). Agency submitted data will be compared against submissions to the State EMS Data Bridge. Agencies not currently submitting data to the State EMS Data Bridge shall not be

eligible for an exception, due to violating Section 8106 of the State EMS Act. Exception requests from EMS agencies with lower call volumes will be given more weight during evaluation.

EMS Call Volume	Tier
1 - 500 Calls	Priority 1
501 - 1000 Calls	Priority 2
1001 - 1500 Calls	Priority 3
1501 + Calls	Priority 4

**Rationale:** EMS agencies with lower call volumes have a greater difficulty in achieving economies of scale and have more difficulty maintaining a sustainable operation in the current health care reimbursement climate. Additionally, lower call volumes present a mitigation of risk to the number of patients being served by an EMS agency on a staffing exception.

**Participation in a Department Approved County or Broader Response Plan**

As part of the application process, EMS agencies are required to certify that they are part of a county or broader response plan. The Bureau will confirm this by reviewing currently approved plans. EMS agencies that are not part of a county or broader response plan and have greater than a 25% rate of non-response to EMS calls for service, for the immediate preceding calendar year, due to staffing, and not because a unit was assigned to another call, shall not be eligible for an exception until such time that they are participating in a county or broader response plan approved by the department.

Exception requests from EMS agencies that are part of a Department approved county or broader response plan will be given more weight during evaluation.

**Rationale:** Section 8140 of the State EMS Act authorizes the creation of a county or broader response plan, subject to the approval of the Department to outline how EMS responses will be handled if an assigned EMS unit is not available around the clock. Participation in a response plan helps ensure that the EMS system is well prepared and ensures that when a patient calls 911 that there is a plan for response.

**Rural Service Factor**

As part of the application process, EMS agencies are required to identify all current Pennsylvania municipalities where they hold primary service area responsibility. This applies only to primary service areas; it does not apply to areas to which mutual aid is provided. Exception request from EMS agencies that serve a municipality that is categorized as rural by *The Center for Rural Pennsylvania* will receive more weight.

**Rationale:** Organizations that provide service to rural political subdivisions are likely to face financial, operational, and logistical challenges in the provision of EMS in rural areas.