



New York State
Department of Health
Bureau of Emergency Medical Services

POLICY STATEMENT

*Supersedes/Updates: **New***

No. 13 - 09

Date: 11/25/2013

**Re: Closure Planning
for EMS Agencies**

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Closure Planning for Ambulance or Advanced Life Support First Response Service Operating Certificate

There are a number of situations that cause an Emergency Medical Service agency to consider closing its operation and transferring or surrendering its Operating Certificate. Some of the reasons may include one or more of the following, a severe shortage of available certified EMS personnel, rising costs of operating, an organizational crisis or a natural disaster. While getting to these decisions are extremely difficult, unfortunately, many EMS agencies across New York State are determining they can no longer provide services and must close their doors.

The Department of Health, Bureau of Emergency Medical Services (BEMS) recognizes that the decision by an EMS agency to close its doors is difficult and complicated. However, an EMS agency should ***NOT stop responding*** suddenly and without a closure plan and proper notification of the neighboring EMS agencies, the dispatch organization, the Regional EMS Council (REMSCO) and the Department of Health, Bureau of EMS. This policy is intended to provide guidance information, an outline for a written **Closure Plan** and detail the procedures an EMS agency should follow to stop providing EMS response, to surrender or transfer the EMS Operating Certificate and close the business:

- The EMS agency must make the decision to cease operation and close in concert with its governing board, the agency physician medical director, and if appropriate the volunteer membership and/or employees.
- Once the decision to stop providing EMS service and close the business is made, the agency has several options to consider regarding the EMS operating certificate:
 - > Surrendering the EMS operating certificate to the Department – in this instance, the certificate no longer exists and it is archived. Should another organization wish to provide EMS in the territory, it must apply to and receive a determination of need from the appropriate REMSCO as described in Article 30, section 3008 and BEMS Policy Statement 06-06.

- > Transferring the operating certificate to an organization that receives a determination of fitness and competency from the appropriate REMSCO in accordance with Article 30, section 3005 (8) and BEMS Policy Statement 06-06.
- The EMS agency should advise the Department and the Regional EMS Council (REMSCO) in writing, at least 90 days prior to the end of operation that the EMS agency will no longer be providing EMS response, prehospital care and transportation (if applicable).
- The EMS agency should be encouraged to consult and work with neighboring EMS agencies, the county EMS coordinator, the REMSCO, the Regional Emergency Medical Advisory Committee (REMAC) and BEMS Regional Office to insure continued EMS coverage of the operating territory¹ and a smooth transition.
- The EMS agency should consider seeking legal counsel with the appropriate expertise, for advice and guidance through some or all of the dissolution of the service, the transfer² or surrender of the operating certificate and the disposition of the assets and liabilities.
- The EMS agency should develop a written **Closure Plan**. This plan should include, but may not be limited to all of the items:
 - > A method for maintaining ongoing communication with the REMSCO and BEMS throughout each stage of the closure/transfer process.
 - > A description of how the EMS agency will work with neighboring EMS agencies, the county EMS coordinator, the (REMSCO), the Regional Emergency Medical Advisory Committee (REMAC) and BEMS Regional Office to insure continued EMS coverage of the operating territory¹.
 - > A description of how written notification to the following will be made:
 - All surrounding EMS agencies;
 - All affected municipal/government authorities;
 - Local hospital CEO's and ED Directors;
 - The Local Dispatch agency;
 - County EMS Coordinator;
 - REMSCO and REMAC; and
 - Contractors and/or affected health facilities (e.g. nursing homes, clinics, adult health care facilities)

¹ EMS agencies assuming additional territory will have to apply to the REMSCO for an expansion of operating authority as required by Article 30 of NYS Public Health Law

² Transfers of operating authority are allowable in the following circumstances with approval of the appropriate REMSCO and the Department; Any change in the individual who is the sole proprietor (3010.2(a)); any change that results in adding new partners (3010.2(b)); any transfer, assignment or other disposition of ten percent (10%) or more of a corporation's stock (3010.2(c)) and; any transfer of all or substantially all of the assets of a corporation to a new corporation or owner (3010.2(d))

- > The notifications should include the following information:
 - The date the agency will cease operating/responding to EMS calls;
 - Any arrangements made for continuation of EMS response within the operating territory¹.
 - If applicable, business office contacts for business related and billing issues and questions.

- > The general public in the agencies operation territory must be notified in the local and, if appropriate the regional news media. This notification must also provide information regarding access to patient records.

- > The plan needs to include steps to ensure adequate staffing throughout the closure process.

- > The EMS agency should provide the Department with a plan for the disposition of property, vehicles, equipment, supplies and assets.

- The EMS agency must work directly with Medicaid and Medicare and/or any other insurance programs to ensure that there are no outstanding audits, unpaid cash receipts, assessments, audits, and reimbursement rate adjustments.

- The EMS agency should work with its medical director to develop a plan to dispose of any pharmaceuticals (including but not limited to controlled substances), biological and/or chemical products and waste and provide the plan and documentation of disposal to BEMS.

- The EMS agency is required to ensure that Patient Care Reports (PCRs) are retained in a secure and confidential manner and the PCRs must be made available to patients and/or authorized representatives as well as NYS DOH representatives, in accordance with New York State Public Health Law, Department policy statements and written EMS agency policies. The EMS agency must advise BEMS in writing of the location where the patient records (PCRs) will be stored, secured and how they will be made accessible to those who have the right to obtain them as part of their written plan.

- It is suggested that all fiscal and business reports, including books, records and documentation, be retained for at least six years from the date of filing. The plan should identify the location of financial record storage, the individual responsible for ensuring compliance with contact information, and a description of how former patients, regulatory /statutory authorities or other appropriate parties may request copies of records.

- In the event that the EMS agency is also an EMS Course Sponsor, the closure plan should include a description of record (student and financial) storage, the individual responsible for ensuring compliance with contact information, and a description of how former students, instructors, regulatory /statutory authorities or other appropriate parties may request copies of records.

- The plan must also include a description for the distribution of all equipment and supplies purchased with NYS funds. This plan must be approved by the Department PRIOR to moving forward with the distribution or disposal of any items purchased with NYS funds.
- The EMS agency should consider consulting with the Internal Revenue Service, Office of the New York State Comptroller (OSC) and NYS Attorney General's Office when appropriate to obtain guidance and direction on how to close the entity in compliance with all applicable laws and regulations.

This policy will help to assure that the community served by an EMS agency about to discontinue operations will have EMS coverage and provide a framework for closing the EMS service within the requirements of laws and regulations. The Department encourages any EMS agency facing closure, to make contact with the EMS Representative from the DOH regional office.

Resources:

- The Office of the Comptroller
<http://www.osc.state.ny.us/>
- Office of the Attorney General
<http://www.ag.ny.gov/>
- New York State - Not-For-Profit Corporation Laws
<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@LLN PC+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=44404392+&TARGET=VIEW>
- United States - Internal Revenue Service (IRS)
<http://www.irs.gov/>
- New York Council of Not for Profits, Inc. (for not-for-profit entities)
<http://www.nycon.org/>
- Nonprofit Dissolution: What to do When Closing the Doors, by Lee Bruder (2009)
<http://www.niqca.org/documents/NonprofitDissolutionbyLeeBruder.pdf>

Issued and Authorized by
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