

STATEMENT OF EMERGENCY

202 KAR 7:560E

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, and welfare. Specifically, this emergency amendment is necessary to ensure adequate staffing of ambulances.

Senate Bill 150 (Regular Session 2020) ("SB 150") granted the Kentucky Board of Emergency Medical Services (the "Board") the authority to waive or modify certain statutes and regulations related to the EMS profession during the State of Emergency declared by the Governor in Executive Order 2020-215. *See* SB 150 § 1(13). On or about April 14, 2020, the Board filed an emergency waiver and modification of 202 KAR 7:560 with the Secretary of State. The waiver and modification waived (1) the requirement that paramedics staff at least 25% of Class I and Class IV Advanced Life Support (ALS) ambulances and (2) the requirement that ambulances be driven by emergency medical technicians (EMTs), providing instead that ambulances could be driven by "[a] driver certified in CPR and who has had an emergency vehicle operator's course". The Board's modification and waiver of 202 KAR 7:560 was ratified and approved by the General Assembly until April 14, 2022. *See* House Joint Resolution 1 (Special Session 2021) § 4(29)(k); Senate Bill 25 (Regular Session 2022) § 4(27)(k).

On March 30, 2022, the Board filed emergency and ordinary amendments to 202 KAR

7:560 to allow emergency medical responders (EMRs) to drive ambulances instead of EMTs.¹ The amendments also waived the requirement that paramedics staff at least 25% of Class I and Class IV ALS ambulances. Under the March 30, 2022 amendments and these amendments, Class I ALS agencies must instead have a paramedic on-duty at all times and all Class IV ALS ambulances must be staffed with either an Advanced EMT or a paramedic. Modifications to the paramedic staffing requirements are necessary because, due to staffing shortages, it is difficult for some agencies – particularly smaller ones – to ensure that they have enough paramedics on-duty to staff 25% of their ambulances.

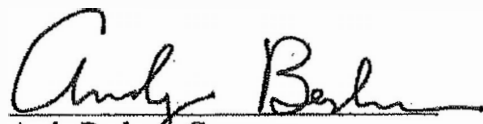
At a duly called meeting of the Board on April 14, 2022, Judge/Executive Houston Wells, on behalf of the Kentucky County Judge/Executive Association, requested that the Board extend the provision in the Board's modification and waiver of 202 KAR 7:560 that allowed individuals who are certified in CPR and have completed an emergency vehicle operator's course to drive ambulances. This request was approved by the Board. At a duly called special meeting of the Board on April 21, 2022, the Board approved this emergency amendment and its companion ordinary amendment. This emergency amendment differs from the emergency amendment filed on March 30, 2022, in that it allows individuals who are certified in CPR and have completed an emergency vehicle operator's course to drive ambulances until September 1, 2022, after which ambulance drivers must be certified EMRs (as required under the March 30, 2022 emergency amendment). The modifications to the paramedic minimum staffing requirements for Class I and Class IV ALS agencies remain unchanged from the March 30, 2022 amendments.

Emergency medical services across the Commonwealth continue to experience staffing

¹ See Section 1, subsections (1)(a), (2)(a), (3)(a), (4)(a), (5)(a), (6)(a)(1), (7)(a)(1), and (8)(a). Section 1(17) is also stricken because under the March 30, 2022 amendments and these amendments, EMRs may be assigned to drive ambulances instead of EMTs and, therefore, Section 1(17) is no longer necessary.

shortages. Therefore, a temporary extension of ambulances services' ability to assign drivers who are CPR-certified and have completed an emergency vehicle operator's course is critical to ensuring that agencies can adequately staff ambulances. This extension is intended to allow time for additional personnel to become certified EMRs by September 1, 2022. Additionally, the removal of the requirement that paramedics staff at least 25% of Class I and Class IV ALS ambulances is necessary to ensure that such agencies can satisfy the minimum ambulance staffing requirements and utilize all available ambulances. However, Class I ALS agencies are required to have at least one (1) paramedic on-duty at all times and all Class IV ALS ambulances must be staffed with either an Advanced EMT or a paramedic.

An ordinary administrative regulation is not sufficient to address current EMS staffing shortages, which pose an imminent threat to public health, safety, and welfare. This emergency amendment is necessary to modify the minimum staffing requirements for ambulances to ensure that agencies can utilize their available ambulances. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is not identical to this emergency administrative regulation. EMS staffing shortages are expected to continue and, therefore, under the ordinary administrative regulation, agencies will continue to be permitted to assign EMRs as ambulance drivers and Class I and Class IV ALS agencies will not be required to staff at least 25% of their ambulances with paramedics.


Andy Beshear, Governor


Philip Dietz, Chair
Kentucky Board of Emergency
Medical Services

1 KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

2 Kentucky Board of Emergency Medical Services

3 (Emergency Amendment)

4 202 KAR 7:560E. Ground vehicle staff.

5 RELATES TO: KRS 189.910-189.950, 311A.030, 311A.190

6 STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of
8 Emergency Medical Services to exercise all administrative functions in the regulation of the
9 emergency medical services system and the licensing of ambulance services and medical first
10 response agencies, except those regulated by the Board of Emergency Medical Services or the
11 Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate
12 administrative regulations for the licensing, inspection, and regulation of ambulance providers and
13 medical first response agencies. This administrative regulation establishes the minimum staffing
14 requirements for ground vehicles.

15 Section 1. Staffing Requirements. (1) Each Class I agency BLS ambulance shall at
16 minimum, be staffed by:

17 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
18 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
19 responder (EMR) [technician (EMT)]; and

20 (b) An attendant certified as an emergency medical technician (EMT).

1 (2) Each Class I agency ALS ambulance shall at minimum be staffed by:

2 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
3 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
4 responder (EMR) [technician (EMT)]; and

5 (b) An attendant certified as an Advanced EMT or licensed as a paramedic.

6 1. Each Class I ALS agency providing primary 911 emergency ambulance service shall
7 ensure that there is a [an on-duty] paramedic on-duty at all times [shall staff at least twenty-five
8 (25) percent of the agency's staffed ambulances at any time during a twenty-four (24) hour period].

9 2. To ensure compliance, each agency shall maintain its work schedules from the previous
10 twelve (12) months until reviewed by board staff during its annual inspection.

11 (3) Each Class I agency operating an ALS ambulance providing a BLS level of care shall
12 at minimum be staffed by:

13 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
14 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
15 responder (EMR) [technician (EMT)]; and

16 (b) An attendant certified as an emergency medical technician (EMT).

17 (4) Each Class II agency shall at minimum be staffed by:

18 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
19 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
20 responder (EMR) [technician (EMT)]; and

21 (b) An attendant certified as an emergency medical technician (EMT).

22 (5) A Class III Adult Critical Care ambulance agency shall at minimum be staffed by:

23 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle

1 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
2 responder (EMR) [technician (EMT)];

3 (b) An attendant licensed as a paramedic; and

4 (c) One (1) licensed:

5 1. Registered nurse;

6 2. Advanced practice registered nurse;

7 3. Respiratory therapist;

8 4. Physician assistant;

9 5. Physician; or

10 6. Additional paramedic.

11 (6) (a) Each Class III Pediatric Specialty Care Ambulance Agency shall at minimum be
12 staffed by:

13 1. Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
14 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
15 responder (EMR) [technician (EMT)];

16 2. A primary attendant licensed as a registered nurse; and

17 3. One (1) additional attendant licensed as a:

18 a. Registered nurse;

19 b. Advanced practice registered nurse;

20 c. Respiratory therapist;

21 d. Physician assistant;

22 e. Physician; or

23 f. Paramedic.

1 (b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1)
2 year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired
3 through successful completion of a validated examination administered by an independent entity
4 not associated with a specific course or program of education.

5 (7) (a) Each Class III Neonatal Specialty Care Ambulance Agency shall at minimum be
6 staffed by:

7 1. Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle
8 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
9 responder (EMR) [~~technician (EMT)~~];

10 2. A primary attendant licensed as a registered nurse; and

11 3. One (1) additional attendant licensed as:

12 a. An advanced practice registered nurse;

13 b. A respiratory therapist;

14 c. A physician assistant;

15 d. A physician;

16 e. A registered nurse; or

17 f. Paramedic.

18 (b) Any attendant hired after January 1, 2020 shall acquire and maintain within one (1)
19 year of hire, a specialty certification in Pediatric Critical Care or Neonatal Critical Care acquired
20 through successful completion of a validated examination administered by an independent entity
21 not associated with a specific course or program of education.

22 (8) Each Class IV agency operating a BLS ambulance shall at minimum be staffed by:

23 (a) Until September 1, 2022, a driver certified in CPR who has had an emergency vehicle

1 operator's course. On and after September 1, 2022, a [A] driver certified as an emergency medical
2 responder (EMR) [technician (EMT)]; and

3 (b) An attendant certified as an emergency medical technician (EMT).

4 (9) Each Class IV service operating an ALS ambulance shall at minimum be staffed by:

5 (a) A driver certified as an emergency medical technician (EMT); and

6 (b) An attendant certified as an Advanced EMT or licensed as a paramedic.

7 1. ~~[Each Class IV ALS agency that provides emergency and nonemergency transportation~~
8 ~~for restricted locations, such as industrial sites or other sites, shall ensure an on-duty paramedic~~
9 ~~staffs at least twenty-five (25) percent of the agency's staffed ambulances at any time during a~~
10 ~~twenty-four (24) hour period.~~

11 2.] To ensure compliance, each agency shall maintain its work schedules from the previous
12 twelve (12) months until reviewed by board staff during its annual inspection.

13 (10) Each Class VI BLS medical first response agency shall at minimum be staffed by a
14 certified:

15 (a) Emergency medical responder (EMR); or

16 (b) Emergency medical technician (EMT).

17 (11) Each Class VI ALS medical first response agency shall at minimum be minimally
18 staffed by:

19 (a) A certified Advanced EMT; or

20 (b) A licensed paramedic.

21 (12) Each Class VIII BLS agency shall be minimally staffed by a certified:

22 (a) Emergency medical responder (EMR); or

23 (b) Emergency medical technician (EMT).

1 (13) Each Class VIII ALS agency shall be minimally staffed by:

2 (a) A certified Advanced EMT; or

3 (b) A licensed paramedic.

4 (14) Each Class I ALS, Class III ACC, Class IV ALS, and Class VI ALS agency shall have
5 a licensed paramedic on duty at all times.

6 (15) At all times, the attendant shall monitor the patient and remain with the patient in the
7 patient compartment.

8 (16) This administrative regulation shall not prevent an agency from utilizing staff other
9 than those required by this administrative regulation in:

10 (a) Disasters;

11 (b) Mass casualty incidents; or

12 (c) Extraordinary scene conditions that would impair the safety of the patient or personnel
13 operating at the scene.

14 ~~{(17) A certified emergency medical responder who was employed by a Class I, II, or III~~
15 ~~agency as a driver prior to January 1, 2018 may continue in that role if the emergency medical~~
16 ~~responder's employment relationship with the Class I, II, or III agency does not lapse.}~~

17 (17) ~~{(18)}~~ Alternative staff shall not operate a licensed vehicle unless the:

18 (a) Agency administrator so directs; and

19 (b) Vehicle is out of service and not subject to an emergency response.

20 Section 2. Motor Vehicle Operator Requirements. (1) Each person operating a vehicle
21 shall:

22 (a) Be at least eighteen (18) years of age;

23 (b) Hold a valid driver's license in any state or territory of the United States; and

- 1 (c) Complete at least four (4) hours of driver training and education every two (2) years.
- 2 (2) The driver training and education shall consist of a:
- 3 (a) Review of driving a vehicle under emergency conditions;
- 4 (b) Review of KRS 189.910 through 189.950 regarding operation of emergency vehicles;
- 5 (c) Demonstration by the student of forward and back-up driving maneuvers in a controlled
- 6 situation, such as in an obstacle course designed specifically for this purpose; and
- 7 (d) Review of defensive driving techniques and procedures with hands-on experience or
- 8 exposure by visual aids or planned demonstrations.

9 Section 3. Public Notice of Negative Action. The board office shall cause to be published,

10 on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name

11 of any licensed agency that is fined, placed on probationary status, placed on restricted status,

12 suspended, or had a license revoked.

APPROVED BY THE BOARD ON: April 21, 2022

Philip Dietz
Philip Dietz, Chair
Kentucky Board of Emergency Medical Services

4.26.2022
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2022 at 1:00 PM ET at the Kentucky Board of Emergency Medical Services, 2464 Fortune Drive, Suite 195, Lexington, Kentucky 40509. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: John K. Wood, counsel for the Kentucky Board of Emergency Medical Services, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, Phone: (859) 225-4714, Email: administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 202 KAR 7:560E

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: 202 KAR 7:560 establishes the minimum staffing requirements for ground vehicles.

(b) The necessity of this administrative regulation: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 311A.030 by establishing the minimum staffing requirements for ground vehicles.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will allow personnel certified in CPR and who have had an emergency vehicle operator's course to drive ambulances until September 1, 2022, after which ambulance drivers must be certified emergency medical responders (EMRs). This amendment also removes the requirement that Class I and Class IV ALS agencies staff at least 25% of their ambulances with paramedics. Instead, Class I ALS agencies must have at least one (1) paramedic on-duty at all times and all Class IV ALS ambulances must be staffed with either an Advanced EMT or a paramedic.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to mitigate staffing concerns and ensure that ambulances are adequately staffed and that available ambulances can be utilized.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 311A.030 requires the Board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the minimum staffing requirements for ground vehicles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by

either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies will be permitted to assign personnel certified in CPR and who have had an emergency vehicle operator's course to drive ambulances until September 1, 2022, after which ambulance drivers must be certified emergency medical responders (EMRs). Class I ALS agencies will be required to have at least one (1) paramedic on-duty at all times. All Class IV ALS ambulances will need to be staffed with either an Advanced EMT or a paramedic. However, neither Class I nor Class IV ALS agencies will be required to have paramedics staffing at least 25% of their ambulances.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities affected will benefit by being permitted to assign personnel certified in CPR and who have had an emergency vehicle operator's course to drive ambulances until September 1, 2022. After September 1, 2022, the entities affected will benefit by being permitted to assign EMRs to drive ambulances. Class I and Class IV ALS agencies will benefit from not being required to have paramedics staffing at least 25% of their ambulances.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: The Board shall pay for all administrative costs of reviewing compliance with applicable requirements.

(a) Initially: There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(b) On a continuing basis: There will be no cost to any entity identified in question (3), other than administrative costs that may be incurred in recruiting and maintaining qualified attendants.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Emergency Medical Services is a state agency that receives its annual budget from the state government.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation did not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment establishes minimum staffing certification requirements for ground vehicles, which apply to all affected entities to ensure that all affected personnel meet the minimum qualifications.

FISCAL NOTE

202 KAR 7:560E

Contact Person: John K. Wood, (859) 225-4714, administrativeregulations@wgmfirm.com

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The administrative regulation will impact all Kentucky Licensed Ground Ambulance Services and Kentucky Medical First Response agencies.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 311A.030. No federal statutes necessitate this administrative regulation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will generate no revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will generate no revenue for subsequent years.

(c) How much will it cost to administer this program for the first year?

This administrative regulation will not impose any costs on state or local government.

(d) How much will it cost to administer this program for subsequent years?

This administrative regulation will not impose any costs on state or local government.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): This administrative regulation will not generate revenue.

Expenditures (+/-): This administrative regulation will not impose any costs.

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate any cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated

entities for subsequent years?

This administrative regulation will not generate any cost savings.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation will not impose any costs.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation will not impose any costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-): This administrative regulation will not generate any cost savings.

Expenditures (+/-): This administrative regulation will not impose any costs.

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies.

This administrative regulation will not have a major economic impact.