

# Ambulance Association of Pennsylvania

## Comments on EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 2006 Draft Revision 5-16-06

### **§2. Legislative findings and intent**

**(a) Findings.**—The General Assembly finds it to be in the public interest to assure that there are high quality and coordinated emergency and urgent medical services readily available to the people of Pennsylvania to prevent premature death and reduce suffering and disability that arise from severe illness and injury, and that this interest is best achieved through a regulated and coordinated emergency medical services system. The General Assembly further finds that it is in the public interest that the emergency medical services system also serve other persons in Pennsylvania who require medical care to address illness or injury, who need transport to a hospital or other health care facility to receive such care, and who require medical assessment, assistance or treatment during transport to or from such facility. The General Assembly also finds that it serves the public interest if the emergency medical services system is able to quickly adapt and evolve to meet the needs of the people of Pennsylvania for emergency and urgent medical care and to reduce their illness and injury risks.

**Comment:** The General Assembly needs to acknowledge and recognize in its findings that emergency medical services is a vital and necessary public service. Consider addition.

**(a) Findings.**—The General Assembly acknowledges that emergency medical services is an essential public service and frequently the Commonwealth’s health care safety net for many Pennsylvanians and finds it to be in the public interest to assure that there are high quality and coordinated emergency and urgent medical services readily available to the people of Pennsylvania to prevent premature death and reduce suffering and disability that arise from severe illness and injury, and that this interest is best achieved through a regulated and coordinated emergency medical services system. The General Assembly further finds that it is in the public interest that the emergency medical services system also serve other persons in Pennsylvania who require medical care to address illness or injury, who need transport to a hospital or other health care facility to receive such care, and who require medical assessment, assistance or treatment during transport to or from such facility. The General Assembly also finds that it serves the public interest if the emergency medical services system is able to quickly adapt and evolve to meet the needs of the people of Pennsylvania for emergency and urgent medical care and to reduce their illness and injury risks.

**Rationalization:** *EMS faces an identity crisis and is not recognized by the General Assembly or the Administration as an essential vital public service. Until such recognition is achieved, EMS system issues, retention, recruitment, funding and reimbursement issues will not change.*

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**(b) Intent.—**

- (1) It is the intention of the General Assembly that this act be liberally construed to establish and maintain an effective and efficient emergency medical services system which is accessible on a uniform basis to all Pennsylvania residents and to visitors to this Commonwealth.
- (2) It is also the intention of the General Assembly that residents and visitors to this Commonwealth have prompt and unimpeded access to urgent and emergency medical care throughout this Commonwealth.
- (3) It is further the intention of the General Assembly that the Department of Health continually assess and, as needed, revise the functions of emergency medical services agencies and providers, and other components of the emergency medical services system that it regulates under this act, to improve the quality of emergency medical services provided in this Commonwealth, to have the emergency medical services system adapt to changing needs of the people of this Commonwealth, and to promote the increase and retention of persons willing and qualified to serve as emergency medical services providers in this Commonwealth.
- (4) Finally, it is the intention of the General Assembly that the emergency medical services system be fully integrated with the overall health care system to identify, modify and manage illness and injury and illness and injury risks.

**Comment: The General Assembly's intent must be to promote and support emergency medical services as an essential public service.**

- (1) It is the intention of the General Assembly to acknowledge, promote and support emergency medical services as an essential public service.
- [1](2) It is also the intention of the General Assembly that this act be liberally construed to establish and maintain an effective and efficient emergency medical services system which is accessible on a uniform basis to all Pennsylvania residents and to visitors to this Commonwealth.
- [2](3) It is also the intention of the General Assembly that residents and visitors to this Commonwealth have prompt and unimpeded access to urgent and emergency medical care throughout this Commonwealth.
- [3](4) It is further the intention of the General Assembly that the Department of Health continually assess and, as needed, revise the functions of emergency medical services agencies and providers, and other components of the emergency medical services system that it regulates under this act, to improve the quality of emergency medical services provided in this Commonwealth, to have the emergency medical services system adapt to changing needs of the people of this Commonwealth, and to promote the increase and retention of persons willing and qualified to serve as emergency medical services providers in this Commonwealth.
- [4](5) Finally, it is the intention of the General Assembly that the emergency medical services system be fully integrated with the overall health care system to identify, modify and manage illness and injury and illness and injury risks.

**Rationalization:** *EMS faces an identity crisis and is not recognized by the General Assembly or the Administration as an essential vital public service. Until such recognition is achieved, EMS system issues, retention, recruitment, funding and reimbursement issues will not change. The acknowledgement or intent of the General Assembly to promote and support emergency medical services as an essential public service may only strengthen the emergency medical services system today and into the future.*

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**§3. Definitions**

**“Advanced emergency medical services” or “advanced EMS.”** BLS and ALS skills.

**Comment: Consider changes in this definition.**

**“Advanced emergency medical services” or “advanced EMS.”** The provision of [BLS and ALS] skills that are, in accordance with this Act and its regulations, beyond the scope of practice of an emergency medical technician. An assessment performed by an ALS crew as part of an ALS emergency response that was necessary because of the patient’s reported condition at the time of dispatch was such that only an ALS crew was qualified to perform the assessment is also considered advanced emergency medical services or advanced EMS.

**Rationalization:** *The National Medicare Fee Schedule for Ambulance Services defines reimbursement based on the level of service provided to the beneficiary. Including the provision of BLS skills in this definition may confuse Medicare and other third-party payors and produce unexpected or negative financial repercussions on ambulance services. A definition that mirrors the National Medicare Fee Schedule for Ambulance Services and the language contained therein, specifically 67 FR 9132, §414.605 Definitions, is a necessity for the financial viability of ambulance services.*

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**“Ambulance.”** A ground, water or air vehicle, other than a stretcher vehicle, that is maintained or operated for the purpose of providing EMS to and transportation of patients.

**Comment: Consider changes in this definition.**

**“Ambulance.”** A ground, water or air vehicle[, other than a stretcher vehicle,] that is maintained or operated for the purpose of providing EMS to and transportation of patients.

**Rationalization:** *The inclusion of “a stretcher vehicle” in a definition of ambulance that cites the transportation of patients, although exclusionary, lends credence to a vehicle that should be banned from existence.*

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**“Basic emergency medical services” or “basic EMS.”** BLS skills and limited ALS skills as specified by the department.

**Comment: Consider changes in this definition.**

**“Basic emergency medical services” or “basic EMS.”** BLS skills [and limited ALS skills] as specified by the department.

**Rationalization:** *The National Medicare Fee Schedule for Ambulance Services defines reimbursement based on the level of service provided to the beneficiary. Including the provision of "and limited ALS skills in this definition may confuse Medicare and other third-party payors and produce unexpected or negative financial repercussions on ambulance services. A definition that mirrors the National Medicare Fee Schedule for Ambulance Services and the language contained therein, specifically 67 FR 9132, §414.605 Definitions, is a necessity for the financial viability of ambulance services.*

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**“Emergency.”** A physiological or psychological illness or injury of an individual requiring immediate EMS to prevent or protect against loss of life or a deterioration in physiological or psychological condition.

**Comment: Consider changes in this definition.**

**“Emergency.”** A physiological or psychological illness or injury [of an individual] such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of [requiring] immediate EMS [to prevent or protect against loss of life or a deterioration in physiological or psychological condition] to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment of bodily functions or serious dysfunction of any bodily organ or part.

**Rationalization:** *It is important to have a definition for “Emergency” that mirror the “Prudent Layperson” definition of emergency found the Social Security Act, in many health insurance plans, the Commonwealth’s Managed Care statute and the Emergency Medical Treatment and Active Labor Act (EMTALA).*

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**“Emergency medical services” or “EMS.”**

- (i) The medical care, including medical assessment, monitoring, treatment, and transportation that may be provided to a person in responding to an actual, reported or perceived emergency to prevent or protect against loss of life or a deterioration in physiological or psychological condition, and to address pain or morbidity associated with the person’s condition.
- (ii) The interfacility transport of a person, or the transport of a person to or from a facility, with medical assessment, monitoring or treatment of the person who, due to the person’s condition, requires medical assessment, monitoring or treatment during the transport.
- (iii) The transport by vehicle of a person on a stretcher, and the associated lifting of the person on to or off of the stretcher.

**Comment: Consider changes in this definition.**

**“Emergency medical services” or “EMS.”**

- (i) The medical care, including medical assessment, monitoring, treatment, and transportation that may be provided to a person in responding to an actual, reported or perceived emergency to prevent or protect against loss of life or a deterioration in physiological or psychological condition, and to address pain or morbidity associated with the person’s condition.

(ii) The interfacility transport of a person, or the transport of a person to or from a facility, other acute care, rehabilitation, clinic, physician office or other health care facility with medical assessment, monitoring or treatment of the person who, due to the person's condition, requires medical assessment, monitoring or treatment during the transport.

(iii) The transport by [vehicle]ambulance of a person on a stretcher, and the associated lifting of the person on to or off of the stretcher.

**Rationalization:** *The definition of "facility" in this Draft would not include the transportation routinely performed to and from a "facility" that does not fall under the Health Care Facilities Act. The word vehicle should be deleted and replaced by ambulance in (iii). The inclusion of the word "vehicle" in section (iii) lends credence to the idea that EMS would include the provision of stretcher van transportation. This may also be accomplished by changing the definition of "facility".*

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**"Emergency medical services agency" or "EMS agency."** An entity that engages in the business or service of providing EMS to patients within this Commonwealth by operating one or more of the following:

- (i) An ambulance.
- (ii) An ALS squad vehicle.
- (iii) A BLS squad vehicle.
- (iv) A QRS.
- (v) A stretcher vehicle.
- (vi) A special operations EMS team, which may include but need not be limited to, a tactical EMS response team, a wilderness EMS response team, a mass gathering EMS team, and an urban search and rescue team.
- (vii) Another vehicle or service that provides EMS outside of a health care facility, as prescribed by the department by regulation.

**Comment: Consider changes in this definition.**

**"Emergency medical services agency" or "EMS agency."** An entity that engages in the business or service of providing EMS to patients within this Commonwealth by operating one or more of the following:

- (i) An ambulance.
- (ii) An ALS squad vehicle.
- (iii) A BLS squad vehicle.
- (iv) A QRS.
- [(v) A stretcher vehicle.]
- (vi) A special operations EMS team, which may include but need not be limited to, a tactical EMS response team, a wilderness EMS response team, a mass gathering EMS team, and an urban search and rescue team.
- (vii) Another vehicle or service that provides EMS outside of a health care facility, as prescribed by the department by regulation.

**Rationalization:** *The term "stretcher vehicle" must be deleted from this revision. The term stretcher van in association with emergency medical services and the provision of EMS to*

patients cannot coexist. Patients belong in ambulances while passengers belong in stretcher vans.

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**“Patient.”** An individual for whom an EMS provider is providing or required to provide EMS on behalf of an EMS agency.

**Comment: Consider changes in this definition.**

**“Patient.”** An individual for whom an EMS provider is providing or required to provide EMS on behalf of an EMS agency, or whose condition may require medical monitoring, observation, treatment or care for an illness, disease or injury or other disability.

**Rationalization:** *While medical assessment, monitoring or treatment is included in the definition of “Emergency medical services or EMS”, the reinforcement of medical monitoring, observation, treatment or care for an illness, disease or injury or other disability mirrors the definition of patient found in other Commonwealth statutes, solidifies the position that “patients” are transported in ambulances and assists in the justification of reimbursement for non-emergency ambulance transportation.*

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**“Rural area.”** An area outside urbanized areas as defined by the United States Bureau of the Census.

**Comment: Consider changes in this definition.**

**“Rural area.”** An area [outside] that is designated as a rural area by any law or regulation of the Commonwealth, or that is located outside a Metropolitan Statistical Area, or an area within a Metropolitan Statistical Area that is identified as rural by the Goldsmith modification [urbanized areas as defined by the United States Bureau of the Census] or as defined in the National Ambulance Fee Schedule.

**Rationalization:** *While the Department views a “rural area” as an area that may require technical or financial assistance as part of the Statewide EMS Development Plan, it is critical that this definition mirrors federal and state statute especially as it pertains to reimbursement and the National Ambulance Fee Schedule.*

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**§ 4. Emergency medical services system programs**

(11) A standardized data collection system that covers all phases of the EMS incident, including, but not limited to, the dispatch report and contact, treatment and transport of a patient in the EMS system.

**Comment: Consider change in §4, (11)**

(11) The provision of [A]a standardized statewide data collection system that covers all phases of the EMS incident, including, but not limited to, the dispatch report and contact, treatment and transport of a patient in the EMS system.

**Rationalization:** *While we respect the market and freedom of choice, the failure of the Department to name one vendor through a RFP or bid process for electronic data collection has cost some ambulance services thousands of dollars in losses and made to collection of data on a statewide basis more difficult. It is time to name one vendor and secure one data collection software that is universal across the Commonwealth and provided, like PennFIRS, free of charge to ambulance services.*

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**§ 5. Duties of department**

**(b) Authority.**—The department shall be the lead agency for EMS in this Commonwealth. The department shall have authority to:

(12) Promulgate regulations governing the solicitation of subscriptions and collection of funds from the public by EMS agencies, in consultation with the Bureau of Consumer Protection in the Office of Attorney General.

**Comment: Strongly urge changes to (b)(12) in §5**

**(b) Authority.**—The department shall be the lead agency for EMS in this Commonwealth. The department shall have authority to:

**Comment: Strongly urge the DELETION (b)(12) in §5 – this may kill this revision!**

**(b) Authority.**—The department shall be the lead agency for EMS in this Commonwealth. The department shall have authority to:

[(12) Promulgate regulations governing the solicitation of subscriptions and collection of funds from the public by EMS agencies, in consultation with the Bureau of Consumer Protection in the Office of Attorney General.]

**Rationalization:** *The Department should have no authority “governing” the solicitation and collection of funds from the public by EMS agencies. Does the Department “govern” the solicitations and donations of hospitals? Safeguards and oversight and the ability to investigate and mitigate a potential issue already exist through the Bureau of Consumer Protection in the Office of the Attorney General, through the Better Business Bureau and under Non-Profit Corporation Law. Having a bureaucratic agency involved in “governing” the finances of ambulance services is a recipe for disaster. Checkbooks run EMS, not the Department or the Commonwealth. Tinkering with the life-blood of many organizations may ultimately destroy the EMS system in Pennsylvania.*

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**(b) Authority.**—The department shall be the lead agency for EMS in this Commonwealth. The department shall have authority to:

**Comment: Consider adding another sentence to the authority of the department**

(17) Investigate the integration and utilization of EMS agencies and EMS providers in the provision of services and the expansion of a scope of practice for those EMS providers during a

disaster, in public health emergencies and services that benefit the health and welfare of the public.

**Rationalization:** *The services of EMS agencies and EMS providers are a valuable asset and may be utilized in roles atypical of the provision of EMS during disasters, public health emergencies and public health, in general. Additionally, EMS agencies and their providers may be more familiar with their patients who may benefit from wellness checks and compliance programs. These programs, mainly as a benefit to the health and welfare of the public, may also prove to be the basis of another funding source for EMS agencies*

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**(c) EMS protocols.** — The department shall establish and revise as needed criteria and protocols, including bypass protocols, for the evaluation, triage, treatment, transport, transfer and referral of patients to ensure that they receive appropriate EMS and are transported to the most appropriate facility. Regional EMS councils shall not be eligible for contract funds or State EMS operating fund disbursements unless they assist in ensuring the regional implementation of the criteria and protocols. The protocols are not subject to the rulemaking process. The department shall consult with the regional EMS medical directors in developing and adopting EMS protocols and may consult with them on any matter involved in the department’s administration of this act.

**Comment: Consider changes to incorporate consensus in criteria and protocols**

**(c) EMS protocols.** — The department shall establish and revise with the input of the State Advisory Board as needed criteria and protocols, including bypass protocols, for the evaluation, triage, treatment, transport, transfer and referral of patients to ensure that they receive appropriate EMS and are transported to the most appropriate facility. Regional EMS councils shall not be eligible for contract funds or State EMS operating fund disbursements unless they assist in ensuring the regional implementation of the criteria and protocols. The protocols are not subject to the rulemaking process. The department shall consult with the regional EMS medical directors in developing and adopting EMS protocols and may consult with them on any matter involved in the department’s administration of this act.

**Rationalization:** *The current issues being faced with the future implementation of Statewide Advanced Life Support protocols and the perception by some that the Department is attempting to usurp the authority of the ALS service medical directors and regional EMS Council medical directors in developing regional treatment and transfer guidelines as currently authorized in Title 28, Subchapter G, §1001.123, (12), gives credence to the citing involvement of the State Advisory Board in this process as well as you recent draft changes adding consultation with the regional EMS medical directors.*

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**§ 6. Emergency medical services patient care reports**

**(a) Preparation.**—An EMS agency shall ensure that its responding EMS providers complete an EMS patient care report for each response it makes in which it encounters a patient, or a person who had been identified as a patient to the EMS agency. The department shall employ an electronic EMS patient care reporting process that shall solicit standardized data and patient information. The department may require an EMS agency to complete a different standardized report or different fields in a standardized report based upon the type of resources the EMS

agency uses in responding. The department shall permit an EMS agency to file a paper report for extraordinary reasons as determined by the department on a case-by-case basis.

**Comment: Consider changes in §6 (a) Preparation**

**(a) Preparation.**—An EMS agency shall ensure that its responding EMS providers complete an EMS patient care report for each response it makes in which it encounters a patient, or a person who had been identified as a patient to the EMS agency. The department shall provide and employ an electronic EMS patient care reporting process that shall solicit standardized data and patient information. The department may require an EMS agency to complete a different standardized report or different fields in a standardized report based upon the type of resources the EMS agency uses in responding. The department shall permit an EMS agency to file a paper report for extraordinary reasons as determined by the department on a case-by-case basis.

**Rationalization:** *While we respect the market and freedom of choice, the failure of the Department to name one vendor through a RFP or bid process for electronic data collection has cost some ambulance services thousands of dollars in losses and made to collection of data on a statewide basis more difficult. It is time to name one vendor and secure one data collection software that is universal across the Commonwealth and provided, like PennFIRS, free of charge to ambulance services.*

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**(f) Vendors.**—A vendor may not sell or otherwise provide or offer reporting forms or software marketed as appropriate for use in making the EMS patient care reports required under this section unless the vendor has first submitted the product to the department for its review and secured the department’s approval. Thereafter, the vendor shall submit any modification of the product to the department, for its review and approval, if the vendor intends to offer the modified product for use in the EMS patient care reporting process. If the department makes changes to the EMS patient care report, it shall publish a notice of those changes in the Pennsylvania Bulletin and those changes shall not go into effect for at least 60 days. After the changes are published, vendors may not market, as appropriate for use in making the EMS patient care reports, reporting forms or software approved by the department prior to the changes, unless the vendors disclose that the reporting forms or software were approved by the department prior to the publication of the changes. The department may assess a vendor a \$1,000 civil money penalty for each day the vendor violates this subsection.

**Comment: Delete paragraph (f) Vendors, pursuant to the department providing a standard data collection software**

**[(f) Vendors.**—A vendor may not sell or otherwise provide or offer reporting forms or software marketed as appropriate for use in making the EMS patient care reports required under this section unless the vendor has first submitted the product to the department for its review and secured the department’s approval. Thereafter, the vendor shall submit any modification of the product to the department, for its review and approval, if the vendor intends to offer the modified product for use in the EMS patient care reporting process. If the department makes changes to the EMS patient care report, it shall publish a notice of those changes in the Pennsylvania Bulletin and those changes shall not go into effect for at least 60 days. After the changes are published, vendors may not market, as appropriate for use in making the EMS patient care reports, reporting forms or software approved by the department prior to the changes, unless the vendors disclose that the reporting forms or software were approved by the department prior to the publication of

the changes. The department may assess a vendor a \$1,000 civil money penalty for each day the vendor violates this subsection.]

**Rationalization:** *Self explanatory if the department provides one standard date collection software.*

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**§ 8. State Advisory Board**

(2) Advise the department on matters relating to manpower and training, communications, EMS agencies, and the content of regulations, standards and policies promulgated by the department under this act, and such other subjects as may be deemed appropriate by the department.

**Comment: Consider changes to this paragraph**

(2) Advise the department on matters relating to manpower and training, communications, EMS agencies, and the content of regulations, standards and policies promulgated by the department under this act, and such other subjects as may be deemed appropriate by the department or its Board of Directors.

**Rationalization:** *The relationship between the State Advisory Board and the Department has been brought into question many times and in numerous reports because of the contracted relationship and the question whether advice is freely given or solicited. An organization with its own Board of Directors and members that represent EMS providers, firefighters, regional EMS councils, physicians, hospital administrators and other health care providers concerned with EMS should have the ability to deem what issues are relative other than those raised by the Department.*

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**Comment: Consider new paragraphs to this section or a revision to Section 11.**

**(g) Contracts with the board.**—The department may enter into a contract with the board to provide it funds to perform the services the board is required to perform under this act, and may contract with the board for it to assist the department in complying with other provisions of the act

**(h) Reports.**—The board, as a recipient of a contract under this act, shall make reports to the department as may be required by the department.

**(i) Contract prerequisite.**—The department shall not contract with the board unless:

(1) The entity has submitted a contract application to the department in a form and format prescribed by the department which is consistent with the duties of the board stipulated under this act.

(2) The board demonstrates, to the department’s satisfaction, the qualifications and commitment to plan, maintain and improve the EMS system, and the entity has the required organizational structure and provision for representation of appropriate entities as stipulated under this act.

**(j) Payments.**—Payments pursuant to contracts under this section may be made in advance or by way of reimbursement and in such installments and on such conditions as the department determines will most effectively carry out the provisions of the act.

**(k) Other funds considered.**—In determining the amount of any contract under this section, the amount of funds available to the contractor from contributions and Federal grant or contract programs pertaining to EMS shall be taken into consideration.

**(l) Public disclosure.**—Finalized contracts shall be deemed public records subject to disclosure under the act of June 21, 1957 (P.L. 390), referred to as the Right-to-Know Law. Consistent with the personal security exception to disclosure under the Right-to-Know Law, the department shall not disclose information regarding terrorism preparedness that could be used by terrorists to undermine measures to combat, respond to or recover from terrorist attacks.

**(m) Sole source contract.**—Upon expiration of a contract with the board to carry out the duties of the board as stipulated under this act, the department, without undertaking a competitive bidding process, may enter into a new contract with the board to continue to perform the duties as stipulated under this act, provided that the board in carrying out the prior contract demonstrated its ability and commitment to the department’s satisfaction, to perform is duties as stipulated by the act and consistent with the terms of the contract.

**Rationalization:** *Other than what one may surmise by the intent in the verbiage “other organizations” in § 11. Contracts for the planning, maintenance, and improvement of emergency medical services systems, (j) Other contracts., no place in this revision is a “contract” specifically with the Board (State Advisory Board) discussed. The only reference for funding the Board appears in Section 44. Support of emergency medical services., (d) Purpose of fund., discussing the utilization of EMSOF dollars for the fulfillment of the Board’s duties as stipulated in the Act. A set of amendments § 11. Contracts for the planning, maintenance, and improvement of emergency medical services systems, or a set of new paragraphs to § 8. State Advisory Board should be added to memorialize the department’s ability to enter into a contract with the Board.*

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**§ 9. Regional emergency medical services councils**

**(c) Duties.**—Each regional EMS council shall, if directed by the department:

(8) Establish, subject to department approval, regional EMS medical treatment and transport protocols consistent with Statewide protocols adopted by the department. The regional protocols are not subject to the rulemaking process.

**Comment: Consider changes to incorporate Statewide protocols but add the ability for regional EMS councils to enhance or add to those protocols based on regional diversity.**

(8) Establish, subject to department approval, regional EMS medical treatment and transport protocols that are at a minimum consistent with Statewide protocols adopted by the department. The regional protocols are not subject to the rulemaking process.

**Rationalization:** *While it is essential to have uniform consistent Statewide protocols, it is also just as important to utilize those protocols effectively and give the regional EMS councils the ability to add for regional diversity and based on all hazards planning.*

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**§ 10 Comprehensive Statewide emergency medical services system plan**

**(c) Revisions.—**

(2) Persons regulated by the department under the act and dispatchers of EMS agencies shall provide data, without charge, as requested by the department and regional EMS councils, to aid them in developing and revising Statewide and regional EMS system plans, and investigations under this act authorized by the department.

**Comment:** The department needs to work or open dialogue with the Pennsylvania Emergency Management Agency, who has oversight of the Commonwealth’s 911 centers, to permit the transfer of data, to include dispatch and scratch information at a minimum, to aid in developing and revising Statewide and regional EMS system plans and investigations.

**No suggested language**

**Rationalization:** *The information collected by County and other 911 entities is vital to the development of and revision to the Statewide and regional EMS system plans and investigations. Some 911 centers decline to supply this information that hinders improvement and quality improvement in those affected areas. While we realize the department may not legally compel 911 centers through the EMS Act, partnership with PEMA to collect this information should be thoroughly investigated, and if need be, language added to Public Safety Emergency Telephone Act or Act 78 of 1990 as amended by Act 17 of 1998 and Act 56 of 2003.*



**§ 11. Contracts for the planning, maintenance, and improvement of emergency medical services systems**

**(j) Other contracts.—**The department may enter into contracts with organizations other than regional EMS councils in order to assist the department in complying with the provisions of this section and other provisions of the act.

**Comment:** (See § 8. State Advisory Board) **Other than what one may surmise by the intent in the verbiage “other organizations” in this paragraph, no place in this revision is a “contract” specifically with the Board (State Advisory Board) discussed. The only reference for funding the Board appears in Section 44. Support of emergency medical services., (d) Purpose of fund., discussing the utilization of EMSOF dollars for the fulfillment of the Board’s duties as stipulated in the Act. An amendment to this paragraph or a new paragraph should be added to memorialize the department’s ability to enter into a contract with the Board.**



**§ 12. Emergency medical services providers**

**d) Education.—**The department shall assist, encourage and coordinate the education of EMS providers.

(2) The department shall develop standards through regulations for the approval of continuing education courses for EMS providers and the accreditation of persons who provide continuing education EMS providers may take to secure renewal of registration.

**Comment: Consider revision to take into account accredited EMS agencies that currently provide continuing education courses.**

**d) Education.**—The department shall assist, encourage and coordinate the education of EMS providers.

(2) The department shall develop standards through regulations for the approval of continuing education courses for EMS providers and the accreditation of EMS Agencies and persons who provide continuing education EMS providers may take to secure renewal of registration.

**Rationalization:** *Presently there are numerous licensed ambulance services that are accredited to provide continuing education courses throughout the Commonwealth. These licensed ambulance services do not fall under the classification of “educational institutes”, they do however provide a multitude of the continuing education courses. To not include accredited EMS agencies in this Act as accredited providers of continuing education would be a travesty.*  
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**(i) Reports of convictions and discipline.**—An applicant for an EMS provider certification shall report to the department all misdemeanor and felony convictions and all disciplinary sanctions that have been imposed upon a license, certification, or other authorization of the applicant to practice an occupation or profession. The applicant shall also provide the department with a certified copy of the criminal charging, judgment and sentencing documents for each conviction and a certified copy of an adjudication or other document imposing discipline against the applicant. The department may not certify an applicant until the department receives the documents, unless the applicant establishes that the documents from which certified copies would need to be made are no longer in existence. An EMS provider shall report the same type of convictions and disciplinary sanctions and provide the same documents to the department within 30 days after each conviction or discipline.

**Comment: Consider adding exclusion as an individual or entity from a federal health care program.**

**(i) Reports of convictions and discipline.**—An applicant for an EMS provider certification shall report to the department all misdemeanor and felony convictions and all disciplinary sanctions that have been imposed upon a license, certification, or other authorization of the applicant to practice an occupation or profession and any exclusion as an individual or entity from a federal health care program. The applicant shall also provide the department with a certified copy of the criminal charging, judgment and sentencing documents for each conviction and a certified copy of an adjudication or other document imposing discipline against the applicant. The department may not certify an applicant until the department receives the documents, unless the applicant establishes that the documents from which certified copies would need to be made are no longer in existence. An EMS provider shall report the same type of convictions and disciplinary sanctions or any exclusion as an individual or entity from a federal health care program and provide the same documents to the department within 30 days after each conviction or discipline.

**Rationalization:** *With the imposition of mandatory assignment in the National Medicare Fee Schedule For Ambulance Services and participation in the Commonwealth’s Medicaid program, it is essential that ambulance services are aware of individuals that have been excluded from federal health care programs by the Department of Health and Human Services Office of Inspector General.*  
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**§ 14. Emergency medical technicians**

**(b) Certification.**— The department shall certify as an EMT a person who:

(2) Has successfully completed an EMT training course approved by the department, which program teaches BLS skills and, as prescribed by the department, ALS skills appropriate for this level of EMS provider.

**Comment: This paragraph seems to contradict (a) Scope of practice. That states “An EMT performs basic EMS” and “An EMT performs basic interventions with the basic equipment found on an ambulance”. Consider revision.**

(2) Has successfully completed an EMT training course approved by the department, which program teaches BLS skills and, as prescribed by the department, [ALS skills] additional training and skills appropriate for this level of EMS provider.

**Rationalization:** *The statements as above in (a) Scope of practice and this paragraph seem to contradict each other. In one paragraph it states that EMTs perform basic interventions with basic equipment while the next paragraph mentions ALS skills. The addition of this phrase “ALS skills” may precipitate confusion with reimbursement under the Centers for Medicare and Medicaid Services National Fee Schedule for Ambulance Services and the definition of basic life support (BLS) as it appears in 42 CFR Chapter IV, Subpart H, §414.605 Definitions, Basic life support (BLS).*



**§15. Advanced emergency medical technicians**

**(a) Scope of practice.**—An advanced EMT is a higher-level EMS provider than an EMT. An advanced EMT performs basic EMS, and additional ALS skills as authorized by the department, as a member of the crew of an ambulance. An advanced EMT performs patient interventions with the basic and advance equipment found on an ambulance. An advanced EMT may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in an out-of hospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. An advanced EMT may also perform skills as a first aid or safety officer, or in similar capacities, for or independent of an EMS agency, as prescribed by the department by regulation. An advanced EMT may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Comment: The explanation of the scope of practice for an advanced emergency medical technician should reflect language in the Centers for Medicare and Medicaid Services National Fee Schedule for Ambulance Services. Suggested revision**

**(a) Scope of practice.**—An advanced EMT is a higher-level EMS provider than an EMT. An advanced EMT performs basic EMS, and additional ALS skills as authorized by the department, as a member of the crew of an ambulance. An advanced EMT performs [patient intervention] enhanced skills that include being able to administer additional interventions and medications with the basic and advanced equipment found on an ambulance. An advanced EMT may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in an out-of hospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. An advanced EMT may also perform skills as a first aid or safety officer, or in similar

capacities, for or independent of an EMS agency, as prescribed by the department by regulation. An advanced EMT may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Rationalization:** *While the educational benefits (career ladder) through adding the level of advanced emergency medical technician and the provision of advanced level EMS especially in rural areas with the shortage of paramedics is paramount, just as significant is the increase in level of reimbursement permitted under the National Fee Schedule For Ambulance Services when advanced emergency medical technicians are part of an ambulance crew. This definition should be consistent with language present under the Centers for Medicare and Medicaid Services National Fee Schedule for Ambulance Services and the definition of advanced life support (ALS) personnel as it appears in 42 CFR Chapter IV, Subpart H, §414.605 Definitions, Advanced life support (ALS) personnel.*

.....

**§ 16. Paramedics**

**(a) Scope of practice.**—A paramedic is a higher-level EMS provider than an advanced EMT. A paramedic performs advanced EMS as the member of the crew of an ambulance. A paramedic performs patient interventions with the basic and advance equipment found on an ambulance. A paramedic may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. A paramedic may also perform skills as a first aid or safety officer, or in similar capacities, for or independent of an EMS agency, as prescribed by the department by regulation. A paramedic may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Comment: Consider changes in this paragraph that must include the changes to § 3. Definitions, “Advanced emergency medical services” or “advanced EMS” and “Basic emergency medical services” or basic EMS” in these comments.**

**(a) Scope of practice.**—A paramedic is a higher-level EMS provider than an advanced EMT. A paramedic performs basic EMS and advanced EMS as the member of the crew of an ambulance. A paramedic performs patient interventions with the basic and advance equipment found on an ambulance. A paramedic may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. A paramedic may also perform skills as a first aid or safety officer, or in similar capacities, for or independent of an EMS agency, as prescribed by the department by regulation. A paramedic may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Rationalization:** *The National Medicare Fee Schedule for Ambulance Services defines reimbursement based on the level of service provided to the beneficiary. Utilizing the original definition of “Advanced emergency medical services” or “advanced EMS may confuse Medicare and other third-party payors and produce unexpected or negative financial repercussions on ambulance services. A scope of practice that mirrors the National Medicare Fee Schedule for Ambulance Services and the language contained therein, specifically 67 FR 9132, §414.605 Definitions, is a necessity for the financial viability of ambulance services.*

.....

**§ 17. Prehospital registered nurses**

**(a) Scope of practice.**—A PHRN is a higher level EMS provider than an advanced EMT. A PHRN performs advanced EMS, and may perform additional nursing skills as authorized by the department by regulation, as the member of the crew of an ambulance. A PHRN may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. The additional nursing skills the department may permit a PHRN to perform shall be governed by the scope of practice of a registered nurse under the act of May 22, 1951 (P.L. 317, No. 69), known as The Professional Nursing Law. A PHRN may also perform skills as a first aid or safety officer, or in similar capacities, for an EMS agency, as prescribed by the department by regulation. A PHRN may also serve an EMS service in other capacities as authorized by the department by regulation.

**Comment: Consider changes in this paragraph that must include the changes to § 3. Definitions, “Advanced emergency medical services” or “advanced EMS” and “Basic emergency medical services” or basic EMS” in these comments.**

**(a) Scope of practice.**—A PHRN is a higher level EMS provider than an advanced EMT. A PHRN performs basic EMS and advanced EMS, and may perform additional nursing skills as authorized by the department by regulation, as the member of the crew of an ambulance. A PHRN may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting until an ambulance arrives at the scene, and then may assist the ambulance crew. The additional nursing skills the department may permit a PHRN to perform shall be governed by the scope of practice of a registered nurse under the act of May 22, 1951 (P.L. 317, No. 69), known as The Professional Nursing Law. A PHRN may also perform skills as a first aid or safety officer, or in similar capacities, for an EMS agency, as prescribed by the department by regulation. A PHRN may also serve an EMS service in other capacities as authorized by the department by regulation.

**Rationalization:** *The National Medicare Fee Schedule for Ambulance Services defines reimbursement based on the level of service provided to the beneficiary. Utilizing the original definition of “Advanced emergency medical services” or “advanced EMS may confuse Medicare and other third-party payors and produce unexpected or negative financial repercussions on ambulance services. A scope of practice that mirrors the National Medicare Fee Schedule for Ambulance Services and the language contained therein, specifically 67 FR 9132, §414.605 Definitions, is a necessity for the financial viability of ambulance services.*

.....  
**(b) Certification.**—The department shall certify as a PHRN a person who has a current license as a registered nurse with the State Board of Nursing and who:

(2) Holds current acknowledgments evidencing successful completion of basic and advanced cardiac life support training programs recognized by the department.

**Comment: The acknowledgement of successful completion of basic life support does not appear in the Certification sections § 13. Emergency medical responders, § 14. Emergency medical technicians nor basic and advanced life support in the Certification sections of §15. Advanced emergency medical technicians or § 16. Paramedics. Is there other rational with this intent?**

.....

**§ 18. Prehospital physician assistants**

**(a) Scope of practice.**—A PHPA is a higher level EMS provider than an advanced EMT. A PHPA performs advanced EMS, and may perform additional physician assistant skills as authorized by the department by regulation, as the member of the crew of an ambulance. A PHPA may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting, and then may assist the ambulance crew. The additional physician assistant skills the department may permit a PHPA to perform shall be governed by the scope of practice of a physician assistant under the act of December 20, 1985 (P.L. 457, No. 112), known as the Medical Practice Act of 1985, or the act of October 5, 1978 (P.L. 1109, No. 261), known as the Osteopathic Medical Practice Act, as appropriate. A PHPA may also perform skills as a first aid or safety officer, or in similar capacities, for an EMS agency, as prescribed by the department by regulation. A PHPA may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Comment: Consider changes in this paragraph that must include the changes to § 3. Definitions, “Advanced emergency medical services” or “advanced EMS” and “Basic emergency medical services” or basic EMS” in these comments.**

**(a) Scope of practice.**—A PHPA is a higher level EMS provider than an advanced EMT. A PHPA performs basic EMS and advanced EMS, and may perform additional physician assistant skills as authorized by the department by regulation, as the member of the crew of an ambulance. A PHPA may also perform the same skills on behalf of a QRS to stabilize and improve a patient’s condition in a prehospital setting, and then may assist the ambulance crew. The additional physician assistant skills the department may permit a PHPA to perform shall be governed by the scope of practice of a physician assistant under the act of December 20, 1985 (P.L. 457, No. 112), known as the Medical Practice Act of 1985, or the act of October 5, 1978 (P.L. 1109, No. 261), known as the Osteopathic Medical Practice Act, as appropriate. A PHPA may also perform skills as a first aid or safety officer, or in similar capacities, for an EMS agency, as prescribed by the department by regulation. A PHPA may also serve an EMS agency in other capacities as authorized by the department by regulation.

**Rationalization:** *The National Medicare Fee Schedule for Ambulance Services defines reimbursement based on the level of service provided to the beneficiary. Utilizing the original definition of “Advanced emergency medical services” or “advanced EMS may confuse Medicare and other third-party payors and produce unexpected or negative financial repercussions on ambulance services. A scope of practice that mirrors the National Medicare Fee Schedule for Ambulance Services and the language contained therein, specifically 67 FR 9132, §414.605 Definitions, is a necessity for the financial viability of ambulance services.*

.....

**(b) Certification.**—The department shall certify as a PHPA a physician assistant who has a currently registered license as a physician assistant with the State Board of Medicine or the State Board of Osteopathic Medicine and who:

(2) Holds current acknowledgments evidencing successful completion of basic and advanced cardiac life support training programs recognized by the department.

**Comment: The acknowledgement of successful completion of basic life support does not appear in the Certification sections § 13. Emergency medical responders, § 14. Emergency medical technicians nor basic and advanced life support in the Certification sections of §15. Advanced emergency medical technicians or § 16. Paramedics. Is there other rational with this intent?**

.....

**§ 20. Suspension, revocation or refusal of emergency medical services provider certification**

(5) The rendering of services while under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs.

**Comment: What is the intent of the language “the knowing abuse of legal drugs”?  
Consider changes to this sentence.**

(5) The rendering of services while [under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs] impaired.

**Rationalization:** *The statement “the knowing abuse of legal drugs” appears in several sections of the revision. The intent of this statement needs to be clear. How does the department, regional emergency medical services council or EMS agency officer or manager prove “the knowing abuse of legal drugs” without facing a human resources nightmare? Does the term legal drugs include prescription, over the counter and/or dietary supplements? Is the abuse of caffeine, energy drinks, etc, constitute the “abuse of legal drugs”. There are too many questions here using the current language. It is much simpler to state “The rendering of services while impaired”. This gives the department latitude and removes the question regarding the substance or device involved.*

.....

(6) The operation of an emergency vehicle in a reckless manner or while under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs.

**Comment: What is the intent of the language “the knowing abuse of legal drugs”?  
Consider changes to this sentence.**

(6) The operation of an emergency vehicle in a reckless manner or while [under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs] impaired.

**Rationalization:** *The statement “the knowing abuse of legal drugs” appears in several sections of the revision. The intent of this statement needs to be clear. How does the department, regional emergency medical services council or EMS agency officer or manager prove “the knowing abuse of legal drugs” without facing a human resources nightmare? Does the term legal drugs include prescription, over the counter and/or dietary supplements? Is the abuse of caffeine, energy drinks, etc, constitute the “abuse of legal drugs”. There are too many questions here using the current language. It is much simpler to state “The operation of an emergency vehicle..... while impaired”. This gives the department latitude and removes the question regarding the substance or device involved.*

.....

**§ 21 Emergency medical services vehicle operators**

(7) Has not been convicted within the last 4 years of driving under the influence of alcohol or drugs, or, within the last 2 years, has not been convicted of reckless driving or had a driver’s license suspended due to use of drugs, alcohol, a moving traffic violation, or an accelerated rehabilitative disposition.

**Comment: Consider revision to this paragraph**

(7) Has not been convicted within the last 4 years of driving under the influence of alcohol or [drugs] controlled substance, or, within the last 2 years, has not been convicted of reckless driving or had a driver’s license suspended due to use of drugs, alcohol, a moving traffic violation[, or an accelerated rehabilitative disposition].

**Rationalization:** *The term “accelerated rehabilitative disposition” creates confusion in this paragraph and potential legal issues for the department relative to the fact that convicted driver’s enrolled in an “accelerated rehabilitative disposition” program have their records expunged in the eyes of the court after successful completion. Consider revising the first sentence to reflect Pennsylvania Statute 75 Pa.C.S. §3731 relating to driving under the influence of alcohol or controlled substance.*



**(c) Grounds for discipline.**—The department may suspend or revoke an EMS vehicle operator certification for the following reasons:

(3) The operation of an emergency vehicle in a reckless manner or while under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs.

**Comment: Consider revision to this paragraph**

(3) The operation of an emergency vehicle in a reckless manner or while [under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs] impaired.

**Rationalization:** *The statement “the knowing abuse of legal drugs” appears in several sections of the revision. The intent of this statement needs to be clear. How does the department, regional emergency medical services council or EMS agency officer or manager prove “the knowing abuse of legal drugs” without facing a human resources nightmare? Does the term legal drugs include prescription, over the counter and/or dietary supplements? Is the abuse of caffeine, energy drinks, etc, constitute the “abuse of legal drugs”. There are too many questions here using the current language. It is much simpler to state “The operation of an emergency vehicle..... while impaired”. This gives the department latitude and removes the question regarding the substance or device involved.*



**§ 22. Temporary and automatic suspension of certification**

**(a) Temporary suspensions.**—The department may temporarily suspend an EMS provider or EMS vehicle operator certification if the department determines that the person is a clear and immediate danger to the public health and safety. The department shall issue an order to that effect without a hearing, but upon due notice to the person, which shall include a written

statement of the allegations against the person upon which the department bases its conclusion that the person is an immediate and clear danger to the public health and safety. The department shall thereafter commence formal disciplinary action against the person under section 20 or 21. Within 30 days following the issuance of an order temporarily suspending the certification, the department shall cause to be conducted a preliminary hearing to determine if there is a prima facie case supporting the temporary suspension. The person may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, and offer testimony and other evidence. If the department determines that there is not a prima facie case, the suspension shall be immediately lifted. If the department determines that there is a prima facie case, the temporary suspension shall remain in effect until vacated by the department, but in no event longer than 180 days unless agreed upon by the parties.

**Comment: Consider revision to this paragraph**

**(a) Temporary suspensions.**—The department may temporarily suspend an EMS provider or EMS vehicle operator certification, if the department determines with due diligence, that the person is a clear and immediate danger to the public health and safety. The department shall issue an order to that effect without a hearing, but upon due notice to the person, which shall include a written statement of the allegations against the person upon which the department bases its conclusion that the person is an immediate and clear danger to the public health and safety. The department shall thereafter commence formal disciplinary action against the person under section 20 or 21. Within 30 days following the issuance of an order temporarily suspending the certification, the department shall cause to be conducted a preliminary hearing to determine if there is a prima facie case supporting the temporary suspension. The person may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, and offer testimony and other evidence. If the department determines that there is not a prima facie case, the suspension shall be immediately lifted. If the department determines that there is a prima facie case, the temporary suspension shall remain in effect until vacated by the department, but in no event longer than 180 days unless agreed upon by the parties.

**Rationalization:** *While we understand the intent and believe the department needs the right to temporarily suspend a certification to protect the public health and safety, the department must perform “due diligence” in exercising this right of power to protect the public, the provider, the EMS agency and the department.*

.....

**§ 23. Emergency medical services instructor**

**(a) Certification.**—An EMS instructor certification is permanent subject to disciplinary action under this section. The department shall certify as an EMS instructor a person who:

- (1) Completes an application for an EMS instructor certification on a form or through an electronic application process, as prescribed by the department.
- (2) Is at least 18 years of age.
- (3) Has successfully completed an EMS instructor course approved by the *department*, or possesses a bachelor’s degree in education, a teacher’s certification in education, or a doctorate or masters degree.
- (4) Is certified *and currently registered* as an EMT or higher-level EMS provider.
- (5) Possesses current certification in CPR or current certification as a CPR instructor.

- (6) Has at least one year’s experience working as an EMT or higher-level EMS provider.
- (7) Has provided at least 20 hours of monitored instruction time in an EMS provider certification program.

**Comment: Does this mean a physician who instructs an EMS course must be an EMS instructor? Consider adding another paragraph.**

(f) Exemption.- A person who is considered an “expert in the field”, as determined by qualifications and credentials and as authorized by the lead instructor, who instructs an EMS course is exempt from paragraphs (a) (relating to certifications) and (b) (relating to biennial registration).

**Rationalization:** *While we understand the intent of certification and biennial registration of Emergency medical service instructors, it is important to maintain the ability of physicians, technical experts or “experts in the field” who may opt to refrain from teaching EMS courses and in EMS institutions due to the need for certification and registration. This exemption for “experts in the field” could be modeled after American Heart Association guidelines.*



**(d) Grounds for discipline.**— The department may impose discipline against an EMS instructor for the following reasons:

- (2) Providing instruction while under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs.

**Comment: Consider revision to this paragraph**

- (2) Providing instruction while [under the influence of alcohol, illegal drugs, or the knowing abuse of legal drugs] impaired.

**Rationalization:** *The statement “the knowing abuse of legal drugs” appears in several sections of the revision. The intent of this statement needs to be clear. How does the department, regional emergency medical services council or EMS agency officer or manager prove “the knowing abuse of legal drugs” without facing a human resources nightmare? Does the term legal drugs include prescription, over the counter and/or dietary supplements? Is the abuse of caffeine, energy drinks, etc, constitute the “abuse of legal drugs”. There are too many questions here using the current language. It is much simpler to state “Providing instruction while impaired”. This gives the department latitude and removes the question regarding the substance or device involved.*



**(e) Disciplinary options.**—If the department is empowered to impose discipline against an individual under this section, the department may do any of the following:

**Comment: Consider changes to this sentence**

**(e) Disciplinary options.**—If the department is empowered to impose discipline against an individual under this section, the department may do [any] one or more of the following:

**Rationalization:** *The sentence structure appears the limit the department to only one disciplinary sanction.*

.....  
**§ 25. Medical command physicians and medical command facility medical directors**

**(i) Types of discipline authorized.**— When the department is empowered to discipline a medical command physician or medical command facility medical directory under subsection (h), the department may:

**Comment: Consider changes to this sentence**

**(i) Types of discipline authorized.**— When the department is empowered to discipline a medical command physician or medical command facility medical directory under subsection (h), the department may do one or more of the following:

**Rationalization:** *The sentence structure appears the limit the department to only one disciplinary sanction.*

.....  
**§ 26. Medical command facilities**

**(h) Types of discipline authorized.**— When the department is empowered to discipline a medical command facility, the department may:

**Comment: Consider changes to this sentence**

**(h) Types of discipline authorized.**— When the department is empowered to discipline a medical command facility, the department may do one of more of the following:

**Rationalization:** *The sentence structure appears the limit the department to only one disciplinary sanction.*

.....  
**§ 28. Emergency medical services agencies**

**(a) License required.**—A person may not, as an owner, agent or otherwise, operate, conduct, maintain, advertise or otherwise engage in or profess to be engaged in operating or providing an ambulance, an ALS squad vehicle, a BLS squad vehicle, a QRS, a stretcher vehicle, a special operations EMS team, or any other vehicle or service that provides EMS outside of a health care facility as prescribed by the department by regulation, within or on the roadways, airways or waterways of this Commonwealth, unless that person holds a currently registered EMS agency license that authorizes that service or operation.

**Comment: Delete stretcher vehicle for this paragraph**

**(a) License required.**—A person may not, as an owner, agent or otherwise, operate, conduct, maintain, advertise or otherwise engage in or profess to be engaged in operating or providing an ambulance, an ALS squad vehicle, a BLS squad vehicle, a QRS, [a stretcher vehicle,] a special operations EMS team, or any other vehicle or service that provides EMS outside of a health care

facility as prescribed by the department by regulation, within or on the roadways, airways or waterways of this Commonwealth, unless that person holds a currently registered EMS agency license that authorizes that service or operation.

**Rationalization:** *The inclusion of “a stretcher vehicle” in a paragraph citing the licensing of emergency medical services agencies, the provision of EMS and the transportation of patients, although exclusionary, lends credence to a vehicle that does neither and should be banned from existence.*

.....

**(c) Issuance of license.**—The department shall issue a license to an applicant when it is satisfied that the following standards have been met:

(1) The applicant is a responsible person, persons with a substantial ownership interest in the applicant are responsible persons, and the EMS agency will be staffed by and conduct its business through responsible persons. For the purposes of this paragraph, a responsible person is a person who has not engaged in an act contrary to justice, honesty or good morals which is of such nature that it demonstrates the person is likely to betray the public trust in carrying out the business of the EMS agency, or a person who has engaged in such conduct but whose rehabilitation establishes that the person is not likely to betray the public trust. A person has a substantial ownership interest in an EMS agency if the person has equity in the capital, stock or the profits of the EMS agency equal to five percent or more of the value of the property or assets of the EMS agency. A person staffs an EMS agency if the person engages in any activity integral to the operation of the EMS agency, including but not limited to, making or participating in the making or execution of management decisions, providing EMS, billing, call-taking, and dispatching.

**Comment: The utilization of the term “responsible person” is ambiguous and ripe for misinterpretation.**

(1) The applicant or EMS agency [is a responsible person], or persons with a substantial ownership interest in the applicant [are responsible persons], and the EMS agency [will be] staff[ed by and conduct its business through responsible persons] have not been excluded from a federal health care program[.], or with respect to the EMS agency license, has faced actions by the department under Section 41 (relating to suspension, revocations or refusal to issue emergency medical services agency license) that have not been resolved to the satisfaction of the department. For the purposes of this paragraph, [a responsible person] the department will evaluate [is a person who has not] the applicant or EMS agency to determine that the applicant, or persons with a substantial ownership interest in the applicant, or EMS agency staff have not engaged in an act contrary to justice, honesty or an act consistent with good morals which is of such nature that it demonstrates the [person] applicant or EMS agency, or persons with a substantial ownership interest in the applicant, or EMS agency staff is likely to betray the public trust in carrying out the business of the EMS agency, or an [person] applicant or EMS agency, or persons with a substantial ownership interest in the applicant, or EMS agency staff who has engaged in such conduct but whose rehabilitation establishes that the [person] applicant or EMS agency, or persons with a substantial ownership interest in the applicant, or EMS agency staff is not likely to betray the public trust. A person has a substantial ownership interest in an EMS agency if the person has equity in the capital, stock or the profits of the EMS agency equal to five percent or more of the value of the property or assets of the EMS agency. A person staffs an EMS agency if the person engages in any activity integral to the operation of the EMS agency,

including but not limited to, making or participating in the making or execution of management decisions, providing EMS, billing, call-taking, and dispatching.

**Rationalization:** *The term “responsible person” is ambiguous and not defined appropriately and ripe with the possibility for misinterpretation. The Ambulance Association of Pennsylvania has discussed this issue with several state EMS directors without resolution. Additionally, the statement “good morals” may present serious legal implications for the department if cited. Regardless of the language changes above, this issue must be discussed prior to moving this revision through the legislative process.*

.....

**(e) Nontransferability of license.**—An EMS agency may not transfer to another its license or the authority to make substantive operational decisions for the EMS agency.

**Comment: Consider revisions in this paragraph.**

**(e) Nontransferability of license.**—An EMS agency may not transfer to another its license. An EMS agency may transfer [or] the authority to make substantive operational decisions for the EMS agency through a written agreement or contract as authorized by this act and its regulations to be managed by another EMS agency or entity.

**Rationalization:** *EMS agencies have the ability presently recognized by current regulation specifically 28 Pa Code, §1005.10. Licensure and general operating standards, (a)(6) (relating to documentation requirements). This language is vital to services who require the assistance of professional management.*

.....

**(k) Custody conflict.**—If a law enforcement officer is at a crime scene when an EMS provider arrives, the law enforcement officer may preclude the EMS provider from entering the crime scene to provide EMS until the law enforcement officer determines that it is safe for the EMS provider to enter. The law enforcement officer must permit the EMS provider access to the patient before the officer transports the patient. If pursuant to a medical treatment protocol or medical command order an EMS agency is required to transport to a receiving facility a patient who a law enforcement officer has taken or wants to take into custody, the EMS agency shall transport the patient to a receiving facility and the law enforcement officer shall have the discretion to accompany the patient in the EMS vehicle and employ security precautions that do not interfere with the provision of EMS to the patient.

**Comment: Consider revision to this paragraph.**

**(k) Custody conflict.**—If a law enforcement officer is at a crime scene when an EMS provider arrives, the law enforcement officer may preclude the EMS provider from entering the crime scene to provide EMS until the law enforcement officer determines that it is safe for the EMS provider to enter. The law enforcement officer must permit the EMS provider access to the patient before the officer transports the patient. If pursuant to a medical treatment protocol or medical command order an EMS agency is required to transport to a receiving facility a patient who a law enforcement officer has taken or wants to take into custody, the EMS agency shall transport the patient to a receiving facility and the law enforcement officer shall [have the discretion to] accompany the patient in the EMS vehicle and employ security precautions that do

not interfere with the provision of EMS to the patient and accompanying the patient does not present a clear and present danger to the public.

**Rationalization:** *Many events have occurred where a law enforcement offices has arrested and restrained a patient or suspect with handcuffs or other restraints that has interfered with the provision of EMS and the law enforcement officer was reluctant to leave his jurisdiction due to coverage or other issues. These issues endanger the patient’s or crew’s welfare. A law enforcement officer who has taken or wants to take into custody a patient should not have the discretion to accompany the patient in the EMS vehicle.*

.....  
**(o) Exemptions.**—The following are exempted from the licensing provisions of this act:

(1) Privately owned vehicles not ordinarily used to transport patients.

**Comment: Consider revision to this sentence. What is the intent of this sentence?**

**(o) Exemptions.**—The following are exempted from the licensing provisions of this act:

(1) Privately owned vehicles not ordinarily used to transport patients that belong to an EMS provider of an EMS agency that are not part of a licensed QRS or meet the qualifications of a BLS squad or ALS squad vehicle.

**Rationalization:** *We believe the intent to exempt privately owned vehicles is to account for EMS providers who are members of EMS agencies that respond to scenes to assist a licensed EMS agency and carry basic EMS equipment. Not defining this sentence further may lead to rogue EMS personnel responding and performing skills inconsistent with the intent of the act.*

.....  
**\*General comment on the concept of EMS Agencies** – While we understand the intent of building a total “EMS system” with the licensing of any service, modality or vehicle providing EMS, this concept may place a tremendous burden on already limited EMSOF dollars that ambulance services receive today making the those dollars inconsequential funding resource.

Additionally, the public is comfortable with the terms used locally and nationally such as “ambulance service” and “EMS service” and the change of vernacular may produce confusion.  
.....

**§ 29. Advanced life support ambulances**

**(b) Staffing requirements.**—

(1) Except as otherwise provided in this section, the minimum staffing requirements for an ALS ambulance when dispatched to provide or when providing medical assessment, monitoring, treatment or transportation of a patient who requires EMS above the skill level of an advanced EMT, is one EMS provider at or above the EMT level, one EMS provider above the advanced EMT level, and one EMS vehicle operator. Only two people need to staff the ambulance when one of the EMS providers is also an EMS vehicle operator, provided that an EMS provider qualified to provide the type and level of EMS required by the patient attends to the patient during the transport.

**Comment: Define minimum staffing when dispatched. Does this include meeting a provider on scene or must the provider be present in the vehicle or at the station when dispatched? Consider revision to this paragraph.**

**(b) Staffing requirements.—**

(1) Except as otherwise provided in this section, the minimum staffing requirements for an ALS ambulance [when dispatched to provide or] when providing medical assessment, monitoring, treatment or transportation of a patient who requires EMS above the skill level of an advanced EMT, is one EMS provider at or above the EMT level, one EMS provider above the advanced EMT level, and one EMS vehicle operator. Only two people need to staff the ambulance when one of the EMS providers is also an EMS vehicle operator, provided that an EMS provider qualified to provide the type and level of EMS required by the patient attends to the patient during the transport.

**Rationalization:** *The department should consider the benefit, especially in rural sections, when the minimum staffing requirements for an ALS ambulance may be satisfied by EMS providers for this type ambulance rendezvousing at the scene of a call instead of at time of dispatch. It appears that the intent of “when providing medical assessment, monitoring, treatment or transportation of a patient” may satisfy this concern but the intent must be clear.*



**§ 31. Advanced life support squad vehicles**

**(b) Staffing requirements.—**The minimum staffing requirement for an ALS ambulance when dispatched to provide or when providing medical assessment, monitoring, and treatment of a patient who requires EMS above the skill level of an advanced EMT, is one EMS provider above the advanced EMT level and one EMS vehicle operator. Only one person needs to staff the ALS squad vehicle when the EMS provider is also an EMS vehicle operator.

**Comment: Define minimum staffing when dispatched. Does this include meeting a provider on scene or must the provider be present in the vehicle or at the station when dispatched? Consider revision to this paragraph including changing “ALS ambulance” in first sentence to “ALS squad vehicle”.**

**(b) Staffing requirements.—**The minimum staffing requirement for an ALS [ambulance] squad vehicle [when dispatched to provide or] when providing medical assessment, monitoring, and treatment of a patient who requires EMS above the skill level of an advanced EMT, is one EMS provider above the advanced EMT level and one EMS vehicle operator. Only one person needs to staff the ALS squad vehicle when the EMS provider is also an EMS vehicle operator.

**Rationalization:** *The department should consider the benefit, especially in rural sections, when the minimum staffing requirements for an ALS ambulance may be satisfied by EMS providers for this type ambulance rendezvousing at the scene of a call instead of at time of dispatch. It appears that the intent of “when providing medical assessment, monitoring, treatment or transportation of a patient” may satisfy this concern but the intent must be clear.*



**§ 32. Basic life support ambulances**

**(b) Staffing requirements.—**

(1) Upon the effective date of this act, the minimum staffing requirements for a BLS ambulance when dispatched to provide or when providing medical assessment, monitoring, treatment or transportation of a patient, is an ambulance attendant, EMR or EMT, a second EMS provider at or above the EMT level, and an EMS vehicle operator. Only two people need to staff the ambulance when one of the EMS providers is also an EMS vehicle operator, provided that an EMS provider above the EMR level attends to the patient during patient transport. An ambulance attendant is an individual who satisfies the age requirement of the Child Labor Law (43 P.S. §§ 41-71) and who possesses:

**Comment: Define minimum staffing when dispatched. Does this include meeting a provider on scene or must the provider be present in the vehicle or at the station when dispatched? Consider revision to this paragraph.**

**(b) Staffing requirements.—**

(1) Upon the effective date of this act, the minimum staffing requirements for a BLS ambulance [when dispatched to provide or] when providing medical assessment, monitoring, treatment or transportation of a patient, is an ambulance attendant, EMR or EMT, a second EMS provider at or above the EMT level, and an EMS vehicle operator. Only two people need to staff the ambulance when one of the EMS providers is also an EMS vehicle operator, provided that an EMS provider above the EMR level attends to the patient during patient transport. An ambulance attendant is an individual who satisfies the age requirement of the Child Labor Law (43 P.S. §§ 41-71) and who possesses:

**Rationalization:** *The department should consider the benefit, especially in rural sections, when the minimum staffing requirements for a BLS ambulance may be satisfied by EMS providers for this type ambulance rendezvousing at the scene of a call instead of at time of dispatch. It appears that the intent of “when providing medical assessment, monitoring, treatment or transportation of a patient” may satisfy this concern but the intent must be clear.*



**§ 35. Stretcher vehicles**

**(a) Purpose.—**A stretcher vehicle is a ground vehicle used to transport by stretcher patients who are not anticipated to require during transport any medical assessment, monitoring, or treatment, but who, due to their condition, require vehicle transport by stretcher.

**(b) Staffing requirements.—**The minimum staffing requirement is two persons, consisting of one EMS provider and one EMS vehicle operator.

**Comment: Delete § 35. Stretcher vehicles**

**[§ 35. Stretcher vehicles**

**(a) Purpose.**—A stretcher vehicle is a ground vehicle used to transport by stretcher patients who are not anticipated to require during transport any medical assessment, monitoring, or treatment, but who, due to their condition, require vehicle transport by stretcher.

**(b) Staffing requirements.**—The minimum staffing requirement is two persons, consisting of one EMS provider and one EMS vehicle operator.]

**Rationalization:** *Stretcher vehicles are a method of conveyance and not medical transportation. Patients do not belong in stretcher vehicles for the reasons stipulated in the solicited opinion as provided by the Ambulance Association of Pennsylvania for the law firm of Page, Wolfberg and Wirth. Additionally, the utilization of stretcher vehicles to transport “patients” jeopardizes the reimbursement streams currently in place from Medicare, Medicaid and other third-party payors.*

.....  
**§ 37. First aid and other safety services**

**(a) Purpose.**—An EMS agency may provide EMS at industrial sites, amusement parks and other locations in need of such services and no ambulance or other EMS vehicle shall be required for this purpose.

**Comment: Understanding that larger amusement parks and industrial site provide their own services, will the department stipulate these entities secure an EMS agency license? Consider changes to this paragraph.**

**(a) Purpose.**—An EMS agency may provide EMS at industrial sites, amusement parks and other locations in need of such services and no ambulance or other EMS vehicle shall be required for this purpose. An industrial site, amusement park or other location that provides such services not in concert with an existing EMS agency shall obtain an EMS agency license no more that one year upon the effective date of this act.

**Rationalization:** *Industrial sites, amusement parks and other locations that employ their own personnel to provide EMS to their employees and patrons should be required to obtain an EMS agency license.*

.....  
**§ 39. Conditional temporary licenses**

When an EMS agency, or an applicant for a license to operate as an EMS agency, cannot provide service 24 hours a day, 7 days a week, or participate in a county-level or broader-level emergency medical response plan approved by the department, the department shall issue a conditional temporary license for operation of the EMS agency subject to such conditions as the department deems appropriate, when the department deems it is in the public interest to do so, and shall attach such terms to the temporary license as it deems appropriate. The conditional temporary license shall be valid for a period of one year and may be renewed as many times as the department deems it is in the public interest to do so.

**Comment: Consider changes to this paragraph**

(a) When an EMS agency, or an applicant for a license to operate as an EMS agency, cannot provide service 24 hours a day, 7 days a week, or participate in a county-level or broader-level emergency medical response plan approved by the department, the department shall issue a conditional temporary license for operation of the EMS agency subject to such conditions as the department deems appropriate, when the department deems it is in the public interest to do so, and shall attach such terms to the temporary license as it deems appropriate. The conditional temporary license shall be valid for a period of one year and may be renewed [as many times as the department deems it is in the public interest to do so] one additional year.

(b) The department, with input from the regional council where the EMS agency is located, shall develop an plan of corrective action for an EMS agency, or an applicant for a license to operate as an EMS agency, when a conditional temporary license is issued. The department shall seek the input and acceptance of this plan of corrective action by other EMS agencies directly affected by the inability of an EMS agency, or an applicant for a license to operate an EMS agency, to provide service 24 hours a day, 7 days a week or when the participation in a county-level or broader-level emergency medical response plan approved by the department results in undue hardship or the depletion of resources to those EMS agencies for the communities they service as a direct affect of the conditional temporary license.

**Rationalization:** *The issuance and possible perpetuation of conditional temporary licenses have a direct affect on those services contiguous to the coverage are of the EMS agency with a conditional temporary license. Routinely, vital resources available to an EMS agency's community may be lost covering the EMS agency who cannot obtain an EMS agency license. The department must make these services accountable and create a plan of action with a limited definite time frame for correction to alleviate these associated issues.*

.....

**§ 41. Suspension, revocation or refusal to issue emergency medical services agency license**

(a) **Grounds for discipline.**—The department may discipline an EMS agency for the following reasons:

(5) Lending its license or enabling another to operate the EMS agency or any service or vehicle covered by the license.

**Comment: Consider revisions in this paragraph**

(5) Lending its license or enabling another to operate the EMS agency or any service [or vehicle] covered by the license unless the authority to enable another to make substantive operational decisions for the EMS agency is through a written agreement or contract as authorized by this act and its regulations to be managed by another EMS agency or entity.

**Rationalization:** *EMS agencies have the ability presently recognized by current regulation specifically 28 Pa Code, §1005.10. Licensure and general operating standards, (a)(6) (relating to documentation requirements). This language is vital to services who require the assistance of professional management. It is also permissible to loan vehicles between services thus the deletion of [or vehicle].*

.....

(8) The licensee is not a responsible person, or is not staffed by responsible persons and refuses to remove from its staff the irresponsible person or persons when directed to do so by the department. For purposes of this section, “staff” and “responsible person” mean the same as set forth in section 28(c)(1).

**Comment: Consider revision in this paragraph**

(8) The licensee [is not a responsible person], or persons with a substantial ownership interest in the EMS agency or the EMS agency staff has engaged in an act contrary to justice, honesty or an act not consistent with good morals which is of such nature that it demonstrates the licensee has betrayed the public trust in carrying out the business of the EMS agency [or is not staffed by responsible persons] and refuses to remove from its staff said [the irresponsible] person or persons when directed to do so by the department. [For purposes of this section, “staff” and “responsible person” mean the same as set forth in section 28(c)(1).]

**Rationalization:** *The term “responsible person” is ambiguous and not defined appropriately and ripe with the possibility for misinterpretation. The Ambulance Association of Pennsylvania has discussed this issue with several state EMS directors without resolution. Additionally, the statement “good morals” may present serious legal implications for the department if cited. Regardless of the language changes above, this issue must be discussed prior to moving this revision through the legislative process.*

.....

(10) Engaging in balance billing prohibited under the act of July 10, 1990 (P.L. 352, No. 81), known as the Health Care Practitioners Medicare Fee Control Act.

**Comment: Consider the deletion of this sentence and replacement**

(10) [Engaging in balance billing prohibited under the act of July 10, 1990 (P.L. 352, No. 81), known as the Health Care Practitioners Medicare Fee Control Act] The conviction of an EMS agency for fraud and abuse of a state, federal or other third-party payors health insurance program.

**Rationalization:** *The department should not be involved in the enforcement of existing insurance laws but should reserve the right to suspend, revoke or refuse to issue an EMS agency license for a conviction related to fraud and abuse of a health insurance program.*

.....

(11) Making misrepresentations in soliciting funds from the public or in seeking funds made available through the department.

**Comment: Consider a revision of this sentence**

(11) Making misrepresentations in [soliciting funds from the public or in] seeking funds made available through the department or any state or federal grant program.

**Rationalization:** *There are numerous safeguards already in place to satisfy the department’s interest in the supposed misrepresentation in the solicitation of funds from the public. The public may seek action through the Attorney General’s office, the Better Business Bureau and through their local legislator should they believe funds have been solicited ingeniously. Solicitation of funds through subscription and/or donation programs is the lifeblood of many organizations.*

.....  
**(b) Disciplinary options.**—If the department is empowered to impose discipline against an EMS agency under this section, the department may do any of the following:

**Comment: Consider changes to this sentence**

**(b) Disciplinary options.**—If the department is empowered to impose discipline against an EMS agency under this section, the department may do [any]one or more of the following:

**Rationalization:** *The sentence structure appears the limit the department to only one disciplinary sanction.*

.....

**§ 42. Limitations on liability**

(8) No EMS provider or EMS agency may be subject to civil liability based solely upon failure to obtain consent in rendering EMS to any person, regardless of age, where the person is unable to give consent for any reason, including minority, and where there is no other person reasonably available who is legally authorized to give or refuse to give consent, provided the EMS provider has acted in good faith and without knowledge of facts negating consent. A school that uses a school bus or other vehicle to transport children under 18 years of age shall make arrangements prior to transport as to who may give or refuse consent to EMS for each child that is transported.

**Comment: What is the plan to enforce or regulate school districts to regarding the last sentence in this paragraph?**

.....

**§ 44. Support of emergency medical services**

**(e) Allocation to Catastrophic Medical and Rehabilitation Fund.**—Twenty-five percent of the Emergency Medical Services Operating Fund money appropriated to the department shall be allocated to a Catastrophic Medical and Rehabilitation Fund for victims of trauma. The catastrophic fund shall be available to trauma victims to purchase medical, rehabilitation and attendant care services when all alternative financial resources have been exhausted. The department may, by regulation, prioritize the distribution of funds by classification of traumatic injury.

**Comment: Consider revision in this paragraph**

**(e) Allocation to Catastrophic Medical and Rehabilitation Fund.**—Twenty-five percent of the Emergency Medical Services Operating Fund money appropriated to the department shall be allocated to a Catastrophic Medical and Rehabilitation Fund for victims of trauma. The catastrophic fund shall be available to trauma victims to purchase medical, rehabilitation and attendant care services when all alternative financial resources have been exhausted and to EMS agencies for reimbursement for services upon documentation that a trauma victims auto insurance and health care insurance has been exhausted. The department may, by regulation, prioritize the distribution of funds by classification of traumatic injury.

**Rationalization:** *Frequently, the reimbursement to an air ambulance service and trauma center for services rendered to a trauma victim exhausts all available reimbursement from auto and health insurance for that trauma victim. When this occurs, EMS agencies are left with no reimbursement for their services and probability of the EMS agency of collecting said fees from the trauma victim are minuscule. This gives rise to genuine financial issues for EMS agencies*

.....

**Generalized comment:** *The department, with the assistance of its legislative liaison should perform a fiscal note and research all avenues of funding the system in this act to include Tobacco Settlement Funds, a levy on vehicle registrations, a percentage of “sin” taxes levied on tobacco, alcohol and other products, a line item in the Governor’s annual budget, or a percentage of gaming revenues.*

.....

**§ 45. Prohibited acts**

**Comment: Consider the addition of another paragraph**

(e) Stretcher vehicle.—It shall be unlawful for any person or EMS agency to transport any person or patient by a stretcher vehicle who is currently admitted to or being discharged from a facility other acute care, rehabilitation, clinic, physician office or other health care facility, being transferred between facilities as defined in this act, being transported to a facility for admission or emergency treatment or transported to or from any other acute care, rehabilitation, clinic, physician office or other health care facility. A person or EMS agency violating this subsection commits a misdemeanor of the third degree.

**Rationalization:** *In the event the department fails to delete and ban stretcher vehicles from existence in the Commonwealth, the addition of this paragraph would hinder the profitability of operating said vehicles by reducing the market for such services.*

.....

*Prepared by the Ambulance Association of Pennsylvania Act 45 Rewrite SubCommittee: Barry Albertson, Charles Cressley, Don DeReamus, Ed Heltman, and William Hess.*