

**Department of State Health Services
Council Agenda Memo for State Health Services Council
May 18-19, 2016**

Agenda Item Title: A new rule, amendment to rules, and repeal of a rule concerning Emergency Medical Services (EMS) provider licensing

Agenda Number: 3.a.

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The EMS/Trauma Systems Coordination Unit, in the Regulatory Services Division, is responsible for regulation of EMS and the designation of trauma and stroke facilities. The unit performs inspections, site surveys, and investigations and provides technical assistance related to EMS, trauma, and stroke designation. The unit operates on General Revenue and fee funds.

Summary:

The purpose of the rule amendments is to implement S.B. 1899, S.B. 219, and S.B. 1574, 84th Legislature, Regular Session, 2015. The amendments make the following changes:

- Add new definitions and update current language and terms to current standards.
- Provide clarification to the EMS provider application process.
- Update standards to ensure that air units meet air worthiness stats per federal regulations.
- Require documentation of the medical director's knowledge and experience when treating and transporting patients by air.
- Incorporate state and federal requirements for a "designated infection control officer."
- Allow DSHS to initiate disciplinary actions based on actions taken by other states or federal agencies.
- Increase the minimum required hours to meet national education standards for EMS education courses and to reflect what is already happening in Texas.
- Change the name of the Intermediate EMT to Advanced EMT, which reflects a national name change.
- Require fingerprinting of EMS personnel as directed in Government Code 411.087 and 411.110 and as required in 25 Texas Administrative Code §157.37.
- Add responsibilities for EMS personnel to complete an accurate patient care record, report abuse or injury to a patient, follow the medical director's protocols and policies, take precautions to prevent misappropriation of medication, maintain skills and knowledge of level of certification, and notify DSHS within 30 days of a change of address.
- Add violations that DSHS can utilize in order to initiate disciplinary action against EMS personnel certification.
- Require a clinical instruction program to designate of an infection control officer.
- Increase the requirement for a course coordinator to have four years of experience in EMS; require more detail to be provided to students regarding what to expect from an EMS education program; require education to be provided to all students about current Texas EMS laws, rules, and policies; and provide that more detail be given on what is considered unprofessional conduct by DSHS.
- Require an EMS instructor to document at least eight hours every two years, of providing or observing EMS care being given in an ambulance, hospital, or clinic to enhance and reinforce the instructors' knowledge of the Texas EMS system.

The rule amendments also comply with the four-year review of agency rules required by Government Code, Section 2001.039.

Key Health Measures:

Most amendments incorporate modifications to existing rules to reflect current language, terms, and standards in the EMS industry. The effectiveness of these regulations will be generally exhibited by the following:

- Licensing rules for emergency medical care for the sick and injured will continue to ensure the protection of the health and safety of the public. These new licensing rules provide verification regarding the professional experience and the financial capability and stability of licensed EMS providers or organizations.
- Incidents of fraud, waste, and abuse will be reduced by licensed EMS providers.

Outcome	Measurement
Receive initial and continuing education on state and federal laws and rules relating to EMS.	<ul style="list-style-type: none"> • Monitor the number of EMS provider license applicants that will be denied due to violations and or deficiencies. • Monitor the number and education of Administrator of Records (AOR) of each EMS provider. • Monitor the number of EMS providers and personnel to ensure there are sufficient numbers to serve the EMS needs for residents and visitors to Texas.
Provide education and guidance to EMS providers and personnel on what laws and rules require to have an EMS operation in the Texas EMS system.	<ul style="list-style-type: none"> • Monitor the number and continuing education courses that are offered to AOR and EMS Personnel. • Criteria for denial and disciplinary action of EMS personnel and applicants seeking EMS certification or licensure ensure that the Texas EMS system is staffed with personnel that provides state of the art treatment and transport by educated and trustworthy personnel.
Ensure that EMS providers have a strong quality assurance process within their organizations to review dispatches.	<ul style="list-style-type: none"> • Require all EMS personnel to complete a jurisprudence examination during initial and renewal of EMS person's certification and/or license. • Continue to conduct complaints investigation and random surveys to determine compliance.

Summary of Input from Stakeholder Groups:

These rule revisions were shared with trauma system stakeholders including EMS providers and personnel, designated trauma and stroke facilities, Regional Advisory Councils, professional organizations, and individuals. Additionally, the rule revisions were presented on multiple occasions to the Governor's EMS and Trauma Advisory Council (GETAC). To ensure that stakeholders had an opportunity to review the most current version of the rules as they were being developed, each iteration was posted to the DSHS website since Spring 2015.

During 2015, the EMS Committee of the GETAC, along with DSHS staff, held 15 stakeholder meetings across the state with ~1,500 participants. DSHS made changes to the draft rules directly related to the stakeholders' input. DSHS also received input from the Texas Ambulance Association and the Texas EMS Alliances during the rule development process. On December 11, 2015, the EMS Committee, voted to support these amended rules and to recommend to GETAC that the DSHS Council support the proposed rules. The draft rules were presented to GETAC at meetings January 27, 2016 and February 12, 2016, GETAC voted unanimously, recommending the draft rules be proposed to the Council.

Proposed Motion:

Motion to recommend HHSC approval for publication of a rule contained in agenda item # 3.a.

Approved by Assistant Commissioner/Director: Kathryn C. Perkins, R.N., M.B.A. **Date:** 4/20/2016

Presenter: Joseph Schmider **Program:** Office of EMS/Trauma Systems **Phone No.:** 512-834-6737

Approved by CPEA: Carolyn Bivens **Date:** 4/07/2016

Title 25. HEALTH SERVICES

Part 1. DEPARTMENT OF STATE HEALTH SERVICES

Chapter 157. Emergency Medical Care

Subchapter A. Emergency Medical Services - Part A

Amendments §§157.2, 157.5, Repeal §157.3, New §157.3

Subchapter B. Emergency Medical Services Provider Licenses

Amendments §§157.11- 157.14 and 157.16,

Subchapter C. Emergency Medical Services Training and Course Approval

Amendments §§157.32 - 157.34, 157.36, and 157.38

Subchapter D. Emergency Medical Services Personnel Certification

Amendments §§157.43, 157.44

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §157.2, 157.5, 157.11 - 157.14, 157.16, 157.32 - 157.34, 157.36, 157.38, 157.43, and 157.44, the repeal of §157.3 and new §157.3, concerning Emergency Medical Services (EMS) provider licensing.

BACKGROUND AND PURPOSE

The rules are necessary to comply with Health and Safety Code, Chapter 773, Subchapter C, which requires the department to issue EMS provider licenses in accordance with this chapter.

Senate Bill (SB) 8 and House Bill 3556, 83rd Legislation, Regular Session, 2013, added Health and Safety Code, §773.05712, which requires licensed EMS providers to declare an Administrator of Record.

SB 1899, 84th Legislation, Regular Session, 2014, added Health and Safety Code, §773.05715 and §773.05716 that requires emergency medical service providers have a permanent physical location as the provider's primary place of business, and to own or hold a long-term lease for its equipment and vehicles.

SB 219, 84th Legislation, Regular Session, 2014, requires changing the name of Emergency Medical Technician-Intermediate (EMT-I) to Advanced Emergency Medical Technician (AEMT). SB 219 also amended Health and Safety Code, Chapter 773 by replacing the outdated references to the "Board of Health" with the rulemaking authority of the "Executive Commissioner" and the "department" due to the 2004 department reorganization.

SB 1574, 84th Legislation, Regular Session, 2014, added Health and Safety Code, §81.012 that requires entities using emergency response employees or volunteers to have a designated infection control officer to deal with employees' exposure to reportable diseases through blood or other body fluids.

These and other rules amendments reflects years of input from Emergency Medical Services (EMS) stakeholders to the Governor's EMS and Trauma Advisory Council (GETAC) on ways to improve the Texas EMS system through rules amendments and provides clarification to current rules.

These proposed rules are the product of more than 15 public, statewide stakeholder meetings between members of the EMS Committee of GETAC and department staff. They represent a grass roots process of feedback and deliberation garnered during more than 100 hours of meetings between emergency medical personnel and state EMS officials. On December 11, 2015, the EMS Committee supported these proposed revisions and made a recommendation to GETAC to support the proposed rules.

The draft rules were reviewed by GETAC at meetings on January 27, 2016 and February 12, 2016, GETAC voted unanimously, recommending the draft rules be proposed to the State Health Services Council.

The purpose of the revisions to the rules is to comply with new legislation and update current rule language to reflect state and national trends. These rules will affect more than 63,000 EMS personnel, 800 EMS Providers and the 4 million patients that the EMS and Trauma system treat and transport annually.

The rules are also in compliance with Government Code, §2001.039, and requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections §157.2, 157.3, 157.5, 157.11 -157.14, 157.16, 157.32 -157.34, 157.36, 157.38, 157.43, and 157.44, have been reviewed, and the department has determined that reasons for adopting the section continues to exist because rules on this subject are needed.

SECTION-BY-SECTION SUMMARY

Section 157.2, Definitions, incorporates modifications to existing rules by adding several new definitions and updating language and terms to current standards.

Section 157.3, Processing EMS Providers Licenses and Applications for EMS Personnel Certification and Licensure, was repealed and rewritten as a new rule to incorporate modifications to existing rules and update language to current terms and practices. This section rewrite develops and clarifies the time periods by which the department reviews applications for completeness and processes applications to make eligibility determinations of applicants for various EMS certifications, licenses and approvals as required by Texas Government Code, Chapter 2001.

Section 157.5, Rule Exception Requests, incorporates modifications to existing rules to update language in alignment with current terms and practices. Replaces bureau chief with the department and removes EMT-Intermediate and adds Advanced Emergency Medical Technician.

Section 157.11, Requirements for Emergency Medical Services Provider Licensing, incorporates modifications to existing rules to existing language and terms to current standards and practices. Amendments to current rules were also added due to legislation from SB 1899 and SB 1574. The changes required by SB 1899 were based on the ongoing steps being taken to reduce and prevent fraud within the EMS industry in Texas.

Section 157.11(c)(7)(D) prevents entities from adopting a deceptively similar name to an established license EMS Provider, city, county or Regional Advisory Council.

Section 157.11(c)(7)(F) is added language due to legislation from SB 1899 requirements for EMS Providers. This additional requirement mandates an EMS provider declare the address of their main business location, normal business hours, and map of service area. It also stipulates only one EMS Provider per location, and requires the provider to retain at that location until the next licensing period, unless otherwise approved by the department.

Section 157.11(c)(7)(G) outlines the education requirements for the administrator of record (AOR), per SB 8, 83rd Legislature, Regular Session, 2013, requirement for additional education and continuing education for AORs.

Section 157.11(c)(7)(J) provides the department with a staffing plan that addresses coverage of a service area which includes a process to manage communication after normal business hours have concluded.

Section 157.11(c)(7)(O) states that an EMS provider must provide the department with a list of equipment with identifiable or legible serial numbers at the initial or renewal application for an EMS Provider license.

Section 157.11(c)(7)(Q) states that an EMS provider must attest that each authorized vehicle has its own set of required equipment.

Section 157.11(c)(7)(S) states that an EMS provider will attest or provide documentation that the applicant and/or its management staff participates in the local regional advisory council.

Section 157.11(e)(3) states that ambulance vehicles must meet minimum national ambulance vehicle body type, dimension and safety criteria standards.

Section 157.11(g)(3), states that the staffing plan requires proof that the personnel has completed a jurisprudence examination.

Section 157.11(j)(2) requires that all patient equipment shall be clean and fully operational and have a backup power source, if applicable.

Section 157.11(k)(1) - (3) explains what kind of patients and at what level of care is expected to be provided by each type of ambulance.

Section 157.11(k)(2)(F) requires waveform capnography be used when performing or monitoring endotracheal intubation patients as of January 1, 2018, which is the standard throughout the nation.

Section 157.11(k)(3)(C) requires an active 12-lead capability cardiac monitor/defibrillator by January 1, 2020, which is the standard throughout the nation.

Section 157.11(m)(1)(c) requires an EMS provider, who is not the primary provider in an area where it plans to sell subscriptions, to provide to subscription plan participants a written notice that it is not the primary provider in that area and additionally requires said provider to provide a copy of this notice to the primary provider in the area and to the department within 30 days before it begins its subscription enrollment period.

Section 157.11(n) requires an EMS provider have a plan in place for the ongoing monitoring of patient care quality provided by the EMS provider's personnel and the collection of patient care data as required by 25 T Administrator Code, Chapter 103, concerning the reporting requirements for EMS providers.

Section 157.11(n)(15) sets standards for the maintenance and location of medical records.

Section 157.11(n)(27)(F) as required by U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, each EMS Provider must have an educated designated infection control officer to enhance communication between hospitals and the EMS Provider.

Section 157.11(n)(27)(J) requires a policy explaining the process to secure medications, fluids and controlled substances on ambulances which are in compliance with local, state, and federal laws and rules.

Section 157.11(p) states that a provisional license shall be effective for no more than "30 days" instead of "45 days" from the date of issuance.

Section 157.11(r) outlines the process that the department will use to conduct surveys, inspections and investigations.

Section 157.11(u) outlines the process that the department will use when conducting a complaint investigation.

Section 157.12, Rotor-wing Air Ambulance Operations and 157.13, Fixed-wing Air Ambulance Operations incorporates modifications into existing rules, bringing language and terms up to current standards to include ensuring the air unit meets air worthiness stats per federal regulations. Changes include documentation of the knowledge and experiences of the medical director when treating and transporting patients by air. Also, includes the removal of language stipulating bodily injury and property damage insurance coverage amounts for the aircraft provider as these amounts are already set by federal regulations. Adds language requiring permanently installed climate control equipment to provide an environment appropriate for the medical needs of patients.

Section 157.14, adds requirements for a First Responder Organization License (FRO) to include incorporation of U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, §300ff-136 and SB 1574 requirements for the designation of an infection control officer. Additionally, it requires that FRO License applications include response, dispatch and treatment protocols including an equipment and supply list to treat adult, pediatric and neonatal patients.

Section 157.16, Emergency Suspension, Suspension, Probation, Revocation or Denial of a Provider License, incorporates modifications into existing rules, adds language and terms to include allowing the department to take disciplinary action based on action taken by other states or federal agencies. Additional modification includes notifying the AOR and the EMS Provider license holder of pending disciplinary action by the department.

Section 157.32, Emergency Medical Services Education Program and Course Approval, incorporates modifications into existing rules to meet current national education standards by increasing the minimum required hours needed to complete an Emergency Care Attendant course, an EMT-Basic course, an Advanced EMT course and a EMT-Paramedic course. An additional amendment was included to change the name of the "Intermediate EMT-I" to "Advanced EMT" which was changed by SB 219 and reflects a national name change.

Language was added in §157.32(d)(2)(C) to ensure that the sponsor of an education program has the required equipment and resources to conduct the program.

Language was added as required by U.S. Code, Title 42, Chapter 6A, subchapter XXIV, Part G, stipulating each EMS Provider must have an educated designated infection control officer to enhance communication between program, hospitals and the student taking the program.

Section 157.32(i)(2)(A) provides detailed information on what the department expects to be provided when receiving a self-study submitted by the applicant. Throughout this rule language was added to ensure medical oversight must be involved in all aspects of the education program.

Section 157.32(p)(25) was added to ensure online or distance learning classes must meet the same standards as outlined in this rule.

Section 157.33, Certification, incorporates modifications to existing rule language and terms to reflect current standards and includes provisions requiring fingerprinting of EMS personnel as directed in Government Code, §411.087 and §411.110 and as required in §157.37 relating to Certification or Licensure of Persons With Criminal Backgrounds. The following responsibilities included for EMS personnel were also added:

- to complete an accurate patient care record;
- to report abuse or injury to a patient;
- to follow the medical director's protocols and policies;
- take precautions to prevent misappropriation of medication, maintain skills and knowledge of level of certification; and
- to notify the department within 30 days of a change of address.

Section 157.34, Recertification, incorporates modifications into existing rule language and terms to reflect current standards and includes the EMS jurisprudence exam as required by SB 1899. The Advanced EMT replaced the EMT-I in this rule.

Section 157.36, Criteria for Denial and Disciplinary Actions for EMS Personnel and Applicants and Voluntary Surrender of a Certificate or License, incorporates modifications into existing rules by clarifying current language and adding additional actions the department may take, including disciplinary actions against EMS personnel certification. Disciplinary action may be taken by the department against a person's certification or license for the following additional reasons:

- failing to report abuse or injury to a patient to employer or legal authority within 24 hours;
- turning over or delegating care to person whom has the lacks of education or skills to treat the patient at the appropriate level required;
- failing to take precautions to prevent misappropriation of medication;
- cheating on a test to gain or renew certification/license by department;
- using drugs or alcohol that could possibly endanger patient health and safety;
- failing to transport the patient to an appropriate medical facility;
- failing to contact medical control when required;
- falsifying an employment application that would affect the hiring process;
- falsifying clinical documentation as a student;
- falsifying required daily check sheets;
- engaging in act(s) of dishonesty which relates to the EMS profession,
- behavior exploiting the EMS personnel – patient relationship in a sexual way;
- falsifying information provided to the department;
- engaging in a pattern of behavior that demonstrates routine response to medical emergencies without being under the medical oversight or with an EMS Provider or FRO; and
- disciplinary action taken by another state, U.S. territory, National Registry of EMT or any other national recognized organization that provides or renews certification/license.

Section 157.38, Continuing Education, incorporates modifications into existing rule language and terms to reflect current standards. It requires a continuing education program to designate an infection control officer and to verify that it has physician medical oversight when its students are involved with patient care.

Section 157.43, Course Coordinator Certification, incorporates modifications into existing rule language by increasing the teaching experience requirement for a course coordinator to four years of experience in EMS. It also ensures physician medical oversight when education is conducted, especially when performing clinic time or advance level skills within an ambulance. Language was also added to require more detail be provided to students regarding what to expect from an EMS education program, and what

is required to gain certification/license in Texas. It also requires education to be provided to all students regarding current Texas EMS laws, rules and policies, per SB 1899.

Section 157.43(h)(20) requires that a course coordinator notify the department when leaving as the course coordinator for an ongoing EMS education program.

Section 157.43(m)(3)(AA) explains what is considered unprofessional conduct by the department such as retaliation; discrimination; and verbal or physical abuse; or inappropriate physical or sexual conduct.

Section 157.44(f), Emergency Medical Service Instructor Certification, incorporates modifications to existing rules by requiring an EMS Instructor to document at least 8 hours every two years of providing or observing EMS care being given in an ambulance, hospital or clinic to enhance and reinforce the instructors' knowledge of the Texas EMS system.

Section 157.44(i)(2)(W) and (X) allows the department to take disciplinary action against an instructor for failing to notify the department if the instructor learns of a student applicant that was arrested, convicted, had deferred adjudication or deferred prosecution.

Section 157.44(i)(2)(Y), provides what is considered unprofessional conduct by the department such as retaliation; discrimination; verbal or physical abuse; or inappropriate physical or sexual conduct.

FISCAL NOTE

Mr. Joseph Schmider, Office of EMS/Trauma Systems Coordination, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to state government but there will be minimal fiscal implications to local governments (such as cities or counties) as a result of enforcing and administering the sections as proposed. During more than 15 statewide stakeholder meetings, the department conducted informal surveys and determined that a large majority of the current EMS Providers already carry this additional new equipment.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS AND ECONOMIC COSTS TO PERSONS

Mr. Schmider has also determined that there will be an adverse impact on small businesses or micro-businesses or persons who are required to comply with the rules as proposed. These rules will implement new requirements for applicants seeking to gain and maintain an EMS provider license or EMS providers renewing license or certification in Texas, these additional requirements are the following:

- ongoing cost for eight hours per year of continuing education for an EMS Provider's Administrator of Record;
- EMS personnel will have to complete a jurisprudence examination as required in SB 1899, and is expected to be around \$40 per person every four years;
- the purchase of a waveform capnography for each advance life support ambulance that performs endotracheal intubation by January 1, 2018, with the cost range between \$1500 to \$3000 per unit; and
- the purchase of an active 12-lead capability cardiac monitor/defibrillator for each advance life support ambulance by January 1, 2020, with the cost range between \$4000 to \$10,000 per device.

IMPACT ON LOCAL EMPLOYMENT

There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

The public benefit anticipated as a result of enforcing, administering these sections, better educated EMS personnel on Texas rules and laws and enhance medical oversight will significantly reduce the incidence of fraud, waste and abuse by licensed EMS providers. The additional requirements concerning the new equipment which includes the waveform capnography and active 12-lead capability cardiac monitor/defibrillator will enhance the patient care being provided throughout Texas and shall improve a more favorable outcome for the 4 million patients that the EMS system treats annually.

REGULATORY ANALYSIS

The department has determined that this proposed rules are not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Joseph Schmider, Office of EMS/Trauma Systems Coordination, Health Care and Quality Section, Division of Regulatory Services, Department of State Health Services, Mail Code 1876, P.O. Box 149347, Austin, Texas 78714-9347, (512) 834-6700, or by email to Joseph.Schmider@dshs.state.tx.us. Comments will be accepted for 30 days following the publication of the proposal to the *Texas Register*.

PUBLIC HEARING

A public hearing to receive comments on the proposal will be scheduled after publication in the *Texas Register* and will be held at the Department of State Health Services, 1100 West 49th Street, Austin, Texas. The meeting date will be posted on the home page of the EMS/Trauma Systems under "News/Features found at the following link: <http://www.dshs.state.tx.us/emstraumasystems/>. Please contact Joseph Schmider by phone at (512) 834-6737, or Joseph.Schmider@dshs.state.tx.us if you have questions.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

These amendments, repeal and new section are authorized by the Texas Health and Safety Code, Chapters 773 and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the

Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Chapter 1001, Texas Health and Safety Code. Review of the rules implements Government Code, §2001.039.

These amendments, repeal and new section affect Government Code, Chapter 531; and Health and Safety Code, Chapters 773 and 1001.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§157.2. Definitions.

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Abandonment - Leaving a patient without appropriate medical care once patient contact has been established, unless emergency medical services personnel are following medical director's protocols, a physician directive or the patient signs a release; turning the care of a patient over to an individual of lesser education **[training]** when advanced treatment modalities have been initiated **[to include, but not limited to, IVs, intubation, and drug therapy]**.

(2) Accreditation - Formal recognition by a national association of a provider's service or an education program based on **[voluntarily met]** standards established by that association.

(3) Act - Emergency Medical Services Act, Health and Safety Code, Chapter 773.

(4) Administrator of Record (AOR) - The administrator for an EMS provider which meets the requirements of Health and Safety Code, §773.05712 and §773.0415.

(5) Advanced Emergency Medical Technician (AEMT) - An individual who is certified by the department and is minimally proficient in performing skills required to provide emergency prehospital or interfacility care by initiating and maintaining under medical supervision certain procedures, including intravenous therapy and endotracheal or esophageal intubation.

(6) **[(4)]** Advanced life support (ALS) - Emergency prehospital or interfacility care that uses invasive medical acts which would include ALS assessment. The provision of advanced life support shall be under the medical supervision and control of a licensed physician.

(7) [(5)] Advanced life support (ALS) vehicle - A vehicle that is designed for transporting the sick and injured and that meets the requirements of §157.11(j)(2) of this title (relating to Requirements for an EMS Provider License) as an advanced **[a basic]** life support vehicle and has sufficient equipment and supplies for providing advanced level of care based on national standards and the EMS provider's medical director approved treatment protocols **[intravenous therapy and endotracheal or esophageal intubation or both]**.

(8) Advanced Life Support assessment - Assessment performed by an AEMT or paramedic that qualify as advanced life support based upon initial dispatch information, when it could reasonably be believed that the patient was suffering from an acute condition that may require advanced skills.

(9) [(6)] Air ambulance provider - A person who operates/leases a fixed-wing or rotor-wing air ambulance aircraft, equipped and staffed to provide a medical care environment on-board appropriate to the patient's needs. The term air ambulance provider is not synonymous with and does not refer to the Federal Aviation Administration (FAA) air carrier certificate holder unless they also maintain and control the medical aspects that are consistent with EMS provider licensure.

(10) Ambulance - A vehicle for transportation of sick or injured person to, from or between places of treatment for an illness or injury, and provide out of hospital medical care to the patient.

(11) Authorized ambulance vehicle - A vehicle authorized to be operated by the licensed provider and that meets all criteria for approval as listed in §157.11(e) of this title.

(12) [(7)] Basic life support (BLS) - Emergency prehospital or interfacility care that uses noninvasive medical acts. The provision of basic life support will have sufficient equipment and supplies for providing basic level care based on national standards and the EMS provider's medical director approved treatment protocols **[shall be under the medical supervision and control of a licensed physician].**

(13) [(8)] Basic life support (BLS) vehicle - A vehicle that is designed for transporting the sick or injured and that has sufficient equipment and supplies for providing basic life support based on national standards and the EMS provider's medical director approved treatment protocols.

(14) [(9)] Basic trauma facility - A hospital designated by the department as having met the criteria for a Level IV trauma facility as described in §157.125 of this title (relating to Requirements for Trauma Facility Designation). Basic trauma facilities provide resuscitation, stabilization, and arrange for appropriate transfer of major and severe trauma patients to a higher level trauma facility, provide ongoing educational opportunities in trauma related topics for health care professionals and the public, and implement targeted injury prevention programs.

[(10) Board - The Texas Board of Health.]

[(11) Bureau - The Bureau of Emergency Management of the Texas Department of Health.]

[(12) Bureau chief - The chief of the Bureau of Emergency Management.]

(15) [(13)] Bypass - Direction given to a prehospital emergency medical services unit, by direct/on-line medical control or predetermined triage criteria, to pass the nearest hospital for the most appropriate hospital/trauma facility. Bypass protocols should have local physician input into their development and should be reviewed through the regional performance improvement process.

(16) [(14)] Candidate - An individual who is requesting emergency medical services personnel certification or licensure, recertification or relicensure from the Texas Department of State Health Services.

(17) [(15)] Certificant - Emergency medical services personnel with current certification from the Texas Department of State Health Services.

(18) [(16)] Comprehensive trauma facility - A hospital designated by the department as having met the criteria for a Level I trauma facility as described in §157.125 of this title. Comprehensive trauma facilities manage major and severe trauma patients, provide ongoing educational opportunities in trauma related topics for health care professionals and the public, implement targeted injury prevention programs, and conduct trauma research.

(19) [(17)] Course medical director - A Texas licensed physician approved by the department with experience in and current knowledge of emergency care who shall provide direction over all instruction and clinical practice required in EMS training courses.

(20) [(18)] Credit hour - Continuing education credit unit awarded for successful completion of a unit of learning activity as defined in §157.32 of this title (relating to EMS Education Program and Course Approval).

(21) [(19)] Critically injured person - A person suffering major or severe trauma, with severe multi system injuries or major unisystem injury; the extent of the injury may be difficult to ascertain, but which has the potential of producing mortality or major disability.

(22) Current - Within active certification or licensure period of time.

(23) [(20)] Department - The Texas Department of State Health Services.

(24) Designated infection control officer - A designated officer who serves as a liaison between the employer's employees who have been or believe they have been exposed to a potentially life-threatening infectious disease, through a person who was treated and/or transported by the EMS provider.

(25) [(21)] Designation - A formal recognition by the department of a hospital's trauma care capabilities and commitment.

(26) Distance learning - A method of learning remotely without being in regular face-to-face contact with an instructor in the classroom.

(27) [(22)] Diversion - A procedure put into effect by a trauma facility to ensure [insure] appropriate patient care when that facility is unable to provide the level of care demanded by a trauma patient's injuries or when the facility has temporarily exhausted its resources.

(28) [(23)] Emergency call - A new [a telephone] call or other similar communication from a member of the public, as part of a 9-1-1 system or other emergency access communication system, made to obtain emergency medical services.

(29) ~~[(24)]~~ Emergency care attendant (ECA) - An individual who is certified by the department as minimally proficient to provide emergency prehospital care by providing initial aid that promotes comfort and avoids aggravation of an injury or illness.

(30) ~~[(25)]~~ Emergency medical services (EMS) - Services used to respond to an individual's perceived need for **[immediate]** medical care and to prevent death or aggravation of physiological or psychological illness or injury.

(31) ~~[(26)]~~ Emergency medical services (EMS) operator - A **[a]** person who, as an employee of a public agency, as that term is defined by Health and Safety Code, §771.001, receives emergency calls.

[(27) Emergency Medical Service Administrator - The principal executive manager of an emergency medical service organization who is responsible for the non- medical operations, staffing, policies and procedures, and overall management of the service.]

(32) ~~[(28)]~~ Emergency medical services and trauma care system - An arrangement of available resources that are coordinated for the effective delivery of emergency health care services in geographical regions consistent with planning and management standards.

(33) ~~[(29)]~~ Emergency medical services personnel -

(A) emergency care attendant (ECA);

(B) emergency medical technician (EMT);

(C) advanced emergency medical technician (AEMT) [emergency medical technician-intermediate (EMT-I)]; [or]

(D) emergency medical technician-paramedic (EMT-P); or

(E) licensed paramedic.

(34) ~~[(30)]~~ Emergency medical services (EMS) provider - A person who uses, operates or maintains EMS vehicles and EMS personnel to provide EMS. See §157.11 of this title **[(relating to Requirements for an EMS Provider License)]** regarding fee exemption.

(35) ~~[(31)]~~ Emergency medical services (EMS) volunteer provider - An EMS that [which] has at least 75% of the total personnel as volunteers and is a nonprofit organization. See §157.11 of this title regarding fee exemption.

(36) ~~[(32)]~~ Emergency medical services (EMS) volunteer - EMS personnel who provide emergency prehospital or interfacility care in affiliation with a licensed EMS provider or a registered First Responder organization without remuneration, except for reimbursement for expenses.

(37) **[(33)]** Emergency medical technician (EMT) - An individual who is certified by the department as minimally proficient to perform emergency prehospital care that is necessary for basic life support and that includes the control of hemorrhaging and cardiopulmonary resuscitation.

[(34) Emergency medical technician-intermediate (EMT-I) - An individual who is certified by the department as minimally proficient in performing skills required to provide emergency prehospital or interfacility care by initiating and maintaining under medical supervision certain procedures, including intravenous therapy and endotracheal or esophageal intubation or both.]

(38) **[(35)]** Emergency medical technician-paramedic (EMT-P) - An individual who is certified by the department as minimally proficient to provide emergency prehospital or interfacility care in health care facility's emergency or urgent care clinical setting, including a hospital emergency room and a freestanding emergency medical care facility by providing advanced life support that includes initiation and maintenance under medical supervision of certain procedures, including intravenous therapy, endotracheal or esophageal intubation or both, electrical cardiac defibrillation or cardioversion, and drug therapy.

(39) **[(36)]** Emergency medical services vehicle-

- (A) basic life support (BLS) vehicle;
- (B) advanced life support (ALS) vehicle;
- (C) mobile intensive care unit (MICU);
- (D) MICU rotor wing and MICU fixed wing air medical vehicles; or
- (E) specialized emergency medical service vehicle.

(40) Emergency Medical Task Force (EMTF) - A unit specially organized to provide coordinated emergency medical response operation systems during large scale EMS incidents.

(41) **[(37)]** Emergency prehospital care - Care provided to the sick and injured within a health care facility's emergency or urgent care clinical setting, including a hospital emergency room and a freestanding emergency medical care facility, before or during transportation to a medical facility, including any necessary stabilization of the sick or injured in connection with that transportation.

(42) **[(38)]** Facility triage - The process of assigning patients to an appropriate trauma facility based on injury severity and facility availability.

(43) Fixed location - The address as it appears on the initial and/or renewal EMS provider license application in which the patient care records and administrative offices will be located.

(44) [(39)] General trauma facility - A hospital designated by the department as having met the criteria for a Level III and Level IV trauma facility as described in §157.125 of this title. General trauma facilities provide resuscitation, stabilization, and assessment of injury victims and either provide treatment or arrange for appropriate transfer to a higher level trauma facility, provide ongoing educational opportunities in trauma related topics for health care professionals and the public, and implement targeted injury prevention programs.

(45) [(40)] Governmental entity - A county, a city or town, a school district, or a special district or authority created in accordance with the Texas Constitution, including a rural fire prevention district, an emergency services district, a water district, a municipal utility district, and a hospital district.

(46) [(41)] Health care entity - A first responder, EMS provider, physician, nurse, hospital, designated trauma facility, or a rehabilitation program.

(47) Inactive EMS provider status – The period when a licensed EMS provider is not able to respond or response ready to an emergency or non-emergency medical dispatch.

(48) [(42)] Industrial ambulance - Any vehicle owned and operated by an industrial facility as defined in the Texas Transportation Code, Chapter 541, §201, and used for initial transport or transfer of company employees who become urgently ill or injured on company premises to an appropriate medical facility.

(49) [(43)] Interfacility care - Care provided while transporting a patient between medical facilities.

(50) [(44)] Lead trauma facility - A trauma facility [**that has made an additional commitment to its trauma service area. This commitment,**] which usually is offered by the highest level of trauma facility in a given trauma service area, includes receipt of major and severe trauma patients transferred from lower level trauma facilities. It also includes on-going support of the regional advisory council and the provision of regional outreach, prevention, and trauma educational activities to all trauma care providers in the trauma service area regardless of health care system affiliation.

(51) Legal entity name - The name of the lawful or legally standing association, corporation, partnership, proprietorship, trust, or individual. Has legal capacity to

(A) enter into agreements or contracts;

(B) assume obligations;

(C) incur and pay debts;

(D) sue and be sued in its own right; and

(E) to be accountable for illegal activities.

(52) [(45)] Licensee - An individual who holds a current paramedic license from the Texas Department of State Health Services (department) or an individual who uses, maintains or operates EMS vehicles and EMS personnel to provide EMS and who holds a paramedic [**an EMS provider**] license from the department.

(53) [(46)] Major trauma facility - A hospital designated by the department as having met the criteria for a Level II trauma facility as described in §157.125 of this title. Major trauma facilities provide similar services to the Level I trauma facility although research and some medical specialty areas are not required for Level II facilities, provide ongoing educational opportunities in trauma related topics for health care professionals and the public, and implement targeted injury prevention programs.

(54) [(47)] Major trauma patient - A person with injuries, or potential injuries, severe enough to benefit from treatment at a trauma facility. These patients may or may not present with alterations in vital signs or level of consciousness or obvious significant injuries (see severe trauma patient), but have been involved in an incident which results in a high index of suspicion for significant injury and/or disability. Co-morbid factors such as age and/or the presence of significant medical problems should also be considered. These patients should initiate a system's or health care entity's trauma response, including prehospital triage to a designated trauma facility. For performance improvement purposes, these patients are also identified retrospectively by an injury severity score of 9 or above.

(55) [(48)] Medical control - The supervision of prehospital emergency medical service providers by a licensed physician. This encompasses on-line (direct voice contact) and off-line (written protocol and procedural review).

(56) [(49)] Medical Director - The licensed physician who provides medical supervision to the EMS personnel of a licensed EMS provider or a recognized First Responder Organization under the terms of the Medical Practices Act (Occupations Code, Chapters 151 - 165 [**Chapter 6, Texas Civil Statutes 4495b**]) and rules promulgated by the Texas Medical [**State**] Board [**of Medical Examiners**]. Also may be referred to as off-line medical control.

(57) [(50)] Medical oversight - The assistance and management given to health care providers and/or entities involved in regional EMS/trauma systems planning by a physician or group of physicians designated to provide technical assistance.

(58) [(51)] Medical supervision - Direction given to emergency medical services personnel by a licensed physician under the terms of the Medical Practice Act, (Occupations Code, Chapters 151 - 165 [**Texas Civil Statutes, Chapter 6, Article 4495b**]) and rules promulgated by the Texas Medical [**State**] Board [**of Medical Examiners**] pursuant to the terms of the Medical Practice Act.

(59) [(52)] Mobile intensive care unit (MICU) - A [a] vehicle that is designed for transporting the sick or injured and that meets the requirements of the advanced life support vehicle and has sufficient equipment and supplies to provide cardiac monitoring, defibrillation, cardioversion, drug therapy, and two-way communication with at least one paramedic on the vehicle when providing EMS.

(60) Off-line medical direction - The licensed physician who provides approved protocols and medical supervision to the EMS personnel of a licensed EMS provider under the terms of the Medical Practices Act

(Occupations Code, Chapters 151 - 165) and rules promulgated by the Texas Medical Board (Title 22, Texas Administrative Code §197.3).

(61) Online course - A directed learning process, comprised of educational information (articles, videos, images, web links), communication (messaging, discussion forums) with a process and some way to measure students' knowledge.

(62) Operational name - Name under which the business or operation is conducted and presented to the world.

(63) ~~[(53)]~~ Operational policies - Policies and procedures which are the basis for the operation of EMS include, but are not limited to such areas as vehicle maintenance, proper maintenance and storage of supplies, equipment, medications, and patient care devices; complaint investigation, multicasualty incidents, hazardous materials; but do not include personnel or financial policies.

(64) Out of service vehicle - The period when a licensed EMS Provider vehicle is unable to respond or be response ready for an emergency or non-emergency response.

(65) ~~[(54)]~~ Person - An individual, corporation, organization, government, governmental subdivision or agency, business, trust, partnership, association, or any other legal entity.

(66) [(55)] Prehospital triage - The process of identifying medical/injury acuity or the potential for severe injury based upon physiological criteria, injury patterns, and/or high- energy mechanisms and transporting patients to a facility appropriate for their medical/injury needs. Prehospital triage for injury victims is guided by the prehospital triage protocol adopted by the regional advisory council (RAC) and approved by the department.

(67) Practical exam - Sometime referred to as psychomotor, is an exam that assesses the subject's ability to perceive instructions and perform motor responses.

(68) Primary EMS provider response area - The geographic area in which an EMS agency routinely provides emergency EMS as agreed upon by a local or county governmental entity or by contract.

(69) Public safety answering point (PSAP) - The call center responsible for answering calls to an emergency telephone number for ambulance services; sometimes called "public safety access point," or "dispatch center."

(70) ~~[(56)]~~ Quality management - Quality assurance, quality improvement, and/or performance improvement activities.

(71) Regional Advisory Council (RAC) - An organization serving as the Department of State Health Services recognized health care coalition responsible for the development, implementation and maintenance of the regional trauma and emergency health care system within the geographic jurisdiction of the Trauma Service Area. A Regional Advisory Council must maintain §501(c)(3) status.

(72) [(57)] Regional EMS/trauma system - A network of healthcare providers within a given trauma service area (TSA) collectively focusing on traumatic injury as a public health problem, based on the given resources within each TSA. [An EMS and trauma care system that has been developed by a RAC in a multi-county area and has been recognized by the department. The Texas Trauma system is a network of the regional EMS/trauma systems.]

(73) [(58)] Regional medical control - Physician supervision for prehospital emergency medical services (EMS) providers in a given trauma service area or other geographic area intended to provide standardized oversight, treatment, and transport guidelines, which should, at minimum, [;] follow the regional advisory council's regional EMS/trauma system plan components related to these issues and 22 Texas Administrative Code §197.3 (relating to Off-line Medical Director).

(74) [(59)] Recertification - The procedure for renewal of emergency medical services certification.

(75) Receiving facility - A facility to which an ambulance may transport a patient who requires prompt continuous medical care.

(76) [(60)] Reciprocity - The recognition of certification or privileges granted to an individual from another state or recognized EMS system.

(77) [(61)] Relicensure - The procedure for renewal of a paramedic license as described in §157.40 of this title (relating to Paramedic Licensure); the procedure for renewal of an EMS provider license as described in §157.11 of this title.

(78) Response pending status - The status of an EMS vehicle that just delivered a patient to a final receiving facility, and the dispatch center has another EMS response waiting that EMS vehicle.

(79) [(62)] Response ready - When an EMS vehicle is equipped and staffed in accordance with §157.11 of this title (relating to Requirements for a Provider License) and is immediately available to respond to any emergency call 24 hours per day, seven days per week (24/7).

(80) Scope of practice - Describes the procedures, actions and processes that an EMS personnel is permitted to undertake in keeping with the terms of the professional license or certification and approved by the EMS provider medical director.

(81) [(63)] Severe trauma patient - A person with injuries or potential injuries that require treatment at a tertiary trauma facility. These patients may be identified by an alteration in vital signs and/or level of consciousness or by the presence of significant injuries and shall initiate a system's and/or health care entity's highest level of trauma response including prehospital triage to a designated trauma facility. For performance improvement purposes, these patients are also identified retrospectively by an injury severity score of 15 or above.

(82) [(64)] Shall - Mandatory requirements.

(83) [(65)] Site survey - An on-site review of a trauma facility applicant to determine if it meets the criteria for a particular level of designation.

(84) [(66)] Sole provider - The only licensed emergency medical service provider in a geographically contiguous service area and in which the next closest provider is greater than 20 miles from the limits of the area.

(85) [(67)] Specialized emergency medical services vehicle - A vehicle that is designed for responding to and transporting sick or injured persons by any means of transportation other than by standard automotive ground ambulance or rotor or fixed wing air craft and that has sufficient staffing, equipment and supplies to provide for the specialized needs of the patient transported. This category includes, but is not limited to, water craft, off-road vehicles, and specially designed, configured or equipped vehicles used for transporting special care patients such as critical neonatal or burn patients.

(86) [(68)] Specialty centers - Entities that care for specific types of **[trauma]** patients such as trauma, pediatric, stroke, cardiac hospitals and burn units that have received certification, categorization, verification or other form of recognition by an appropriate agency regarding their capability to definitively treat these types of patients.

(87) [(69)] Staffing plan - A document which indicates the overall working schedule patterns of EMS personnel.

(88) [(70)] Standard of care - Care equivalent to what any reasonable, prudent person of like certification level would have given in a similar situation, based on locally, regionally and nationally **[local or regionally]** adopted standard emergency medical services curricula as adopted by reference in §157.32 of this title (relating to Emergency Medical Services Training and Course Approval).

(89) Substation - An EMS provider station location that is not the fixed station and which is likely to provide rapid access to a location to which the EMS vehicle may be dispatched.

(90) [(71)] Trauma - An injury or wound to a living body caused by the application of an external force or violence, including burn injuries. Poisonings, near-drownings and suffocations, other than those due to external forces are to be excluded from this definition.

(91) [(72)] Trauma facility - A hospital that has successfully completed the designation process, is capable of stabilization and/or definitive treatment of critically injured persons and actively participates in a regional EMS/trauma system.

(92) [(73)] Trauma nurse coordinator/trauma program manager - A registered nurse with demonstrated interest, education, and experience in trauma care and who, in partnership with the trauma medical director and hospital administration, is responsible for coordination of trauma care at a designated trauma facility. This coordination should include active participation in the trauma performance improvement program, the authority to positively impact trauma care of trauma patients in all areas of the hospital, and targeted prevention and education activities for the public and health care professionals.

(93) [(74)] Trauma patient - Any critically injured person who has been evaluated by a physician, a registered nurse, or emergency medical services personnel, and found to require medical care in a trauma facility based on local, regional or national medical control protocols.

(94) [(75)] Trauma registry - A statewide database which documents and integrates medical and system information related to the provision of trauma care by health care entities.

(95) Trauma Service Area - An organized geographical area of at least three counties administered by a regional advisory council for the purpose of providing prompt and efficient transportation and/or treatment of sick and injured patients.

(96) [(76)] When in service - The period of time when an EMS vehicle is at the scene or when en route to a facility with a patient.

Legend: (Proposed New Rule)

Single Underline = Proposed new language

§157.3. Processing EMS Provider Licenses and Applications for EMS Personnel Certification and Licensure.

(a) Purpose. The purpose of this section is to set out the time periods by which the Texas Department of State Health Services (department) reviews applications for completeness and processes applications to make an eligibility determination of applicants for various Emergency Medical Services (EMS) certifications, licenses and approvals. This section does not apply to applications for trauma facility designation, but does apply to applications for the following:

(1) EMS Provider License,

(2) First Responder Organization (FRO) license;

(3) EMS Personnel Certifications;

(4) Paramedic Licenses;

(5) EMS Personnel Certification or Paramedic License via Reciprocity;

(6) EMS Personnel Certification or Paramedic License via Upgrade;

(7) EMS Course Coordinator certification;

(8) EMS Instructor Certification;

(9) EMS Information Operator Certification;

(10) Comprehensive Clinical Management Program (CCMP) Approval;

(11) EMS Education Program Approval;

(12) EMS Course Approval;

(13) EMS Continuing Education Provider Approval;

(14) EMS Information Operator Instructor Certification;

(15) EMS Information Operator Training Program Approval; and

(16) EMS Information Operator Instructor Training Program Approval.

(b) Period for Processing Initial or Renewal Application. This period begins on the date the department receives for review and processing a fully completed written initial or renewal application for any of those certifications, licenses or approvals listed in subsection (a)(1)-(16) of this section and ends on the date the department issues the certification or license, or sends a written notice proposing to deny granting the certification, license or approval. The certification, license or approval may be sent to the applicant in lieu of sending a notice of acceptance of an application.

(1) This period will be no more than 60 calendar days.

(2) This period will be no more than 120 calendar days for an EMS provider license initial applicant, seeking a variance from eligibility requirements.

(3) This period may be no more than 180 days for an applicant of whom the department is conducting a criminal background investigation.

(4) If the department receives information from any other person or source that would cause the department to begin a criminal background investigation of an applicant, this period may be no more than 180 days from the date the department sends written notice that it's conducting a criminal background investigation.

(5) This period may be longer than noted periods, if an application is deficient and becomes subject to a continuing review of the application.

(6) This period may be longer than noted periods, if the department proposes to deny the granting of a license, certification or approval and the applicant timely requests an administrative appeal hearing, thus causing a final determination to be made pursuant to timelines relative to Texas Government Code, Chapter 2001 and the department's appeal rules in this chapter.

(c) Period for Continuing Review of an Initial or Renewal Application.

(1) Incomplete Information. If an initial or renewal application is incomplete, the department will send written notice to the applicant that it is deficient and will specify what information is required to cure all deficiencies and make it complete and acceptable for filing. If the department is conducting a criminal background investigation of the applicant during its application review, it may send the applicant a request for information needed for its investigation to determine the applicant's continued eligibility. The department will send such notice, and/or request, by the 30th day of its receipt of a deficient application or receipt of information giving cause for a criminal background investigation. Once an application is subject to a continuing review of the application, the 60 day period for the department either to issue, or propose to deny, the license, certification or approval will be extended based upon the applicant's timeliness in providing the information and other factors related to the department's reviewing and processing the application.

(A) Application Deficiency. If an application deficiency is based upon an absence of information required to make the application complete for filing, the applicant shall provide the required information to the department by the 30th day from the date that the department sent a written request for required information to cure the application's deficiencies.

(B) Eligibility Deficiency. If an application deficiency is based upon the applicant's lack of fulfilling an eligibility requirement(s) that causes an absence of information required to make the application complete for filing, the applicant shall provide written notification to the department of such along with a time estimate as to when such eligibility requirement(s) will be fulfilled and shall do so by the 30th day from the date that the department sent a written request for required information to cure the application's deficiencies.

(C) Criminal Background Investigation. If the department is conducting a criminal background investigation of the applicant during its application review and sends the applicant a request for information needed for its criminal background investigation, the applicant shall provide such requested information by the 30th day from the date that the department sent a written request for the required information.

(2) Second Attempt to Cure Incomplete Information.

(A) Application Deficiency Information. If the applicant timely provides any written information that attempts to respond to a notice of application deficiencies, but which still does not cure said deficiencies, the department will send a second written notice specifying what information is required to cure the deficiencies. The department will send this second written notice by the 30th day from the day it

receives the information that attempts to satisfy its earlier request. The applicant shall provide the requested information to the department by the 30th day from the date the department sent its second written request for required information to cure the application's deficiencies.

(B) Criminal Background Information. If the applicant timely provides any written information or documentation that does not completely fulfill an earlier request for information needed for a criminal background investigation, the department will send a second written notice specifying what information is needed for its investigation. The department will send this second written notice by the 30th day from the day it receives the information that attempts to satisfy its earlier request. The applicant shall provide the requested information to the department by the 30th day from the date the department sent its second written request for information needed for its investigation.

(3) Complete Information. If the applicant timely provides information that cures application deficiencies and fully completes the application for filing or satisfactorily provides the requested information needed for a criminal background investigation to determine applicant's continuing eligibility, the department, by the 60th day from the date that the department receives such information, will either issue the certification, license or approval or send a written notice proposing to deny granting the certification, license or approval.

(4) Failure to Cure Initial Application Deficiencies or Provide Complete Information.

(A) If the department does not timely receive from the initial applicant any information in response to the department's first or second written notice of initial application deficiencies and request for curing information, the initial application is deemed to be withdrawn and/or void on the 30th day from the date the department sent its request, and the initial application fee is forfeited.

(B) If the department does not timely receive from the initial applicant the requested information needed for its criminal background investigation to determine the initial applicant's continued eligibility, the department may propose to deny granting the initial certification, license or approval.

(5) Failure to Cure Initial Application Deficiencies Related to Eligibility Requirements.

(A) If an initial application for EMS Personnel Certifications, Paramedic Licenses, EMS Personnel Certification or Paramedic License via Reciprocity, EMS Personnel Certification or Paramedic License via Upgrade, EMS Course Coordinator certification, EMS Instructor Certification, EMS Information Operator Certification, EMS Information Operator Instructor Certification, is deficient because the applicant has not yet fulfilled certain eligibility requirements, outlined in this chapter, and the applicant has timely notified the department of such, the department may withhold making its determination to either grant or propose denying the certification or license for not more than two years after the application's filing date. If the applicant fails to timely provide the department with written substantial proof noting fulfillment of certain eligibility requirements, thus making the application complete for filing, within two years after the application filing date, the application is deemed to be withdrawn and/or void and the application fee is forfeited.

(B) If an initial application for and EMS Provider License, FRO license, EMS Education Program Approval, EMS Course Approval, EMS Continuing Education Provider Approval,

EMS Information Operator Training Program Approval, EMS Information Operator Instructor Training Program Approval, is deficient because the applicant has not yet fulfilled certain eligibility requirements, outlined in this chapter, and the applicant has timely notified the department of such, the department may withhold making its determination to either grant or propose denying the certification, license or approval for not more than six months after the application's filing date. If the applicant fails to timely provide the department with information or written substantial proof noting fulfillment of certain eligibility requirements, thus making the application complete for filing, within six months after the application filing date, the application is deemed to be withdrawn and/or void and the application fee is forfeited.

(d) Timeliness Issues Regarding a Renewal Application.

(1) Continuance of License. If the department receives a sufficiently complete timely filed renewal application along with the full amount of the renewal fee prior to midnight of the expiration date of the certificate, license or approval to be renewed, the certificate, license or approval does not expire, but continues during the department's review of the application for completeness or, if applicable, its criminal background investigation of the applicant and continues during its processing of the application to make a determination either to grant, or propose to deny, the renewal of the certification, license or approval.

(2) Expiration of License. If the department does not timely receive a renewal application and the correct amount of renewal fee, or only receives the application but not the full amount of the renewal fee prior to midnight of the expiration date of the certificate, license or approval to be renewed, then the certificate, license or approval expires at midnight of the expiration date. Even if the applicant untimely files the application with the full amount of the fee, the department will review the application for completeness and if the application is complete or later becomes timely completed, it will then process the application to determine eligibility either to renew, or otherwise to propose to deny the renewal of, the certification, license or approval. During that review and processing period, the person or entity will not be certified, licensed, or approved. If renewal is granted, the renewed license, certification or approval will begin on the date the department grants it, which most likely will not be on the date immediately following the expiration date. An untimely filed EMS provider renewal application will require the applicant to file an initial application and to meet EMS provider license requirements in effect for an initial applicant at that time.

(3) Uncured Application Deficiencies. If the department does not timely receive from the applicant any information in response to the department's first or second written notice(s) of application deficiencies and request(s) for curing information, the department may propose to deny renewal of the license, certification or approval.

(4) Incomplete Requested Criminal Background Information. If the department does not timely receive from the applicant any requested information needed to complete its criminal background investigation to determine the applicant's continued eligibility, the department may propose to deny renewal of the certification.

(5) Proposed Denial of Renewal. If the department proposes to deny renewal for failure to timely provide requested information to cure application deficiencies or requested information to complete a criminal background information or for failure to meet eligibility requirements, and sends, via United States mail, written notice to the applicant proposing to deny renewal of the certification, license or approval and if the department timely receives from the applicant a written request for an administrative appeal hearing, the

certificate, license or approval continues past its expiration date until a final determination is made pursuant to Texas Government Code, Chapter 2001 and the department's appeal rules in this chapter.

(e) Notice to Last Known Address. The department will send letters, noting application deficiencies or other correspondence requesting necessary information, via U.S. mail, to the applicant's last known address on file with the department, unless it later changes its manner or policy on its notification process. It is the applicant's responsibility to timely notify the department of any change in its mailing address within ten days of such address change.

(f) Prolonged Application Review Process by the Department. If the application review process is prolonged due to circumstances surrounding a general investigation or criminal background investigation of the applicant or due to any other administrative procedure within the department or other unsuspected event, the department may extend the final review period regarding its review of the application and its making a final determination of the applicant's eligibility for initial or renewal certification, license or approval.

(g) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsections (b) and (c) of this section, the applicant has the right to request of the director of the Office of EMS and Trauma Systems full reimbursement of all filing fees paid in that particular application process. If the director does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for licenses, registrations, certifications, and permits as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions existed giving good cause for exceeding the established periods.

(h) Appeal. If the request for full reimbursement authorized by subsection (g) of this section is denied, the applicant may then appeal to the commissioner of health for a resolution of the dispute. The applicant shall give written notice to the commissioner that it requests full reimbursement of all filing fees paid because its application was not processed within the adopted time period. The director shall submit a written report to the commissioner, with a copy provided to the applicant, of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will review the report and any documentation submitted by the applicant, make the final decision on the matter, and provide written notification of his or her decision to the applicant and the director.

(i) Sufficiently Complete Timely Filed Renewal Application. A renewal application that the department timely has received before the expiration date of a certificate, license or approval that contains all of the following:

(1) correct, legible and fully filled out, dated, and signed by the applicant on department written application paper form or online internet form; and

(2) the appropriate amount of application fee that has cleared the applicant's financial institution.

§157.5. Rule Exemption Requests.

(a) (No Change.)

(b) In determining whether to grant the exemption, the department [**bureau chief**] shall take into consideration the best interests of the people in a rural area who are served by the licensed EMS provider or registered first responder organization with whom the applicant is affiliated or will be affiliated, if approved. For the purposes of this section, a rural area is defined to be:

(1) – (2) (No Change.)

(c) If the request is approved, an exemption may be granted temporarily. The applicant will be notified by the department [**bureau chief**], in writing, and the notification shall include:

(1) – (2) (No Change.)

(d) This exemption process may be utilized to temporarily allow a person in a rural area, described in subsection (b)(1) and (2) of this section, to practice at a higher level prior to receiving the higher level of certification.

(1) To apply to receive this allowance for up to two months after course completion, the applicant must:

(A) (No Change.)

(B) be currently certified by the department as an ECA, EMT, or AEMT [**EMT-Intermediate**]; and

(C) (No Change.)

(2) If granted through written approval from the department [**bureau chief**], the candidate may practice at the higher level only if accompanied by an individual who is certified or licensed by the department at the same or a higher level of certification or licensure.

(3) (No Change.)

§157.11. Requirements for an EMS Provider License.

(a) (No Change.)

(b) EMS in Texas is a delegated practice, as written in Occupations Code, §157.003.

(c) [(b)] Application requirements for an Emergency Medical Services (EMS) Provider License.

(1) An applicant for an initial EMS provider license shall submit a completed application to the department on the required official forms, following the department's written process.

(2) The [A] nonrefundable application fee of \$500 per provider plus \$180 for each EMS vehicle to be operated under the license shall accompany the application.

(3) The department will process the EMS provider license application as per §157.3 of this title (relating to Processing EMS Provider Licenses and Applications for EMS Personnel Certification and Licensure).

(4) [(3)] An EMS provider holding a valid license or authorization from another state; whose service area adjoins the State of Texas; who has in place a written mutual aid agreement, with a licensed Texas EMS provider, and who when requested to do so by a licensed Texas EMS provider, responds into Texas for emergency mutual aid assistance, may be exempt from holding a Texas EMS provider license, but will be obligated to perform to the same medical standards of care required of EMS providers licensed by their home state [in Texas].

(5) [(4)] A fixed-wing or rotor-wing air ambulance provider, appropriately licensed by the state governments of New Mexico, Oklahoma, Arkansas, Kansas, Colorado or Louisiana may apply for a reciprocal issuance of a provider license, and the application would not require staffing by Texas EMS certified or licensed personnel. A nonrefundable administrative fee of \$500 per provider in addition to a nonrefundable fee of \$180 for each EMS aircraft to be operated in Texas under the reciprocal license shall accompany the application.

(6) [(5)] An applicant for an EMS provider license that provides emergency prehospital care is exempt from payment of department licensing and authorization fees if the firm is staffed with at least 75% volunteer personnel, has no more than five full-time staff or equivalent, and [if] the firm is recognized as a §501(c)(3) nonprofit corporation by the Internal Revenue Service. An EMS provider who compensates a physician to provide medical supervision may be exempt from the payment of department licensing and authorization fees if all other requirements for fee exemption are met.

(7) [(6)] Required documents that shall accompany a license application.

(A) Document verifying volunteer status, if applicable.

(B) Map and description of service area, a list of counties and cities in which applicant proposes to provide primary emergency service and a list of all station locations with address and telephone and facsimile transmission numbers for each station.

(C) Declaration of organization type and profit status.

(D) Declaration of Provider Name.

(i) The legal name of the EMS provider cannot include the name of the city, county or regional advisory council within or in part, unless written approval is given by the individual city, county or regional advisory council respectively.

(ii) The EMS provider operational name cannot include the name of the city, county or regional advisory council within or in part, unless written approval is given by the individual city, county or regional advisory council respectively. A proposed provider name is deemed to be deceptively similar to an established licensed EMS provider if it meets the conditions listed in the Office of the Secretary of State rule, 1 Texas Administrative Code §79.39 (relating to Deceptively Similar Name).

(E) Declaration of Ownership.

(F) Declaration of the address for the main location of the business, normal business hours and provide proof of ownership or lease of such location.

(i) The normal business hours must be posted for public viewing.

(ii) A service area map must be provided.

(iii) Only one EMS provider license will be issued to each fixed address.

(iv) The applicant shall attest that no other license EMS provider is at the provided business location or address.

(v) The emergency medical services provider must remain in the same physical location for the period of licensure, unless the department approves a change in location.

(G) [(F)] Declaration of administrator [Administrator] of record and any subsequently filed declaration of a new administrator shall declare the following, if the EMS provider is required to have an administrator of record as per Health and Safety Code, §773.0571 or §773.05712.

(i) The administrator of record is not employed or otherwise compensated by another private for-profit EMS provider.

(ii) The administrator of record meets the qualifications required for an emergency medical technician certification or other health care professional license with a direct relationship to EMS and currently holds such certification or license issued by the State of Texas.

(iii) The administrator of record has submitted to a criminal history record check at the applicant's expense as directed in §157.37 of this title (relating to Certification or Licensure of Persons With Criminal Backgrounds).

(iv) The administrator of record has completed an initial education course approved by the department on state and federal laws and rules that affect EMS in the following areas:

(I) Health and Safety Code, Chapter 773 and 25 TAC, Chapter 157;

(II) EMS dispatch processes;

(III) EMS billing processes;

(IV) Medical control accountability; and

(V) Quality improvement processes for EMS operations.

(v) The applicant will assure that its administrator of record shall annually [will] complete [the requirement of] eight hours of [annual] continuing education related to the Texas [state] and federal laws and rules related to EMS.

(vi) An EMS provider that is directly operated by a governmental entity, is exempt from this subparagraph, except for declaration of administrator of record.

(vii) An EMS provider that held a license on September 1, 2013, and has an administrator of record who has at least eight years of experience providing EMS, the administrator of record is exempt from clauses (ii) and (iv) of this subparagraph.

(H)[(G)] Copies of Doing Business Under Assumed Name Certificates (DBA).

(I)[(H)] Completed EMS Personnel Form.

(J)[(I)] Staffing Plan that describes how the EMS provider provides [will provide] continuous coverage for the service area defined in documents submitted with the EMS provider application. The EMS provider shall have a staffing plan that addresses coverage of the service area or shall have a formal system to manage communication when not providing services after normal business hours.

(K)~~(J)~~ Completed EMS Vehicle Form.

(L)~~(K)~~ Declaration of an employed medical director and a copy of the signed contract or agreement with a physician who is currently licensed in the State of Texas, in good standing with the Texas Medical Board, in compliance with Texas Medical Board rules, **[particularly regarding EMS as outlined in]** 22 Texas Administrative Code, Part 9, Texas Medical Board, Chapter 197, and in compliance with Title 3 of the Texas Occupations Code.

(M)~~(L)~~ Completed Medical Director Information Form.

(N)~~(M)~~ Treatment and Transport Protocols and policies addressing the care to be provided to adult, pediatric, and neonatal patients, must be approved and signed by the medical director.

(O)~~(N)~~ A listing of equipment as required on the EMS Provider initial and renewal application, with identifiable or legible serial numbers, supplies and medications; approved and signed by the medical director.

(P) The applicant shall attest that all required equipment is permitted to be used by the EMS provider and provide proof of ownership or hold a long-term lease for all equipment necessary for the safe operation.

(Q)The applicant shall attest that each authorized vehicle will have its own set of equipment required for each authorized vehicle to operate at the level of the service for which the provider is authorized.

(R)~~(O)~~ Description of how the provider will conduct Quality Assurance in coordination with the EMS provider medical director.

(S) The applicant shall provide an attestation or provide documentation that it and/or its management staff will or continues to participate in the local regional advisory council.

(T) [(P)] Plan for how the provider will respond to disaster incidents including mass casualty situations in coordination with local and regional plans.

(U) [(Q)] Copies of written Mutual Aid and/or Inter-local Agreements with EMS providers.

(V) [(R)] Documentation as required for subscription or membership program, if applicable.

(W) [(S)] Certificate of Insurance, provided by the insurer, identifying the department as the certificate holder and indicating at least minimum motor vehicle liability coverage for

each vehicle to be operated and professional liability coverage. If applicant is a government subdivision, submit evidence of financial responsibility by self-insuring to the limit imposed by the tort claims provisions of the Texas Civil Practice and Remedies Code.

(i) The applicant shall maintain motor vehicle liability insurance as required under the Texas Transportation Code.

(ii) The applicant shall maintain professional liability insurance coverage in the minimum amount of \$500,000 per occurrence, or as necessary per state law, with a company licensed or deemed eligible by the Texas Department of Insurance to do business in Texas in order to secure payment for any loss or damage resulting from any occurrence arising out of, or caused by the care, or lack of care, of a patient.

~~(X)~~ [(T)] The applicant shall provide copies of vehicle titles, vehicle lease agreements, copies of exempt registrations if applicant is a government subdivision, or an affidavit identifying applicant as the owner, lessee, or authorized operator for each vehicle to be operated under the license.

~~(Y)~~ [(U)] The applicant shall provide documentation of the following, showing that the applicant, including its management staff possesses sufficient professional experience and qualifications related to EMS:

(i) an attestation that its management staff have read the Texas Emergency Healthcare Act and the department's EMS rules in this chapter;

(ii) proof of one year experience or education provided by a nationally recognized organization on emergency medical dispatch processes;

(iii) proof of one year experience or education provided by a nationally recognized organization concerning EMS billing processes;

(iv) proof of one year experience or education provided by a nationally recognized organization on medical control accountability; and

(v) proof of one year experience or education provided by a nationally recognized organization on quality improvement processes for EMS operations.

~~(Z)~~ [(V)] A copy of a letter of credit for the obtaining or renewing of an EMS Providers license, issued by a federally insured bank or savings institution:

(i) in the amount of \$100,000 for the initial license and for renewal of the license on the second anniversary of the date the initial license is issued;

(ii) in the amount of \$75,000 for renewal of the license on the fourth anniversary of the date the initial license is issued;

(iii) in the amount of \$50,000 for renewal of the license on the sixth anniversary of the date the initial license is issued;

(iv) in the amount of \$25,000 for renewal of the license on the eighth anniversary of the date the initial license is issued;

(v) that shall include the names of all of the parties involved in the transaction;

(vi) that shall include the names of the persons or entity, who owns the EMS provider operation and to whom the bank is issuing the letter of credit;

(vii) that shall include the name of the person or entity, receiving the letter of credit; and

(viii) an EMS provider that is directly operated by a governmental entity is exempt from this subsection.

(AA) ~~[(W)]~~ A copy of the surety bond in the amount of \$50,000 issued to and provided to the Health and Human Services Commission by the applicant, participating in the medical assistance program operated under Human Resources Code, Chapter 32, the Medicaid managed care program operated under Government Code, Chapter 533, or the child health plan program operated under Health and Safety Code, Chapter 62. An EMS provider that is directly operated by a governmental entity is exempt from this subparagraph.

(BB) ~~[(X)]~~ Documentation evidencing applicant or management team has not been excluded from participation in the state Medicaid program.

(CC) ~~[(Y)]~~ A copy of a governmental entity letter of approval that shall:

(i) be from the governing body of the municipality in which the applicant is located and is applying to provide EMS;

(ii) be from the commissioner's court of the county in which the applicant is located and is applying to provide EMS, if the applicant is not located in a municipality;

(iii) include the attestation that the addition of another licensed EMS provider will not interfere with or adversely affect the provision of EMS by the licensed EMS providers operating in the municipality or county;

(iv) include the attestation that the addition of another licensed EMS provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed EMS providers operating in the municipality or county; and

(v) include the attestation that the addition of another licensed EMS provider will not cause an oversupply of licensed EMS providers in the municipality or county.

(8) [(7)] Paragraph (7)(CC) [(6)(Y)] of this subsection does not apply to renewal of an EMS provider license or a municipality, county, emergency services district, hospital, or EMS volunteer provider organization in this state that applies for an EMS provider license.

(9) [(8)] An EMS provider is prohibited from expanding operations to or stationing any EMS vehicles in a municipality or county other than the municipality or county from which the provider obtained the letter of approval under this subsection until after the second anniversary of the date the provider's initial license was issued, unless the expansion or stationing occurs in connection with:

(A) a contract awarded by another municipality or county for the provision of EMS;

(B) an emergency response made in connection with an existing mutual aid agreement; or

(C) an activation of a statewide emergency or disaster response by the department.

(10) [(9)] Paragraph (9) [(8)] of this subsection does not apply to renewal of an EMS provider license or a municipality, county, emergency services district, hospital, or EMS volunteer provider organization in this state that applies for an EMS provider license.

(11) [(10)] Paragraph (9) [(8)] of this subsection does not apply to fixed or rotor wing EMS providers.

(d) [(c)] EMS Provider License.

(1) License.

(A) Applicants who have submitted all required documents and who have met all the criteria for licensure will be issued a provider license to be effective for a period of two years from the date of issuance.

(B) Licenses shall be issued in the name of the applicant.

(C) License expiration dates may be adjusted by the department to create licensing periods less than two years for administrative purposes.

(D) An application for an initial license or for the renewal of a license may be denied to a person or legal entity who owns or who has owned any portion of an EMS provider service or

who operates/manages or who/which has operated/managed any portion of an EMS provider service which has been sanctioned by or which has a proposed disciplinary action/sanction pending against it by the department or any other local, state or federal agency.

(E) The license will be issued in the form of a certificate which shall be prominently displayed in a public area of the provider's primary place of business.

(F) An EMS Provider License issued by the department shall not be transferable to another person or entity.

(2) Vehicle Authorization [**Authorizations**].

(A) The department will issue an authorization [**authorizations**] for each vehicle to be operated by the applicant which meets all criteria for approval as defined in subsection (d) of this section.

(B) A vehicle authorization [**Vehicle Authorizations**] shall be issued for the following levels of service, and a provider may operate at a higher level of service based on appropriate staffing, equipment and medical direction for that level. A vehicle authorization [**Vehicle authorizations**] will include a level of care designation at one of the following levels:

- (i) Basic Life Support (BLS);
- (ii) BLS with Advanced Life Support (ALS) capability;
- (iii) BLS with Mobile Intensive Care Unit (MICU) capability;
- (iv) Advanced Life Support (ALS);
- (v) ALS with MICU capability;
- (vi) Mobile Intensive Care Unit (MICU);
- (vii) Air Medical:
 - (I) Rotor wing; or
 - (II) Fixed wing; and
- (viii) Specialized.

(C) Change of Vehicle Authorization. To change an authorization to a different level the provider shall submit a request with appropriate documentation to the department verifying the

provider's ability to perform at the requested level. A fee of \$30 shall be required for each new authorization requested. The provider shall allow sufficient time for the department to verify the documentation and conduct necessary inspections before implementing service at the requested authorization level.

(D) Vehicle Authorizations are not required to be specific to particular vehicles and may be interchangeably placed in other vehicles as necessary. The original Vehicle Authorization for the appropriate level of service shall be prominently displayed in the patient compartment of each vehicle:

(E) Vehicle Authorizations are not transferable between providers.

(F) A replacement of a lost or damaged license or authorization may be issued if requested with a nonrefundable fee of \$10.

(3) Declaration of Business Operational Name [Names] and Administration.

(A) The applicant shall submit a list of all business operational names under which the service is operated. If the applicant intends to operate the service under a name or names different from the name for which the license is issued, the applicant shall submit certified copies of assumed name certificates. **[The Department shall not issue licenses with an identical name.]**

(B) A change in the operational name which the service is operated will require a new application and a prorated fee as determined by the department. A new provider number will be issued.

(C) Name of Administrator of Record must be declared. The applicant shall submit a notarized document declaring the full name of the chief administrator, his/her mailing address and telephone number to whom the department shall address all official communications in regard to the license.

(e) [(d)] Vehicles.

(1) All EMS vehicles must be adequately constructed, equipped, maintained and operated to render patient care, comfort and transportation of adult, pediatric, and neonatal patients safely and efficiently. A pediatric and neonatal equipment list should be based on endorsed pediatric equipment national standards within the approved equipment list required by the medical director.

(2) EMS vehicles must allow the proper and safe storage and use of all required equipment, supplies and medications and must allow all required procedures to be carried out in a safe and effective manner.

(3) As [Unless otherwise] approved by the department, EMS vehicles must meet a practical efficient [the] minimum national ambulance vehicle body type, dimension and safety criteria standards [as specified in the "Federal Specification for ambulances," KKK-A-1822, published by the U.S. General Services Administration].

(4) All vehicles shall have an environmental system capable of heating or cooling the patient(s) and staff, in accordance with the manufacturer specifications, within the patient compartment at all times when in service and which allows for protection of medication, according to manufacturer specifications, from extreme temperatures if it becomes environmentally necessary. The provider shall provide evidence of an operational policy which shall list the parenteral pharmaceuticals authorized by the medical director and which shall define the storage and/or FDA recommendations. Compliance with the policy shall be incorporated into the provider's Quality Assurance process and shall be documented on unit readiness reports.

(5) **[When response-ready or in-service,]** EMS vehicles shall have operational two-way communication capable of contacting appropriate medical resources and as outlined in the current Texas interoperability plan unless the vehicle is designated out of service with the form provided by the department.

(6) **[When response-ready or in-service,]** EMS vehicles shall be in compliance with all applicable federal, state and local requirements unless the vehicle is designated out of service with the form provided by the department.

(7) All EMS vehicles shall have the name of the provider and a current department issued EMS provider license number prominently displayed on both sides of the vehicle in at least 2 inch lettering and in contrasting color. The license number shall [should] have the letters TX prior to the license number. This requirement does not apply to fixed wing aircraft.

(f) [(e)] Substitution, replacement and additional vehicles.

(1) The provider shall notify the department within five business days if the provider substitutes or replaces a vehicle. No fee is required for a vehicle substitution or replacement.

(2) The provider shall notify the department if the provider adds a vehicle to the provider's operational fleet prior to making the vehicle response-ready. A vehicle authorization request shall be submitted with a nonrefundable vehicle fee prior to the vehicle being placed into service.

(g) [(f)] Staffing Plan Required.

(1) The applicant shall submit a completed EMS Personnel Form listing each response person assigned to staff EMS vehicles by name, certification level, and department issued certification/license identification number.

(2) An EMS provider responsible for an emergency response area that is unable to provide continuous coverage within the declared service areas shall publish public notices in local media of its inability to provide continuous response capability and shall include the days and hours of its operation. The EMS provider shall notify all the public safety-answering points and all dispatch centers of the days and hours when unable to provide coverage. The EMS provider shall submit evidence that reasonable attempts to secure coverage from other EMS providers have been made.

(3) The applicant must provide proof at initial and renewal of license that all licensed or certified personnel have completed a jurisprudence examination approved by the department on state and federal laws and rules that affect EMS.

(h) [(g)] Minimum Staffing Required.

(1) BLS--When response-ready or in-service, authorized EMS vehicles operating at the BLS level shall be staffed at a minimum with two emergency care attendants (ECAs).

(2) BLS with ALS capability--When response-ready or in-service below ALS two ECAs. Full ALS status becomes active when staffed by at least an emergency medical technician (EMT)-Intermediate and at least an EMT.

(3) BLS with MICU capability--When response-ready or in-service below MICU two ECAs. Full MICU status becomes active when staffed by at least a certified or licensed paramedic and at least an EMT.

(4) ALS--When response-ready or in-service, authorized EMS vehicles operating at the ALS level shall be staffed at a minimum with one EMT Basic and one AEMT [EMT- Intermediate].

(5) ALS with MICU capability--When response-ready or in-service below MICU shall require one EMT-Intermediate and one EMT. Full MICU status becomes active when staffed by at least a certified or licensed paramedic and at least an EMT.

(6) MICU--When response-ready or in-service, authorized EMS vehicles operating at the MICU level shall be staffed at a minimum with one EMT Basic and one certified or licensed EMT-Paramedic.

(7) Specialized--When response-ready or in-service, EMS vehicles authorized to operate for a specialized purpose shall be staffed with a minimum of two personnel appropriately licensed and/or certified as determined by the type and application of the specialized purpose and as approved by the medical director and the department.

(8) For air ambulance staffing requirements refer to §157.12(f) of this title (relating to Rotor-wing Air Ambulance Operations) or §157.13(g) of this title (relating to Fixed- wing Air Ambulance Operations).

(9) When response-ready or in-service, authorized EMS vehicles may operate at a lower level than licensed by the department. When operating at the BLS level with an ALS/MICU ambulance, the EMS provider must have an approved security plan for the ALS/MICU medication as approved by the EMS provider medical director's protocol and/or policy.

(10) [(9)] As justified by patient needs, providers may utilize appropriately certified and/or licensed medical personnel in addition to those which are required by their designation levels. In

addition to the care rendered by the required staff, the provider shall be accountable for care rendered by any additional personnel.

(i) [(h)] Treatment and Transport Protocols Required.

(1) The applicant shall submit written delegated standing orders for patient treatment and transport protocols and policies related to patient care [(protocols)] which have been approved and signed by the provider's medical director.

(2) The protocols shall have an effective date **[and an expiration date which correspond to the inclusive dates of the provider's EMS license].**

(3) The protocols shall address the use of non-EMS certified or licensed medical personnel who, in addition to the EMS staff, may provide patient care on behalf of the provider and/or in the provider's EMS vehicles.

(4) The protocols shall address the use of all required, additional, and/or specialized medical equipment, supplies, and pharmaceuticals carried on each EMS vehicle in the provider's fleet.

(5) The protocols shall identify delegated procedures for each EMS Certification or license level utilized by the provider.

(6) The protocols shall indicate specific applications, including geographical area and duty status of personnel.

(j) [(i)] EMS Equipment, supplies, medical devices, parenteral solutions and pharmaceuticals.

(1) The EMS provider shall submit a list, approved and signed by the medical director and fully supportive of and consistent with the protocols, of all medical equipment, supplies, medical devices, parenteral solutions and pharmaceuticals to be carried. The list shall specify the quantities of each item to be carried and shall specify the sizes and types of each item necessary to provide appropriate care for all age ranges appropriate to the needs of their patients. The quantities listed shall be appropriate to the provider's call volume, transport times and restocking capabilities.

(2) All patient care equipment, and medical devices must be operational, appropriately secured in the vehicle at the time of providing patient care and response ready, and supplies shall be clean and fully operational. All patient care powered equipment shall have manual mechanical, spare batteries or an alternative power source, if applicable.

[(2) All critical patient care equipment, medical devices, and supplies shall be clean and fully operational. All critical patient care battery powered equipment shall have spare batteries or an alternative power source, if applicable.]

(3) All solutions and pharmaceuticals shall be up to [in] date and shall be stored and maintained in accordance with the manufacturers and/or U.S. Federal Drug Administration (FDA) recommendations.

(4) The requirements for air ambulance equipment and supplies are listed in §157.12(h) of this title or §157.13(h) of this title.

(k) [(j)] The following equipment [items] shall be present on each EMS in-service vehicle and on, or immediately available for, each response-ready vehicle [in quantities, sizes and types] as specified in the equipment list as required by the medical director's approved equipment list to include all state required equipment. The equipment list shall include equipment required for treatment and transport of adult, pediatric, and neonatal patients [in subsection (i) of this section].

(1) Basic Life Support (BLS):[;]

(A) Equipment required to administer the BLS scope of practice and incorporates the knowledge, competencies and basic skills of an EMT/ECA and additional skills as authorized by the EMS provider medical director. All BLS ambulances shall be able to perform treatment and transport patients receiving the following skills:

(i) airway/ventilation/oxygenation;

(ii) cardiovascular circulation;

(iii) immobilization;

(iv) medication administration - routes; and

(v) single and multi-system trauma patients.

(B) [(A)] oropharyngeal airways;

(C) [(B)] portable and vehicle mounted suction;

(D) [(C)] bag valve mask units, oxygen capable;

(E) [(D)] portable and vehicle mounted oxygen;

(F) [(E)] oxygen delivery devices;

(G) [(F)] dressing and bandaging materials;

(H) commercial tourniquet;

(I) [(G)] rigid cervical immobilization devices;

(J) [(H)] spinal immobilization devices;

(K) [(I)] extremity splints;

(L) [(J)] equipment to meet special patient needs;

(M) [(K)] equipment for determining and monitoring patient vital signs, condition or response to treatment;

(N) [(L)] pharmaceuticals, as required by medical director protocols;

(O) [(M)] an external cardiac defibrillator [An External Cardiac Defibrillator] appropriate to the staffing level with two sets of adult and two sets of pediatric pads;

(P) [(N)] a [A] patient-transport device capable of being secured to the vehicle, and the patient must be fully restrained per manufacturer recommendations; and

(Q) [(O)] an [An] epinephrine auto injector or similar device capable of treating anaphylaxis.

(2) Advanced Life Support (ALS):

(A) equipment required to administer the ALS scope of practice and incorporates the knowledge, competencies and basic and advanced skills of an AEMT and additional skills as authorized by the EMS provider medical director. All ALS ambulances shall be able to perform treatment and transport patients receiving the following skills, including all required BLS equipment to perform treatment and transport patients receiving the following skills:

(i) airway/ventilation/oxygenation;

(ii) cardiovascular circulation;

(iii) immobilization;

(iv) medication administration - routes; and

(v) intravenous (IV) initiation/maintenance fluids.

(B) [(A)] all required BLS equipment;

(C) [(B)] advanced airway equipment;

(D) [(C)] IV equipment and supplies; [and]

(E) [(D)] pharmaceuticals as required by medical director protocols; and

(F) wave form capnography or state approved carbon dioxide detection equipment must be used after January 1, 2018, when performing or monitoring endotracheal intubation.

(3) MICU:

(A) equipment required to administer the knowledge, competencies and advanced skills of a paramedic, and additional skills as authorized by the EMS provider medical director. All MICU ambulances shall be able to perform treatment and transport patients receiving the following skills:

(i) airway/ventilation/oxygenation;

(ii) cardiovascular circulation;

(iii) immobilization;

(iv) medication administration - routes; and

(v) intravenous (IV) initiation/maintenance fluids.

(B) [(A)] all required BLS and ALS equipment;

(C) [(B)] with active 12-lead capability cardiac monitor/defibrillator by January 1, 2020;
and

(D) [(C)] pharmaceuticals as required by medical director protocols.

(4) BLS with ALS Capability:

(A) all required BLS equipment, even when in service or response ready at the ALS level;
and

(B) all required ALS equipment, when in service or response ready at the ALS level.

(5) BLS with MICU Capability:

(A) all required BLS equipment, even when in service or response ready at the MICU level; and

(B) all required MICU equipment, when in service or response ready at **[the either]** the MICU level.

(6) ALS with MICU Capability:

(A) all required ALS equipment, even when in service or response ready at the MICU level; and

(B) all MICU equipment, when in service or response ready at the MICU level.

(7) In addition to medical supplies and equipment:

(A) a complete and current copy of written or electronic protocols approved and signed by the medical director; with a current and complete equipment, supply, and medication list available to the crew;

(B) operable emergency warning devices;

(C) personal protective equipment for the crew to include at least:

(i) protective, non-porous gloves;

(ii) medical eye protection;

(iii) medical respiratory protection must be available per crew member, National Institute for Occupational Safety and Health (NIOSH) approved N95 or greater;

(iv) medical protective gowns or equivalent; and

(v) personal cleansing supplies;

(D) sharps container;

(E) biohazard bags;

(F) portable, battery-powered flashlight (not a pen-light);

(G) a mounted, currently inspected, 5 pound ABC fire extinguisher (not applicable to air ambulances);

(H) “No Smoking” signs posted in the patient compartment and cab of vehicle; **[and]**

(I) a current emergency response guide book, or an electronic version that is available to the crew (for hazardous materials); and

(J) each vehicle will carry 25 triage tags in coordination with the Regional Advisory Council (RAC).

(8) As justified by specific patient needs, and when qualified personnel are available, providers may appropriately utilize equipment in addition to that which is required by their designation levels. Equipment used must be consistent with protocols and/or patient- specific orders and must correspond to personnel qualifications.

(l) [(k)] National accreditation. If a provider has been accredited through a national accrediting organization approved by the department and adheres to Texas staffing level requirements, the department may exempt the provider from portions of the license process. In addition to other licensing requirements, accredited providers shall submit:

(1) an accreditation self-study;

(2) a copy of formal accreditation certificate; and

(3) any correspondence or updates to or from the accrediting organization which impact the provider’s status.

(m) [(l)] Subscription or Membership Services. An EMS provider that [who] operates or intends to operate a subscription or membership program for the provision of EMS within the provider service area shall meet all the requirements for an EMS provider license as established by the Health and Safety Code, Chapter 773, and the rules adopted thereunder, and shall obtain department approval prior to soliciting, advertising or collecting subscription or membership fees. In order to obtain department approval for a subscription or membership program, the EMS provider shall:

(1) Obtain written authorization from the highest elected official (County Judge or Mayor) of the political subdivision(s) where subscriptions will be sold. Written authorization must be obtained from each County Judge if subscriptions are to be sold in multiple counties.

(A) The County Judge must provider written authorizations if subscriptions sold across an entire county.

(B) The Mayor may provide written authorization if subscriptions are sold exclusively within the boundaries of an incorporated town or city.

(C) If an EMS provider is not the primary emergency provider in any area where they are going to sell a subscription plan, written notification must be provided to the participants receiving subscription plan stating that the EMS Provider is not the primary emergency provider in this area. A copy of this documentation should be provided to the primary emergency provider and the department within 30 days before the beginning of any enrollment period.

(2) Submit a copy of the contract used to enroll participants.

(3) The EMS provider shall maintain a current file of all advertising for the service. Submit a copy of all advertising used to promote the subscription service within 30 [ten] days before [after] the beginning of any enrollment period.

(4) Comply with all state and federal regulations regarding billing and reimbursement for participants in the subscription service.

(5) Provide evidence of financial responsibility by:

(A) obtaining a surety bond payable to the department in an amount equal to the funds to be subscribed. The surety bond must be on a department bond form and be issued by a company licensed by or eligible to do business in the State of Texas; or

(B) submitting satisfactory evidence of self-insurance an amount equal to the funds to be subscribed if the provider is a function of a governmental entity.

(6) Not deny emergency medical services to non-subscribers or subscribers of non-current status.

(7) Be reviewed at least every year; and the subscription program may be reviewed by the department at any time.

(8) Furnish a list after each enrollment period with the names, addresses, dates of enrollment of each subscriber, and subscription fee paid by each subscriber.

(9) Furnish the department beginning and ending dates of enrollment period(s). Subscription service period shall not exceed one year. Subscribers shall not be charged more than a prorated fee for the remaining subscription service period that they subscribe for.

(10) Furnish the department with the total amount of funds collected each year.

(11) Not offer membership nor accept members into the program who are Medicaid clients.

(n) [(m)] Responsibilities of the EMS provider. During the license period, the provider's responsibilities shall include:

(1) assuring that all response-ready and in-service vehicles are available 24 hours a day and seven days a week, maintained, operated, equipped and staffed in accordance with the requirements of the provider's license, to include staffing, equipment, supplies, required insurance and additional requirements per the current EMS provider's medical director approved protocols and policies;

(2) each EMS provider shall develop, implement, maintain, and evaluate an effective, ongoing, system-wide, data-driven, interdisciplinary quality assessment and performance improvement program. The program shall be individualized to the provider and shall, at a minimum, include:

(A) the standard of patient care as directed by the medical director's protocols and medical director input into the provider's policies and standard operating procedures;

(B) a complaint management system;

(C) monitoring the quality of patient care provided by the personnel and taking appropriate and immediate corrective action to insure that quality of care is maintained in accordance with the existing standards of care and the provider medical director's signed, approved protocols;

(D) the program shall include, but not be limited to, an ongoing program that achieves measurable improvement in patient care outcomes and reduction of medical errors;

(3) provide an attestation or provide documentation that its management staff will or continue to participate in the local regional advisory council;

(4) when an air ambulance is initiated through any other method than the local 911 system the air service providing the air ambulance is required to notify the local 911 center or the appropriate local response system for the location of the response at time of launch. This would not include interfacility transports or schedule transports;

(5) ensuring that all personnel are currently certified or licensed by the department;

(6) assuring that all personnel, when on an in-service vehicle or when on the scene of an emergency, are prominently identified by, at least, the last name and the first initial of the first name, the certification or license level and the provider name. A provider may utilize an alternative identification system in incident specific situations that pose a potential for danger if the individuals are identified by name;

(7) assuring the confidentiality of all patient information is in compliance with all federal and state laws;

(8) assuring that Informed Treatment/Transport Refusal forms are obtained from all patients refusing service, or documenting incidents when an Informed Treatment/Transport Refusal form cannot be obtained;

(9) assuring that patient care reports are completed accurately on all patients and meet standards as outlined in 25 Texas Administrative Code Chapter 103;

(10) assuring that patient care reports are provided to facilities receiving the patients:

(A) whenever operationally feasible, the report shall be provided to the receiving facility at the time the patient is delivered or a full written or computer generated report shall be delivered to the facility within 24 hours of the delivery of the patient;

(B) if in a response-pending status, an abbreviated documented report shall be provided at the time the patient is delivered and a full written or computer generated report shall be delivered to the facility within 24 hours of the delivery of the patient;

(C) the abbreviated report shall document, at a minimum, the patient's name, condition upon arrival at the scene; the prehospital care provided; the patient's status during transport, including signs, symptoms, and responses during the transport; the call initiation time; dispatch time; scene arrival time; scene departure time; hospital arrival time; and, the identification of the EMS staff; and

(D) in lieu of subparagraph (C) of this paragraph, personnel may follow the Regional Advisory Council's process for providing abbreviated documentation to the receiving facility

(11) pharmaceutical storage policy as approved by the providers medical director;

(12) assuring that staff completes a readiness inspection as written by the providers policy;

(13) preventive maintenance plan for vehicles and equipment.

(14) staff has reviewed policies and procedures as approved by the EMS Provider and the EMS Provider Medical Director;

[(2) assuring the existence of and adherence to a quality assurance plan which shall, at a minimum, include:]

[(A) the standard of patient care and the medical director's protocols;]

[(B) pharmaceutical storage;]

[(C) readiness inspections;]

[(D) preventive maintenance;]

[(E) policies and procedures;]

[(F) complaint management; and]

[(G) patient care reporting and documentation.]

[(3) monitoring the quality of patient care provided by the service and personnel and taking appropriate and immediate corrective action to insure that quality of service is maintained in accordance with the existing standards of care;]

[(4) ensuring that all personnel are currently certified or licensed by the department;]

[(5) assuring that all personnel, when on an in-service vehicle or when on the scene of an emergency, are prominently identified by, at least, the last name and the first initial of the first name, the certification or license level and the provider name. A provider may utilize an alternative identification system in incident specific situations that pose a potential for danger if the individuals are identified by name;]

[(6) assuring the confidentiality of all patient information in compliance with all federal and state laws;]

[(7) assuring that Informed Treatment/Transport Refusal forms are obtained from all patients refusing service, or documenting incidents when an Informed Treatment/Transport Refusal form cannot be obtained;]

[(8) assuring that patient care reports are completed accurately on all patients;]

[(9) assuring that patient care reports are provided to emergency facilities receiving the patients:]

[(A) the report shall be accurate, complete, and clearly written or computer generated;]

[(B) the report shall document, at a minimum, the patient's name, condition upon arrival at the scene; the prehospital care provided; the patient's status during transport, including signs, symptoms, and responses during the transport; the call initiation time; dispatch time; scene arrival time; scene departure time; hospital arrival time; and, the identification of the EMS staff;]

[(C) whenever operationally feasible, the report shall be provided to the receiving facility at the time the patient is delivered; and/or]

[(D) if in a response-pending status, an abbreviated written report shall be provided at the time the patient is delivered and a full written or computer generated report shall be delivered to the facility within one business day of the delivery of the patient.]

(15) Maintenance of medical reports.

(A) A licensed EMS provider shall maintain adequate medical reports of a patient for a minimum of seven years from the anniversary date of the date of last treatment by the EMS provider.

(B) If a patient was younger than 18 years of age when last treated by the provider, the medical reports of the patient shall be maintained by the EMS provider until the patient reaches age 21 or for seven years from the date of last treatment, whichever is longer.

(C) An EMS provider may destroy medical records that relate to any civil, criminal or administrative proceeding only if the provider knows the proceeding has been finally resolved.

(D) EMS providers shall retain medical records for a longer length of time than that imposed herein when mandated by other federal or state statute or regulation.

(E) EMS providers may transfer ownership of records to another licensed EMS provider only if the EMS provider, in writing, assumes ownership of the records maintains the records consistent with this chapter.

(F) Destruction of medical records shall be done in a manner that ensures continued confidentiality.

(G) At the time of initial licensing and at each renewal the EMS Provider and medical director must attestation or provide documentation to the department a plan for the going out of business, selling, transferring the business to ensure the maintenance of the medical record as outlined in subparagraph (E) of this paragraph.

(H) The emergency medical services provider must maintain all patient care records in the physical location that is the provider's primary place of business, unless the department approves an alternate location.

(16) [(10)] assuring that all requested patient records are made promptly available to the medical director, hospital or department when requested;

(17) [(11)] assuring that current protocols, current equipment, supply and medication lists, and the correct original Vehicle Authorization at the appropriate level are maintained on each response-ready [**and in-service**] vehicle;

(18) [(12)] monitoring and enforcing compliance with all policies and protocols;

(19) [(13)] assuring provisions for the appropriate disposal of medical and/or biohazardous waste materials;

(20) [(14)] assuring ongoing compliance with the terms of first responder agreements;

(21) [(15)] assuring that all documents, reports or information provided to the department and hospital are current, accurate and complete;

(22) [(16)] assuring compliance with all federal and state laws and regulations and all local ordinances, policies and codes at all times;

(23) [(17)] assuring that all response data required by the department is submitted in accordance with §103.5 of this title (relating to Reporting Requirements for EMS Providers) **[the department's requirements]**;

(24) [(18)] assuring that, whenever there is a change in the name of the provider or the service's operational assumed name, the printed name on the vehicles are changed accordingly within 30 days of the change;

(25) [(19)] assuring that the department is notified in thirty **[five]** business days whenever:

(A) a vehicle is sold, substituted or replaced;

(B) there is a change in the level of service;

(C) there is a change in the declared service area as written on an initial or renewal application;

(D) there is a change in the official business mailing address;

(E) there is a change in the physical location of the business and/or sustations;

(F) there is a change in the physical location of patient report file storage, to assure that the department has access to these records at all times; and

(G) there is a change of the administrator of record.

(26) [(20)] assuring that when a change of the medical director has occurred the department is **[be]** notified within one business day;

(27) [(21)] develop, implement and enforce written operating policies and procedures required under this chapter and/or adopted by the licensee. Assure that each employee (including volunteers) is provided a copy upon employment and whenever such policies and/or procedures are changed. A copy of the written operating policies and procedures shall be made available to the department on request. Policies at a minimum shall adequately address:

(A) personal protective equipment;

(B) immunizations available to staff;

(C) infection control procedures;

[exposure];
(D) management of possible exposure to communicable disease

(E) emergency vehicle operation;

(F) contact information for the designated infection control officer for whom education based on U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, §300ff- 136 has been documented.

(G) [(F)] credentialing of new response personnel before being assigned primary care responsibilities. The credentialing process shall include as a minimum:

(i) a comprehensive orientation session of the services, policies and procedures, treatment and transport protocols, safety precautions, and quality management process; and

(ii) an internship period in which all new personnel practice under the supervision of, and are evaluated by, another more experienced person[, **if operationally feasible**].

(H) [(G)] appropriate documentation of patient care; and

(I) [(H)] vehicle checks, equipment, and readiness inspections;

(J) the security of medications, fluids and controlled substances in compliance with local, state and federal laws or rules.

(28) [(22)] assuring that manufacturers' operating instructions for all critical patient care electronic and/or technical equipment utilized by the provider are available for all response personnel;

(29) [(23)] assuring that the department is notified within five business days of a collision involving an in-service or response ready EMS vehicle that results in vehicle damage whenever:

(A) the vehicle is rendered disabled and inoperable at the scene of the occurrence; or

(B) there is a patient on board.

(30) [(24)] assuring that the department is notified within one [1] business day of a collision involving an in-service or response ready EMS vehicle that results in vehicle damage whenever there is personal injury or death to any person;

(31) [(25)] maintaining motor vehicle liability insurance as required under the Texas Transportation Code;

(32) [(26)] maintaining professional liability insurance coverage in the minimum amount of \$500,000 per occurrence, with a company licensed or deem eligible by the Texas Department of Insurance to do business in Texas in order to secure payment for any loss or damage resulting from any occurrence arising out of, or caused by the care, or lack of care, of a patient;

(33) [(27)] insuring continuous coverage for the service area defined in documents submitted with the EMS provider application;

(34) [(28)] responding to requests for assistance from the highest elected official of a political subdivision or from the department during a declared emergency or mass casualty situation according to national, state, regional and/or local plans, when authorized;

(35) provide written notice to the department, RAC and Emergency Medical Task Force, if the EMS provider will make staff and equipment available during a declared emergency or mass casualty situation, for a state or national mission, when authorized;

(36) [29] assuring all EMS personnel receive continuing education [**training**] on the provider's anaphylaxis treatment protocols. The provider shall maintain education and training records to include date, time, and location of such education or training for all its [it's] EMS personnel;

(37) [30] immediately notify the department in writing when operations cease in any service area;

(38) [31] assure that all patients transported by stretcher must be in a department authorized EMS vehicle; and

(39) [32] develop or adopt and then implement policies, procedures and protocols necessary for its operations as an EMS provider, and enforce all such policies, procedures and protocols.

(o) [(n)] License renewal process.

(1) It shall be the responsibility of the provider to request license renewal application information.

(2) Providers shall submit a completed application, all other required documentation and a nonrefundable license renewal fee, no later than 90 days prior to the expiration date of the current license.

(A) When **[If]** a complete application is received by the department 90 or more days prior to the expiration date of the current license that is to be renewed, the applicant shall submit a nonrefundable application fee of \$400 per provider plus \$180 for each EMS vehicle.

(B) When **[If]** a complete application is received by the department 60 or more days, but less than 90 days prior to the expiration date of the current license that is to be renewed, the applicant shall submit a nonrefundable application fee of \$450 per provider plus \$180 for each EMS vehicle.

(C) When **[If]** a complete application is received by the department less than 60 days prior to the expiration of the current license, the applicant shall submit a nonrefundable application fee of \$500 per provider plus \$180 for each EMS vehicle.

(D) If the application for renewal is received by the department after the expiration date of the current license, it is deemed to be untimely filed and that license expires on its expiration date. The EMS provider will be required to file a new initial application and follow the initial application process. **[a notice will be sent to the provider explaining they are not eligible to renew, but the license application will be processed and new provider license number issued after satisfying all requirements.]**

(E) An EMS provider may not operate after the license has expired.

(p) **[(o)]** Provisional License. **[(1)]** The department may issue a provisional license if an urgent need exists in a service area when **[if]** the department finds that the applicant is in substantial compliance with the provisions of this section and if the public interest would be served. A provisional license shall be effective for no more than 30 **[45]** days from the date of issuance.

(1) **[(A)]** A provider may apply for a provisional license by submitting a written request and a nonrefundable fee of \$30.

(2) **[(B)]** A provisional license issued by the department may be revoked at any time by the department, with written notice to the provider, when **[if]** the department finds that the provider is failing to provide appropriate service in accordance with this section or that the provider is in violation of any of the requirements of this title.

[(2) An EMS provider may not operate after the license has expired.]

(q) **[(p)]** Advertisements.

(1) Any advertising by an EMS provider shall not be misleading, false, or deceptive. When **[If]** an EMS provider advertises in Texas and/or conducts business in Texas by regularly transporting patients **[to,]** from, or within Texas, the provider shall be required to have a Texas EMS Provider License.

(2) An EMS provider shall not advertise levels of patient care which cannot be provided at all times. The provider shall not use a name, logo, art work, phrase or language that could mislead the public to believe a higher level of care is being provided.

(3) An EMS provider that has more than five paid staff, but is composed of at least 75% volunteer EMS personnel may advertise as a volunteer service.

(r) [(q)] Surveys/Inspections and Investigations.

(1) The department may conduct scheduled or unannounced on-site inspection or investigation of a provider's vehicles, office(s), headquarter(s) and/or station(s) (hereinafter operations), at any reasonable time, including while services are being provided, to ensure compliance with Health and Safety Code, Chapter 773 and this chapter.

(2) An applicant or licensee, by applying for or holding a license, consents to entry and inspection or investigation of any of its operations by the department, as provided for by the Health and Safety Code, Chapter 773 and this chapter.

(3) Department's inspections or investigations to evaluate an EMS provider's compliance with the requirements of the Health and Safety Code, Chapter 773 and this chapter, may include:

(A) initial, prelicensure and change in status inspections for the issuance of a new license;

(B) routine inspection conducted at the departments' discretion or prior to renewal;

(C) follow-up on-site inspection, conducted to evaluate implementation of a plan of correction for deficiencies cited during a department investigation or inspection;

(D) a complaint investigation, conducted in response to a report or complaint, as described in subsection (u) of this section, relating to complaint investigations; and

(E) an inspection to determine if a person, company, or organization is offering or providing EMS service(s) without a license, or to determine if EMS vehicles are being staffed by persons who do not hold Texas EMS certification or license.

(4) The provider and medical director shall cooperate with any department investigation or inspection, and shall, consistent with applicable law, permit the department to examine the provider's grounds, buildings, books, records and other documents and information maintained by or on behalf of the provider, that are necessary to evaluate compliance with applicable statutes, rules, plans of correction and orders with which the EMS provider is required to comply. The EMS provider shall permit the department, consistent with applicable law, to interview members of the governing authority, personnel and patients.

(5) The EMS provider shall, consistent with applicable law, permit the department to copy or reproduce, or shall provide photocopies to the department of any requested records or documents. If it is necessary for

the department to remove records or other information (other than photocopies) from the provider's premises, the department will provide the EMS provider's governing authority or designee with a written statement of this fact, describing the information being removed and when it is expected to be returned. The department will make a reasonable effort, consistent with the circumstances, to return the records the same day.

(6) The department will hold an entrance conference with the EMS provider, governing authority or designee before beginning the inspection or investigation, to explain, consistent with applicable law, the nature, scope and estimated time schedule of the inspection or investigation.

(7) Except for a complaint investigation or a follow-up visit, an inspection will include an evaluation of compliance with the Health and Safety Code, Chapter 773 and this chapter. During the inspection, the department representative will, unless otherwise provided for by law, inform the EMS provider's governing authority or designee of the preliminary findings and give the provider a reasonable opportunity to submit additional facts or other information to the department representative in response to those findings.

(8) When the inspection is complete, the department will hold an exit conference with the provider, unless otherwise provided for by law, to inform the provider, to the extent permitted by law, of any preliminary findings of the inspection or investigation and to give the EMS provider the opportunity to provide additional information on the deficiencies cited. If no deficiencies are identified at the time of inspection, a statement indicating this fact may be left with the EMS provider's governing authority or designee. Such a statement does not constitute a department finding or certification that the facility is in compliance.

(9) If deficiencies are cited:

(A) the department will provide the EMS provider's administrator of record and medical director with a written deficiency report no more than 30 calendar days after the exit conference.

(B) The EMS provider's governing authority, designee, or person in charge at the time shall sign an acknowledgement of the inspection and receipt of the written deficiency report and return it to the department. The signature does not indicate the EMS provider's agreement with, or admission to the cited deficiencies unless the agreement or admission is explicitly stated.

(C) No later than 30 calendar days after the EMS provider's receipt of the deficiency report, the EMS provider shall return a written plan of correction to the department for each deficiency, including timeframes for implementation, together with any additional evidence of compliance the EMS provider may have, regarding any cited deficiency. The department will determine if the written plan of correction and proposed timeframes for implementation are acceptable. If the plan is not acceptable, the department will notify the provider in writing no later than 30 days after receipt and request a modified plan. The EMS provider shall modify and resubmit the plan of correction no later than 30 calendar days after the EMS provider's receipt of the request. The EMS provider shall correct the identified deficiencies and submit documentation to the department verifying completion of the corrective action within the timeframes set forth in the plan of correction accepted by the department, or as otherwise specified by the department. The provider will be deemed to have received the deficiency report or other department correspondence mailed under this subparagraph three days after mailing.

(D) Regardless of the provider's compliance with this subsection, the department's acceptance of a provider's plan of correction, or the provider's utilization of an informal compliance group review under paragraph (10) of this subsection, the department may, at any time, propose to take action as appropriate under §157.16 of this title (relating to Emergency Suspension, Suspension, Probation, Revocation or Denial of a Provider License) and/or §157.16(b) of this title relating to administrative penalties.

(10) The department inspector will inform the provider's chief executive officer, designee, or person in charge at the time of the inspection, of the provider's right to an informal compliance group review, when there is disagreement with deficiencies cited by the inspector or investigator, that the provider was unable to resolve through submission of information to the inspector or additional information bearing on the deficiencies cited.

(11) The department shall refer issues and complaints relating to the conduct or actions by licensed professionals to their appropriate licensing boards.

(12) All initial applicants and medical director shall be required to have an initial compliance survey by the department that evaluates all aspects of an applicant's proposed operations including clinical care components and an inspection of all vehicles prior to the issuance of a license.

(13) At renewal, randomly, or in response to a complaint, the department may conduct an unannounced compliance survey to include inspection of a provider's vehicles, operations and/or records to ensure compliance with this title at any time, including nights or weekends.

(14) If a re-survey/inspection to ensure correction of a deficiency is conducted, the provider shall pay a nonrefundable fee of \$30 per vehicle needing a re-inspection.

[(1) All initial applicants shall be required to have an initial compliance survey by the department that evaluates all aspects of an applicant's proposed operations including clinical care components and an inspection of all vehicles prior to the issuance of a license.]

[(2) At renewal, or randomly, or in response to a complaint, or for other good reason the department may conduct an unannounced compliance survey to include inspection of a provider's vehicles, operations, and/or records to insure compliance with this title at any time, including nights or weekends.]

[(3) If a re-survey/inspection to insure correction of a deficiency is conducted, the provider shall pay a nonrefundable fee of \$30 per vehicle needing a re-inspection.]

(s) [(r)] Specialty Care Transports. A Specialty Care Transport is defined as the interfacility transfer by a department licensed EMS provider of a critically ill or injured patient requiring specialized interventions, monitoring and/or staffing. To qualify to function as a Specialty Care Transport the following minimum criteria shall be met:

(1) Qualifying Interventions:

(A) patients with one or more of the following IV infusions: vasopressors; vasoactive compounds; antiarrhythmics; fibrinolytics; tocolytics; blood or blood products and/or any other parenteral pharmaceutical unique to the patient's special health care needs; and

(B) one or more of the following special monitors or procedures: [.] mechanical ventilation; multiple monitors; [,] cardiac balloon pump; external cardiac support (ventricular assist devices, etc); any other specialized device, vehicle or procedure unique to the patient's health care needs.

(2) Equipment. All specialized equipment and supplies appropriate to the required interventions shall be available at the time of the transport.

(3) Minimum Required Staffing. One currently certified EMT-Basic and one currently certified or licensed paramedic with the additional training as defined in paragraph (4) of this subsection; or, a currently certified EMT-Basic and a currently certified or licensed paramedic accompanied by at least one of the following: a Registered Nurse with special knowledge of the patient's care needs; a certified Respiratory Therapist; a licensed physician; or, any licensed health care professional designated by the transferring physician.

(4) Additional Required Education and Training for Certified/Licensed Paramedics: Evidence of successful completion of post-paramedic education, training and appropriate periodic skills verification in management of patients on ventilators, 12 lead EKG and/or other critical care monitoring devices, drug infusion pumps, and cardiac and/or other critical care medications, or any other specialized procedures or devices determined at the discretion of the provider's medical director.

(t) [(s)] For all applications and renewal applications, the department [(or the board)] is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with the application and renewal application processing through Texas Online.

(u) Complaint Investigations.

(1) Upon their request, all licensed EMS Providers shall make available from a patient or its legal guardian a written statement supplied by the department, identifying the department as the responsible agency for conducting EMS provider and EMS personnel complaint investigations. The statement shall inform persons that they may direct a complaint to the Department of State Health Services, EMS Compliance Group, by phone, or by email. The statement shall provide the most current contact information, including the appropriate department group, address, local and toll-free telephone number, and email address for filing a complaint.

(2) The department evaluates all complaints against EMS providers and EMS personnel. Any complaint submitted to the department shall be submitted by telephone, electronically, or in writing, using the department's current contact information for that purpose, as described in paragraph (1) of this subsection.

(3) The department will document, evaluate and prioritize complaints and information received, based on the seriousness of the alleged violation and the level of risk to patients, personnel and/or the public.

(A) Allegations determined to be within the department's regulatory jurisdiction relating to emergency medical services are authorized for investigation under this chapter. Complaints received outside the department's jurisdiction may be referred to another appropriate agency for response.

(B) The investigation is conducted on-site, by telephone and/or through written correspondence.

(4) The department conducts a prompt and thorough investigation of all reports or complaint allegations that may pose a threat of harm to the health and safety of patients or participants. Reports or complaints received by the department concerning alleged abuse, neglect and exploitation will be addressed in accordance with Human Resources Code, Title 2.

(5) The department evaluates complaint allegations that do not pose a significant risk of harm to patients. Based on the nature and severity of the alleged incident, the department determines whether to investigate the complaint directly or to require the provider to conduct an internal investigation and submit its findings and supporting evidence to the department.

(A) The findings of a provider's internal investigation is reviewed by the department and may result in an additional investigation by the department, a request for a plan of correction to be completed by the provider in accordance with subsection (q) of this section (relating to inspections and investigations) and/or a proposal to take action against the provider under §157.16 of this title.

(B) The provider under investigation shall provide department staff access to all documents, evidence and individuals related to the alleged violation, including all evidence and documentation relating to any internal investigations.

(6) Once an internal provider investigation and/or department investigation is complete, the department reviews the evidence from the investigation to evaluate whether the evidence substantiates the complaint.

§157.12. Rotor-wing Air Ambulance Operations.

(a) Rotary wing aircraft (helicopters) operated by a licensed emergency medical services (EMS) provider shall be at the mobile intensive care level. Persons or entities operating rotary wing air ambulances must direct and control the integrated activities of both the medical and aviation components. Although the aircraft operator is directly responsible to the Federal Aviation Administration (FAA) for the operation of the aircraft, typically the organization in charge of the medical functions directs the combined efforts of the aviation and medical components during patient transport operations. Licensed rotary wing aircraft must also meet the requirements of §157.11 of this title (relating to Requirements for an EMS Provider License) as long as the Airline Deregulation Act of 1978, 49 U.S.C. §41713 (b)(1) et seq. is not violated.

(b) When being used as an ambulance, the helicopter shall:

(1) - (5) (No Change.)

(6) have an internal medical configuration located so that air medical personnel can provide patient care consistent with the scope of care of the air medical service, to include:

(A) - (C) (No Change.)

(D) provision for medication which allows for protection from extreme temperatures if it becomes environmentally necessary; **[and]**

(E) secure positioning of cardiac monitors, defibrillators, and external pacers so that displays are visible to medical personnel; and

(F) specialized medical equipment, such as but not limited to, intra-aortic balloon pump, extracorporeal membrane oxygenation, left ventricular assist device, temperature management system, is secured throughout transport with adequately engineered, designated engineering representative approved mount.

(c) An air ambulance provider shall meet the responsibilities of EMS providers as in §157.11 **[§157.11(I)]** of this title (relating to Requirements for an EMS Provider License) and in addition shall:

(1) submit proof that the rotor-wing aircraft provider carries bodily injury and property damage insurance with a company licensed to do business in Texas in order to secure payment for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the certificate holder's aircraft. **[Coverage amounts shall insure that:]**

[(A) each aircraft shall be insured for the minimum amount of \$1 million for injuries to, or death of, any one person arising out of any one incident or accident;]

[(B) the minimum amount of \$3 million for injuries to, or death of, more than one person in any one accident; and]

[(C) the minimum amount of \$500,000 for damage to property arising from any one accident;]

(2) - (5) (No Change.)

(6) submit a copy of current Federal Aviation Administration (FAA) carrier, operational, and airworthiness certification, as per U.S. Code of Federal Regulations, Title 14, Subchapter G, Part 135).

(d) The air ambulance provider shall **[designate or]** employ a medical director who shall meet the following qualifications:

(1) be a physician approved by the department **[Texas Department of Health]** and in practice;

(2) - (3) (No Change.)

(4) have access to consult with medical specialists for patient(s) whose illness and care needs are outside the medical director's area of practice; **[and]**

(5) shall comply with the requirements in the Medical Practice Act, Occupations Code, Chapters 151 - 168, and 22 Texas Administrative Code Chapter 197 [Chapter 6, Medicine, Article 4495B, Medical Practice Act, §197.3(a)(2-7) and (b)]; and

(6) have knowledge on Texas EMS laws and regulations affecting local, regional and state operations.

(e) The physician shall fulfill the following responsibilities:

(1) (No Change.)

(2) be involved in the selection, hiring, educating, training and continuing education of all medical personnel;

(3) - (5) (No Change.)

(6) ensure that there is an adequate method for on-line medical control, and that there is a **[well]** defined plan or procedure and resources in place to allow off-line medical control; and

(7) oversee the review, revision and validation of written medical policies and protocols annually for the treatment and transportation of adult, pediatric, and neonatal patients; and

(8) attest to the following capabilities:

(A) experience consistent with the transport of patients by air;

(B) knowledge of aeromedical physiology, stresses of flight, aircraft safety, resources limitations of the aircraft;

(C) knowledge on Texas EMS laws and regulations affecting local, regional and state operations; and

(D) awareness that the EMS provider has provided safety education for ground emergency services personnel.

(f) There shall be two Texas licensed/certified personnel on board the helicopter when in service. A waiver to the Texas license/certification may be granted for personnel employed by providers in New

Mexico, Oklahoma, Arkansas, Kansas, Colorado and Louisiana who respond in Texas and are licensed in their respective state. Staffing of vehicles shall be as follows:

(1) - (4) (No Change.)

(g) Documentation of successful completion of education [**training**] specific to the helicopter transport environment in general and the licensee's operation specifically shall be required. The curriculum shall be consistent with the Department of Transportation (DOT) Air Medical Crew - National EMS Education Standards [**Standard Curriculum**] or equivalent program and each attendant's qualifications shall be documented.

(h) Medical supplies and equipment shall be consistent with the service's scope of care as defined in the protocols/standing orders for adult, pediatric, and neonatal patients. Medical equipment shall be functional without interfering with the avionics nor should avionics interfere with the function of the medical equipment. Additionally, the following equipment, clean and in working order, must be on the aircraft or immediately available for all providers:

(1) one or more stretchers capable of being secured in the aircraft which meet the following criteria:

(A) (No Change.)

(B) shall have the head of the primary stretcher, with recommended manufacturer's or FAA approved restraint system in place, capable of being elevated up to 30 degrees. The elevating section shall not interfere with or require that the patient or stretcher securing straps and hardware be removed or loosened;

(C) - (D) (No Change.)

(E) shall have a supply of linen for each patient;

(2) adequate amounts of oxygen and masks (for anticipated liter flow and length of flight with an emergency reserve) available for every mission;

(3) (No Change.)

(4) a back-up source of oxygen (of sufficient quantity to get safely to a facility for replacements). A back-up [**Back-up**] source may be the required portable tank if the tank is accessible in the patient care area during flight;

(5) airway adjuncts as follows:

(A) oropharyngeal airways in at least five assorted sizes, including for adult, pediatric, [child] and neonatal [infant] patients; and

(B) (No Change.)

(6) at least one suction unit which is portable (bulb syringes or foot pump is not acceptable);

(7) (No Change.)

(8) assessment equipment as follows:

(A) equipment suitable to determine blood pressure of the for adult, pediatric, and neonatal patients [**infant patient(s)**] during flight;

(B) - (G) (No Change.)

(9) bandages and dressings as follows:

(A) sterile dressings such as 4x4s, abdominal [**ABD**] pads;

(B) - (C) (No Change.)

(10) (No Change.)

(11) infection control equipment. The licensee shall have a sufficient quantity of the following supplies for all air medical personnel, and each flight crew member, and all ground personnel with incidental exposure risks according to OSHA requirements which includes but is not limited to:

(A) - (C) (No Change.)

(D) protective face masks, National Institute for Occupational Safety and Health (NIOSH) approved N95 or greater;

(E) - (F) (No Change.)

(12) - (13) (No Change.)

(14) 12-lead cardiac monitor defibrillator - DC battery powered portable monitor/defibrillator with paper printout, accessories and supplies, with sufficient power supply to meet demands of the mission; [**and**]

(15) quantity and type of drugs and specialized equipment as specified on the medical director's list;

(16) permanently installed climate control equipment to provide an environment appropriate for the medical needs of patients; and

(17) survival kit which shall include, but not be limited to, the following items which are appropriate to the terrain and environments the provider operates over:

(A) instruction manual;

(B) water;

(C) shelter-space blanket;

(D) knife;

(E) signaling devices;

(F) compass; and

(G) fire starting items.

§157.13. Fixed-wing Air Ambulance Operations.

(a) Fixed wing aircraft operated by a licensed EMS provider shall be at the mobile intensive care level. Persons or entities operating fixed wing air ambulances must direct and control the integrated activities of both the medical and aviation components. Although the aircraft operator is directly responsible to the Federal Aviation Administration (FAA) for the operation of the aircraft, one organization, typically the one in charge of the medical functions, directs the combined efforts of the aviation and medical components during patient transport operations. Licensed fixed wing aircraft must also meet the requirements of §157.11 of this title (relating to Requirements for an EMS Provider License), as long as the rule does not violate the Federal Aviation Act of 1958, 49 U.S.C. §§ et seq. and Airline Deregulation Act of 1978, 49 U.S.C. §41713(b)(1).

(b) When being used as an ambulance, a fixed wing aircraft shall:

(1) - (3) (No Change.)

(4) have a door large enough to allow a patient on a stretcher with the manufacturer's recommended or FAA approved restraint system in place to be enplaned without excessive maneuvering or tipping of the patient which compromises the function of monitoring devices, intravenous (IV) lines or ventilation equipment;

(5) be designed or modified to accommodate at least one stretcher patient with the manufacturer's recommended or FAA approved restraint system in place;

(6) (No Change.)

(7) have a permanently installed climate control equipment to provide an environment appropriate for the medical needs of the patient(s). **[have an environmental system (heating and cooling) capable of maintaining a comfortable temperature at all times];**

(8) - (10) (No Change.)

(11) shall assure that specialized medical equipment, such as but not limited to, intra-aortic balloon pump, extracorporeal membrane oxygenation, left ventricular assist device, temperature management system, is secured throughout transport with adequately engineered, designated engineering representative approved mount;

(12) [(11)] have sufficient space in the cabin area where the patient stretcher is installed so that equipment can be stored and secured with FAA-approved devices in such a manner that it is accessible to the air medical personnel; and

(13) [(12)] have two FAA approved fire extinguishers approved for aircraft use. Each shall be fully charged with valid inspection certification and capable of extinguishing type A, B, or C fires. One extinguisher shall be accessible to the cockpit crew and one shall be in the cabin area accessible to the medical crew member.

(c) (No Change.)

(d) The fixed-wing air ambulance provider shall meet the responsibilities of EMS providers as in §157.11[(1)] of this title (relating to Requirements for an EMS Provider License) and shall also:

(1) submit proof that the fixed-wing aircraft provider carries bodily injury and property damage insurance with a company licensed to do business in Texas, in order to secure payment for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the certificate holder's aircraft. **[Coverage amounts shall insure that:]**

[(A) each aircraft shall be insured for the minimum amount of \$1 million for injuries to, or death of, any one person arising out of any one incident or accident;]

[(B) the minimum amount of \$3 million for injuries to, or death of, more than one person in any one accident; and]

[(C) for the minimum amount of \$500,000 for damage to property arising from any one accident;]

(2) (No Change.)

(e) The air ambulance provider shall **[designate or]** employ a medical director who shall meet the following qualifications:

(1) - (4) (No Change.)

(5) shall comply with the requirements in the Medical Practice Act, Occupations Code, Chapters 151 - 168, and 22 Texas Administrative Code Chapter 197 [Chapter 6, Medicine, Article 4495b, Medical Practice Act, §197.3 subparagraphs (a)(2)-(7) and (b)].

(f) The physician shall fulfill the following responsibilities:

(1) (No Change.)

(2) be involved in the selection, hiring, educating, training and continuing education of all medical personnel;

(3) - (5) (No Change.)

(6) ensure that there is an adequate method for on-line medical control, and that there is a **[well]** defined plan or procedure and resources in place to allow off-line medical control; **[and]**

(7) oversee the review, revision and validation of written policies and protocols annually for the treatment and transportation of adult, pediatric, and neonatal patients to include a policy defining the specific instances in which a patient could be accompanied by only one attendant; and

(8) attest to the following capabilities:

(A) experience consistent with the transport of patients by air;

(B) knowledge of aeromedical physiology, stresses of flight, aircraft safety, resources limitations of the aircraft;

(C) knowledge on Texas EMS laws and regulations affecting local, regional and state operations;

(D) awareness that the EMS provider has provided safety education for ground emergency services personnel.

(g) There shall be at least one licensed or certified paramedic, registered nurse, or physician on board an air ambulance to perform patient care duties on that air ambulance. The qualifications and numbers of air medical personnel shall be appropriate to patient care needs. Personnel employed by providers who are based in another state, do not need Texas certification/licensure but shall be certified/licensed in their respective state.

(1) Documentation of successful completion of education [training] specific to the fixed-wing transport environment in general and the licensee's operation specifically shall be required. The curriculum shall be consistent with the Department of Transportation (DOT) Air Medical Crew - National EMS Education Standards [Standard Curriculum], or equivalent program.

(2) - (4) (No Change.)

(h) Medical supplies and equipment shall be consistent with the service's scope of care as defined in the protocols/standing orders for adult, pediatric, and neonatal patients. Medical equipment shall be functional without interfering with the avionics nor should avionics interfere with the function of the medical equipment. Additionally, the following equipment, clean and in working order, must be on the aircraft or immediately available for all providers:

(1) one or more stretchers installed in the aircraft cabin which meet the following criteria:

(A) can accommodate an adult, 6 feet tall, weighing 212 pounds except for a neonatal stretcher, with recommended manufacturer's or FAA approved restraint system in place, which has been fitted with an isolette. There shall be restraining devices or additional appliances available to provide adequate restraint of all patients including those under 60 pounds or 36 inches in height;

(B) the head of each stretcher, with recommended manufacturer's or FAA approved restraint system in place, shall be capable of being elevated up to 45 degrees. The elevating section must hinge at or near the patient's hips and shall not interfere with or require that the patient or stretcher securing straps and hardware be removed or loosened;

(C) each stretcher, with recommended manufacturer's or FAA approved restraint system in place, shall be positioned in the cabin to allow the air medical personnel clear view of the patient and shall ensure that medical personnel always have access to the patient's head and upper body for airway control procedures as well as sufficient space over the area where the patient's [patients] chest is to adequately perform closed chest compression or abdominal thrusts on the patient;

(D) - (F) (No Change.)

(2) an adequate and manually-controlled supply of gaseous or liquid medical oxygen, attachments for humidification, and a variable flow regulator for each patient;

(A) (No Change.)

(B) the licensee shall have and demonstrate the method used to calculate the volume of oxygen required to provide sufficient oxygen for the patient's [patients] needs for the duration of the transport;

(C) - (D) (No Change.)

(E) the oxygen system shall be securely fastened to the airframe using FAA-approved restraining devices;

(i) (No Change.)

(ii) one adult, one child, one pediatric, one neonatal size non-rebreathing mask, one adult size nasal cannula and necessary connective tubings and appliances.

(3) (No Change.)

(4) hand operated bag-valve-mask ventilators of adult, pediatric and infant sizes with clear masks in adult, pediatric, and neonatal patients [and infant sizes]. It shall be capable of use with a supplemental oxygen supply and have an oxygen reservoir;

(5) airway adjuncts as follows:

(A) oropharyngeal airways in at least five assorted sizes, including adult, pediatric, and neonatal patients [child and infant]; and

(B) (No Change.)

(6) assessment equipment as follows:

(A) equipment suitable to determine blood pressure of the adult, pediatric, and neonatal patients [pediatric and infant patient(s)] during flight;

(B) - (E) (No Change.)

(7) - (9) (No Change.)

(10) infection control equipment. The licensee shall have a sufficient quantity of the following supplies for all air medical personnel, each flight crew member, and all ground personnel with incidental exposure risks according to OSHA requirements which includes but is not limited to:

(A) - (C) (No Change.)

(D) protective face masks, National Institute for Occupational Safety and Health (NIOSH) approved N95 or greater;

(E) - (F) (No Change.)

(11) - (14) (No Change.)

(i) (No Change.)

(j) The air ambulance provider shall own the following equipment or shall have a written lease agreement explaining the availability of the equipment for use when the patient's condition indicates the need:

(1) - (2) (No Change.)

(3) a mechanical ventilator that can deliver up to 100% [**100 %**] oxygen concentration at pressures, rates and volumes appropriate for the size of the patient.

§157.14. Requirements for a First Responder Organization License.

(a) (No Change.)

(c) Application requirements for an FRO affiliated with a licensed EMS Provider.

(1) A Basic Life Support (BLS) or Advanced Life Support (ALS) First Responder Organization affiliated with a Texas licensed EMS Provider must apply for an FRO license by submitting a completed application to the department. A complete application consists of the following:

(A) - (D) (No Change.)

(E) written affiliation agreement with the primary licensed EMS provider in the service area. The primary licensed EMS provider must provide a letter attesting that the following items have been reviewed and approved by the director and medical director of the EMS provider:

(i) (No Change.)

(ii) response, dispatch and treatment protocols including an equipment and supply list approved by the medical director of the licensed EMS provider to treat adult, pediatric and neonatal patients;

(iii) - (x) (No Change.)

(F) (No Change.)

(2) - (6) (No Change.)

(d) (No Change.)

(e) Responsibilities of the FRO. During the license period the FRO's responsibilities shall include:

(1) - (5) (No Change.)

(6) assuring the confidentiality of all patient information is in compliance with all federal and state laws;

(7) - (19) (No Change.)

(20) assuring the FRO has written operating policies, procedures and medical protocols and provides all medical personnel a copy initially and whenever such policies, procedures and/or medical protocols are changed. A copy of the written operating policies, procedures and medical protocols shall be made available to the department upon request. At a minimum, policies shall adequately address:

(A) - (B) (No Change.)

(C) infection control procedures, including contact information for the designated infection control officer;

(D) designated of an infection control officer with documentation showing education based on U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, §300ff-136.

(E) [(D)] management of possible exposure to communicable disease;

(F) [(E)] credentialing of new response personnel before being assigned to respond to emergencies. The credentialing process shall include, at minimum:

(i) a comprehensive orientation session of the FRO's policies and procedures, safety precautions, and quality management process; and

(ii) an internship period in which all new personnel practice under the supervision of, and are evaluated by, another more experienced person, if operationally feasible; and

(G)[F] appropriate documentation of patient care;

(21) - (22) (No Change.)

(23) maintaining motor vehicle and professional liability insurance as required by the Texas Transportation Code under Subchapter D, §601.071 and §601.072, for all vehicles owned or operated by the FRO;

(24) - (25) (No Change.)

(f) - (h) (No Change.)

(i) For all applications and renewal applications, the department is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority to recover costs associated with the application and renewal application processing through Texas Online.

§157.16. Emergency Suspension, Suspension, Probation, Revocation or Denial of a Provider License.

(a) Emergency Suspension. The Texas Department of State Health Services (department) [**bureau chief, Bureau of Emergency Management (bureau)**], may issue an emergency suspension order to any licensed emergency medical services (EMS) provider if the department [**bureau chief**] has reasonable cause to believe that the conduct of any licensed provider creates an imminent danger to public health or safety.

(1) An emergency suspension issued by the department [**bureau chief**] is effective immediately without a hearing or notice to the license holder. Notice to the license holder shall be presumed established on the date that a copy of the signed emergency suspension order is sent to the individual listed as the administrator of the service at the address shown in the current records of the department.

(2) A copy of the emergency suspension order shall be sent to the provider's listed medical director, to the EMS provider, and to [**any and**] all government entities, institutions or facilities with which the license holder is known to be associated to the addresses shown in the current records of the department.

(3) If a written request for a hearing is received from the suspended license holder [**within 15 days of the date of notice**], the department shall conduct a hearing not earlier than the 10th day nor later than the thirtieth day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified or rescinded. The hearing and appeal from any disciplinary action related to the hearing shall be governed by the Administrative Procedure Act, Government Code, Chapter 2001.

(b) Administrative penalty. An administrative penalty may be assessed when an EMS provider is in violation of the Health and Safety Code, Chapter 773, 25 TAC₂ Chapter 157, or the reasons outlined in subsections (c) and (d) of this section.

(c) Accountability. A provider retains ultimate responsibility for the operation of the service. A licensed EMS provider may not claim a defense when one or more staff members, acting with or without the consent and knowledge of the license holder, commit(s) multiple violations in this section, or perform(s) contrary to EMS standards while on EMS business for the provider. The department shall consider the EMS provider's current policies and procedures when staff violate rules or EMS standards.

(d) Nonemergency suspension or revocation. An EMS provider license may be suspended or revoked for, but not limited to, the following reasons:

(1) - (8) (No Change.)

(9) discriminating in the provision of services based on national origin, race, color, creed, religion, gender, sexual orientation, age, physical or mental disability[, **or economic status**];

(10) - (11) (No Change.)

(12) failing to give the department true and complete information when asked, regarding any alleged or actual violation of the Health and Safety Code, Chapter 773[, **or the rules adopted thereunder or failing to report such a violation**];

(13) - (19) (No Change.)

(e) Denial of a license. A license may be denied for, but not limited to, the following reasons:

(1) - (3) (No Change.)

(4) EMS provider has had disciplinary action in another state or by a federal agency;

(5) - (6) (No Change.)

(f) Notification. If the department proposes to deny, suspend, revoke, or probate a license, the EMS provider license holder and the administrator of record shall be notified at the address shown in the current records of the department. The notice shall state the alleged facts or conduct to warrant the proposed action and state that the license holder may request a hearing.

(g) Hearing Request.

(1) A request for a hearing shall be in writing and submitted to the department [**bureau chief**] and postmarked no later than 30 [**within 15**] days after the date of the notice. The hearing shall be conducted pursuant to the Administrative Procedure Act, Government Code, Chapter 2001.

(2) If the candidate, applicant or licensee does not request a hearing in writing within 30 [**15**] days after proper notice, the individual is deemed to have waived the opportunity for a hearing as outlined in the notice.

(h) (No Change.)

(i) Re-application.

(1) - (3) (No Change.)

(4) The department may deny any petitioner if, in the judgement of the department [**bureau chief**], the reason for the original action continues to exist or if the petitioner has failed to offer sufficient proof that there is no longer a threat to public health, safety, and/or confidence.

(5) (No Change.)

(j) - (l) (No Change.)

§157.32. Emergency Medical Services Education Program and Course Approval.

(a) Emergency medical services (EMS) Education Program Standards. An EMS Education Program shall meet national education training standards **[The Texas Department of State Health Services (department) shall develop and publish an EMS Education and Training Manual (manual) outlining standards for EMS education]** that address at least the following areas:

(1) - (11) (No Change.)

(b) Consideration of training standards. The department shall base the education and training standards on applicable national standards and guidelines for evaluation and approval of EMS education programs adopted by national accrediting organizations.

[1] The department shall base the manual on applicable standards and guidelines for evaluation and approval of EMS education programs adopted by national accrediting organizations.]

[(2) Before implementation or revision of the manual, the department shall ensure adequate time for public review and comment.]

[(3) Before implementation or revision of the manual, the department shall present the manual to the advisory council for review.]

(c) Curriculum.

(1) Emergency Care Attendant (ECA).

(A) - (B) (No Change.)

(C) The course shall include a minimum of 60 **[40]** clock hours of classroom and laboratory instruction in the approved curriculum.

(2) Emergency Medical Technician (EMT).

(A) (No Change.)

(B) The course shall include a minimum of 150 **[140]** clock hours of classroom, laboratory, clinical, and field instruction which shall include supervised experiences in the emergency department, with a licensed EMS provider and in other settings as needed to develop the competencies defined in the minimum curriculum.

(3) Advanced Emergency Medical Technician (AEMT) **[-Intermediate (EMT- I)].**

(A) The minimum curriculum shall include all content required by the current national Advanced Emergency Medical Technician (AEMT) standards and competencies as defined in the National EMS Education Standards by DOT. The following areas must be addressed as outlined in the AEMT national educational standards and the Health and Safety Code, §773.048:

(i) - (xiii) (No Change.)

(B) The course shall include a minimum of 250 [160] clock hours of classroom, laboratory, clinical, and field instruction which shall include supervised experiences in the emergency department with a licensed EMS provider and in other settings as needed to develop the competencies defined in the AEMT national educational standards.

(C) A student shall have a current EMT certification from the department or National Registry prior to beginning and throughout field and clinical rotations in an AEMT [EMT-I] course.

(4) Emergency Medical Technician-Paramedic (EMT-P).

(A) (No Change.)

(B) The course shall include a minimum of 1000 [624] clock hours of classroom, laboratory, clinical and field instruction which shall include supervised experiences in the emergency department with a licensed EMS provider and in other settings as needed to develop the competencies defined in the minimum curriculum.

(C) A student shall have a current EMT or AEMT [EMT-I] certification from the department or current EMT, EMT-I or AEMT certification from the National Registry prior to beginning and throughout field and clinical rotations in an EMT-P course.

(d) Sponsorship.

(1) (No Change.)

(2) Program sponsors shall provide appropriate oversight and supervision to ensure that programs [are]:

(A) are educationally and fiscally sound; [and]

(B) meet the responsibilities listed in subsection (o) of this section; and

(C) has the required equipment and resources to conduct the program.

(e) Levels of program approval.

(1) - (2) (No Change.)

(3) AEMT [EMT-I] and EMT-P training shall be conducted by an advanced program.

(4) (No Change.)

(5) The Education programs must have the authority or ownership to provide the program.

(6) Approval of a program by the department is not transferable.

(f) Currently approved programs. Programs that have obtained approval as of the effective date of this rule shall be considered to have met the requirements of subsections (g) or (h) of this section appropriate to their current level of approval. Paramedic programs must **[become accredited by December 31, 2012, and]** provide proof of accreditation by the Commission on Accreditation of Allied Health Education Programs (CAAHEP)/Committee on Accreditation of Education Programs for the Emergency Medical Services Professions (CoAEMSP), or a national accrediting organization recognized by the department. Alternatively, the program may provide a letter of review from CAAHEP/CoAEMSP or a national accrediting organization recognized by the department stating the education program has submitted the appropriate documentation that indicates it being in pursuit of accreditation as defined by that organization.

(g) Basic approval requirements. To approve a basic program, an applicant shall:

(1) - (4) (No Change.)

(5) have a medical director **[if appropriate]** to the level or content of training. The medical director shall be a licensed physician approved by the department with experience in and current knowledge of emergency care. The medical director shall be knowledgeable about educational programs for EMS personnel. In addition to other duties assigned by the program, the medical director shall:

(A) - (C) (No Change.)

(6) (No Change.)

(7) submit a completed application to the appropriate regional office; **[and]**

(8) demonstrate substantial compliance with the EMS education standards by successfully completing the self-study/on site review process **[self study/on-site review process outlined in the manual]; and.**

(9) provide a name and contact information for the designated infection control officer and document education for the designated infection control officer based on Subpart B of the 1990 Ryan White Comprehensive AIDS Resources Emergency Act, Public Law 101-381.

(h) Advanced approval requirements. To approve an advanced program, an applicant shall:

(1) - (4) (No Change.)

(5) have a program director who contributes an adequate amount of time to assure the success of the program. In addition to other responsibilities, the program director shall be responsible for the development, organization, administration, periodic review and effectiveness of the program; and shall:

(A) routinely review student performance to assure adequate progress toward completion of the program; **[and]**

(B) - (C) (No Change.)

(6) - (7) (No Change.)

(8) submit a completed application to the appropriate regional office; **[and]**

(9) demonstrate substantial compliance with the EMS education standards by successfully completing the self-study/on-site review process outlined in the national education and training standards [manual]; and

(10) provide a name and contact information for the designated infection control officer and document education for the designated infection control officer based on Subpart B of the 1990 Ryan White Comprehensive AIDS Resources Emergency Act, Public Law 101-381.

(i) Self-study requirements.

(1) A self-study is a self-evaluation and compilation of documents that describes the proposed or existing program's overall process. It will explain and/or document the program's organizational structure, resources, facilities, record keeping, personnel and qualifications, policies and procedures, text books, course delivery methods used, clinical and field affiliations, student to patient contact matrix, psychomotor competency evaluation, a copy of all advertisements, documents provided to students and describe what is necessary for students to complete the program.

(2) All proposed and/or existing programs must provide a self-study at the basic (ECA and EMT) and/or advanced (AEMT and Paramedic) level. Programs that offer paramedic education may submit a copy of a self-study submitted to national accrediting organizations to meet this requirement. However, they must submit supplemental documentation to demonstrate substantial compliance with the EMS education standards of this section.

(A) Each applicant for an EMS Program must submit a self-study that contains the following items:

(i) an organizational chart;

existing program; (ii) a description of the ownership and sponsorship of the proposed or

(iii) a description of financial resources;

course, and student records; (iv) a description of the record keeping process for maintaining program,

(v) a description of the facilities;

(vi) a description of learning resources;

(vii) a description of equipment and supplies;

(viii) a description of personnel (faculty and staff) and qualifications;

continuing education process. (ix) a description of the instructor /faculty credentialing, evaluation and

(x) a description of the clinical and field internship affiliations;

(xi) a description of the student to patient contact ratio and how it will be tracked and monitored. If an existing program at renewal, include a student patient contact ratio report;

(xii) a description of the text books and curriculum;

(xiii) a description of the psychomotor competency evaluation process;

students, that address the following: (xiv) a copy of any policies and procedures used for faculty, staff and

(I) attendance, tardiness, and participation;

(II) program medical director change;

(III) cheating;

(IV) clinical and field internship;

(V) complaint resolution;

(VI) conduct, safety and health;

(VII) counseling and coaching of students;

(VIII) dress and hygiene requirements;

(IX) grading;

(X) grievance and appeals;

(XI) immunizations;

(XII) policies for the prevention of sexual harassment;

(XIII) policies for the prevention of discrimination based on race, sex, creed, national origin, sexual preference, age, handicap or medical problems;

(XIV) psychomotor competency evaluation;

(XV) record keeping and access to records;

(XVI) student faculty relationships;

(XVII) student screening and enrollment;

(XVIII) test review and makeup; and

(XIX) tuition and/or fee reimbursement.

(XX) Provide a name and contact information for the designated infection control officer, and document education for the designated infection control officer based on U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, §300ff-136.

(xv) a sample of all advertisements and any documents given to potential students, students and exiting students; and

(xvi) a description of any and all requirements for a student to complete a course.

(j) [(i)] Provisional approval. If following the department's review of the self-study, the applicant is found to be in substantial compliance with established national EMS education standards **[outlined in the manual]**, the department shall issue a provisional approval.

(k) [(j)] Lack of substantial compliance. If following the department's review of the self-study, the applicant is not found in substantial compliance with EMS education standards **[outlined in the manual]**, the program director and sponsor shall receive a written report detailing:

(1) any deficiencies; and

(2) specific recommendations for improvement that will be necessary before provisional approval may be granted.

(l) [(k)] On-site review. After the completion of a provisionally-approved program's first course, an on-site review shall be conducted **[as outlined in the manual]**. The on-site review process is the department inspector's review of a proposed and/or existing program's records plan, self-study, equipment, facilities and clinical and field internship facilities, and student-to-patient contact ratios.

(1) If the program is found to be in substantial compliance with established EMS education standards and all fees and expenses associated with the self-study and on-site review have been paid, the department shall approve the program for a period of four years **[as set forth in the manual]** and issue an approval number. The program director and sponsor shall receive a written report of the site-review team's findings, including areas of exceptional strength, areas of weakness and recommendations for improvement.

(2) If the program is not in substantial compliance with established EMS education standards, the program director and sponsor shall receive a written report detailing deficiencies and specific requirements for improvement. Depending on the nature and severity of the identified deficiencies within the program, the program may or may not be allowed to continue training activities. In all cases, the department in consultation with program officials shall devise a remedial plan for the deficiencies.

(3) Upon completion of a remedial plan a program shall be approved for a period of four years **[as outlined by the manual]**.

(m) [(l)] Exception to sponsorship requirements for advanced programs.

(1) If an urgent need for an advanced program or an EMS operator instructor program exists in an area and cannot be met by an entity that meets the sponsorship requirements defined in subsection (d) [(h)(2)] of this section, a licensed EMS provider may request the department to grant an exception to allow the EMS provider to sponsor an advanced program.

(2) Such request must be submitted in writing and must include the following:

(A) documentation of the need for an advanced program and of the urgency of the situation;

(B) documentation that the EMS provider has successfully operated a basic program;

(C) documentation of attempts by the EMS provider to affiliate with an entity that meets the requirements of subsection (h)(2) of this section;

(D) a letter from the EMS provider agreeing to assume all responsibilities of advanced program sponsorship;

(E) letters of intent from qualified providers of clinical and field internship experience appropriate to the level of training to be offered; and

(F) a letter of intent from a medical director who will agree to perform the responsibilities listed in subsection (h)(6) of this section.

(3) In determining whether the request for an exception is to be approved or denied, the department shall consider, but not be limited to, the following issues:

(A) the quality of the basic program previously operated by the EMS provider;

(B) evidence that the EMS provider possesses the resources and dedication necessary to operate an advanced program that complies with the EMS education standards;

(C) the efforts of the EMS provider to affiliate with an entity that meets the requirements of subsection (h)(2) of this section;

(D) the availability of an approved advanced program within a reasonable distance of the affected area;

(E) the availability of an approved advanced program that will provide training to the affected area by outreach or distance learning technology;

(F) the probable impact on existing approved advanced programs if the exception is approved; **[and]**

(G) the probable adverse consequences to the public health or safety if the exception is not approved; and

(H) the written support by the program medical director.

(4) After evaluation by the department, the EMS provider shall be notified in writing of the approval or denial of the request.

(5) An exception to the requirements of subsection (h)(2) of this section shall meet all other requirements of subsection (h) of this section, including completion of the self- study and the on-site review process, and shall demonstrate substantial compliance with the EMS education standards **[as outlined in the manual]** before being granted approval by the department.

(n) **[(m)]** National accreditation for paramedic education/training programs.

(1) In addition to the requirements listed in subsection (h) of this section, all EMS education/training programs currently conducting paramedic education and training must meet the following requirements to receive approval as a paramedic education and training program:

(A) **[on or before December 31, 2012, become accredited and]** provide proof of accreditation by the CAAHEP/CoAEMSP, or a national accrediting organization recognized by the department; or

(B) provide documentation from CAAHEP/CoAEMSP or a national accrediting organization recognized by the department stating the education program has submitted the appropriate documentation that indicates it being in pursuit of accreditation as defined by the CAAHEP/CoAEMSP or a national accrediting organization recognized by the department **[on or before December 31, 2012]**. The education/training program that is deemed as pursuing accreditation may be temporarily approved by the department. In order to receive program approval, the education/training program must be accredited and provide proof of their accreditation by the national accrediting organization to the department.

(2) If the education/training program is **[does]** not **[become]** accredited or has their accreditation revoked by the national accrediting organization the program will not be allowed to conduct a paramedic education or training course until the program becomes accredited or the program is recognized by the national accrediting organization as being in pursuit of accreditation.

(3) Initial or current education programs that are not accredited and would like to offer paramedic education and training on or after January 1, 2013 must:

(A) be approved by the department as an EMS basic education program, according to subsection (g) of this section;

(B) submit the appropriate application and fees to the department;

(C) meet the accreditation standards set by CAAHEP/CoAEMSP or another department approved national accrediting organization in order for the department to issue the applicant a temporary approval to conduct paramedic education or training courses; and

(D) provide proof of accreditation by CAAHEP/CoAEMSP or another national accrediting organization recognized by the department. If the training program does not become accredited the program will not be allowed to conduct another paramedic education or training course until the program becomes accredited or the department receives notification from the accrediting organization that the program is recognized as being in pursuit of accreditation as defined by the accrediting organization.

(4) If a program has been accredited by CAAHEP/CoAEMSP or a national accrediting organization recognized by the department, the department may exempt the program from the program approval or re-approval process.

(5) Programs accredited by CAAHEP/CoAEMSP or another national accrediting organization recognized by the department shall provide the department with copies of:

(A) the accreditation self study;

(B) the accreditation letter or certificate; and

(C) any correspondence or updates to or from the national accrediting organization that impact the program's status.

(6) On request of the department, programs shall permit the department's representatives to participate in site visits performed by national accrediting organizations.

(7) If the department takes disciplinary action against a nationally accredited program for violations that could indicate substantial noncompliance with a national accrediting organization's essentials or standards, the department shall advise the national accrediting organization of the action and the evidence on which the action was based.

(8) If a program's national accreditation lapses or is withdrawn, the program shall meet all requirements of this subsection or subsection [subsections] (g) or (h) of this section within a reasonable period of time as determined by the department.

(o) [(n)] Denial of program approval. A program may be denied approval, provisional approval, or re-approval for, but not limited to, the following reasons:

(1) failure to meet the requirements established in subsection (g), (h) or (m) of this section;

(2) failure, or previous failure, to meet program responsibilities as defined in subsection (p)[(o)] of the this section;

(3) conduct, or previous conduct, that is grounds for suspension or revocation of program approval as defined in subsection (u)[(t)] of this section;

(4) falsifying any information, record, or document required for program approval, provisional approval, or re-approval;

(5) misrepresenting any requirements for program approval, provisional approval, or re-approval;

(6) failing or refusing to submit a self-study or a required report of progress toward remediation of a documented program weakness or areas of non-compliance within a reasonable period of time as determined by the department;

(7) failing or refusing to accept an on-site program review by a reasonably scheduled date as determined by the department;

(8) issuing a check to the department which is returned unpaid;

(9) being charged with criminal activity while approved to provide EMS training;

(10) having disciplinary action imposed by the department on the provider license, personnel certification or licensure, or program for violation of any provision of Health and Safety Code, Chapter 773 or 25 Texas Administrative Code, Chapter 157; or

(11) failure of a paramedic program to become accredited or maintain their accreditation by CAAHEP/CoAEMSP or another national accrediting organization recognized by the department.

(p)[(o)] Responsibilities. A program shall be responsible to:

(1) plan for and evaluate the overall operation of the program;

(2) provide supervision and oversight of all courses for which the program is responsible;

(3) act as liaison between students, the sponsoring organization and the department;

(4) submit course notifications and approval applications, along with nonrefundable fees if applicable, to the department [**as described in the manual**];

(5) assure availability of classroom(s) and other facilities necessary to provide for instruction and convenience of the students enrolled in courses for which the program is responsible;

(6) screen student applications, verify prerequisite certification if applicable and select students;

(7) schedule classes and assign course coordinators and/or instructors;

(8) verify the certification, license, or other proper credentials of all personnel who instruct in the program's courses;

(9) maintain an adequate inventory of training equipment, supplies and audio-visual resources based on the National EMS Education Standards, and course medical director;

(10) assure that training equipment and supplies are available and operational for each laboratory session;

(11) secure and maintain affiliations with clinical, and field internship facilities necessary to meet the instructional objectives of all courses for which the program is responsible;

(12) develop field internship and clinical objectives for all courses for which the program is responsible;

(13) train and evaluate internship preceptors;

(14) obtain written acknowledgement from the field internship EMS provider medical director, if students will be conducting advanced-level skills as part of their field internship with that EMS provider;

(15) [(14)] maintain all course records for a minimum of 5 years;

(16) [(15)] along with the course coordinator develop and use valid and reliable written examinations, skills proficiency verifications, and other student evaluations;

(17) [(16)] along with the course coordinator and medical director, supervise and evaluate the effectiveness of personnel who instruct in the program's courses;

(18) [(17)] along with the course coordinator and medical director, supervise and evaluate the effectiveness of the clinical and EMS field internship training;

(19) [(18)] along with the course coordinator, attest to the successful course completion of all students who meet the programs requirements for completion;

(20) [(19)] provide the department with information and reports necessary for planning, administrative, regulatory, or investigative purposes;

(21) [(20)] provide the department with any information that will affect [effect] the program's interaction with the department, including but not limited to changes in:

(A) program director;

- (B) course coordinators;
- (C) medical director;
- (D) classroom training facilities;
- (E) clinical or field internship facilities; and
- (F) program's physical and mailing address; **[and]**

(22) [(21)] provide proof of accreditation by CAAHEP/CoAEMSP or another national accrediting organization recognized by the department;

(23) submit a total student roster no later than 14 days after the first official start date;

(24) submit a final student roster no later than 14 days after the last official class date; and

(25) online and or distance learning classes, programs and courses must meet the same standards as outlined in this section.

(q) [(p)] Program Re-approval.

(1) Prior to the expiration of a program's approval period, the department shall send a notice of expiration to the program at the address shown in the current records of the department.

(2) If a program has not received notice of expiration from the department 45 days prior to the expiration, it is the program's duty to notify the department and request an application for re-approval. Failure to apply for re-approval shall result in expiration of approval.

(3) Programs that have obtained approval as of the effective date of this rule shall be considered to have met the requirements of subsection (g) or (h) of this section appropriate to their current level of approval.

(4) To be eligible for re-approval, the program shall meet all the requirements in subsections (g), (h) or (m) of this section as appropriate to the level of approval requested; and

(A) prepare an update to the program's self-study that addresses significant changes in the program's personnel, structure, curriculum, resources, policies, or procedures;

(B) document progress toward correction of any deficiencies identified by the program or the department through the self-study and on-site review process;

(C) host an on-site review if one is deemed necessary by the department or requested by the program; and

(D) a paramedic program must provide documentation of current accreditation from CoAEMSP or another national accrediting organization recognized by the department.

(r) [(q)] Fees.

(1) The following nonrefundable fees shall apply:

(A) \$30 for review of a basic self-study, except that this nonrefundable fee may be waived if the program receives no remuneration for providing training;

(B) \$90 for conducting a basic site visit;

(C) \$60 for review of an advanced self-study, except that this nonrefundable fee may be waived if the program receives no remuneration for providing training;

(D) \$250 for conducting an advanced site visit;

(E) \$30 for processing a basic course notification or approval application, except that this nonrefundable fee may be waived if the program receives no remuneration for providing training; and

(F) \$60 for processing an advanced course notification or approval application, except that this nonrefundable fee may be waived if the program receives no remuneration for providing training.

(2) Program approvals shall be issued only after all required nonrefundable fees have been paid.

(s) [(r)] Course Notification and Approval.

(1) Each course conducted by an approved program shall be approved by notice from the department and the issuance of an assigned course number. A program shall not start a course, advertise a course, or collect tuition and/or fees from prospective students until the course is approved by the department and the assigned course number issued.

(2) The program director of an approved program shall submit notice of intent to conduct a course and the appropriate fee, if required, to the department on a form provided by the department at least 30 days prior to the proposed start date of the course. The notification shall include the following information:

(A) training level of course;

- (B) dates and times classes are to be conducted;
- (C) physical location of the classroom;
- (D) identification of clinical sites and internship providers, if required;
- (E) name of principle instructor;
- (F) enrollment status;
- (G) anticipated number of students;
- (H) number of contact hours;
- (I) amount of tuition to be charged;
- (J) proposed ending date of the course; and
- (K) signature of the program director.

(3) A nonrefundable course fee, unless program is not remunerated for the course in any way, shall be submitted as follows:

- (A) \$30 for a Basic Course (ECA or EMT);
- (B) \$60 for an Advanced Course (AEMT [**EMT-Intermediate**] or Paramedic);
- (C) \$30 for an EMS Instructor Course; and
- (D) \$60 for an Emergency Medical Information Operator Instructor Course.

(4) The department may require submission of a written course approval application, in accordance with the guidelines set forth in the education and training standards [manual], in lieu of the course notification from programs which:

- (A) have not successfully completed a site visit review;
- (B) have proposed courses which do not conform to the approved parameters of the current program standards;

(C) have not conducted a course of the same level in the previous 12 months; or

(D) the department has probable cause to suspect are in noncompliance with the provisions of this chapter.

(t) [(s)] Denial of a course notification or course approval. A course may be denied for, but not limited to the following:

(1) submission of an incomplete application;

(2) failure to meet all requirements as outlined in this section [**the manual**];

(3) failure of the program to hold current approval to conduct the level of the course proposed;

(4) failure to follow the guidelines for submission of the course notification or course approval application and supporting documents;

(5) falsification or misrepresentation of any information required for course notification or course approval; and/or

(6) issuing a check which is returned unpaid.

(u) [(t)] Disciplinary actions.

(1) Emergency suspension. The department [**bureau chief**] may issue an emergency order to suspend a program's approval if the department [**bureau chief**] has reasonable cause to believe that the conduct of the program creates an immediate danger to the public health or safety.

(A) An emergency suspension shall be effective immediately without a hearing or written notice to the program. Notice to the program shall be presumed established on the date that a copy of the emergency suspension order is sent to the address shown in the current records of the department. Notice shall also be sent to the program's sponsoring entity.

(B) If a written request for a hearing is received from the program [**within 15 days of the date of suspension**], the department shall conduct a hearing not earlier than the 10th day nor later than the 30th day after the date on which the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and appeal from any disciplinary action related to the hearing shall be governed by the Administrative Procedure Act, Government Code, Chapter 2001.

(2) Non-emergency suspension or revocation. A program's approval may be suspended or revoked for, but not limited to, the following reasons:

(A) failing to comply with the responsibilities of a program as defined in subsection (o) of this section;

(B) failing to maintain sponsorship as identified in the program application and self-study;

(C) failing to maintain employment of at least one course coordinator whose current certifications are appropriate for the level of the program;

(D) falsifying a program approval application, a self-study, a course notification or course approval application, or any supporting documentation;

(E) falsifying a course completion certificate or any other document that verifies course activity and/or is a part of the course record;

(F) assisting another to obtain or to attempt to obtain personnel certification or recertification by fraud, forgery, deception, or misrepresentation;

(G) failing to complete and submit course notifications or course approval applications and student documents within established time frames;

(H) offering or attempting to offer courses above the program's level of approval;

(I) compromising or failing to maintain the integrity of a department- approved training course or program;

(J) failing to maintain professionalism in a department-approved training course or program;

(K) demonstrating a lack of supervision of course coordinators or personnel instructing in the program's courses;

(L) compromising an examination or examination process administered or approved by the department;

(M) accepting any benefit to which there is no entitlement or benefitting in any manner through fraud, deception, misrepresentation, theft, misappropriation, or coercion;

(N) failing to maintain appropriate policies, procedures, and safeguards to ensure the safety of students, instructors, or other course participants;

(O) allowing recurrent use of inadequate, inoperable, or malfunctioning equipment;

(P) maintaining a passing rate on the examinations for certification or licensure that is statistically and significantly lower than the state average;

(Q) failing to maintain the fiscal integrity of the program;

(R) issuing a check to the department which is returned unpaid;

(S) failing to maintain records for initial or continuing education courses;

(T) demonstrating unwillingness or inability to comply with the Health and Safety Code and/or rules adopted thereunder;

(U) failing to give the department true and complete information when asked regarding any alleged or actual violation of the Health and Safety Code or the rules adopted thereunder;

(V) committing a violation within 24 months of being placed on probation;

(W) offering or attempting to offer courses during a period when the program's approval is suspended; **[and/or]**

(X) a paramedic program receiving revocation of their accreditation by CAAHEP/CoAEMSP or any other organization that provides nationally recognized EMS accreditation; and/or

(Y) for starting a course, program or class before receiving official approval from the department.

(3) Notification. If the department proposes to suspend or revoke a program's approval, the program shall be notified at the address shown in the current records of the department. The notice shall state the alleged facts or conduct warranting the action and state that the program has an opportunity to request a hearing in accordance with Administrative Procedure Act, Government Code, Chapter 2001.

(A) The program may request a hearing **[within 15 days after the date of the notice]**. The [This] request shall be in writing and submitted to the department [chief].

(B) If the program does not request a hearing within 30 [15] days after the date of the notice of opportunity, the program waives the opportunity for a hearing and the department shall implement its proposal.

(4) Probation. The department may probate any penalty assessed under this section and may specify terms and conditions of any probation issued.

(5) Re-application.

(A) Two years after the revocation or denial of approval, the program may petition the department in writing for the opportunity to reapply.

(B) The department shall evaluate the petition and may allow or deny the opportunity to submit an application.

(C) In evaluating a petition for permission to reapply, the department shall consider, but is not limited to, the following issues:

(i) likelihood of a repeat of the violation that led to revocation;

(ii) the petitioner's overall record as a program;

(iii) letters of support or recommendation;

(iv) letters of protest or non-support of the petition; and

(v) the need for training in the area the program would serve.

(D) The petitioner shall be notified within 60 days at the address shown in the current records of the department of the decision to allow or deny the submission of an application for re-approval.

(6) A program whose approval expires during a suspension or revocation period may not petition to reapply until the end of the suspension or revocation period.

(v) [(u)] For all applications and renewal applications, the department is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with the application and renewal application processing through Texas Online [texas.gov].

§157.33. Certification.

(a) Certification requirements. A candidate for emergency medical services (EMS) certification shall:

(1) (No Change.)

(2) have a high school diploma or GED certificate:

(A) the high school diploma must be from a school accredited by the Texas Education Agency (TEA) or a corresponding agency from another state. Candidates who received a high school education in another country must have their transcript evaluated by a foreign credentials evaluation service that attests to its equivalency. A home school diploma is acceptable **[if it is accompanied by a letter of acceptance into a regionally accredited college];**

(B) (No Change.)

(3) (No Change.)

(4) The candidate has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(5) [(4)] submit an application, meeting the requirements in §157.3 of this title (relating to Processing EMS Provider Licenses and Applications for EMS Personnel Certification and Licensing), and the following nonrefundable fees as applicable:

(A) \$60 for emergency care attendant (ECA) or emergency medical technician (EMT);

(B) \$90 for AEMT **[EMT-intermediate (EMT-I)]** or EMT-paramedic (EMT-P);
and

(C) EMS volunteer--no fee. However, if such an individual receives compensation during the certification period, the exemption ceases and the individual shall pay a prorated fee to the department based on the number of years remaining in the certification period when employment begins. The nonrefundable fee for ECA or EMT certification shall be \$15 per each year remaining in the certification. The nonrefundable fee for AEMT **[EMT-I]** or EMT-P shall be \$22.50 per each year remaining in the certification. Any portion of a year will count as a full year; **[and]**

(6) [(5)] provide evidence of current active or inactive National Registry certification at the appropriate level. National Registry First Responder certification is considered the appropriate corresponding certification level for an ECA; and

(7) submit fingerprints through the state approved fingerprinting service to undergo an FBI fingerprint criminal history check.

(b) Length of certification. A candidate who meets the requirements of subsection (a) of this section shall be certified for four years beginning on the date of issuance of a certificate and wallet-size certificate. A candidate must verify current certification before staffing an EMS vehicle. Certification may be verified by the applicant's receipt of the official department identification card, by using the department's certification website[, **or by contacting the department directly**].

(c) Scheduling authority for certification examinations.

[(1) The department has final authority for scheduling all certification examination sessions.]

(1) [(2)] Examinations shall be administered at regularly scheduled times in various locations across the state.

(2) [(3)] The candidate shall be responsible for making appropriate arrangements for the examination.

(3) [(4)] The department is not required to set special examination schedules for a single candidate or for a specific group of candidates.

(d) - (g) (No Change.)

(h) Inactive certification. A certified EMT, AEMT [EMT-I], or EMT-P may make application to the department for inactive certification at any time during the certification period or within one year after the certificate expiration date.

(1) - (4) (No Change.)

(i) Reciprocity.

(1) A person who is currently certified by the National Registry but did not complete a department-approved course may apply for the equal or lower level Texas certification by submitting a reciprocity application and a nonrefundable fee of \$120.

(A) Applicants holding National Registry AEMT [EMT-intermediate] certification may be required to [must] submit written verification of proficiency of AEMT [EMT-intermediate] skills from an approved education program.

(B) - (D) (No Change.)

(E) The candidate has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(2) A person currently certified by another state may apply for equal or lower level Texas certification by submitting a reciprocity application and a nonrefundable fee of \$120.

(A) (No Change.)

(B) Applicants holding AEMT [EMT-intermediate] out-of-state certification must submit written proof of proficiency on all of the AEMT [EMT-intermediate] skills signed by a Texas certified EMS coordinator or instructor.

(C) All applicants shall submit fingerprints through the state approved fingerprinting service to undergo an FBI fingerprint criminal history check.

(D) The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(E) [(C)] Reciprocity is not allowed for the ECA level.

(F) [(D)] A candidate will not be eligible for reciprocity if the out-of-state certification expires prior to the completion of all requirements for certification as listed in this section.

(G) [(E)] A candidate who meets the requirements of this section shall be certified for four years beginning on the date of issuance of a certificate and wallet-size certificate.

(3) (No Change.)

(j) Equivalency.

(1) (No Change.)

(2) A candidate applying for certification by equivalency shall:

(A) (No Change.)

(B) obtain a course completion document that verifies that the program is satisfied that all curriculum requirements have been met. Evaluations of curricula conducted by post secondary educational institutions under this subsection shall be consistent with the institution's established policies and procedures for awarding credit by transfer or advanced placement; **[and]**

(C) the candidate may then apply for initial certification with the department as described in subsection (a) of this section; and[.]

(D) The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(k) (No Change.)

(l) Responsibilities of the EMS personnel. During the license period, the EMS Personnel responsibilities shall include:

(1) making accurate, complete and/or clearly written patient care reports documenting a patient's condition upon arrival at the scene and patient's status during transport, including signs, symptoms, and responses during duration of transport as per EMS provider's approved policy;

(2) reporting to the employer, appropriate legal authority or the department, of abuse or injury to a patient or the public within 24 hours or the next business day after the event;

(3) following the approved medical director's protocol and policies;

(4) taking precautions to prevent the misappropriation of medications, supplies, equipment, personal items, or money belonging to the patient, employer or any person or entity;

(5) maintaining skill and knowledge to perform the duties or meet the responsibilities required of current level of EMS certification; and

(6) notifying the department of a current and/or valid mailing address within 30 days of any changes.

§157.34. Recertification.

(a) Recertification requirements.

(1) - (3) (No Change.)

(4) The certificant shall submit the following non-refundable fees as applicable:

(A) (No Change.)

(B) \$90 for Advanced EMT (AEMT) [**EMT-Intermediate (EMT-I)**] or EMT-Paramedic (EMT-P); and

(C) EMS volunteer--no fee. However, if such an individual receives compensation during the certification period, the exemption ceases and the individual shall pay a prorated fee to the department based on the number of years remaining in the certification period when employment begins. The non-refundable fee for ECA or EMT certification shall be \$15 per each year remaining in the certification. The non-refundable fee for AEMT [**EMT-I**] or EMT-P shall be \$22.50 per each year remaining in the certification. Any portion of a year will count as a full year.

(5) - (6) (No Change.)

(7) Military personnel. A person certified by the department who is deployed in support of military, security, or other action by the United Nations Security Council, a national emergency declared by the President [**president**] of the United States, or a declaration of war by the United States Congress is eligible for recertification under timely recertification requirements from the person's date of demobilization until one calendar year after the date of demobilization but will not be certified during that period.

(A) - (C) (No Change.)

(b) Recertification options. Upon submission of a completed application for recertification, the applicant shall commit to, and recertify through one of the options described in paragraphs (1) - (5) of this subsection.

(1) Option 1--Written Examination Recertification Process.

(A) - (F) (No Change.)

(G) The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(2) Option 2--Continuing Education Recertification Process. The certificant shall attest to accrual of department approved EMS continuing education as specified in §157.38 of this title (relating to Continuing Education). The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(3) Option 3--National Registry Recertification Process. The applicant shall attest to and hold current National Registry certification at the time of applying for recertification. The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(4) Option 4--Formal Course Recertification Process. The applicant shall attest to successful completion of a department approved recertification course.

(A) The recertification course[, **as prescribed by the Education and Training Manual,**] shall be a formal structured interactive training course as approved by the department and conducted within the four-year certification period.

(B) (No Change.)

(C) The applicant has completed a state approved jurisprudence examination to determine the knowledge on state EMS laws, rules, and policies.

(5) Option 5--CCMP Recertification Process. An applicant affiliated with an EMS provider that has a department-approved Comprehensive Clinical Management Program (CCMP) may be recertified if:

(A) the applicant is currently credentialed in the provider's CCMP;

(B) the applicant has been enrolled in the provider's CCMP for at least six continuous months; **[and]**

(C) the applicant submits to the department a signed written statement by the CCMP's medical director, attesting to the applicant's successful participation in and completion of the provider's CCMP; and

(D) The applicant has completed a state approved jurisprudence examination to determine the knowledge that the applicant has on state EMS laws, rules, and policies.

(6) (No Change.)

(c) - (e) (No Change.)

(f) Inactive to active certification.

(1) An inactive certificant prior to the expiration of the first four-year inactive certification period may obtain active certification by submitting an application and the non- refundable fee to the department, as described in subsection (a)(4) of this section and by completing one of the following options:

(A) Option 1--meet the normal 4 year continuing education requirement for certification renewal as listed in subsection (b)(2) of this section, submit verification of skills proficiency from an approved education program or recognized physician by the department, and pass the National Registry EMT cognitive [national registry] assessment exam.

(B) Option 2--complete a department approved recertification course, and pass the National Registry EMT psychomotor (practical) exam and cognitive [national registry] assessment exam.

(2) A certificant who has held inactive certification for more than four years may return to active certification only by completing requirements described in §157.33(a) or (j) of this title.

(g) (No Change.)

§157.36. Criteria for Denial and Disciplinary Actions for EMS Personnel and Applicants and Voluntary Surrender of a Certificate or License.

(a) (No Change.)

(b) Disciplinary Action. The department may suspend, revoke, or refuse to renew an EMS certification or paramedic license, or may reprimand a certificant or licensed paramedic for, but not limited to, the following reasons:

(1) - (2) (No Change.)

(3) failing to make accurate, complete and/or clearly written patient care reports documenting a patient's condition upon arrival at the scene, the prehospital care provided, and patient's status during transport, including signs, symptoms, and responses during duration of transport as per EMS provider's approved policy;

(4) - (6) (No Change.)

(7) failing to report to the employer, appropriate legal authority or the department, the event of abuse or injury to a patient or the public within 24 hours or the next business day after the event;

(8) [(7)] failure to follow the medical director's protocol, performing advanced level or invasive treatment without medical direction or supervision, or practicing beyond the scope of certification or licensure;

(9) [(8)] failing to respond to a call while on duty and/or leaving duty assignment without proper authority;

(10) [(9)] abandoning a patient[, **turning over the care of a patient or delegating EMS functions to a person who lacks the education, training, experience, knowledge to provide appropriate level of care for the patient**];

(11) turning over the care of a patient or delegating EMS functions to a person who lacks the education, training, experience, or knowledge to provide appropriate level of care for the patient;

(12) [(10)] failing to comply with the terms of a department ordered probation or suspension;

(13) [(11)] issuing a check to the department which has been returned to the department or its agent unpaid;

(14) [(12)] discriminating in any way based on real or perceived conditions of national origin, race, color, creed, religion, sex, sexual orientation, age, physical disability, mental disability, or economic status;

(15) [(13)] misrepresenting level of any certification or licensure;

(16) [(14)] misappropriating medications, supplies, equipment, personal items, or money belonging to the patient, employer or any other person or entity [**or failing to take reasonable precautions to prevent such misappropriations**];

(17) failing to take precautions to prevent misappropriating medications, supplies, equipment, personal items, or money belonging to the patient, employer or any person or entity;

(18) [(15)] falsifying or altering, or assisting another in falsifying or altering, any department application, EMS certificate or license; or using or possessing any such altered certificate or license;

(19) [(16)] committing any offense during the period of a suspension/probation or repeating any offense for which a suspension/probation was imposed within the two-year period immediately following the end of the suspension or probation;

(20) [(17)] cheating and/or assisting another to cheat on any [**department**] examination, written or psychomotor, by [**or the examination of**] any provider licensed by the department or any institution or entity conducting EMS education and/or training or providing an EMS examination leading to obtaining certification or renewing certification or license;

(21) ~~[(18)]~~ obtaining or attempting to obtain and/or assisting another in obtaining or attempting to obtain, any advantage, benefit, favor or gain by fraud, forgery, deception, misrepresentation, untruth or subterfuge;

(22) ~~[(19)]~~ illegally possessing, dispensing, administering or distributing, or attempting to illegally dispense, administer, or distribute controlled substances as defined by the Health and Safety Code, Chapter 481 and/or Chapter 483;

(23) ~~[(20)]~~ having received disciplinary action relating to an EMS certificate or license or another health provider certificate or license issued in another state or in a U.S. Territory or in another nation, or having received disciplinary action relating to another health provider certificate or license issued in Texas;

(24) ~~[(21)]~~ failing or refusing to timely give the department full and complete information requested by the department;

(25) ~~[(22)]~~ failing to notify the department of a change in his or her criminal history within 30 business days of the issuance of a court order, which resulted in him or her being convicted or placed on a deferred adjudication community supervision or deferred disposition for any criminal offense, other than any class C misdemeanor not directly related to EMS or other than any offense noted in §157.37(e)(5) of this title (relating to Certification or Licensure of Persons With Criminal Backgrounds);

(26) ~~[(23)]~~ failing to notify the department within 5 ~~[(10)]~~ business days of his or her being arrested, charged or indicted for any criminal offense, other than any class C misdemeanor not directly related to EMS or other than any offense noted in §157.37(e)(5) of this title;

(27) ~~[(24)]~~ failing to notify the department of a change in his or her criminal history within 5 ~~[(2)]~~ business days of the issuance of a court order, which resulted in him or her being convicted or placed on deferred adjudication community supervision, or deferred disposition for any offense noted in §157.37(e)(5) of this title;

(28) ~~[(25)]~~ failing to notify the department within 5 ~~[(2)]~~ business days of his or her being arrested, charged or indicted for a criminal offense noted in §157.37(e)(5) of this title;

(29) ~~[(26)]~~ having been convicted or placed on deferred adjudication community supervision, or deferred disposition for a criminal offense that directly relates to the duties and responsibilities of EMS personnel, as determined by the provisions of §157.37 of this title, except that a person's EMS certification or paramedic license shall be revoked if the certificant or licensed paramedic is convicted, or placed on deferred adjudication community supervision or deferred disposition for a criminal offense, noted in §157.37(e)(5) of this title;[.]

(30) ~~[(27)]~~ failing to timely complete any portion of the criminal history evaluation process, including submission of fingerprints, or timely providing information requested by the department within 60 days of notification to do so, in accordance with provisions in §157.37 of this title;

(31) ~~[(28)]~~ engaging in any conduct that jeopardizes or has the potential to jeopardize the health or safety of any person;

(32) [(29)] using [abusing] alcohol or drugs to such an extent that in the opinion of the commissioner or his/her designee [bureau chief], the health or safety of any persons [is,] or may be[,] endangered;

(33) failure by the employee, of an employer drug screening test right before, after or during an assigned EMS work or volunteer shift;

(34) resigning employment or refusing by the employee, of an employer drug screening test right before, after or during an assigned EMS work or volunteer shift;

(35) [(30)] engaging in any activity that betrays the patient privacy perspective or public trust and confidence in EMS; [and]

(36) [(31)] failing to maintain a substantial amount of skill, knowledge and/or academic acuity to timely and/or accurately perform the duties or meet the responsibilities required of a certified emergency medical technician or licensed paramedic; [.]

(37) delegating medical functions to other EMS personnel without approval from the medical director per approved protocols;

(38) failing to transport a patient and/or transport a patient to the appropriate medical facility according to the criteria for selection of a patient's destination established by the medical director;

(39) failing to document no-transport and refusals of care and/or follow the criteria under which a patient might not be transported, as established by the medical director;

(40) failing to contact medical control and/or the medical director as required by the medical director's protocols and/or EMS provider's policy and procedure when caring for or transporting a patient;

(41) failing to protect and/or advocate for patients/clients and/or the public from unnecessary risk of harm from another EMS certified or licensed personnel;

(42) falsifying employment or volunteer medical profession applications and/or failing to answer specific questions that would have affected the decision to employ or otherwise utilize while certified or licensed as an EMS personnel;

(43) behaving in a disruptive manner toward other EMS personnel, law enforcement, firefighters, hospital personnel, other medical personnel, patients, family members or others, that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient;

(44) failing to notify the department no later than 30 days of a current and/or valid mailing address;

(45) falsifying or altering clinical and/or internship documents for EMS students;

(46) falsifying or failing to complete daily readiness checks on EMS vehicles, medical supplies and/or equipment as required by EMS employers;

(47) engaging in acts of dishonesty which relate to the EMS profession and/or as determined by the department;

(48) behavior that exploits the EMS personnel-patient relationship in a sexual way. This behavior is non-diagnostic and/or non-therapeutic, may be verbal or physical, and may include expressions or gestures that have sexual connotation or that a reasonable person would construe as such;

(49) falsifying information provided to the department; and

(50) engaging in a pattern of behavior that demonstrates routine response to medical emergencies without being under the policies and procedures of an EMS provider and/or first responder organization, and/or providing patient care without medical direction when required.

(c) Criteria for Denial of EMS Certification, or Paramedic Licensure. An EMS certification or paramedic license may be denied for, but not limited to, the following reasons:

(1) - (3) (No Change.)

(4) receiving disciplinary action relating to a certificate or license issued to the applicant in Texas, in another state, or in a U.S. territory, or in another nation, or by the National Registry of Emergency Medical Technicians' (NREMT), or any other organization that provides national recognized for EMS certification;

(5) (No Change.)

(6) issuing payment [a check for any reason] to the department which has been returned to the department or its agent **[for any reason]**;

(7) - (9) (No Change.)

(d) (No Change.)

(e) Appeal Hearing Request.

(1) A request for an appeal hearing shall be in writing and submitted to the department and postmarked within **30 [15]** days after the date of the notice. The appeal hearing and any appeal from that hearing shall be conducted pursuant to the Administrative Procedure Act, Government Code, Chapter 2001.

(2) If the applicant, certificant, licensed paramedic, or petitioner does not request a hearing in writing within **30 [15]** days after notice, the individual is deemed to have waived the opportunity for an appeal hearing and the department may take the proposed action.

(f) - (i) (No Change.)

§157.38. Continuing Education.

(a) - (c) (No Change.)

(d) Definitions. The following words and terms, when used in this section shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (4) (No Change.)

(5) Clinical learning experiences--Faculty-planned and guided learning experiences designed to assist students to meet course objectives in the noted content areas of subsection (c) of this section and to apply EMS knowledge and skills in the direct care of patients. These experiences can include settings in laboratories, acute medical care facilities, extended medical care facilities, and participation in other department approved health related activities. Practice [Practica] approved by the Texas Higher Education Coordinating Board may also be considered a form of clinical experience under these rules.

(6) - (12) (No Change.)

(e) Types of Acceptable Continuing Education.

(1) In this section “approved educational activities” refers to workshops, seminars, conferences, short-term courses, credit courses or continuing education courses provided by accredited institutions of higher education, clinical learning experiences, individualized instruction, distributive learning courses, and other learning activities that are related to EMS approved protocols and skills or that enhance the professional EMS practice of the certified or licensed EMS personnel.

(2) Continuing education contact hours applied toward EMS recertification or relicensure may be earned by participating in approved educational activities that are offered or sponsored by:

(A) A continuing education provider, approved under subsection (g) [(f)] of this section.

(B) - (E) (No Change.)

(3) (No Change.)

(f) (No Change.)

(g) Approval of Continuing Education Provider.

(1) - (2) (No Change.)

(3) The applicant shall certify on the application that:

(A) all programs offered by the provider for EMS continuing education will comply with the appropriate criteria defined in subsection (h) of this section; **[and]**

(B) the provider shall be responsible for verifying successful completion by a participant of each program and shall provide a certificate of completion to the participants; and

(C) the provider shall be responsible for verifying that continuing education program(s) has physician medical oversight when the education is involving patient care.

(4) The department may require applicants for approval as continuing education providers to: **[.]**

(A) demonstrate **[Demonstrate]** they possess the financial, administrative, and educational resources necessary to provide the type(s) of educational activities proposed; and

(B) provide **[Provide]** evidence that they are capable of designing and delivering educational activities that comply with the appropriate criteria defined in subsection (h) of this section.

(h) Criteria for Acceptable Continuing Education Activity.

(1) The following criteria have been established to guide EMS personnel in selecting appropriate programs and to guide providers of EMS continuing education in planning and presenting activities. The following criteria shall apply to all activities except those involving self-directed study concluding in a published writing or a presentation, as described in subsection (g)(3)(B) of this section.

(A) - (H) (No Change.)

(I) Participants shall complete a written evaluation of the program and instruction. Regional, State and/or National conferences may be exempt from this requirement.

(J) - (K) (No Change.)

(2) (No Change.)

(3) Clinical Instruction. In addition to the criteria listed in paragraph (1) of this subsection, programs consisting of or including a component of clinical instruction shall meet the following criteria.

(A) - (D) (No Change.)

(E) Provide a name and contact information for the designated infection control officer and document education for the designated infection control officer based on U.S. Code, Title 42, Chapter 6A, Subchapter XXIV, Part G, §300ff-136.

(4) - (5) (No Change.)

(i) Additional Criteria for Specific Continuing Education Programs. In addition to those listed in subsection (h) of this section, the following guidelines shall apply to the selection and/or planning and implementation of specific CE programs.

(1) Semester or quarter credit hour courses.

(A) The course shall be within the framework of a curriculum that leads to a degree in emergency medical services or any credit hour course relevant to emergency health care.

(B) Certified or licensed EMS personnel, upon audit, shall be able to present an official transcript or official evidence indicating successful completion of the course with a passing grade.

(2) - (4) (No Change.)

(j) (No Change.)

(k) Audit.

(1) - (6) (No Change.)

(7) Falsification of CE documentation or official evidence of completion of CE shall be cause for reprimand, probation, suspension, or revocation of a certificate or license as described in §157.36 of this title (relating to Criteria for Denial and Disciplinary Actions for EMS Personnel and Voluntary Surrender of a Certificate or License).

(8) Falsification of CE documentation or official evidence of completion by a CE provider or failure to comply with the criteria established by subsections (h) and (i) of this section shall be cause for reprimand, probated suspension, suspension, or revocation of approval.

(l) For all applications and renewal applications, the department **[(or the board)]** is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

§157.43. Course Coordinator Certification.

(a) - (c) (No Change.)

(d) Basic coordinator requirements. To be certified as a basic course coordinator, the candidate shall:

(1) submit an application for basic course coordinator certification along with the nonrefundable fee of \$60 to the Texas Department of State Health Services (department) except a fee shall not be required if compensation is not received for coordinating training courses or programs;

(2) have been certified as an EMT or higher for at least 4 consecutive years;

(3) [(2)] have been a certified EMS instructor for at least two consecutive years;

(4) [(3)] have documented not less than 120 hours of instruction for initial EMS certificants; or have successfully conducted an EMT-Basic course;

(5) [(4)] submit documentation of positive evaluations as a certified instructor;[.]

(6) [(5)] be affiliated with and operate under the supervision of a licensed provider, an EMS medical director, a teaching hospital, a regionally accredited post-secondary educational institution and/or a health care institution accredited by an organization recognized by the department;

(7) [(6)] submit letters of intent from qualified providers of clinical and field internship experience;

(8) [(7)] have successfully completed a department-sponsored course coordinator training course; and

(9) [(8)] after completing all the above requirements, pass the EMS coordinator exam and retest, if necessary, no later than one year after course completion date. The nonrefundable retest fee is \$30, except a fee shall not be required if compensation is not received for coordinating training courses or programs. If requirements are not completed within one year after course completion date, the candidate must meet the requirements of subsection (d) of this section including the completion of another initial course to be certified.

(e) Advanced coordinator requirements. To be certified as an advanced course coordinator, the candidate shall:

(1) - (3) (No Change.)

(4) have been certified/licensed as an paramedic for at least 4 consecutive years;

(5) [(4)] have documented not less than 240 [120] hours of instruction for initial EMS certificants;

(6) [(5)] submit documentation of positive evaluations as a certified instructor or as a basic coordinator;

(7) [(6)] be affiliated with and operate under the supervision of a regionally accredited post-secondary educational institution, a health care institution accredited by an organization recognized by the department, or another entity approved by the department to sponsor an advanced training program in accordance with §157.32 of this title (relating to EMS Education Program and Course Approval);

(8) [(7)] submit a letter of intent from qualified providers of clinical and field internship experience;

(9) [(8)] have successfully completed a department-sponsored course coordinator training course;

(10) [(9)] after completing all the above requirements, pass the EMS coordinator exam and retest, if necessary, no later than one year after course completion date. The nonrefundable retest fee is \$30, except a fee shall not be required if compensation is not received for coordinating training courses or programs. If requirements are not completed within one year after course completion date, the candidate must meet the requirements of subsection (e) of this section including the completion of another initial course to be certified; and

(11) [(10)] candidates who hold current basic coordinator certification and are applying for advanced coordinator certification must complete all requirements of this subsection except paragraphs (e)(9) [(e)(8)] and (e)(10) [(e)(9)] of this subsection.

(f) Period of Certification. After verification by the department of the information submitted by the candidate, the candidate who meets the requirements of the applicable subsection (d) or (e) of this section shall be certified as a a **[an]** course coordinator for two years commencing on the date of issuance of the certificate.

(g) (No Change.)

(h) Responsibilities. Course coordinator shall have the following responsibilities:

(1) - (3) (No Change.)

(4) coordinate submission of course approval documents and fees, if applicable, for assigned courses to the department **[as defined in the Education and Training Manual]**;

(5) - (10) (No Change.)

(11) obtain written acknowledgement from the field internship EMS provider medical director, if students will be conducting advanced-level skills as part of their field internship with that EMS provider;

(12) [(11)] train and evaluate internship preceptors;

(13) [(12)] in cooperation with the training program, maintain all course records for a minimum of five years;

(14) [(13)] in cooperation with the training program coordinate course written examinations, skills proficiency verifications, and other student evaluations;

(15) [(14)] in cooperation with the training program evaluate the effectiveness of the personnel who instruct in assigned courses;

(16) [(15)] in cooperation with the training program supervise and evaluate the effectiveness of the clinical and field internship training for assigned courses; **[and]**

(17) [(16)] in cooperation with the training program attest to the successful course completion of all students who meet the program's requirements for completion;

(18) provide students with written information on the Texas process to gain certification or licensure;

(19) educate students on current Texas EMS laws, policies and rules;

(20) provide written notification to the department within 24 hours or the next normal business day when leaving as the course coordinator for an ongoing EMS program; and

(21) provide to the program within 24 hours or the next normal business day all course material for an ongoing EMS program.

(i) Exception. A program may request the department to grant an exception to allow a person not currently certified as a course coordinator to temporarily perform the duties listed in subsection (h) of this section.

(1) (No Change.)

(2) In determining whether the request for an exception is to be approved or denied, the department shall consider but not be limited to the following issues:

(A) - (B) (No Change.)

(C) the probable adverse consequences to prehospital emergency care, if the exception is not approved.

(3) - (4) (No Change.)

(j) Recertification.

(1) - (2) (No Change.)

(3) To be eligible for recertification, the course coordinator shall meet recertification requirements during the latest coordinator certification period and:

(A) (No Change.)

(B) attend **[regional]** updates for course coordinator as required by the department;

(C) - (E) (No Change.)

(F) submit documentation of observing or providing at least 8 hours of emergency medical care by a licensed EMS provider, first responder organization or clinical site.

(4) (No Change.)

(k) - (l) (No Change.)

(m) Disciplinary actions.

(1) (No Change.)

(2) Emergency suspension. The department **[bureau chief of the Bureau of Emergency Management (bureau)]** may issue an emergency order to suspend a course coordinator's certification if the department **[bureau chief]**, has reasonable cause to believe the conduct of the certified course coordinator creates an imminent danger **[continued activity by the individual constitutes a threat]** to the public health and safety.

(A) - (B) (No Change.)

(3) Reprimand, suspension, [Suspension] or revocation. **[The department may suspend or revoke a certificate it has issued to an EMS coordinator.]** A course coordinator may be reprimanded or the course coordinator's certification may be suspended or revoked for, but not limited to the following:

(A) - (V) (No Change.)

(W) committing any violation during a probationary period; [.]

(X) failing to report a violation of the Health and Safety Code, Chapter 773, or the rules adopted thereunder;

(Y) failing to notify the department when any current EMS student or student applicant, or certified or licensed program employee is arrested for, or received a conviction, deferred adjudication or deferred prosecution for, any crime, upon the coordinator's discovery of such;

(Z) failing to notify the department of a conviction, deferred adjudication, or deferred prosecution for a crime which directly relates to the person's ability to carry out the duties and responsibilities of an EMS personnel or EMS course coordinator, per the guidelines and criteria outlined in §157.37 of this title; and

(AA) demonstrating unprofessional conduct such as, but not limited to the following:

(i) retaliation;

(ii) discrimination; shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

(iii) verbal or physical abuse; or

(iv) inappropriate physical or sexual contact.

(4) Notification. If the department proposes to suspend or revoke a course coordinator's certificate, the course coordinator shall be notified at the address shown in the current records of the department. The notice must state the alleged facts or conduct warranting the action and state that the course coordinator has an opportunity to request a hearing in accordance with the Administrative Procedure Act, Government Code, Chapter 2001.

(A) The course coordinator may request a hearing [**within 15 days**] after the date of the notice. This request shall be in writing and submitted to the department [**bureau chief**].

(B) If the course coordinator does not request a hearing within 30 [**15**] days after the date of the notice of opportunity, the course coordinator waives the opportunity for a hearing and the department shall implement its proposal.

(5) - (6) (No Change.)

(n) For all applications and renewal applications, the department [**(or the board)**] is authorized to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

§157.44. Emergency Medical Service Instructor Certification.

(a) General.

(1) A certified emergency medical service (EMS) instructor is an individual who has received training approved by the Texas Department of State Health Services (department) to conduct the classroom or laboratory portion of an EMS training course.

(2) - (3) (No Change.)

(b) - (e) (No Change.)

(f) Recertification.

(1) - (2) (No Change.)

(3) To be eligible for recertification, the instructor shall meet recertification requirements during the latest instructor certification period:

(A) maintain active status EMS certification; **[and]**

(B) submit documentation of observing or providing at least 8 hours of emergency medical care by or with a licensed EMS provider, first responder organization or clinical site; and

(C) submit the application for recertification and a nonrefundable fee of \$30.

(4) (No Change.)

(g) (No Change.)

(h) Recertification. To be eligible for recertification, the candidate shall meet the following:

(1) - (4) (No Change.)

(5) A candidate whose certification is expired more than one year must meet the requirements of subsection (b) of this section **[including the completion of another initial course to be certified]**.

(i) Disciplinary action.

(1) Emergency suspension. The department may issue an emergency order to suspend an instructor certification if the department has reasonable cause to believe the conduct of the certified instructor creates [continued activity of the individual constitutes] an imminent danger to the public health or safety.

(A) - (B) (No Change.)

(2) The department may suspend, revoke, or refuse to renew an instructor certification, or may reprimand an instructor for, but not limited to, the following reasons [Certification suspension or revocation, or application denial. The department may suspend or revoke a certification or deny an application for certification for, but not limited to, the following reasons]:

(A) - (V) (No Change.)

(W) failing [failure] to notify the department when any current EMS student, student applicant, or certified or licensed program employee is arrested for, or received a [convicted] conviction, deferred adjudication or deferred prosecution, for any crime, upon the instructor's discovery of such;

(X) failing to notify the department of a conviction, deferred adjudication, or deferred prosecution for a crime which directly relates to the person's ability to carry out the duties and responsibilities of an EMS personnel or EMS instructor, per the guidelines and criteria outlined in §157.37 of this title;

[(X) conviction of a crime which directly relates to the profession of EMS personnel or EMS educators as described in §157.37 of this title (relating to Certification or Licensure of Persons With Criminal Backgrounds);]

(Y) displaying unprofessional conduct such as, but not limited to the following:

(i) retaliation;

(ii) discrimination on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

(iii) verbal or physical abuse; or

(iv) inappropriate physical or sexual contact.

[(Y) received a deferred adjudication or deferred prosecution to resolve any criminal charge against the candidate or certificant, which relates to the candidate's or certificant's ability to carry out EMS duties and/or the responsibilities of an EMS Instructor;]

(AA) - (EE) (No Change.)

(3) Notification. If the department proposes to take disciplinary action against an EMS instructor, the certificant shall be notified at the address shown in the current records of the department. The notice must state the alleged facts or conduct warranting the action and state that the certificant has an opportunity to request a hearing.

(A) The certificant may request a hearing within 15 days after the date of the notice. This request shall be in writing and submitted to the department **[bureau chief]**. The hearing shall be conducted pursuant to the Administrative Procedure Act, Government Code, Chapter 2001.

(B) (No Change.)

(4) - (5) (No Change.)

(j) - (k) (No Change.)

Repeal Rule Text

~~§157.3 Processing EMS Provider Licenses and Applications for EMS Personnel Certification and Licensure~~

~~[(a) Purpose. The purpose of this section is to set out the time periods by which the Texas Department of Health (department) processes applications for emergency medical services (EMS) provider licenses and EMS personnel certification and licensure.]~~

~~[(b) First time period. The first period is a time from the date of receipt of an application to the date of issuance of a written notice that the application is complete or that additional specific information is required. An appointment for the survey of an EMS provider may be in lieu of the notice of acceptance of a complete application. The time periods for each application are as follows.]~~

~~[(1) EMS provider licenses. The time periods are 21 days for the letter of deficiency and 60 days after completing licensure requirements for the issuance of the EMS provider license.]~~

~~[(2) EMS personnel certificates or licenses. The time periods are 21 days for the letter of deficiency and 60 days after testing for the issuance of EMS personnel certificate or license.]~~

~~[(c) Second time period. The second period is a time from the date of receipt of the last item necessary to complete the application, including survey or testing, to the date of issuance of written notice approving or denying the application. The denial time periods include notification of the proposed decision and the opportunity for an informal or formal hearing. The time periods for each application are as follows.]~~

~~_____ [(1) EMS provider license.]~~

~~_____ [(A) The time period for the initial letter of approval for a license is 60 days.]~~

~~_____ [(B) The time period for the letter of denial for a license is 120 days. The time period includes the applicant requests for a variance from minimum standards and the review necessary for this request.]~~

~~_____ [(C) The time period for the issuance of a license is 60 days.]~~

~~_____ [(2) EMS personnel certificates or licenses.]~~

~~_____ [(A) The time period for the letter of approval for an examination is 60 days.]~~

~~[(B) The time period for the letter of denial for an examination is 180 days. This time limit reflects the applicant being investigated for acceptance for examination based on a criminal conviction or statutory action under the Health and Safety Code, Chapter 773 and rules adopted thereunder.]~~

~~_____ [(C) The time period for the issuance of a certificate or license is 60 days.]~~

~~_____ [(d) Reimbursement of fees.]~~

~~[(1) In the event the application is not processed in the time periods as stated in subsections (b) and (c) of this section, the applicant has the right to request of the bureau chief of the Bureau of Emergency Management, full reimbursement of all filing fees paid in that particular application process. If the bureau chief does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.]~~

~~_____ [(2) Good cause for exceeding the period established is considered to exist if:]~~

~~[(A) the number of applications for licenses, registrations, certifications, and permits as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;]~~

~~[(B) another public or private entity utilized in the application process caused the delay; or]~~

~~_____ [(C) other conditions existed giving good cause for exceeding the established periods.]~~

~~[(e) Appeal. If the request for full reimbursement authorized by subsection (d) of this section is denied, the applicant may then appeal to the commissioner of health for a resolution of the dispute. The applicant shall give written notice to the commissioner that he requests full reimbursement of all filing fees paid because his application was not processed within the adopted time period. The bureau chief shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will make the final decision and provide written notification of his decision to the applicant and the bureau chief.]~~

~~[(f) Contested case hearing. If at any time during the processing of the application during the second time period, a contested case hearing becomes involved, the time periods in §1.34 of this title (relating to Time Periods for Conducting Contested Case Hearing) are applicable.]~~

~~[(g) Application for EMS provider license by a corporation. An applicant for an EMS provider license who is a corporation under the Texas Business Corporation Act, Texas Civil Statutes, Article 2.45, shall provide the department with an affidavit issued by the comptroller's office attesting to the applicant's good standing under the Tax Code, Texas Codes Annotated, Chapter 171; and shall comply with department requirements regarding payment of franchise taxes by corporations contracting with the department or applying for a license from the department as described in §1.161 of this title (relating to Delinquent Corporate Franchise Taxes).]~~