

TITLE 7 HEALTH
CHAPTER 27 EMERGENCY MEDICAL SERVICES
PART 10 CERTIFICATION OF EMERGENCY MEDICAL SERVICES AGENCIES

7.27.10.1 ISSUING AGENCY: New Mexico Department of Health, Division of Epidemiology and Response, Emergency Medical Systems Bureau.
[7.27.10.1 NMAC - N, 3/15/2010]

7.27.10.2 SCOPE:

A. This rule applies to any emergency medical service (EMS) agency that provides emergency medical services within the state of New Mexico, including but not limited to special event EMS agencies; emergency medical dispatch agencies, and transport and non-transport medical rescue agencies. This rule also applies to out-of-state EMS agencies (including but not limited to seasonal agencies) that routinely respond within or transport patients into or out of the state of New Mexico to provide emergency medical care or to pick up or deliver patients.

B. This rule does not apply to ambulance services regulated by the transportation division of the New Mexico public regulation commission or its successor agency (see 18.3.14 NMAC); federal agencies; the NM department of military affairs; tribal agencies and organizations that provide EMS entirely within the boundaries of tribal lands; ski patrols providing first aid pursuant to the Ski Safety Act, NMSA 1978, Section 24-15-1; search and rescue operations conducted pursuant to the Search and Rescue Act, NMSA 1978, Section 24-15A-1; private businesses providing emergency response teams and initial first aid solely for their employees; or EMS agencies from adjoining states (properly licensed in their respective jurisdictions) that are either 1) responding into New Mexico to assist in a mass casualty or disaster situation that exceeds the capacity or capability of the NM EMS agency in an affected area, or 2) responding into New Mexico on a non-routine basis for emergency mutual aid assistance when requested to do so by a certified EMS agency whose service area includes areas along a mutual state border.

[7.27.10.2 NMAC - N, 3/15/2010]

7.27.10.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the New Mexico Department of Health Act at NMSA 1978, Section 9-7-6 E, and the Emergency Medical Services Act at NMSA 1978, Section 24-10B-4 L.

[7.27.10.3 NMAC - N, 3/15/2010]

7.27.10.4 DURATION: Permanent.

[7.27.10.4 NMAC - N, 3/15/2010]

7.27.10.5 EFFECTIVE DATE: 3/15/2010, unless a later date is cited at the end of a section.

[7.27.10.5 NMAC - N, 3/15/2010]

7.27.10.6 OBJECTIVE: The purpose of this rule is to establish standards for the certification of EMS agencies that conduct operations within New Mexico, and to identify the process and procedures for certification and enforcement. Administration and enforcement of this rule is the responsibility of the emergency medical systems bureau of the division of epidemiology and response, department of health.

[7.27.10.6 NMAC - N, 3/15/2010]

7.27.10.7 DEFINITIONS:

A. **“Air ambulance service”** means any governmental or private service that provides air transportation specifically designed to accommodate the medical needs of a person who is ill, injured or otherwise mentally or physically incapacitated and who requires in-flight medical supervision.

B. **“Applicant”** means an applicant for EMS agency certification under this rule.

C. **“Bureau”** means the emergency medical systems bureau of the epidemiology and response division, of the department of health.

D. **“Call routing”** means the reception of emergency calls where the purpose is to only determine the course of direction of routing (police, fire, and medical) resulting in rapid transfer of medical callers to the emergency medical dispatch agency or the emergency medical dispatch call taker for emergency medical dispatching.

E. “Certificated ambulance service” means a publicly or privately owned entity holding a current certificate from the New Mexico public regulation commission that identifies it as an emergency response ambulance service, and that is subject to the rules of the public regulation commission or its successor agency.

F. “Commission on the accreditation of ambulance services (CAAS)” means the national accrediting organization that establishes ambulance industry standards and evaluates ambulance services based upon those standards.

G. “Committee on accreditation of educational programs for the EMS professions (CoAEMSP)” means the national accrediting organization that establishes standards for educational programs for EMS professions, and that evaluates training programs based on those standards.

H. “Commission on the accreditation of medical transport systems (CAMTS)” means the national accrediting organization that establishes industry standards and evaluates air and ground ambulance services based upon those standards.

I. “Conviction” means a plea or adjudication of guilt, a plea of *nolo contendere*, an *Alford* plea, or any plea or adjudication that results in a conditional discharge or a suspended or deferred conviction.

J. “Days” means calendar days, unless otherwise specified.

K. “Department” means the New Mexico department of health.

L. “Department of transportation (DOT)” means the federal department of transportation.

M. “Emergency” means an individual’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

N. “Emergency medical dispatch” means the reception, evaluation, processing, and provision of dispatch life support, management of requests for emergency medical assistance, and participation in ongoing evaluation and improvement of the emergency medical dispatch process. The emergency medical dispatch process is not limited to call routing only, but includes identifying the nature of the request, prioritizing the severity of the request, dispatching the necessary resources, providing medical aid and safety instructions to the callers, and coordinating the responding resources as needed.

O. “Emergency medical dispatch agency (EMDA)” means any organization, or a combination of organizations working cooperatively, that routinely accepts calls for emergency medical assistance and employs emergency medical dispatch priority reference system (EMDPRS) techniques.

P. “Emergency medical dispatch priority reference system (EMDPRS)” means a bureau approved reference system used by an emergency medical dispatch agency (EMDA) to dispatch aid to medical emergencies, which includes systemized caller interrogation; systemized pre-arrival instructions to the caller based upon protocols matching the dispatcher’s evaluation of injury or illness severity; and prioritized vehicle response.

Q. “Emergency medical dispatcher (EMD)” means a provider who is trained and licensed pursuant to the EMS Act, NMSA 1978, Section 24-10B-4 F, to receive calls for emergency medical assistance, provide pre-arrival medical instructions, dispatch emergency medical assistance and coordinate its response.

R. “Emergency medical service(s) (EMS)” means the medical services rendered by licensed providers in response to an emergency.

S. “Emergency medical services agency (EMS agency, agency)” means an organization that provides emergency medical services. EMS agencies include emergency medical dispatch agencies, pre-hospital agencies with defined geographical boundaries for their response, inter-facility care agencies, and special event EMS agencies organized to provide emergency medical services. For the purposes of disciplinary actions taken pursuant to the enforcement provisions of this rule, unless otherwise specified, actions taken by an “EMS agency” shall include actions taken by EMS agency personnel and its medical director(s).

T. “Emergency medical technician (EMT)” means a provider who has been licensed by the department to provide patient care in accordance with the current EMS scopes of practice (7.27.2.14 NMAC).

U. “Emergency medical service agency certification (EMS agency certification, certification, certificate)” means a legal document issued to an EMS agency by the department as evidence that the applicant meets the requirements for certification to operate an EMS agency in accordance with this rule.

V. “EMS bureau (bureau)” means the emergency medical systems bureau of the epidemiology and response division of the New Mexico department of health, and includes the bureau’s agents.

W. “EMS first responder (first responder)” means a provider who has been licensed by the department to provide initial patient care in accordance with the current EMS scopes of practice (7.27.2.14 NMAC).

X. “EMS Act (Act)” means the Emergency Medical Services Act, NMSA 1978, Section 24-10B-1 *et seq.*

Y. “EMS fund” means the fund established by the EMS Fund Act, NMSA 1978, Section 24-10A-1 *et seq.*, that is administered by the department of health.

Z. “**EMS Fund Act**” means the Emergency Medical Services Fund Act, NMSA 1978, Section 24-10A-1 *et seq.*

AA. “**EMS medical director (medical director)**” means a physician licensed in New Mexico who is responsible for all aspects of patient care for an EMS system or EMS agency, including providing for or ensuring the medical control of EMS providers; the development, implementation, and evaluation of medical protocols; emergency medical dispatch; and oversight of quality assurance activities.

BB. “**GSA standards**” means the minimum standards and specifications for ambulances contained in the United States general services administration (GSA) standard KKK-A-1822F or most current GSA standard.

CC. “**Level of care**” means the most advanced level of emergency medical services that an emergency medical technician (EMT) is permitted to administer in accordance with the most current NM EMS scopes of practice.

DD. “**Level of service**” means the most advanced level of emergency medical service at which an EMS agency is certified to function in accordance with this rule.

EE. “**Medical control**” means EMS supervision provided by or under the direction of physicians to providers by written protocol or direct communication.

FF. “**Medical direction**” means guidance or supervision provided by a physician to an agency, provider or emergency medical services system and includes authority over and responsibility for emergency medical dispatch, direct patient care and transport of patients, arrangements for medical control and all other aspects of patient care delivered by an EMS provider or agency.

GG. “**Medical direction committee**” means the committee of physicians and emergency medical technicians created under the EMS Act, at NMSA 1978, Section 24-10B-7 C, whose members are appointed by the secretary to advise the bureau on all matters relating to medical control and medical direction.

HH. “**Medical protocol**” means a predetermined, written medical care plan and includes standing orders from a medical director.

II. “**Mutual aid**” means aid provided pursuant to a written agreement between one municipality, county or private EMS agency and one or more other municipalities, counties or private EMS agencies for the purpose of ensuring that adequate emergency medical services exist locally or throughout the state in order to assure a timely response to the call for emergency medical care. Mutual aid agreements may be utilized to address (among other things) coordinated response to catastrophic events, as well as common system demand and staffing situations.

JJ. “**National EMD standard-setting and certification organization (NESSCO)**” means the organization that provides and maintains a comprehensive EMD protocol and training system development process. Organizations accredited under NESSCO are required to maintain current and up-to-date emergency medical dispatch priority reference system (EMDPRS) curriculum, training, testing, certification, recertification, instructor, quality improvement and accreditation programs and standards.

KK. “**Non-transport medical rescue vehicle**” means any EMS agency representative vehicle (motor vehicle or watercraft) that is not a privately owned vehicle and that carries EMS equipment that is not included in the EMS agency’s medical protocols to transport patients.

LL. “**Non-transport medical rescue agency**” means an EMS agency that does not transport patients and is organized under a New Mexico political subdivision or a private entity performing services solely for its employees.

MM. “**Out-of-state EMS agency**” means an EMS agency that is organized under the laws of another state, or whose principal place of business is located in another state.

NN. “**Patient care report**” means a medical record of an encounter between any patient and a provider of medical care.

OO. “**Personnel**” means any employee, agent, representative, volunteer, or intern of an EMS agency who provides emergency medical services.

PP. “**Privately owned vehicle**” (POV) means a privately owned vehicle not registered to a governmental entity or EMS agency.

QQ. “**Physician**” means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico.

RR. “**Post-dispatch instructions**” means case-specific advice, warnings, and treatments given by trained EMDs to responders whenever possible and appropriate after dispatch of field responders.

SS. “**Pre-arrival instructions**” means the scripted medical instructions provided to callers in emergency situations by licensed emergency medical dispatchers prior to the arrival of EMS agency personnel.

TT. “**Primary response area**” means the specific primary geographic area designated or prescribed by a jurisdiction in which an EMS agency provides emergency medical service.

UU. “Provider” means a person who has been licensed by the department to provide patient care pursuant to the EMS Act, NMSA 1978, Section 24-10B-1 *et seq.*

VV. “Quality assurance” means a retrospective review or inspection of EMS records to determine if appropriate care is being provided.

WW. “Regional office” means an emergency medical services planning and development organization formally recognized and contracted by the bureau.

XX. “Required records” means records, logs, data sets, forms, agreements, plans, procedures, policies, titles, certificates and other documents required to be retained by an EMS agency under this rule, whether in electronic or printed form.

YY. “Scope of practice” means the skills, techniques, medications, and procedures identified by rule of the department (7.27.2.14 NMAC) that are allowed for the practice of emergency medical services in New Mexico, that apply to all EMS personnel, EMS services, and EMS medical directors.

ZZ. “Secondary response area” means a geographic area in which an EMS agency provides emergency medical service beyond their primary response area, established by local jurisdictions or mutual aid agreements.

AAA. “Secretary” means the secretary of the New Mexico department of health.

BBB. “Special event emergency medical services (special event EMS)” means emergency medical services provided outside the emergency response system at scheduled, contractual events. Special event services include but are not limited to: medical services provided at movie sets, sporting events, mass gatherings, concert venues, adventure programs, religious events, guest ranches and wild-land fires.

CCC. “Special event EMS agency” means an organization that provides special event emergency medical services to the public by licensed EMS providers.

DDD. “Special skill” means a set of procedures or therapies that are beyond the usual scope of practice for a given level of licensure and that have been approved by the medical direction committee for use by a specified provider.

EEE. “Standing orders” means defined written orders for actions, techniques or drug administration, signed by the medical director, to be utilized when communication has not been made with an on-line medical control physician.

FFF. “Transport capable medical rescue” means any vehicle (motor vehicle or watercraft) that carries EMS protocols for transporting patients in a patient care compartment.

GGG. “Transport medical rescue agency” means an EMS agency that transports patients under certain circumstances and without compensation, and is organized under a New Mexico political subdivision or a private entity.

[7.27.10.7 NMAC - N, 3/15/2010]

7.27.10.8 USE OF TERMS AND ADVERTISING: It shall be prohibited for any EMS agency to advertise or perform emergency medical services, or to use the title “certified emergency medical services agency,” in New Mexico, unless the EMS agency has been certified by the bureau in accordance with this rule.

[7.27.10.8 NMAC - N, 3/15/2010]

7.27.10.9 DISCLOSURE TO THE PUBLIC: If requested by a potential client, a patient or a member of the public, a certified emergency medical services agency shall disclose its current level of New Mexico certification and what level of service it can provide.

[7.27.10.9 NMAC - N, 3/15/2010]

7.27.10.10 EMS BUREAU CERTIFICATION REQUIRED: An EMS agency shall, prior to beginning emergency medical services operations within the state of New Mexico, obtain either a temporary or full emergency medical services certification from the bureau. Certification by the EMS bureau shall not in itself qualify an EMS agency for EMS fund distribution.

[7.27.10.10 NMAC - N, 3/15/2010]

7.27.10.11 FULL CERTIFICATION PERIOD: Certification periods are twenty-four months in length except for the initial period, which shall vary according to the date of initial certification. The second or subsequent period of certification shall be for a full twenty-four month period, regardless of the date of application for renewal or the date for processing of the renewal certificate. This period shall begin on January 1 of the renewal year. Requirements for renewal of licensure shall be completed by the December 1st that occurs prior to expiration of

certification. The certification period for emergency medical agencies may be adjusted by the bureau to correspond with the CAMTS, CAAS or other bureau-approved accreditation period. EMS agencies may be subject to audit. EMS agencies shall complete an annual report form that contains the same elements as the annual service report required of ambulance services by PRC rule (18.3.14.22 NMAC). The bureau shall issue the annual report form to EMS agencies by November 1 of each year, and EMS agencies shall complete the form and return it to the bureau no later than January 15 of the following year.
[7.27.10.11 NMAC - N, 3/15/2010]

7.27.10.12 RECORDS AND DATA COLLECTION:

A. Patient care reports. All certified EMS agencies except special event EMS shall complete in a timely manner and keep on file a clearly written or computer-generated patient care report for each patient who is provided with emergency medical care or transported. Each patient care report shall be authored by the provider(s) actually responsible for the patient care, and shall be completed within forty-eight hours of the provision of care to the patient.

B. Submission of minimum pre-hospital data. An EMS agency shall compile and submit minimum data required pursuant to this rule on a quarterly basis, or as required by the bureau.

C. Minimum data elements; general EMS agency information. An EMS agency shall submit the following general data to the EMS bureau:

- (1) EMS agency number;
- (2) EMS agency state;
- (3) EMS agency county;
- (4) level of service;
- (5) organizational type;
- (6) organization status;
- (7) statistical year;
- (8) total service size area;
- (9) total service area population;
- (10) 911 call volume per year;
- (11) EMS dispatch volume per year;
- (12) EMS transport volume per year;
- (13) EMS patient contact volume per year;
- (14) EMS agency time zone;
- (15) national provider identifier;
- (16) EMS agency contact zip code.

D. Minimum pre-hospital data elements: An EMS agency shall compile and submit to the EMS bureau the following minimum pre-hospital data for every instance that patient care is provided by the EMS agency:

- (1) vehicle type;
- (2) patient care report number;
- (3) software creator;
- (4) software name;
- (5) software version;
- (6) EMS agency number;
- (7) incident number;
- (8) type of service requested;
- (9) primary role of the unit;
- (10) type of dispatch delay;
- (11) type of response delay;
- (12) type of scene delay;
- (13) type of transport delay;
- (14) type of turn-around delay;
- (15) EMS unit call sign (radio number);
- (16) response mode to scene;
- (17) complaint reported by dispatch;
- (18) EMD performed;
- (19) crew member role;
- (20) crew member level;

- (21) PSAP call date/time;
- (22) dispatch notified date/time;
- (23) unit notified by dispatch date/time;
- (24) unit en route date/time;
- (25) unit arrived on scene date/time;
- (26) arrived at patient date/time;
- (27) unit left scene date/time;
- (28) patient arrived at destination date/time;
- (29) unit back in service date/time;
- (30) unit back at home location date/time;
- (31) patient's last name;
- (32) patient's first name;
- (33) patient's home zip code;
- (34) patient's home country;
- (35) patient's social security number;
- (36) patient's gender;
- (37) patient's race;
- (38) patient's ethnicity;
- (39) patient's age;
- (40) patient's age units;
- (41) patient's date of birth;
- (42) patient's primary method of payment;
- (43) patient's insurance company ID/name;
- (44) CMS service level;
- (45) condition code number;
- (46) number of patients at scene;
- (47) mass casualty incident;
- (48) incident location type;
- (49) scene GPS location;
- (50) incident address;
- (51) incident city;
- (52) incident county;
- (53) incident state;
- (54) prior aid;
- (55) person who performed prior aid;
- (56) outcome of the prior aid;
- (57) possible injury;
- (58) patient's chief complaint;
- (59) chief complaint anatomic location;
- (60) chief complaint organ system;
- (61) primary symptom;
- (62) other associated symptoms;
- (63) provider's primary impression;
- (64) provider's secondary impression;
- (65) cause of injury;
- (66) whether injury was caused intentionally;
- (67) mechanism of injury;
- (68) use of occupant safety equipment;
- (69) airbag deployment;
- (70) height of fall;
- (71) cardiac arrest;
- (72) cardiac arrest etiology;
- (73) resuscitation attempted;
- (74) barriers to patient care;
- (75) alcohol/drug use indicators;
- (76) run report narrative;

- (77) total Glasgow coma score;
- (78) medication given;
- (79) medication complication;
- (80) procedure;
- (81) number of procedure attempts;
- (82) procedure successful;
- (83) procedure complication;
- (84) destination/transferred to, name;
- (85) destination/transferred to, code;
- (86) destination zip code;
- (87) incident/patient disposition;
- (88) transport mode from scene;
- (89) reason for choosing destination;
- (90) type of destination;
- (91) emergency department disposition;
- (92) hospital disposition.

E. Updates. An EMS agency shall maintain current operational information by providing regular updates to the bureau through the EMS reporting software and the application and renewal process. Review of completed patient care reports may be required during initial and subsequent inspections.

F. Location of records. An EMS agency shall maintain all required records at the agency's principal place of business within the state of New Mexico. All required records are subject to inspection by the bureau and shall be maintained so that they are reasonably accessible. The EMS bureau may, upon a showing of good cause, allow an EMS agency to maintain required records at a location outside the state of New Mexico, provided that the EMS agency demonstrates to the satisfaction of the EMS bureau that the records will be reasonably accessible for the bureau's inspection.

G. Completed patient care records. An EMS agency that transports a patient shall, upon delivery of the patient to the hospital, deliver a copy of the completed pre-hospital patient care record to the receiving facility's emergency department for inclusion in the patient's permanent medical record. In the event that the transporting unit is dispatched on another call before the pre-hospital patient care record can be transmitted, the pre-hospital patient care record shall be delivered to the receiving hospital's emergency department no later than forty-eight hours after the transportation and treatment of the patient.

H. Current records requirements.

(1) **Current records for all EMS agencies.** An EMS agency shall at all times maintain current copies of the following records:

- (a) medical protocols signed by the EMS agency's medical director;
- (b) operation plans and standard operating procedures and guidelines for the EMS agency;
- (c) rosters of EMS agency personnel;
- (d) applications of EMS agency employees and other personnel;
- (e) copies of certification and licensure documentation for all EMS agency personnel;
- (f) HIPAA documentation for all EMS agency personnel;
- (g) service area maps with global positioning system (GPS) coordinates of EMS agency

stations;

- (h) board of pharmacy clinic license and pharmacy license, if applicable;
- (i) federal drug enforcement administration (DEA) license, if applicable;
- (j) driver's license and driver certification copies for each employee / volunteer; and
- (k) infection control policy.

(2) **Additional current records for all medical rescue agencies.** Additionally, a medical rescue agency shall at all times maintain a current, valid copy of the title for each vehicle owned by the medical rescue agency.

(3) **Additional current records for all emergency medical dispatch agencies.** Additionally, an emergency medical dispatch agency shall at all times maintain current copies of the following documents:

- (a) training records (rosters, course outlines, etc.);
- (b) E-911 updates street mapping / maps; and
- (c) a public safety answering points (PSAP) directory.

I. Other records required (extended retention).

(1) **Medical records.** An EMS agency other than special event EMS shall retain all adult medical

records (including patient care reports) for at least ten years. An EMS agency other than special event EMS shall retain all medical records of minors (including patient care reports) for at least ten years, or at least one year after the person reaches the age of majority, whichever period of time is greater.

(2) **Other records.** An EMS agency shall retain the following records for a period of not less than seven years:

- (a) a copy of the EMS agency's application for certification from the EMS bureau;
- (b) certificate of insurance for the EMS agency;
- (c) business license and incorporation documents for the EMS agency, as applicable, or documentation verifying the EMS agency's status as a governmental entity;
- (d) all current and expired mutual aid agreements and memoranda of agreement entered into by the EMS agency;
- (e) medical director contract or professional agreement;
- (f) criminal background check documentation for EMS agency personnel, as applicable;
- (g) copies of EMS agency certification updates; and
- (h) quality assurance documentation.

(3) **Additional medical rescue agency records.** Additionally, a medical rescue agency shall retain the following records for a period of not less than seven years:

- (a) vehicle maintenance records;
- (b) annual safety inspection certificates for each vehicle operated by the EMS agency; and
- (c) consultant pharmacist contract or professional agreement.

(4) **Additional emergency medical dispatch agency records.** Additionally, an emergency medical dispatch agency shall retain the following records for a period of not less than seven years:

- (a) telephone and radio audio recordings, including magnetic tapes and digital file format recordings (DAT, CD, DVD, etc.);
- (b) 911 system and call records (printed output, electronic files, etc.);
- (c) CAD files; and
- (d) hand-written (manual) reports.

J. Extension of retention period; contingencies. If at the end of a stated retention period an EMS agency is involved in or is aware of pending legal obligations (contractual or otherwise), litigation, administrative action, governmental investigation, insurance claims, or court orders that relate in whole or in part to a required record, the EMS agency shall continue to retain the required record for at least six months after said contingency has been resolved or concluded.

K. Protection of records. An EMS agency shall take reasonable precautions to protect required records from destruction and damage. If an EMS agency's required records are destroyed or damaged prior to the end of the retention period established in this rule, the EMS agency shall immediately notify the bureau.
[7.27.10.12 NMAC - N, 3/15/2010]

7.27.10.13 EMERGENCY INFORMATION REQUIRED: When applying for initial certification or renewal of certification, an EMS agency shall provide to the bureau emergency contact information for the EMS agency. This information shall be used by the bureau to provide effective communications and resource management in the event of a statewide or localized disaster or emergency situation.

[7.27.10.13 NMAC - N, 3/15/2010]

7.27.10.14 GENERAL STANDARDS:

A. Personnel licensure required. An EMS agency shall ensure that EMS providers at all times maintain current EMS licensure in accordance with 7.27.2 NMAC ("Licensing of Emergency Medical Services Personnel").

B. Scopes of practice. An EMS agency providing emergency medical services shall ensure that EMS providers comply with the current EMS scopes of practice in accordance with 7.27.2 NMAC ("Licensing of Emergency Medical Services Personnel").

C. Other required personnel for emergency medical services. An EMS agency shall designate an EMS medical director, a designated training coordinator, and a service director, as provided below:

(1) **training coordinator:** each EMS agency shall designate a training coordinator, who shall coordinate the availability of appropriate training programs and continuing education for EMS providers;

(2) **medical direction required:** each EMS agency shall retain a medical director, who shall provide medical direction to the agency that is consistent with the requirements of 7.27.3 NMAC ("Medical Direction for

Emergency Medical Services”);

(3) **service director:** each EMS agency shall designate a service director who shall serve as the single point of contact for the EMS agency, who shall provide operational oversight for the entire EMS agency; the EMS agency’s service director shall be responsible for the EMS agency’s adherence to the standards of this rule.

D. Pharmaceutical license. An EMS agency shall comply with NM board of pharmacy requirements regarding all medications utilized and stored, including oxygen. An EMS agency shall maintain and display copies of its federal drug enforcement administration license, NM board of pharmacy clinic license, and NM board of pharmacy license in plain sight at its primary business location.

E. Proof of financial responsibility. An EMS agency shall maintain at a minimum both vehicle and general liability insurance, either through self-indemnity or an insurance company. Proof of insurance shall be filed with the bureau, along with the application for EMS agency certification as required by this rule. At any time that said insurance is required to be renewed, proof of renewal shall be submitted to the bureau.

F. Communications. An EMS agency shall maintain EMS communication capabilities sufficient to ensure interoperability and interconnectivity with dispatch centers, hospitals and other EMS and rescue providers.

G. Quality assurance review. An EMS agency shall implement a quality assurance program, which shall be planned, developed and implemented by the EMS agency’s medical director in a manner consistent with 7.27.3 NMAC (“Medical Direction for Emergency Medical Services”). The quality assurance program shall include review of documentation of patient care in a pre-determined set of circumstances to ensure a feedback and training loop for the EMS providers.

H. Personnel hours and safety. An EMS agency shall adopt rules consistent with applicable federal employment standards (e.g., Fair Labor Standards Act (FLSA), 29 USC Section 201 *et seq.*, Occupational Safety and Health Act (OSHA), 29 USC Section 651 *et seq.*).

I. Internships. An EMS agency may provide clinical internships only through a bureau-approved or CoAEMSP accredited EMS training program.
[7.27.10.14 NMAC - N, 3/15/2010]

7.27.10.15 DUTY TO PROVIDE SERVICE:

A. An EMS agency and any of its personnel or agents shall provide service to a person in need of emergency medical treatment or transportation.

B. An EMS agency shall, in accordance with the EMS agency’s level of care, transport a patient requiring medical treatment and transport to the closest appropriate facility capable of providing appropriate care and treatment, as determined by the EMS agency’s medical director.

C. An EMS agency shall give priority to emergency response calls.

D. An EMS agency shall be available 24 hours a day, 365 days a year unless the provision of services is otherwise addressed within mutual aid agreements or a memorandum of understanding. Certified special event EMS agencies may address the provision of duty hours based upon the EMS agency’s contracts or agreements.
[7.27.10.15 NMAC - N, 3/15/2010]

7.27.10.16 MEDICAL RESCUE AGENCIES:

A. General requirements for all medical rescue agencies:

(1) **Certification required.** A medical rescue agency shall not provide treatment to any patient, nor shall a transport medical rescue agency transport any patient, unless the medical rescue agency holds a valid certificate in accordance with this rule.

(2) **Level of service.** Any medical rescue agency that represents itself as providing any EMS level of service shall make that level of service available.

(3) **Fees prohibited.** Medical rescue agencies shall not charge a fee to the patient. Nothing in this rule shall be construed to prevent a medical rescue agency from negotiating reimbursement agreements.

(4) **Hygiene and cleanliness.** Medical rescue agencies shall maintain clean and hygienic work environments, and shall adopt and implement reasonable infection control practices to prevent the spread of communicable diseases. Medical rescue agencies shall properly maintain and dispose of all biohazard material.

(5) **Medical rescue emergency motor vehicles.** Medical rescue emergency motor vehicles shall provide safe and adequate service, and shall utilize equipment, supplies and facilities that are safe and adequate for the provision of emergency medical services and otherwise consistent with the requirements of this rule. Motor vehicles shall be safe, dependable and suitable for the services rendered. Each motor vehicle shall be maintained in good mechanical and operating condition. The bureau may remove from operation any medical rescue agency vehicle that the bureau determines to be either not road worthy or not response worthy. Transport-capable medical

rescue vehicles shall be equipped with a heating, cooling and ventilation system capable of providing a reasonable level of comfort inside the motor vehicle.

(6) Documentation. EMS agencies certified under this rule shall annually submit to the bureau a certificate of safety for each of their medical rescue vehicles, to include the date, name, contact telephone number and location of the certified mechanic performing the inspection.

(7) Drivers. Any person who regularly drives a certified medical rescue (transport or non-transport) vehicle shall:

- (a) be at least 18 years of age;
 - (b) hold a valid New Mexico driver's license or equivalent out-of-state driver's license, equivalent to a class "D" or higher;
 - (c) be in compliance with bureau requirements for an emergency vehicle operator's course;
 - (d) not have received a driving while intoxicated, driving under the influence, or reckless driving conviction within the past year;
 - (e) not be prohibited by law from driving without a breath alcohol ignition interlock device;
 - (f) not be prohibited by law from operating a motor vehicle for any other reason;
 - (g) annually provide to their EMS agency a copy of the person's motor vehicle driving record;
- the medical rescue agency shall validate and submit to the bureau a list of all drivers authorized by the agency together with the agency's annual report; all driver infractions resulting in the loss or potential loss of driving privileges shall be reported to the bureau.

(8) Safety belts. Safety belts shall be utilized by all persons in the forward compartment of emergency motor vehicles. Attending personnel shall wear seat belts when feasible. Safety belts or other safety restraining devices shall be available for patients being transported, and shall be utilized for patients at all times during patient transport, unless extenuating circumstances prevent their usage.

(9) Child restraint systems. Attending personnel shall utilize child restraint systems when feasible and necessary. Child restraint systems shall satisfy all federal and state requirements when in use.

(10) Minimum personnel requirements. All medical rescue agencies (transport and non-transport) shall maintain the following minimum personnel requirements during patient treatment and transportation:

- (a) a minimum of one New Mexico licensed EMS provider shall be present at the scene of an emergency;
- (b) for transport of a patient, a minimum of one qualified New Mexico-licensed EMS provider shall be present in the patient compartment of the medical rescue vehicle at all times while the compartment is occupied by a patient;
- (c) healthcare personnel not licensed as an EMS provider may accompany and monitor a patient in the patient compartment of a medical rescue vehicle, provided that at least one qualified New Mexico-licensed EMS provider is also present in the patient compartment, subject to the policies of the EMS agency.

(11) Mutual aid. All medical rescue agencies (transport and non-transport) shall develop mutual aid plans with appropriate EMS agencies and PRC regulated ambulance services. A medical rescue agency may provide mutual aid to another EMS agency pursuant to a mutual aid agreement only in the event that the other agency cannot respond to a call for service, and only in the following circumstances:

- (a) in mass casualty or disaster situations, when requested by state or local authorities in accordance with established local emergency plans;
- (b) when requested by another EMS agency or a licensed EMS provider during an emergency and in accordance with established mutual aid agreements;
- (c) when requested by a law enforcement agency or officer; or
- (d) in a non-emergency, when the responsible local provider's resources are exhausted, pursuant to arrangements made by the responsible local provider for (and for the coordination of) such necessary mutual aid.

(12) Unauthorized persons. A medical rescue agency shall not transport any person who is not a patient (including but not limited to a hitchhiker), other than an on-duty employee of the medical rescue agency, a person authorized by the medical rescue agency to be transported, or a bureau representative on official business, unless the person's transport is necessitated by an emergency.

(13) Accident reports. Every medical rescue agency shall report to the bureau every accident that occurs in the course of the medical rescue agency's operations within the state on either public or private property that results in the death of a person, injury to a person that requires treatment by a physician, or damage to property belonging to either the medical rescue agency or any other person to an apparent extent of two thousand five hundred dollars (\$2,500.00) or more.

(a) In the event that an EMS vehicle operated by a medical rescue agency is involved in a collision that results in a person's death, the medical rescue agency shall, within twenty-four hours of learning of the person's death, submit a copy of the police report of the collision to the bureau.

(b) Police reports of all other collisions involving an EMS vehicle operated by a medical rescue agency shall be submitted to the bureau by the medical rescue agency no later than fifteen days after the date of the collision.

(c) If a medical rescue agency learns after submitting a police report to the bureau that an individual who was involved in a collision involving an EMS vehicle operated by the agency has died, the agency shall file an amended copy of the police report with the bureau no later than fifteen days after learning of the person's death.

(d) For the purposes of this section, a medical rescue agency that has submitted a uniform accident report of the collision to the motor vehicle division of the New Mexico taxation and revenue department may submit a copy of that report to the bureau instead of a police report; provided that the deadline for the submission to the bureau of a uniform accident report shall be the same as the deadline for the submission of a police report.

B. Additional requirements for transport medical rescue agencies. Transport medical rescue agencies shall meet the following requirements in order to be certified by the bureau.

(1) All transport medical rescue vehicles shall carry appropriate supplies and equipment, including the minimum required equipment identified in this rule.

(2) Patient transport is allowed in two distinct situations:

(a) saving of life or limb: when a transport medical rescue agency is dispatched without the intent to transport, but transports patient(s) due to life or limb-saving necessity;

(b) system demand: a transport medical rescue agency may transport a patient when there is no ambulance service available, or may intercept with any air or ground ambulance service when it is beneficial for the patient.

(3) All transport medical rescue agencies shall additionally maintain the following agreements and protocols:

(a) a fully executed written agreement between the public regulation commission-certificated ambulance service serving the area and the transport medical rescue agency that describes the transport protocol to be followed;

(b) a written medical protocol that clearly specifies situations when transport is allowed and has been approved by the transport rescue agency medical director.

[7.27.10.16 NMAC - N, 3/15/2010]

7.27.10.17 MINIMUM REQUIRED EQUIPMENT FOR NON-TRANSPORT MEDICAL RESCUE

VEHICLES: All non-transport medical rescue agencies shall stock and equip non-transport medical rescue vehicles with the following minimum required equipment and supplies. Supplies shall be maintained in sufficient quantities to assure the safe and adequate provision of emergency medical services in response to one or multiple incidents.

A. Forward compartment:

- (1) vehicle registration;
- (2) *U. S. department of transportation emergency response guidebook* (most current edition);
- (3) maps or navigational equipment;
- (4) service specific protocols and resource guides;
- (5) patient care reports or reporting system;
- (6) hand sanitizer;
- (7) flashlight (battery powered, hand crank, with mounted battery charging system);
- (8) fire extinguisher (ten pounds, ABC type or functional equivalent, charged);
- (9) spotlight or auxiliary lighting system;
- (10) roadway warning devices (safety flares, emergency lights, safety cones);
- (11) vehicle jack;
- (12) spare tire; and
- (13) tire wrench.

B. Communications equipment:

- (1) radio communications (portable or affixed);
- (2) equipment sufficient to establish and maintain direct or repeated communications with area

dispatch and secondary providers; and

(3) N.M. EMSCOM radio system capable of cellular and text/data transmissions (optional), spare batteries / charger system.

C. Personal protective equipment (PPE):

- (1) EMS turnout gear;
- (2) helmets with face shield;
- (3) gloves (work gloves or leather gloves);
- (4) eye protection (glasses or goggles);
- (5) hearing protection;
- (6) safety vest / jacket (ANSI 2008 compliant; break-away, reflective, high visibility coloration);
- (7) exam gloves (assorted sizes);
- (8) disposable splash protection (gowns, scrubs, eye shielding, etc.);
- (9) tyvek coveralls (optional); and
- (10) N-95 mask (or a mask better than a particulate mask).

D. Diagnostic equipment:

- (1) aneroid sphygmomanometer, blood pressure cuffs (with infant, pediatric, adult, and obese sizes);
- (2) stethoscope (more than one);
- (3) glucose monitoring instrument (portable);
- (4) pulse oximeter (portable);
- (5) end-tidal CO2 monitoring device (disposable, colormetric);
- (6) penlights; and
- (7) shears (trauma or equivalent).

E. Cardiac equipment:

- (1) semi-auto external defibrillator;
- (2) defibrillator pads (extra); and
- (3) defibrillator batteries (extra).

F. Bandages/dressings:

- (1) triangular bandages;
- (2) universal dressings (approximately ten inches by thirty inches);
- (3) gauze pads (four inches by four inches);
- (4) bandages - soft roller (self-adhering);
- (5) bandages - elastic (band aids, assorted sizes);
- (6) occlusive dressings (sterile, individually wrapped);
- (7) adhesive tape (various sizes: one inch, two inch, duct tape ('medical' - white);
- (8) cold packs;
- (9) heat packs; and
- (10) burn sheets.

G. Respiratory equipment:

- (1) mounted electric or manifold operation suction aspirator (that meets GSA standard);
- (2) portable suction aspirator (as approved by the bureau);
- (3) sterile suction catheters and tubing (rigid and soft, if applicable; assorted sizes);
- (4) bag-valve-mask resuscitator (BVM) (disposable, with transparent adult mask); the BVM shall be

capable of operation in cold weather, shall be capable of use with an oxygen supply and shall be capable of delivering approximately 100% oxygen;

(5) pediatric bag-valve-mask resuscitator (disposable, with transparent child and infant mask); the pediatric BVM shall be capable of operation in cold weather, shall be capable of use with an oxygen supply, and shall be capable of delivering 100% oxygen;

- (6) adult oxygen masks with reservoir (non-rebreather or partial non-rebreather);
- (7) adult oxygen masks (simple);
- (8) pediatric oxygen masks with reservoir (non-rebreather or partial non-rebreather);
- (9) pediatric oxygen masks (simple);
- (10) nasal cannulas;
- (11) oxygen supply tubing;
- (12) oropharyngeal airways (with adult, child and infant sizes);
- (13) nasopharyngeal airways (with adult, child and infant sizes);
- (14) laryngeal, supraglottic, multi-lumen or laryngeal airway devices (device not intended to be

placed into the trachea);

(15) oxygen: fixed system (minimum of two wall-mounted oxygen outlets and one flow meter); system shall include a yoke-type pressure reducer gauge and an approved cylinder retaining device that meets DOT standards; the system shall be capable of delivering an oxygen flow of at least 15 liters per minute; if oxygen source is of a size less than “M” cylinder, an additional full spare cylinder for the fixed system shall be carried in the ambulance; and

(16) oxygen: two portable cylinders; each unit shall consist of at least a “D” cylinder or equivalent, yoke, pressure gauge, flowmeter and cylinder wrench; the unit shall be capable of delivering an oxygen flow of at least 15 liters per minute; cylinder holders with a quick-release fitting shall be furnished to allow the use of the portable unit outside the vehicle.

[7.27.10.17 NMAC - N, 3/15/2010]

7.27.10.18 MINIMUM REQUIRED EQUIPMENT FOR TRANSPORT MEDICAL RESCUE

VEHICLES: All transport medical rescue agencies shall stock and equip transport medical rescue vehicles with the minimum equipment and supplies required in this rule to be stocked in non-transport medical rescue vehicles by non-transport medical rescue agencies. Additionally, all transport medical rescue agencies shall stock and equip transport medical rescue vehicles with the following minimum equipment and supplies. Supplies shall be maintained in sufficient quantities to assure the safe and adequate provision of emergency medical services in response to one or multiple incidents.

A. Patient compartment:

- (1) multi-level stretcher (may be power assisted, two-person);
- (2) shoulder / chest and lower extremity straps (capable of securing adult and pediatric patients);
- (3) pillow (disposable, with a vinyl cover or a rolled blanket);
- (4) blankets;
- (5) stretcher pad (bed) covers (e.g., sheets);
- (6) patient restraints (two ankle and two wrist, leather or nylon);
- (7) sharps container;
- (8) emesis basins (emesis bags or equivalent); and
- (9) body bags.

B. Pharmacological equipment for first response through ALS:

(1) appropriate medications with the contents established and approved by the service medical director, within applicable N.M. scopes of practice, with a list of contents and earliest expiration dates affixed to the outside of the kit; drug kits must be maintained in a temperate, controlled environment and shall not be left unsecured; and

- (2) mark I plus kit.

C. Pediatrics:

(1) pediatric restraint system or car seat (may be a fold-down jumpseat with a child restraint system);

(2) obstetrical kit (sterile package), to include at a minimum: a receiving blanket, a sterile bulb aspirator, a wrapped sanitary napkin, a sterile pair of scissors or scalpel blade, four-inch gauze pads, one pair of sterile gloves, two cord clamps and a plastic bag for placenta; all items shall be kept in a container with an identifying label that specifies the contents;

- (3) foil blanket; and
- (4) pediatric drug dosage tape or chart.

D. Intravenous therapy:

- (1) intravenous solution (normal saline) (1000 ml);
- (2) intravenous catheters (various sizes);
- (3) intraosseous needles;
- (4) tubing/infusion kits;
- (5) pediatric fluid volume control device (i.e., buretrol or volutrol); and
- (6) arm boards (for pediatrics).

E. Immobilization devices:

- (1) extremity immobilization devices (two full arms and two full legs, or equivalent);
- (2) short spinal extrication device (KED or equivalent), infant or pediatric immobilization; equipment shall be identified for the safe transport of infant / pediatric patients, as approved by the EMS agency’s medical director with guidelines and operating procedures provided by the agency / department;
- (3) pediatric immobilization device (as approved by the department); equipment shall be identified

for the safe transport of infant / pediatric patients, as approved by the EMS agency's medical director with guidelines and operating procedures provided by the agency / department;

- (4) spine boards (long; at least 16" wide by 72" in length with a minimum of three straps);
- (5) lateral cervical immobilization devices (commercial devices, foam blocks, blanket rolls);
- (6) cervical immobilization collars (hard type, minimum two adult, two medium, two child); and
- (7) traction splint (lower extremity, adjustable).

F. Rescue/extrication equipment:

- (1) tarp or blankets;
- (2) seatbelt cutter or trauma shears;
- (3) spring loaded center punch / window punch;
- (4) rescue ax or halligan tool;
- (5) flathead screwdriver (minimum six inches);
- (6) three-pound hammer;
- (7) hacksaw with extra bimetal-type blades;
- (8) duct tape;
- (9) one ton "come-a-long" winch;
- (10) rescue-rated chains or straps (minimum of two);
- (11) hydraulic spreader / cutter / ram (combi-tool);
- (12) air chisel-air cylinder, regulator, air hose (optional);
- (13) air bags-air cylinder, regulator, air hose (optional);
- (14) winch with recovery straps and blocking equipment; and
- (15) stabilization equipment (cribbing, blocks, struts).

[7.27.10.18 NMAC - N, 3/15/2010]

7.27.10.19 SPECIAL EVENT EMS:

A. Certification required. A special event EMS agency shall not provide medical treatment or transport to any patient unless the special event EMS agency holds a valid certificate in accordance with this rule. A special event EMS agency shall not charge a fee to the patient for services provided. Nothing in this rule shall be construed to prevent a special event EMS agency from negotiating reimbursement agreements.

B. Minimum personnel requirements. The exact number and licensure of New Mexico-licensed EMS personnel to be utilized at any event shall be established and approved by the special event EMS agency and the agency's medical director, based on estimated attendance, geography, venue and environmental factors for each event. At a minimum, one medical team consisting of two New Mexico-licensed EMS personnel equipped with a defibrillator shall be provided for every 5,000 participants and spectators. EMS providers assigned to a patient transport unit shall not be included in the staffing levels required at an event.

C. Level of service. The highest level of care that may be practiced under the licensure of special event EMS providers shall determine the level of service provided by a medical team.

D. Special event EMS agency transport. Special event EMS may be provided by an EMS agency irrespective of whether the EMS agency is transport capable. If an EMS agency that provides special event EMS is not transport capable, transport shall be provided by a public regulation commission-certificated ambulance service for the territory where the event takes place. Medical rescue agencies performing special event EMS shall follow the appropriate section in this rule.

E. Minimum supplies, equipment, medications and kits required. All special event EMS agencies shall have available and utilize supplies and equipment appropriate to the level of service to be provided, per the direction of the EMS agency's service director and medical director. At a minimum, a medical team shall be equipped with a defibrillator and trauma and airway supplies.

[7.27.10.19 NMAC - N, 3/15/2010]

7.27.10.20 EMERGENCY MEDICAL DISPATCH:

A. Certification required. An emergency medical dispatch agency shall not operate within the state of New Mexico, nor dispatch calls within or from the state of New Mexico, nor represent itself to be an emergency medical dispatch agency operating in the state of New Mexico or dispatching calls within or from the state of New Mexico, unless the emergency medical dispatch agency holds a valid certificate in accordance with this rule.

B. Minimum requirements for medical dispatch agencies. A certified medical dispatch agency shall utilize an emergency medical dispatch priority reference system that is published by a bureau-approved source

and that is used by licensed emergency medical dispatchers. A medical dispatch agency shall utilize only licensed EMDs for emergency medical dispatch.

C. Exceptions for medical dispatch agencies. In the event of a large scale emergency or mass casualty incident, emergency medical dispatch agencies may suspend emergency medical dispatch for the duration of the incident to accommodate the unusual increase in call volume.

D. Emergency medical dispatch agency performance and certification. A medical dispatch agency shall be operated in a safe, efficient, and effective manner in accordance with this rule, and shall further comply with the following minimum standards:

(1) an emergency medical dispatch agency shall, in accordance with any applicable requirements of this rule, implement and ensure that the agency's medical director reviews, approves, and oversees:

- (a) an emergency medical dispatch priority reference system;
- (b) an emergency medical dispatch training program;
- (c) a quality assurance program;
- (d) an emergency medical dispatch oversight committee; and
- (e) an emergency medical dispatch continuing education program;

(2) any emergency medical dispatch priority reference system, including but not limited to its questions, instructions, codes, and protocols, shall be utilized in its entirety, rather than in limited parts;

(3) an emergency medical dispatch agency shall ensure that emergency medical dispatchers follow the questions and decision-making processes (flowcharts) within their emergency medical dispatch priority reference system in compliance with the written policies and procedures of their emergency medical dispatch agency, and as approved by the agency's medical director;

(4) an emergency medical dispatch agency shall use a bureau-approved emergency medical dispatch priority reference system on every request for medical assistance;

(5) an emergency medical dispatch agency shall ensure that each emergency medical dispatcher provides dispatch life support (including but not limited to pre-arrival instructions) in compliance with the written text or scripts and other processes within the approved emergency medical dispatch priority reference system;

(6) an emergency medical dispatch agency shall maintain and utilize policies and procedures for the safe and effective use of the agency's approved emergency medical dispatch priority reference system;

(7) an emergency medical dispatch agency shall ensure that emergency medical dispatchers maintain valid licensure in accordance with 7.27.2 NMAC ("Licensing of Emergency Medical Services Personnel");

(8) an emergency medical dispatch agency shall set minimum training requirements that meet state standards for emergency medical dispatcher certification;

(9) an emergency medical dispatch agency shall, with the written approval and supervision of the agency's medical director and with the input of the agency's emergency medical dispatch oversight committee, establish a continuous quality assurance program that measures various areas of compliance with the emergency medical dispatch priority reference system;

(10) an emergency medical dispatch agency shall maintain and utilize the most current version of the bureau-approved emergency medical dispatch priority reference system selected for use by the emergency medical dispatch agency within six months of its publication; the most current version of the priority reference system shall also be approved in writing by the emergency medical dispatch medical director;

(11) an emergency medical dispatch agency's emergency medical dispatch oversight committee shall:

(a) establish local medical standards for dispatch procedures to assure the appropriate EMS response units are dispatched to the medical emergency scene;

- (b) develop a relevant emergency medical dispatch system;
- (c) develop relevant local standing orders and protocol as needed;
- (d) establish and monitor training standards for initial and continuing education; and
- (e) plan, develop and implement the EMS agency's quality assurance program.

E. Pre-approved EMD priority reference systems. The bureau shall identify pre-approved standardized emergency medical dispatch priority reference systems for selection and use by local emergency medical dispatch agencies.

[7.27.10.20 NMAC - N, 3/15/2010]

7.27.10.21 APPLICATION FOR CERTIFICATION:

A. Application. An EMS agency shall apply for certification using an approved application form, and shall provide completed and legible responses to every applicable element of the application form.

B. Application form. Applications for certification shall include at a minimum the following elements:

- (1) name and contact information of the applicant EMS agency, including at a minimum the EMS agency's mailing and physical addresses, primary telephone number, facsimile number, and e-mail address;
 - (2) name and contact information of the applicant EMS agency's medical director, including at a minimum the medical director's mailing address, primary telephone number, facsimile number, and e-mail address;
 - (3) name and contact information of the director or chief/chief or individual primarily responsible for the operation of the applicant EMS agency, including at a minimum the person's mailing address, primary telephone number, facsimile number, and e-mail address;
 - (4) name and contact information of the applicant EMS agency's dispatch center, including at a minimum the dispatch center's mailing address, primary telephone number, facsimile number, and e-mail address;
 - (5) name and contact information of the applicant EMS agency's insurance carrier, including at a minimum the insurance carrier's mailing address, primary telephone number, facsimile number, and e-mail address;
 - (6) the county in which the applicant EMS agency wishes to be certified, and the number of medical rescue units operated by the applicant EMS agency; and
 - (7) a notarized attestation by the individual who submits the application that certifies that the information provided in the submitted application form is true and correct to the best of the individual's knowledge.
- [7.27.10.21 NMAC - N, 3/15/2010]

7.27.10.22 CERTIFICATION PROCESS:

A. Temporary certification. The bureau may issue a temporary certification to an EMS agency for a period not to exceed three continuous months upon submission of a fully completed initial certification application and payment of appropriate fees. The bureau may in its sole discretion grant a temporary certification to an EMS agency in order to:

- (1) allow the EMS agency to begin or continue operations while awaiting full certification;
- (2) provide the EMS agency additional time to submit information requested by the bureau;
- (3) provide the EMS agency additional time to meet other certification standards; or
- (4) provide the EMS agency time to appeal an initial determination or denial of certification.

B. Full certification. To become fully certified, an EMS agency shall:

- (1) comply with applicable federal, state, and local laws regarding the operation of a business in the state of New Mexico or the counties or municipalities thereof;
- (2) if the agency is an out-of-state EMS agency, submit to the bureau a copy of a bureau-approved accreditation certificate;
- (3) complete an initial or renewal certification application and submit it to the bureau along with the required application fee;
- (4) submit to any inspections that may be conducted by the bureau;
- (5) comply with all applicable federal and state regulatory requirements, including but not limited to insurance requirements, state board of pharmacy permitting requirements, and drug enforcement administration permitting requirements;
- (6) verify the driving records of the EMS agency personnel;
- (7) conduct criminal background checks of the EMS agency personnel, if requested by the bureau;
- (8) furnish insurance documentation as required in this rule;
- (9) if the EMS agency is an emergency medical dispatch agency, provide documentation that the agency is using the most current version of its bureau-approved EMDPRS by submitting the name, version number, and date of last revision of the EMDPRS used by the dispatch agency; and
- (10) satisfy all other certification requirements applicable under this rule.

C. Renewal of certification. An EMS agency shall submit a certification renewal package to the bureau at least thirty calendar days prior to the expiration of the EMS agency's certification.

- (1) To obtain renewal certification, an EMS agency shall:
 - (a) submit to the bureau a completed renewal certification application form;
 - (b) submit to the bureau the applicable certification fee;
 - (c) comply with all applicable federal and state regulatory requirements, including but not limited to insurance requirements, state board of pharmacy permitting requirements, and drug enforcement administration permitting requirements;
 - (d) if the agency is an out-of-state EMS agency, submit to the bureau a copy of a bureau-approved accreditation certificate;

(e) comply with all other certification requirements applicable under this rule.

D. Determinations regarding certification renewal. The bureau shall review a certification renewal application in the order in which it is received, provided that the application is complete and is submitted by the EMS agency in a timely manner.

(1) If there is a delay by the bureau in notifying an EMS agency of whether the agency's certification renewal application is approved or denied, and if that delay extends beyond the expiration date of the EMS agency's existing certification, that certification shall continue in effect beyond its expiration date until either:

(a) the bureau issues a written notice to the EMS agency stating that the renewal certification application has been denied; or

(b) the bureau issues a renewed certificate to the EMS agency.

(2) If an EMS agency's renewal packet is incomplete, the department shall notify the EMS agency in writing.

E. Certification updates. An EMS agency shall provide updates to the bureau of any organizational changes in the following areas within thirty days of said change:

(1) changes in management structure;

(2) changes in the EMS agency's medical direction;

(3) additions to or removals from the EMS agency's service vehicle fleet;

(4) changes of address for the EMS agency and changes in EMS agency contact information;

(5) any change that impacts the EMS agency's certification status.

F. Change of ownership. Any change of an EMS agency's ownership shall require the EMS agency to reapply with the bureau for certification, which shall require the EMS agency's submission of any fees associated with a new certification application. The sale or exchange of fifty percent (50%) or more of the total outstanding stock of a corporation shall be deemed a change of ownership for purposes of this rule.

G. Issuance of EMS agency certificate. Upon the bureau's approval of an EMS agency's application for certification, the bureau shall provide the EMS agency with a certificate that authorizes the EMS agency to operate in New Mexico. The EMS agency shall prominently display the certificate at the EMS agency's primary business location so that it is in full public view at all times.

H. Identification of vehicles. The bureau shall provide certification decals to the EMS agency for each of the EMS agency's vehicles, which the EMS agency shall prominently display on the vehicle(s) so that the decals are in plain sight at all times.

I. Transfer of certificate or decal prohibited. An EMS agency shall not assign, sell or otherwise transfer a bureau-issued certificate, decal or other symbol that signifies the EMS agency's certification to any other person or entity.

J. Reciprocal certification. An out-of-state EMS agency that holds a valid accreditation from the commission on accreditation of ambulance services (CAAS), the commission on accreditation of medical transport systems (CAMTS), the national EMD standard setting certification organization (NESSCO), or another organization approved by the bureau as having equivalent expertise and competency in the accreditation of EMS agencies, shall be deemed to meet the standards for EMS agency certification in the state of New Mexico under this rule.

(1) The bureau shall certify an out-of-state EMS agency that holds a bureau-approved accreditation or certification following the review and approval of the certification application, bureau verification of the EMS agency's liability insurance coverage, and payment of appropriate fees by the EMS agency.

(2) An accredited or certified out-of-state EMS agency shall attach to its initial or renewal certification application evidence of current accreditation. Accreditation of an out-of-state EMS agency shall not preclude the bureau from conducting a certification inspection or from requesting additional information from the agency to ensure compliance with this rule.

K. Exemptions to certification requirements.

(1) Federal agencies and entities, including but not limited to the United States department of defense, shall be exempt from this rule.

(2) The New Mexico department of military affairs shall be exempt from this rule.

(3) Tribal agencies and organizations that provide EMS services entirely within the boundaries of tribal lands shall be exempt from this rule.

(4) An EMS agency from any state adjoining the state of New Mexico shall be exempt from this rule if that agency responds into New Mexico to assist in a mass casualty or disaster situation that exceeds the capacity or capability of the New Mexico EMS agency in the affected area, or if that agency responds into New Mexico on a non-routine basis for emergency mutual aid assistance when requested to do so by the certified EMS agency whose service area includes areas along the mutual state line. The out-of-state EMS agency shall hold a valid certificate or

authorization issued by the EMS regulatory authority that has jurisdiction in the adjoining state where the agency is located, and may provide emergency medical care, emergency medical communication and transport commensurate with that existing authority.

(5) Ambulance services regulated by the transportation division of the New Mexico public regulation commission (see 18.3.14 NMAC) shall be exempt from this rule.

L. Inspections and audits. Inspections or audits of an EMS agency shall be conducted and reviewed by the bureau or the bureau's agent(s). Only individuals who hold valid NM emergency medical technician licensure shall be assigned to conduct an investigation of an EMS agency on behalf of the bureau.

(1) The bureau may conduct on-site inspections or audits of an EMS agency at any time, at the bureau's discretion.

(2) The bureau may investigate and inspect the land, buildings, improvements to real property, vehicles, equipment, records, or documents of an EMS agency as the bureau deems necessary to determine an EMS agency's compliance or non-compliance with this rule.

(3) An EMS agency shall provide the bureau complete access at all times to the land, buildings, improvements to real property, vehicles, and equipment owned by or within the control of the EMS agency.

(4) An EMS agency shall allow the bureau at any time to freely inspect and copy all records and documents in the agency's possession.

(5) An EMS agency that has been certified by the bureau shall submit ongoing annual reports that shall be completed via a self-assessment method, and that shall affirm that the agency meets all standards identified in this rule.

(6) Bureau investigations or audits of an EMS agency may be conducted with or without notice.

(7) An EMS agency that applies for certification from the bureau and that fails an initial inspection may be subject to additional inspections by the bureau to determine whether the EMS agency satisfies certification requirements in accordance with this rule. An EMS agency that fails an initial inspection shall reimburse the bureau for each additional inspection made by the bureau to determine the EMS agency's compliance with certification requirements, in an amount equivalent to the per diem and mileage rates permitted for nonsalaried public officers in the NM Per Diem and Mileage Act, NMSA 1978, Section 10-8-1 *et seq.* Per diem and mileage rates shall be assessed to the EMS agency per each individual bureau employee or agent assigned to inspect the EMS agency.

M. Changes of name and address. An EMS agency shall notify the bureau of any change of the EMS agency's name or address no later than ten business days after said change is made.
[7.27.10.22 NMAC - N, 3/15/2010]

7.27.10.23 FEES:

A. Determination and assessment. The bureau shall determine and assess fees for the certification of EMS agencies. An agency shall register for only one category of EMS certification, based upon its primary scope of responsibility. However, an agency that qualifies under more than one category of EMS certification shall pay the greater of the applicable fees; for example, a fire department that has more than three vehicles and that also has an in-house dispatch center shall pay the fee applicable to an EMS agency.

B. Applicable fees.

(1) The following table identifies the certification fees applicable to EMS agencies for both initial and renewal certification. These fees are non-refundable.

DESCRIPTION	APPLICATION FEE (INITIAL and RENEWAL)
EMS AGENCY (transport-capable medical rescue and non-transport medical rescue) WITH:	
Up to 3 vehicles	\$100.00
4-10 vehicles	\$150.00
More than 11 vehicles	\$200.00
SPECIAL EVENT EMS	\$100.00
EMERGENCY MEDICAL DISPATCH	\$100.00
LATE FEE (postmarked or hand-delivered after	25% increase over the primary fee

(2) An out-of-state EMS agency that applies for certification (reciprocal or otherwise) under this rule shall pay the same fee applicable to an in-state EMS agency.

(3) If an EMS agency adds an additional vehicle to its fleet, and if that addition increases the fee applicable to that agency, the increased fee shall not be assessed until the time of the EMS agency's next certification renewal.

(4) EMS agency vehicles that have a gross vehicle weight rating (GVWR) of less than 5,000 pounds (motor vehicles, utility carts, etc.) shall not be included among the total number of EMS agency vehicles in assessing fees under this section.

(5) Privately owned vehicles shall not be included among the total number of EMS agency vehicles in assessing fees under this section.

C. Fee exemptions and reductions.

(1) Any EMS agency seeking certification that can document that it will incur a financial hardship in meeting the fee requirements of this rule may request a fee reduction from the bureau, if either of the following criteria is met:

(a) the service is entirely staffed by volunteer EMS providers; or

(b) the total fees to be paid by the EMS agency pursuant to this rule comprise more than 5% of the EMS agency's annual EMS operational budget.

(2) The bureau may waive or reduce certification fees at its sole discretion. Requested waivers shall be considered by the bureau on a case by case basis.

D. Use of fees. Certification fees collected by the bureau under this rule shall be used expressly to improve the EMS system.

E. Payment of fees. An EMS agency shall submit payment for certification fees along with the agency's application for certification. The EMS agency shall submit payment in a form approved by the bureau. An EMS agency's certification application shall not be processed unless and until full payment of the required fees is made.

[7.27.10.23 NMAC - N, 3/15/2010]

7.27.10.24 ENFORCEMENT:

A. Complaint/incident procedures.

(1) Any person may communicate a written complaint or knowledge of an incident concerning an EMS agency or applicant to the bureau.

(2) Complaints shall be submitted in signed, written form to the bureau as soon as practical.

(3) The bureau shall notify in a timely manner an affected EMS agency or applicant that the bureau is conducting an investigation, unless extenuating circumstances reasonably preclude notification.

B. Investigations. Investigations shall be conducted by the bureau or its agent(s). The bureau shall issue to any person whom it designates as an inspector or investigator credentials to evidence the person's authority that shall bear the person's photograph. The bureau may initiate an investigation if an inspection reveals, or if the bureau otherwise becomes aware of, facts indicating a possible violation of this rule. Upon completion of the investigation, the bureau may pursue further appropriate action.

(1) **Preliminary investigations.** When the bureau receives information that might form the basis for disciplinary action against an EMS agency or applicant, it may begin a preliminary investigation. A preliminary investigation is a fact-finding/information-gathering investigation that will attempt to determine whether justification exists to initiate an action or to conduct a formal investigation.

(2) **Formal investigations.** The bureau may undertake a formal investigation for the purpose of obtaining additional information to allow the bureau to determine whether to initiate an action. The bureau shall notify the EMS agency that is the subject of the formal investigation of the pendency of that investigation, unless doing so could substantially impair the bureau's investigation, or unless other extenuating circumstances exist that would reasonably preclude notification.

(3) **Confidentiality.** The bureau shall take precautions to ensure that investigations are conducted in a confidential manner.

(4) **Records.** An official record shall be maintained for every EMS agency certified under this rule. If the bureau begins an investigation, a separate confidential record shall be created containing all investigative material. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, NMSA 1978, 14-2-1 *et seq.*, shall be placed in the EMS agency's official record. Any request for

records maintained by the bureau shall be processed in accordance with the Inspection of Public Records Act.

C. Waivers. The bureau, upon a showing of good cause or extenuating circumstances by an EMS agency, may waive any portion of this rule in whole or in part.

(1) An EMS agency that requests a waiver shall submit written justification to the bureau explaining what good cause or extenuating circumstances exist to grant the waiver. The EMS agency shall include any supporting documentation relevant to the request.

(2) The bureau shall determine whether to grant a requested waiver as soon as practicable. The bureau shall evaluate the request and any pertinent attached documentation. The bureau may request additional documentation in support of the EMS agency's request as the bureau deems necessary.

(3) Upon determining whether to grant or deny a waiver request, the bureau shall notify the requesting EMS agency of the bureau's decision in writing within twenty calendar days.

D. Disciplinary action; other action. The bureau may take disciplinary action against an EMS agency or applicant, including denial, suspension, or revocation of certification, or imposition of any lesser restriction or condition upon certification, in accordance with the following:

(1) if the bureau takes final disciplinary action against an EMS agency or applicant, the bureau may publish notice of the action in a periodical, internet website, or other medium that has statewide distribution;

(2) the bureau may take immediate action to suspend an EMS agency's certification to prevent the EMS agency from operating in New Mexico if the bureau determines that the health and safety of the public would be jeopardized if it did not take such action; the suspended EMS agency shall be afforded the right to an expedited hearing in accordance with this rule;

(3) the bureau may take disciplinary action against an EMS agency, or may refuse to distribute EMS fund monies to an EMS agency, for any of the following reasons:

(a) knowingly allowing a person to perform emergency medical services in the state of New Mexico when the person is not licensed or otherwise authorized by the department of health to perform emergency medical services;

(b) any instance of inappropriate billing practices, including but not limited to the following:
(i) administering unnecessary treatment or supplies to a patient for the purpose of increasing the patient's bill;

(ii) charging for treatment or supplies not actually provided to a patient; and

(iii) engaging in medicare or medicaid fraud;

(c) financial insolvency of the EMS agency;

(d) fraud, deceit, or misrepresentation by an EMS agency in obtaining certification, including but not limited to misrepresentation during the initial or renewal certification process;

(e) expenditure of EMS fund monies in any manner or for any purpose not authorized by the bureau, or in any manner prohibited by the EMS Fund Act, NMSA 1978, Section 24-10A-1 *et seq.*, or applicable rules (see 7.27.4 NMAC);

(f) loss of federal drug enforcement administration or NM board of pharmacy licensure or failure to notify the bureau of such loss of licensure;

(g) failure to ensure that the EMS agency receives and complies with medical direction that conforms to applicable medical direction guidelines (see 7.27.3 NMAC);

(h) failure to pay required certification fees or to pay an outstanding balance owed to the bureau;

(i) operating as an EMS agency in the state of New Mexico for any period of time without holding valid certification from the bureau, unless the EMS agency previously obtained an applicable waiver from the bureau;

(j) failure to implement reasonable infection control practices, failure to maintain a clean and hygienic work environment, or failure to properly maintain and dispose of biohazard material;

(k) failure to make a required submission to the bureau, including but not limited to the submission of patient run report data;

(l) permitting an individual who is not a student at bureau-approved or CoAEMSP-accredited EMS training program to perform as an intern with the EMS agency;

(m) the conviction of an EMS agency's principals of a felony or a misdemeanor, as shown by a copy of the record of the court conviction;

(n) failure of an EMS agency's principals to notify the bureau upon learning that an EMS provider has been convicted of a felony or misdemeanor while employed by the EMS agency;

(o) failure of an EMS agency to cooperate with a bureau investigation, including but not

limited to failure to furnish the bureau with requested information, or failure of agency personnel to appear at an interview as requested;

(p) attempting, either directly or through an agent, to intimidate, threaten, injure or take any adverse action against a person for providing information to the bureau;

(q) conduct on the part of EMS agency personnel that constitutes a significant threat to the health or safety of individuals receiving emergency care;

(r) negligence on the part of EMS agency personnel in the delivery of emergency medical services, including but not limited to the following:

(i) malpractice or substandard medical care or treatment;

(ii) incompetence;

(iii) abandonment;

(iv) practicing without a valid NM EMT license; or performing outside an applicable standard of care/scope of practice;

(v) failure to retain, transport or use required equipment, or inappropriate use of equipment during treatment or transport of patients; or

(vi) unauthorized disclosure of medical or other confidential information;

(s) unprofessional conduct on the part of EMS agency personnel, including but not limited to the following:

(i) dissemination of a patient's health information to individuals not entitled to such information where such information is protected by law from disclosure;

(ii) falsification or alteration of patient records or EMS agency records;

(iii) misappropriation of money, drugs or property;

(iv) obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation, or deceit;

(v) aiding, abetting, assisting or hiring an individual to violate the EMS Act or these duly promulgated rules;

(vi) failure to follow established procedure and documentation regarding controlled substances;

(vii) failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of pre-hospital emergency care;

(viii) failure to report an EMT who is suspected of violating the New Mexico EMS Act (NMSA 1978, Section 24-10B-4) or New Mexico licensing rules for EMS personnel (7.27.2 NMAC);

(ix) intentionally engaging in sexual contact with or toward a patient;

(t) failure of EMS agency personnel to report revocation, suspension, denial, or other adverse action relating to a license, permit, designation or certification taken in any other state or jurisdiction affecting the ability to provide emergency medical services in that state;

(u) the making of any false, fraudulent, or deceptive statement by EMS agency personnel in any document connected with EMS agency operations;

(v) the dispensation, administration, or distribution of any controlled substance (as defined in the New Mexico Controlled Substances Act, NMSA 1978, Section 30-31-1 *et seq.*, other than a controlled substance authorized in an applicable scope of practice, by EMS agency personnel;

(w) willful and deliberate failure of EMS agency personnel to respond to a call;

(x) willful and deliberate failure of EMS agency personnel to transport a patient when required;

(y) except as otherwise provided in this rule, failure of EMS agency personnel to deliver a patient to the most appropriate medical facility as determined by the medical director, dependent upon the patient's medical needs; and

(z) failure to comply with any requirement of this rule;

(4) denial of certification for failure to properly apply or failure to pay a required fee shall not constitute a disciplinary action for purposes of this section, and shall not entitle an applicant to a hearing;

(5) the bureau's refusal to distribute EMS fund monies to an EMS agency shall not constitute a "disciplinary action" for purposes of this section, and an EMS agency that is refused a distribution of EMS fund monies shall not be entitled to a hearing under this section; an EMS agency may appeal the bureau's determination to refuse a distribution of EMS fund monies by following the appeal provisions of the EMS Fund Act rule, 7.27.4 NMAC.

E. Records management. A certification record is maintained for every certified EMS agency in New Mexico; any request for records maintained by the bureau shall be processed in accordance with the Inspection

of Public Records Act, NMSA 1978, Section 14-2-1 *et seq.*

(1) **Confidentiality of investigations.** The bureau shall take every precaution to ensure that preliminary and formal investigations are conducted in a confidential manner. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, NMSA 1978, Section 14-2-1 *et seq.*, shall be placed in the EMS agency's certification record, if one exists.

(2) **Records confidentiality.** Any files or records in the possession of the bureau, a regional office or a provider containing identifying information about individuals requesting or receiving treatment or other health services and any unsubstantiated complaints received by the bureau regarding any provider shall be confidential and not subject to public inspection; such files, records and complaints may be subject to subpoena for use in any pending cause, in any administrative proceeding, or in any of the courts of this state, unless otherwise provided by state or federal law.

F. Notice of contemplated action. When the bureau contemplates taking disciplinary action against an EMS agency or applicant, it shall serve upon the EMS agency or applicant a written notice containing a statement of the grounds or subject upon which the proposed action is based and identifying any rule(s) violated.

G. Injunctions. The department may apply to a district court of New Mexico to enjoin an EMS agency from engaging in business in the state.
[7.27.10.24 NMAC - N, 3/15/2010]

7.27.10.25 HEARINGS:

A. Right to appeal. An EMS agency or applicant may appeal a decision by the department to take a disciplinary action against the EMS agency or applicant under this rule.

B. Right to hearing. An EMS agency or applicant may request a hearing before a hearing officer appointed by the secretary to contest a proposed action or immediate suspension under this rule, by mailing a certified letter, return receipt requested, to the bureau within twenty days after service of the notice of the contemplated action or immediate suspension.

C. Scheduling the hearing.

(1) **Appointment of hearing officer.** Upon the bureau's receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing.

(2) **Hearing date.** The hearing shall be held not more than sixty days and not less than fifteen days from the date of service of the notice of hearing. **Exception for immediate suspensions:** in the event that the bureau immediately suspends an EMS agency's certification, the department shall afford the suspended EMS agency an expedited hearing within twenty days of the bureau's timely receipt of the EMS agency's request for a hearing, unless the suspended EMS agency waives this provision.

(3) **Notice of hearing.** The department shall notify the EMS agency or applicant of the date, time, and place of the hearing and the identity of the hearing officer within twenty days of the bureau's timely receipt of the request for hearing. **Exception for immediate suspensions:** in the event that the bureau immediately suspends an EMS agency's certification, the department shall notify the suspended EMS agency of the expedited hearing not less than seven days prior to the scheduled date of the expedited hearing.

(4) **Hearing venue.** The hearing shall be held in Santa Fe, New Mexico.

D. Method of service. Any notice or decision required to be served under this section may be served either personally or by certified mail, return receipt requested, directed to the EMS agency or applicant at the last known mailing address (or, if service is made personally, by the last known physical address) shown by the records of the bureau. If the notice or decision is served personally, service shall be made in the same manner allowed by the rules of civil procedure for the state district courts of New Mexico. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery, or the date of the last attempted delivery of the notice or decision, or the date of the addressee's refusal to accept delivery.

E. Excusal of hearing officer for good cause shown. A party may request that a hearing officer be excused for good cause by submitting to the secretary a motion of excusal for good cause at least twenty days prior to the date of the hearing, or at least five days prior to an expedited hearing concerning the immediate suspension of an EMS agency's certification.

F. Hearing officer duties. The hearing officer shall conduct the hearing, rule on any motions or other matters that arise prior to the hearing, and issue a written report and recommendation(s) to the secretary following the close of the hearing.

G. Official file. Upon appointment, the hearing officer shall establish an official file which shall contain all notices, hearing requests, pleadings, motions, written stipulations, evidence, briefs, and correspondence received in the case. The official file shall also contain proffered items not admitted into evidence, which shall be so

identified and shall be separately maintained. Upon conclusion of the proceeding and following issuance of the final decision, the hearing officer shall tender the complete official file to the department for its retention as an official record of the proceedings.

H. Powers of hearing officer. The hearing officer shall have all the powers necessary to conduct a hearing and to take all necessary action to avoid delay, maintain order, and assure development of a clear and complete record, including but not limited to the power to: administer oaths or affirmations; schedule continuances; direct discovery; examine witnesses and direct witnesses to testify; limit repetitious and cumulative testimony; set reasonable limits on the amount of time a witness may testify; decide objections to the admissibility of evidence or receive the evidence subject to later ruling; receive offers of proof for the record; direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct pre-hearing conferences; take notice of judicially cognizable facts or take notice of general, technical or scientific facts within the hearing officer's specialized knowledge (provided that the hearing officer notifies the parties beforehand and offers the parties an opportunity to contest the fact so noticed); dispose of procedural requests or similar matters; and enter proposed findings of fact and conclusions of law, orders, reports and recommendations. The hearing officer may utilize his or her experience, technical competence or specialized knowledge in the evaluation of evidence presented.

I. Minimum discovery; inspection and copying of documents. Upon written request to another party, any party shall have access to documents in the possession of the other party that are relevant to the subject matter of the appeal, except confidential or privileged documents.

J. Minimum discovery; witnesses. The parties shall each disclose to each other and to the hearing officer, either orally or in writing, the names of witnesses to be called, together with a brief summary of the testimony of each witness. In situations where written statements will be offered into evidence in lieu of a witness's oral testimony, the names of the persons making the statements and a brief summary of the statements shall be disclosed.

K. Additional discovery. At the hearing officer's discretion, upon a written request by a party that explains why additional discovery is needed, further discovery in the form of production and review of documents and other tangible things, interviews, depositions or written interrogatories may be ordered. In exercising his authority to determine whether further discovery is necessary or desirable, the hearing officer should consider whether the complexity of fact or law reasonably requires further discovery to ensure a fair opportunity to prepare for the hearing, and whether such request will result in unnecessary hardship, cost, or delay in holding the hearing. Depositions shall not be allowed, except by order of the hearing officer upon a showing that the deposition is necessary to preserve the testimony of persons who are sick or elderly, or who will not be able to attend the hearing.

L. Pre-hearing disposition. The subject matter of any hearing may be disposed of by stipulation, settlement or consent order, unless otherwise precluded by law. Any stipulation, settlement or consent order reached between the parties shall be written and shall be signed by the hearing officer and the parties or their attorneys.

M. Postponement or continuance. The hearing officer, at his or her discretion, may postpone or continue a hearing upon his or her own motion, or upon the motion of a party, for good cause shown. Notice of any postponement or continuance shall be given in person, by telephone, or by mail to all parties within a reasonable time in advance of the previously scheduled hearing date.

N. Conduct of hearing. Pursuant to the NM Open Meetings Act, NMSA 1978, Section 10-15-1 *et seq.*, hearings shall be open to the public; provided, however, that hearings may be closed in part to prevent the disclosure of confidential information, including but not limited to health information protected by state and federal laws.

O. Telephonic testimony. Upon timely notice to the opposing party and the hearing officer, and with the approval of the hearing officer, the parties may present witnesses by telephone or live video (if available).

P. Legal representation. The department and EMS agencies or applicants may appear by an officer or employee, or may be represented by an attorney licensed to practice in New Mexico.

Q. Recording. The hearing officer or a designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. Such recording need not be transcribed, unless requested by a party who shall arrange and pay for the transcription.

R. Burden of proof. The department has the burden of proving by a preponderance of the evidence the basis for the proposed action. **Exception:** in cases arising from the proposed denial of initial certification, the applicant for initial certification shall bear the initial burden of proving by a preponderance of the evidence that the application was improperly denied by the department and should be approved.

S. Order of presentation; general rule. Except as provided in an exception in this rule, the order of presentation for hearings in all cases shall be:

- (1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;

- (2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;
- (3) **opening statements:** the opening statement of the department; and then the opening statement of the party challenging the department's action or proposed action;
- (4) **cases:** the department's case-in-chief, and then the case-in-chief of the party challenging the department's action;
- (5) **rebuttal:** the department's case-in-rebuttal;
- (6) **closing argument:** the department's closing statement, which may include legal argument; and then the closing statement of the party opposing the department's action or proposed action, which may include legal argument; and
- (7) **close:** close of proceedings by the hearing officer.

T. Order of presentation in initial certification cases. The order of presentation in cases arising from the proposed denial of initial certification shall be:

- (1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;
- (2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;
- (3) **opening statements:** applicant's opening statement; and then the opening statement of the department;
- (4) **cases:** the applicant's case-in-chief, and then the department's case-in-chief;
- (5) **rebuttal:** the applicant's case-in-rebuttal.

U. Closing argument. The applicant's closing statement, which may include legal argument; and then the department's closing statement, which may include legal argument.

V. Close. Close of proceedings by the hearing officer.

W. Admissible evidence; rules of evidence not applicable. The hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence, such as the New Mexico rules of evidence for the district courts, shall not apply but may be considered in determining the weight to be given any item of evidence. The hearing officer may at his or her discretion, upon his or her motion or the motion of a party or a party's representative, exclude incompetent, irrelevant, immaterial or unduly repetitious evidence, including testimony, and may exclude confidential or privileged evidence.

X. Objections. A party may timely object to evidentiary offers by stating the objection together with a succinct statement of the grounds for the objection. The hearing officer may rule on the admissibility of evidence at the time an objection is made or may receive the evidence subject to later ruling.

Y. Official notice. The hearing officer may take notice of any facts of which judicial notice may be taken, and may take notice of general, technical or scientific facts within his or her specialized knowledge. When the hearing officer takes notice of a fact, the parties shall be notified either before or during the hearing of the fact so noticed and its source, and the parties shall be afforded an opportunity to contest the fact so noticed.

Z. Record content. The record of a hearing shall include all documents contained in the official file maintained by the hearing officer, including all evidence received during the course of the hearing, proposed findings of fact and conclusions of law, the recommendations of the hearing officer, and the final decision of the secretary.

AA. Written evidence from witnesses. The hearing officer may admit evidence in the form of a written statement made by a witness, when doing so will serve to expedite the hearing and will not substantially prejudice the interests of the parties.

BB. Failure to appear. If a party who has requested a hearing or a party's representative fails to appear on the date, time or location announced for a hearing, and if no continuance was previously granted, the hearing officer may proceed to hear the evidence of such witnesses as may have appeared or may accept offers of proof regarding anticipated testimony and other evidence, and the hearing officer may further proceed to consider the matter and issue his report and recommendation(s) based on the evidence presented; and the secretary may subsequently render a final decision. Where a person fails to appear at a hearing because of accident, sickness or other cause, the person may within a reasonable time apply to the hearing officer to reopen the proceeding, and the hearing officer may, upon finding sufficient cause, fix a time and place for a hearing and give notice to the parties.

CC. Hearing officer written report and recommendation(s). The hearing officer shall submit a written report and recommendation(s) to the secretary that contains a statement of the issues raised at the hearing, proposed findings of fact and conclusions of law, and a recommended determination. Proposed findings of fact shall be based upon the evidence presented at the hearing or known to all parties, including matters officially noticed by the hearing officer. The hearing officer's recommended decision is a recommendation to the secretary of the New Mexico department of health and is not a final order.

DD. Submission for final decision. The hearing officer's report and recommendation(s) shall be submitted together with the complete official file to the secretary of the New Mexico department of health for a final decision no later than thirty days after the hearing.

EE. Secretary's final decision. The secretary shall render a final decision within forty-five calendar days of the receipt of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested, within fifteen days after the final decision is rendered and signed. A copy shall be provided to legal counsel for the bureau. **Exception for immediate suspensions:** In the event that the EMS agency's certification has been immediately suspended, the secretary shall render a final decision within ten business days of the receipt of the hearing officer's written report, and a copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested, within five business days after the final decision is rendered and signed.

FF. Right to judicial review. Pursuant to NMSA 1978, Section 39-3-1.1, an EMS agency or applicant that is entitled to a hearing under this rule and that is aggrieved by an adverse final decision may obtain a judicial review of the decision by filing in state district court a notice of appeal within thirty days of the rendition and signing of the final decision by the secretary.

GG. Court-ordered stay. Filing for judicial review shall not itself stay enforcement of the final decision. Any party may petition the court whose jurisdiction has been properly invoked for an order staying enforcement.

[7.27.10.25 NMAC - N, 3/15/2010]

HISTORY OF 7.27.10 NMAC: [RESERVED]