

THE REGIONAL EMERGENCY MEDICAL SERVICES COUNCIL OF NEW YORK CITY, INC.

THE PROCESS FOR THE TRANSFER OF AMBULANCE SERVICE OPERATING AUTHORITY OF AN EXISTING AMBULANCE SERVICE

In order to determine if a transfer of ambulance service operating authority of an existing ambulance service may occur, the Regional Council adopted a procedure that consists of the following components:

1. The Application
2. Public Notice
3. Review of Competency and Fitness
4. Regional Council Determination
5. NYS Department of Health Determination
6. Transfer of Operating Authority

Article 30, Section 3010 as amended July 1, 1993 permits EMS services to transfer operating authority to a new owner(s) following a review of the competency and fitness of the new operator(s) and with the approval of the Regional Emergency Medical Services Council of New York City (Regional Council) and the New York State Department of Health (Department).

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 procedures for a new or expanded service application.

DEFINITION OF COMPETENCY AND FITNESS

Competent means any proposed operator of any ambulance service or advanced life support first response service who is already or has been within the last ten (10) years an incorporation, director, sponsor, principal stockholder, or operator of any services/agencies, which is rendering or did render a substantially consistent high level of care, and has been issued an operating certificate by any or all of the following:

- The New York State Department of Health or equivalent in any other State,
- The New York State Department of Social Services or equivalent in any other State,
- The New York State Department of Mental Hygiene or equivalent in any other State,
- The New York State Department of Transportation or equivalent in any other State.

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DEFINITION OF COMPETENCY AND FITNESS (continued)

A **consistently high level of care** will not be considered to have been rendered where there have been violations of the state EMS code, or other applicable rules and regulations, that:

- (i) threatened to directly affect the health, safety, or welfare of any patient, and
- (ii) were recurrent or were not promptly corrected.

Fit means that the operator or proposed operator:

- (i) has not been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs; and
- (ii) is not or was not subject to a state or federal administrative order relating to fraud or embezzlement, unless the commissioner finds that such conviction or such order does not demonstrate a present risk or danger to patients or the public.

For complete definition of Competency and Fitness, refer to Article 30 of the Public Health Law of the State of New York, Section 3005 (8).

ALLOWABLE TRANSFER CIRCUMSTANCES

Transfers of operating authority are allowable in the following circumstances with approval of the Regional Council and the Department:

- any change in the individual who is the sole proprietor [3010.2(a)]
- any change that results in adding new partners [3010.2(b)]
- any transfer, assignment or other disposition of ten percent or more of a corporation's stock [3010.2(c)]
- 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 Regional Council and the Department for guidance.

For complete definition of Allowable Transfer Circumstances, refer to Article 30 of the Public Health Law of the State of New York, Section 3010 (2).

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THE APPLICATION

1. The applicant is responsible for responding to the "criteria" in its application.
2. The appropriate time to obtain and submit data and material as may be necessary to respond to such criteria is prior to the date the application is deemed complete. If, at any time prior to the date the application is deemed complete, an applicant finds that it will require additional time to obtain data necessary to respond to the criteria, the applicant will be permitted to withdraw the application without prejudice.
3. It is the applicant's responsibility to verify, that prior to submission, the application is properly completed and that all necessary attachments are submitted in accordance with all policies, rules and regulations.
4. All applications shall be complete, submitted on the prescribed State Form, be notarized and affirmed, be accompanied by all required attachments, endorsements, evidence and other supporting and explanatory material the applicant wishes the Regional Council to consider.
5. All applications must be accompanied by the application fee of \$1,200.00. All checks or money orders are to be made payable to The Regional EMS Council of New York City, Inc. The application fee is to be used to cover any expenses that occur to the Council in the review process. If the review process costs less than \$1,200.00 the balance will be returned to the applicant. If the process exceeds the cost of \$1,200.00 the applicant will be billed for the balance.
6. The complete application is the basis for the determination made by the Regional Council and the Department.
7. The applicant shall submit to the Regional Council duplicate copies of the following original¹ documents:
 - a) A completed Application for New EMS Service, Expansion of Primary Territory or Transfer of Ownership (DOH 3777).
 - b) Complete, notarized and sworn Affirmation of Competency and Fitness (DOH 3778).
 - c) 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.

¹ May be an original or first generation copy in original format with original signatures

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THE APPLICATION (continued)

- d) A complete resume for the new owner(s)/operators(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 ten (10) years.
- e) A list of any malpractice actions within the past ten (10) years that relate to patient care or harm and the outcome of each.
- f) A copy of any stock sale and/or transfer agreement or other contract or legal agreement.
- g) A listing of all property, plant, equipment, and stock involved in the transfer. *[Note: Disclosure of the financial values of each is not required.]*
- h) A complete listing of the final owner(s).
- i) A copy of the most current NYS DOH Ambulance Service Operating Certificate of the service to be transferred
- j) A list and/or copy of orders or deficiency notices issued within the past ten (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.

THE APPLICATION PROCESS

The application submission process is as follows:

1. Two original¹ copies with original signatures and ten (10) copies of the completed application and check or money order in the amount of \$1,200.00 are to be sent to the Offices of the Council as follows:

The Regional EMS Council of New York City, Inc.
Riverside Drive, Suite 1370
New York, New York 10115
Attention: Ambulance Committee

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2. All applications when received will be reviewed by staff to ensure that all requirements have been met and that all documents are complete. (The staff of the Council will review the application for completeness, not for merit)

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THE APPLICATION PROCESS (continued)

3. Upon receipt of appropriately signed and notarized copies of the Affirmation of Competency and Fitness, the NYS DOH Area Office will be notified to begin collecting information for the Regional Council's review of competency and fitness. The Regional Council staff and the DOH Area Office 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 Regional Council and the Department are required, joint development of all required information is essential and will expedite the process.
4. If the Ambulance Committee deems the application to be incomplete, the applicant will be notified within seven (7) business days from the date of receipt in order to acknowledge receipt of application, obtain missing items, and clarify information. A check-list will be furnished identifying missing information.
5. If the Ambulance Committee deems the application to be complete, the applicant will be notified via certified mail within seven (7) business days of the date of receipt of the application. The applicant will be advised of the date the application will be considered.
6. The Regional Council staff will forward a copy of the complete application and affirmation to the DOH Area Office within seven (7) business days of the application being deemed complete.
7. If the application is found to be incomplete the applicant will be given sixty (60) days to complete the application. If at the end of the sixty (60) day period the applicant has not sent in a completed application or a request for an extension of the time period, a final bill of expenses will be sent to the applicant and a refund for any of the \$1,200.00 not expended in the review of the application.
8. The Ambulance Committee shall review the application at its next regularly scheduled meeting following receipt of all required documentation, including the NYS DOH Area Office information from all pertinent agencies, and responses from public notice regarding competency and fitness. The Department's Area Office will strive to have their information available to the Regional Council at least two (2) weeks prior to the scheduled Regional Council meeting. The Chairperson of the Ambulance Committee of the Regional EMS Council of NYC shall present the Ambulance Committee report, including the summary and specific recommendations to the Regional Council at its next regularly scheduled meeting for its review of Competency and Fitness.
9. The Regional Council meeting is a public meeting and the vote for the review of fitness and competency shall be conducted by a written vote for the Transfer of Operating Authority, using the definition of majority from the Regional Council's By-Laws.

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THE APPLICATION PROCESS (continued)

10. The Regional Council shall forward to the Department within seven (7) business days, one complete original copy of the application and competency affirmation and the written Regional Council decision. A complete record of the process will be maintained including the meeting minutes and a record of the written vote and any Ambulance Committee recommendations and vote record. The Regional Council will include a detailed rationale and explanation for any negative decision.
11. The Department will review the application and the Regional Council decision and within ten (10) business days of receiving the decision, confirm or deny the Regional Council decision and notify the applicant and Regional Council accordingly.
12. Approval of the application and subsequent transfer of operating authority will be granted only upon approval of both the Regional Council and the Department.

PUBLIC NOTICE

- The Offices of the Regional Council shall conduct a first class mailing to:
 - All existing ambulance services, advanced life support first response agencies, hospitals operating in the region, and each municipality proposed to be served.
- Public Notice shall be published in The New York Times only.
- The purpose of the Public Notice mailings and publication in The New York Times shall be for the sole purpose of notifying the general public of the pending transfer of ambulance agency operating authority to a new owner and shall request that anyone with information of value regarding the competency and fitness of the proposed new owner/operator communicate this information in writing to the Regional Council within **ten (10) business days** of the date of publication.
- The public notice shall be postmarked no more than (7) seven business days after the application has been deemed complete.
- The notice will include the following:
 - A solicitation of response to the application within **ten (10) days** of publication
 - Notification of the availability for review of the application at the Offices of the Regional EMS Council by appointment.

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- Copies of the notification and the list of recipients will be kept on file at the Offices of the Regional Council as part of the permanent record of the application.

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1. The Chair-person of the Ambulance Committee shall present the Ambulance Committee report, including the summary and specific recommendations to the Regional Council at its next regularly scheduled meeting.
2. The recommendation of the Ambulance Committee comes to the floor of the Council as a seconded motion for consideration.
3. The Regional Council is a public meeting and the vote for the review of competency and fitness shall be conducted by written vote, using the definition of majority from the Regional Council's By-Laws.
4. Any member of the Regional Council who has a direct interest in a pending application shall abstain from voting and so announce their intent to abstain from voting on this issue. Direct interest means the member is a party to the proposed transfer.

ISSUANCE OF OPERATING AUTHORITY

1. The Regional Council shall provide written notice of its determination to the Department within seven (7) business days along with one complete original copy of the application and competency affirmation.
2. The Department will review the application and the Regional Council decision and within ten business days of receiving the decision, confirm or deny the Regional Council decision and notify the applicant and Regional Council accordingly.
3. Approval of the application and subsequent transfer of operating authority will be granted only upon approval of both the Regional Council and the Department.

The following forms are required and can be downloaded from the NYS Department of Health website:

- **NYS DOH Affirmation of Fitness and Competency** (Form 3778) –
<http://www.health.state.ny.us/nysdoh/ems/pdf/doh3778.pdf>
- **NYS DOH Application for New EMS Service, Expansion of Primary Operating Territory, or Transfer of Ownership** (Form 3777) –
<http://www.health.state.ny.us/nysdoh/ems/pdf/doh3777.pdf>