



# TEXAS DEPARTMENT OF STATE HEALTH SERVICES

(Revised 8/2015)

## VARIANCE REQUEST GUIDELINES

Dear Provider:

This document has been prepared to serve as a guide in requesting a Variance from EMS standards with the Texas Department of State Health Services. Please read the instructions carefully. The necessary form(s) are enclosed for your convenience. Should you have any questions, please contact your respective EMS Program Specialist.

In requesting a variance the following documentation/forms must be submitted to the field office.

1. The EMS provider shall complete the Variance Request Form and attach a letter explaining the need and/or reason for the request.
2. A request from the EMS sole provider shall be accompanied by:
  - a. A letter from the government, county or city entity verifying status and stating there are no other EMS services in the area; and
  - b. In the case of a personnel variance request, a plan for compliance within a designated time frame.

Upon receipt of the variance request by the field office, a mutually agreeable date for a public hearing shall be determined between the provider and the field office. The purpose of the hearing is to heighten public awareness about all ramifications of having an EMS service which is in non-compliance with the law. At such time as a hearing date is established, it will be the responsibility of the provider to have published the date and circumstances of the meeting in a local newspaper. In addition to the date and circumstances involving the variance request, the following \*paragraph shall be included in the notice.

**\*Notice is hereby given that (name of provider) has requested a variance from the Texas Department of State Health Services to operate their EMS service while not in compliance with the law. The variance, if approved would allow the provider to operate their emergency vehicles (insert applicable statement listed below) while responding to and transporting emergency patients. The hearing is scheduled for (date, time and location). The public is encouraged to attend.**

Statement choices:

1. Without meeting the minimum staffing requirement of at least two certified Emergency Care Attendants
2. While not meeting the minimum equipment requirements for having an approved and functioning (insert equipment item) on board
3. If other than the above, wording must be approved by the field office.

This notice shall be published at least once a minimum of 24 hours prior to the scheduled public hearing.

In addition to alerting the general public, notification of the public hearing should be forwarded to city and county officials. It will be the responsibility of the provider to either conduct the hearing or designate someone to do so. The Texas Department of State Health Services will make an effort to provide a staff member to be available to answer any questions regarding the law and receive public input. Within ten (10) days following the public hearing, the field office will forward a recommendation and/or public input to the EMS/Trauma Systems Coordination Office for final consideration.

Note: The provider will need to provide a copy of the newspaper containing the notice of public hearing prior to the start of the hearing in order to validate the process.



# Request for Variance Form

(Revised 8/2015)

You have requested a variance from minimum BLS standards as authorized by the Health and Safety Code, Chapter 773 and the implementing rules. In order to evaluate this request, please complete this form using additional pages if necessary.

Name of EMS Firm

EMS Firm License Number

Address

City State Zip

Telephone Email

Do you have written documentation from a sponsoring governmental entity? If yes, please attach.

Yes No

---

Administrator of Record Telephone

Email address

Medical Director Name Telephone

Email address

Address

City State Zip

---

Equipment variance request? Yes No

Specify the equipment variance requested and give reason(s) this is necessary.

EMS personnel variance request?                      Yes                      No

Specify the personnel variance requested and give reason(s) this is necessary (add additional page(s) if needed) .

Other variance request?                                      Yes                      No

Specify and give reason(s) this is necessary. (add additional page(s) if needed).

Number of residents in Service Area

Number of square miles in Service Area

Number of square miles in Service Area

Name

Certification level

Expiration Date

Number of Vehicles

Number of Vehicles Authorized

Name of Training site

Distance

Source and amount of monetary support: (Include local government support, fiscal and other resources.) (add additional page(s) if needed)

Source

Amount

Annual EMS Budget

Number of dispatched per month

Name of other EMS providers in service area and distances between stations

\_\_\_\_\_  
Signature of individual completing form

\_\_\_\_\_  
Signature of County Judge or designee

Date

Date

Title

Title

**CHAPTER 773. EMERGENCY MEDICAL SERVICES  
SUBCHAPTER A. GENERAL PROVISIONS**

§ 773.052. Variances

(a) An emergency medical services provider with a specific hardship may apply to the bureau chief for a variance from a rule adopted under this chapter. The board may adopt a fee of not more than \$25 for filing an application for a variance.

(b) On receipt of a request for a variance, the department shall consider any relevant factors, including:

(1) the nearest available service;

(2) geography; and

(3) demography.

(c) The bureau chief shall grant to a sole provider for a service area a variance from the minimum standards for staffing and equipment for the provision of basic life-support emergency medical services if the provider is an emergency medical services provider exempt from the payment of fees under Section 773.0581.

(d) An applicant for a variance under Subsection (c) must submit a letter to the department from the commissioners court of the county or the governing body of the municipality in which the provider intends to operate an emergency medical services vehicle. The letter must state that there is no other emergency medical services provider in the service area.

(e) The department shall grant a variance under Subsection (c) if the department determines that the provider qualifies and may deny the variance if the department determines that the provider does not qualify. The department shall give a provider whose application is denied the opportunity for a contested case hearing under Chapter 2001, Government Code.

(f) The department shall issue an emergency medical services license to a provider granted a variance under this section. The license is subject to annual review by the department. A provider is encouraged to upgrade staffing and equipment to meet the minimum standards set by the rules adopted under this chapter.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, § 251, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 605, § 4, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, § 5.95(49), eff. Sept. 1, 1995.