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## Public Health Law Article 30

[Article 30](#) and [Article 30a](#) of the State of New York Public Health Law  
Emergency Medical Services

Revisions As Provided For By:

- Chapter 190 of the Laws of 2001
- Chapter 349 of the Laws of 2001
- Chapter 463 of the Laws of 2001

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### Article 30 - Emergency Medical Services

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## **Article 30-A - Emergency Medical Services Training**

### Section

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**SECTION 3000. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.**

The furnishing of medical assistance in an emergency is a matter of vital concern affecting the public health, safety and welfare. Prehospital emergency medical care, the provision of prompt and effective communication among ambulances and hospitals and safe and effective care transportation of the sick and injured are essential public health services.

It is the purpose of this article to promote the public health, safety and welfare by providing for certification of all advanced life support first response services and ambulance services; the creation of regional emergency medical services councils; and a New York state emergency medical services council to develop minimum training standards for certified first responders, emergency medical technicians and advanced emergency medical technicians and minimum equipment and communication standards for advanced life support first response services and ambulance services.

**SECTION 3000-A. EMERGENCY MEDICAL TREATMENT.**

1. Except as provided in subdivision six of section six thousand six hundred eleven, subdivision two of section six thousand five hundred twenty-seven, subdivision one of section six thousand nine hundred nine and sections six thousand five hundred forty-seven and six thousand seven hundred thirty-seven of the education law, any person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill, or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such person. Nothing in this section shall be deemed or construed to relieve a licensed physician, dentist, nurse, physical therapist or registered physician's assistant from liability for damages for injuries or death caused by an act or omission on the part of such person while rendering professional services in the normal and ordinary course of his or her practice.
2. (i) A person who, or entity, partnership, corporation, firm or society that, purchases or makes available resuscitation equipment that facilitate first aid, an automated external defibrillator or an epinephrine auto-injector device as required by law or local law, or (ii) the emergency health care provider with a collaborative agreement under section three thousand-b of this article with respect to an automated external defibrillator, or (iii) the emergency health care provider with a collaborative agreement under section three thousand-c of this article with respect to use of an epinephrine auto-injector device shall not be liable for damages arising either from the use of that equipment by a person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or medical emergency, or

from the use of defectively manufactured equipment; provided that this subdivision shall not limit the person's or entity's, partnership's, corporation's, firm's, society's or the emergency health care provider's liability for his, her or its own negligence, gross negligence or intentional misconduct.

## **SECTION 3000-B. AUTOMATED DEFIBRILLATORS: PUBLIC ACCESS PROVIDERS**

1. Definitions. As used in this section, unless the context clearly requires otherwise, the following terms shall have the following meanings:

A) "Automated external defibrillator" means a medical device, approved by the United States Food and Drug Administration, that: (I) is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia; (II) is capable of determining, without intervention by an operator, whether defibrillation should be performed on the patient; (III) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and (IV) then, upon action by an operator, delivers an appropriate electrical impulse to the patient's heart to perform defibrillation.

B) "Emergency Health Care Provider" means: (I) a physician with knowledge and experience in the delivery of emergency cardiac care; or (II) a hospital licensed under article twenty-eight of this chapter that provides emergency cardiac care.

C) "Public access defibrillation provider" means a person, firm, organization or other entity possessing or operating an automated external defibrillator pursuant to a collaborative agreement under this section.

D) "Nationally-recognized organization" means a national organization approved by the department for the purpose of training people in use of an automated external defibrillator.

- Collaborative agreement. A person, firm, organization or other entity may purchase, acquire, possess and operate an automated external defibrillator pursuant to a collaborative agreement with an emergency health care provider. The collaborative agreement shall include a written agreement that incorporates written practice protocols, and policies and procedures that shall assure compliance with this section. The public access defibrillation provider shall file a copy of the collaborative agreement with the department and with the appropriate regional council prior to operating the automated external defibrillator.
- Possession and operation of automated external defibrillator. Possession and operation of an automated external defibrillator by a public access defibrillation provider shall comply with the following:

A) No person may operate an automated external defibrillator unless the person has successfully completed a training course in the operation of an automated external defibrillator approved by a nationally-recognized organization or the state emergency medical services council, and the completion

of the course was recent enough to still be effective under the standards of the approving organization. However, this section shall not prohibit operation of an automated external defibrillator, (I) by a health care practitioner licensed or certified under title VIII of the education law or a person certified under this article acting within his or her lawful scope of practice or (II) by a person acting pursuant to a lawful prescription.

B) The public access defibrillation provider shall cause the automated external defibrillator to be maintained and tested according to applicable standards of the manufacturer and any appropriate government agency.

C) The public access defibrillation provider shall notify the regional council of the existence, location and type of any automated external defibrillator it possess.

D) Every use of an automated external defibrillator on a patient shall be immediately reported to the appropriate local emergency medical services system, emergency communications center or emergency vehicle dispatch center as appropriate and promptly reported to the emergency health care provider.

E) The Emergency Health Care Provider shall participate in the regional quality improvement program pursuant to subdivision one of section three thousand four-A of this article.

- Application of other laws. A) Operation of an automated external defibrillator pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability. B) Operation of an automated external defibrillator pursuant to this section shall not constitute the unlawful practice of a profession under title VIII of the education law.

## **SECTION 3000-C. EPINEPHRINE AUTO-INJECTOR DEVICES.**

1. Definitions as used in this section:

2. (A) "eligible person, firm, organization, or other entity" means,

(i) an ambulance service or advanced life support first response service; a certified first responder, emergency medical technician, or advanced emergency medical technician, who is employed by or an enrolled member of any such service;

(ii) a children's overnight camp as defined in subdivision one of section thirteen hundred ninety-one of this chapter, a summer day camp as defined in subdivision one of section thirteen hundred ninety-six of this chapter, a traveling summer day camp as defined in subdivision one of section thirteen hundred ninety-nine-b of this chapter or a person employed by such a camp; or

3. (iii) any other person, firm, organization or entity designated pursuant to regulations of the commissioner in consultation with other appropriate agencies; and all subject to regulations of the commissioner.

(B)"emergency health care provider" means (i) a physician with knowledge and experience in the delivery of emergency care; or (ii) a hospital licensed under article twenty-eight of this chapter that provides emergency care.

4. Collaborative agreement. Any eligible person, firm, organization or other entity may purchase, acquire, possess and use epinephrine auto-injector devices pursuant to a collaborative agreement with an emergency health care provider. The collaborative agreement shall include a written agreement that incorporates written practice protocols, and policies and procedures that shall ensure compliance with the provisions of this section. The person, firm, organization or entity shall file a copy of the collaborative agreement with the department and with the appropriate Regional Council prior to using any epinephrine auto-injector device.
  5. Possession and use of epinephrine auto-injector devices. Possession and use of epinephrine auto-injector devices shall be limited as follows:
  6. no person shall use an epinephrine auto-injector device unless such person shall have successfully completed a training course in the use of epinephrine auto-injector devices approved by the commissioner pursuant to the rules of the department. This section does not prohibit the use of an epinephrine auto-injector device (i) by a health care practitioner licensed or certified under title eight of the education law acting within the scope of his or her practice, or (ii) by a person acting pursuant to a lawful prescription.
  7. every person, firm, organization and entity authorized to possess and use epinephrine auto-injector devices pursuant to this section shall use, maintain and dispose of such devices pursuant to regulations of the department.
  8. every use of an epinephrine auto-injector device pursuant to this section shall immediately be reported to the emergency health care provider.
- Application of other laws.
    1. use of an epinephrine auto-injector device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any statute relating to liability.
    2. purchase, acquisition, possession or use of an epinephrine auto-injector device pursuant to this section shall not constitute the unlawful practice of a profession or other violation under title eight of the education law or article thirty-three of this chapter.
    3. any person otherwise authorized to sell or provide an epinephrine auto-injector device may sell or provide it to a person authorized to possess it pursuant to this section.

#### **SECTION 3000-D. AVAILABILITY OF RESUSCITATION EQUIPMENT IN CERTAIN PUBLIC PLACES.**

1. For the purposes of this section, the following terms shall be defined as follows:

1. "Bar" means any establishment which is devoted to the sale and service of alcoholic beverages for on-premises consumption and in which the service of food, if served at all, is incidental to the consumption of such beverages.
2. "Health club" means any commercial establishment offering instruction, training or assistance and/or facilities for the preservation, maintenance, encouragement or development of physical fitness or well being. "Health club" as defined herein shall include, but not be limited to health

spas, health studios, gymnasiums, weight control studios, martial arts and self defense schools or any other commercial establishment offering a similar course of physical training.

3. "Owner or operator" means the owner, manager, operator or other person having control of an establishment.
4. "Public place" means a restaurant, bar, theater or health club.
5. "Restaurant" means any commercial eating establishment which is devoted, wholly or in part, to the sale of food for on-premises consumption.
6. "Resuscitation equipment" means: (i) an adult exhaled air resuscitation mask, for which the Federal Food and Drug Administration has granted permission to market, accompanied by a pair of disposable gloves, and (ii) a pediatric exhaled air resuscitation mask, for which the Federal Food and Drug Administration has granted permission to market, accompanied by a pair of disposable gloves.
7. "Theater" means a motion picture theater, concert hall, auditorium or other building used for, or designed for the primary purpose of, exhibiting movies, stage dramas, musical recitals, dance or other similar performances.

2. The owner or operator of a public place shall have available in such public place resuscitation equipment in quantities deemed adequate by the department. Such equipment shall be readily accessible for use during medical emergencies. Any information deemed necessary by the commissioner shall accompany the resuscitation equipment. Resuscitation equipment shall be discarded after a single use.

3. The owner or operator of a public place shall provide notice to patrons, by means of signs, printed material or other means of written communication, indicating the availability of resuscitation equipment for emergency use and providing information on how to obtain cardiopulmonary resuscitation training. The type, size, style, location, and language of such notice shall be determined in accordance with rules, promulgated by the commissioner. In promulgating such rules, the commissioner shall take into consideration the concerns of the public places within the scope of this section. If the department shall make signs available pursuant to this subsection, it may charge a fee to cover printing, postage and handling expenses.

4. Any owner or operator of a public place, his or her employee or other agent, or any other person who voluntarily and without expectation of monetary compensation renders emergency treatment using the resuscitation equipment required pursuant to this section, to a person who is unconscious, ill or injured, shall only be liable pursuant to section three thousand-a of this article.

5. Nothing contained in this section shall impose any duty or obligation on any owner or operator of a public place, his or her employee or other agent, or any other person to provide resuscitation assistance to the victim of a medical emergency.

5. Nothing in this section shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local laws, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.

## **SECTION 3001. DEFINITIONS.**

As used in this article, unless the context otherwise requires:

1. "Emergency medical service" means initial emergency medical assistance including, but not limited to, the treatment of trauma, burns, respiratory, circulatory and obstetrical emergencies.
2. "Ambulance service" means an individual, partnership, association, corporation, municipality or any legal or public entity or subdivision thereof engaged in providing emergency medical care and the transportation of sick or injured persons by motor vehicle, aircraft or other forms of transportation to, from, or between general hospitals or other health care facilities.
3. "Voluntary ambulance service" means an ambulance service (i) operating not for pecuniary profit or financial gain, and (ii) no part of the assets or income of which is distributable to, or ensures to the benefit of, its members, directors or officers except to the extent permitted under this article.
4. "Voluntary advanced life support first response service" means advanced life support first response service (i) operating not for pecuniary profit or financial gain, and (ii) no part of the assets or income of which is distributable to, or ensures to the benefit of, its members, directors or officers except to the extent permitted under this article.
5. "Certified first responder" means an individual who meets the minimum requirements established by regulations pursuant to section three thousand two of this article and who is responsible for administration of initial life saving care of sick and injured persons.
6. "Emergency medical technician" means an individual who meets the minimum requirements established by regulations pursuant to section three thousand two of this article and who is responsible for administration or supervision of initial emergency medical care and transportation of sick or injured persons.
7. "Advanced emergency medical technician" means an emergency medical technician who has satisfactorily completed an advanced course of training approved by the state council under regulations pursuant to section three thousand two of this article.
8. "State council" means the New York state emergency medical services council established pursuant to this article.
9. "Regional council" means a regional emergency medical services council established pursuant to this article.
10. "Enrolled member" means any member of a voluntary ambulance service or voluntary advanced life

support first response service who provides emergency medical care or transportation of sick or injured persons without expectation of monetary compensation.

11. "Advanced life support care" means definitive acute medical care provided, under medical control, by advanced emergency medical technicians within an advanced life support system.

12. "Advanced life support system" means an organized acute medical care system to provide advanced life support care on site or en route to, from, or between general hospitals or other health care facilities.

13. "Advanced life support mobile unit" means an ambulance or advanced life support first response vehicle approved to provide advanced life support services pursuant to this article.

14. "Qualified medical and health personnel" means physicians, registered professional nurses and advanced emergency medical technicians competent in the management of patients requiring advanced life support care.

15. "Medical control" means: (a) advice and direction provided by a physician or under the direction of a physician to certified first responders, emergency medical technicians or advanced emergency medical technicians who are providing medical care at the scene of an emergency or en route to a health care facility and (b) indirect medical control including the written policies, procedures, and protocols for prehospital emergency medical care and transportation developed by the state emergency medical advisory committee, approved by the state emergency medical services council and the commissioner, and implemented by regional medical advisory committees.

16. "Regional medical advisory committee" means a group of five or more physicians, and one or more non-voting individuals representative of each of the following: hospitals, basic life support providers, advanced life support providers and emergency medical services training sponsor medical directors approved by the affected regional emergency medical services councils.

17. "Advanced life support first response service" means an organization which provides advanced life support care, but does not transport patients.

18. "EMS program agency" means a not-for-profit corporation or municipality designated by the state council and approved by the affected regional council or councils to facilitate the development and operation of an emergency medical services system within a region as directed by the regional council under this article.

19. "Operator" means any person who by reason of a direct or indirect ownership interest (whether of record or beneficial) has the ability, acting either alone or in concert with others with ownership interests, to direct or cause the direction of the management or policies of an ambulance service or advanced life support first response service.

20. "Mutual aid agreement" means a written agreement, entered into by two or more ambulance services or advanced life support first response services possessing valid ambulance service or advanced life support first response service certificates or statements of registration, for the organized, coordinated, and cooperative reciprocal mobilization of personnel, equipment, services, or facilities for back-up or support upon request as required pursuant to a written mutual aid plan. An ambulance service and advanced life support first response service may participate in one or more mutual aid agreements.

21. "Primary territory" means the geographic area or subdivisions listed on an ambulance service certificate or statement of registration within which the ambulance service may receive patients for transport.

### **SECTION 3002. NEW YORK STATE EMERGENCY MEDICAL SERVICES COUNCIL.**

1. There is hereby created in the department of health the New York state emergency medical services council. The state council shall consist of thirty-one members. Fourteen members to the state council shall be appointed by the commissioner and shall be representative of each geographic area of the state. At least one member shall be representative of the interests of the general public. Other members shall be knowledgeable in various aspects of emergency medical services and shall include, but not be limited to, representatives of voluntary ambulance services, advanced life support first response services, ambulance services operating for profit, municipal ambulance services, hospitals, a statewide organization representing volunteer fire services, municipal tax districts providing ambulance services, physicians, and nurses. The commissioner shall also appoint a representative from each regional council, from nominations received from the appropriate regional council. The members of the state council shall elect a chairperson from among the members of the state council by a majority vote of those present, who shall serve for a term of one year and until a successor is elected.

2. The state council shall have the power, by an affirmative vote of a majority of those present, subject to approval by the commissioner, to enact, and from time to time, amend and repeal, rules and regulations establishing minimum standards for ambulance services, ambulance service certification, advanced life support first response services, the provision of prehospital emergency medical care, public education, the development of a statewide emergency medical services system, the provision of ambulance services outside the primary territory specified in the ambulance services' certificate and the training, examination, and certification of certified first responders, emergency medical technicians, and advanced emergency medical technicians; provided, however, that such minimum standards must be consistent with the staffing standards established by section three thousand five-a of this article. Until January first, nineteen hundred ninety-seven, no minimum standards shall be established for services provided by a voluntary ambulance service operating solely pursuant to a statement of registration issued under section three thousand four. The curriculum for certified first responder training shall not exceed fifty-one hours including prerequisites. The state council shall have the same powers granted to regional councils by this article in any region of the state in which a regional council has not been established.

2-a. In furtherance of the powers set forth in subdivision two of this section, the state council shall provide to the trustees of the state university of New York such information and recommendations as may be requested by such trustees to assist such trustees' study of the feasibility of community colleges' and state university of New York agricultural and technical colleges' offering credit and noncredit courses which would satisfy the educational requirements for certification and recertification of emergency medical technicians and advanced emergency medical technicians.

2-b. (This section effective until July 1, 2006) The commissioner, in consultation with the state emergency medical services council, shall develop a pilot program in at least six regions of the state (including the western New York and capital regions) to allow emergency medical technicians and advanced emergency medical technicians who have been in continuous practice, who have demonstrated competence in completion of appropriate continuing education, to renew their certification under subdivision two of this section without requiring the completion of a written examination. In implementing this program the commissioner shall contract with and use the standards established by a nationally recognized organization that certifies emergency medical technicians and advanced emergency medical technicians. However, no pilot program shall include employees of a municipal ambulance service in cities with a population over one million. Renewals of certification under the demonstration program shall be deemed equivalent to renewals under subdivision two of this section for purposes of this article.

Within one year of developing the demonstration program and annually thereafter, the commissioner shall report to the legislature on the impact of the program on the quality of patient care, the effectiveness of the program in retaining certified emergency medical technicians and advanced emergency medical technicians, and the feasibility of replacing the state's certification program with a national certification program.

3. Upon appeal from the appropriate regional council, the state council shall have the power, by an affirmative vote of a majority of those present, to amend, modify and reverse determinations of the regional councils made pursuant to subdivision five of section three thousand three and section three thousand eight of this article. All determinations of the state council respecting applications for ambulance service certificates or statements of registration or respecting the revocation, suspension (except temporary suspension), limitation or annulment of an ambulance service certificate shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by registered or certified mail of a copy of the determination upon the applicant or holder of the certificate.

3-a. Upon appeal from the applicant, the department, or any concerned party, the state council shall have the power, by an affirmative vote of a majority of those present, to amend, modify and reverse determinations of the regional councils made pursuant to subdivision five-a of section three thousand three of this article. All determinations of the state council with respect to exemptions shall be subject to review as provided in article seventy-eight of the civil practice law and rules. Application for such review must be made within sixty days after service in person or by registered or certified mail.

4. The term of office of each member shall be two years. Vacancies shall be filled by appointment for the remainder of an unexpired term. The members shall continue in office until the expiration of their terms and until their successors are appointed and have qualified. No member shall be appointed to the state council for more than four consecutive terms.
5. The state council shall meet as frequently as its business may require. The presence of a majority of the members shall constitute a quorum. The members of the state council shall receive no compensation for their services as members, but each shall be allowed the necessary and actual expenses incurred in the performance of his or her duties under this section.
6. The commissioner, upon request of the state council, shall designate an officer or employee of the department to act as secretary of the state council, and shall assign from time to time such other employees as the state council may require.
7. No civil action shall be brought in any court against any member, officer or employee of the state council for any act done, failure to act, or statement or opinion made, while discharging his or her duties as a member, officer or employee of the state council, without leave from a justice of the supreme court, first had and obtained. In no event shall such member, officer or employee be liable for damages in any such action if he or she shall have acted in good faith, with reasonable care and upon probable cause.
8. The state council shall, after consultation with the department and the regional councils, forward to the commissioner not later than December first an estimate of the amounts needed to provide adequate funding for emergency medical services training including advanced life support at the local level, regional medical emergency services councils, emergency medical services program agencies, the state emergency medical services council or other emergency medical services training programs to carry out the purposes of this article and article thirty-A of this chapter. Such estimate shall be transmitted without change by the commissioner to the governor, the division of the budget, the temporary president of the senate, the speaker of the assembly, and the fiscal and health committees of each house of the legislature.

#### **SECTION 3002-A. STATE EMERGENCY MEDICAL ADVISORY COMMITTEE.**

1. There shall be a state emergency medical advisory committee of the state emergency medical services council consisting of twenty-nine members. Twenty-one members shall be physicians appointed by the commissioner, including one from each regional emergency medical advisory committee and an additional physician from the city of New York and at least one pediatrician, one trauma surgeon, and one psychiatrist. Each of the physicians shall have demonstrated knowledge and experience in emergency medical services. There shall be eight non-physician non-voting members appointed by the chairperson of the state council, at least five of whom shall be members of the state emergency medical services council at the time of their appointment. At least one of the eight shall be an emergency nurse, at least one shall be an advanced emergency medical technician, at least one shall be a basic emergency medical technician, and at least one shall be employed in a hospital setting with administrative responsibility for a hospital emergency department or service. The commissioner shall appoint a

physician to chair the committee.

2. The committee shall develop and recommend to the state council statewide minimum standards for: (a) medical control; (b) treatment, transportation and triage protocols, including protocols for invasive procedures and infection control; and (c) the use of regulated medical devices and drugs by emergency medical services personnel certified pursuant to this article. The state emergency medical advisory committee, with the consent of the commissioner, may issue advisory guidelines in any of these areas, which shall not have the force and effect of law unless adopted as rules and regulations by the state emergency medical services council. The state emergency medical advisory committee shall advise the state emergency medical services council prior to the issuance of any guidelines. The committee shall also review protocols developed by regional emergency medical advisory committees for consistency with statewide standards.

2-a. Any decision of the state emergency medical advisory committee regarding medical control, protocols for treatment, triage, or transportation, or the use of regulated medical devices may be appealed to the commissioner by any required regional emergency medical services council, regional emergency medical advisory committee, ambulance service or advanced life support service, or certified first responder, emergency medical technician, or advanced emergency medical technician adversely affected.

2-b. (This section effective until 7/1/2006) The commissioner, in consultation with the state emergency medical services council, shall develop a pilot program in at least six regions of the state (including the western New York and capital regions) to allow emergency medical technicians and advanced emergency medical technicians who have been in continuous practice, who have demonstrated competence in completion of appropriate continuing education, to renew their certification under subdivision two of this section without requiring the completion of a written examination. In implementing this program the commissioner shall contract with and use the standards established by a nationally recognized organization that certifies emergency medical technicians and advanced emergency medical technicians. However, no pilot program shall include employees of a municipal ambulance service in cities with a population over one million. Renewals of certification under the demonstration program shall be deemed equivalent to renewals under subdivision two of this section for purposes of this article. Within one year of developing the demonstration program and annually thereafter, the commissioner shall report to the legislature on the impact of the program on the quality of patient care, the effectiveness of the program in retaining certified emergency medical technicians and advanced emergency medical technicians, and the feasibility of replacing the state's certification program with a national certification program.

3. Each member shall have a term of two years, except that five of those first appointed shall have a term of three years. Members may succeed themselves.

4. The committee shall meet as frequently as its business may require. The presence of a majority of the members shall constitute a quorum. The members of the committee shall receive no compensation for

their services as members, but each shall be allowed the necessary and actual expenses incurred in the performance of his or her duties under this section.

5. No civil action shall be brought in any court against any member, officer or employee of the committee for any act done, failure to act, or statement or opinion made, while discharging his or her duties as a member, officer, or employee of the committee, without leave from a justice of the supreme court, first had and obtained. In no event shall such member, officer, or employee be liable for damages in any such action if he or she shall have acted in good faith, with reasonable care and upon probable cause.

### **SECTION 3003. REGIONAL EMERGENCY MEDICAL SERVICES COUNCILS.**

1. The commissioner, with the approval of the state council, shall designate regional emergency medical services councils on or before January first, nineteen hundred seventy-eight but in no event shall the number of regional councils exceed eighteen. Such regional councils shall be established on the basis of application for designation as regional councils submitted by local organizations, the members of which are knowledgeable in various aspects of emergency medical services. Such application shall describe the geographic area to be served and contain a list of nominees for appointment to membership on such regional councils and a statement as to the proposed method of operation in such detail as the commissioner, with the approval of the state council, shall prescribe.

2. Each regional council shall be comprised of at least fifteen but not more than thirty members to be initially appointed by the commissioner, with the approval of the state council, from nominations submitted by local organizations applying for establishment as the regional council. Not less than one-third of the membership of the regional councils shall be representatives of ambulance services and the remaining membership of the regional councils shall consist of, but not be limited to, representatives of existing local emergency medical care committees, physicians, nurses, hospitals, health planning agencies, fire department emergency and rescue squads, public health officers and the general public. The county EMS coordinator, established pursuant to section two hundred twenty-three-b of the county law, of any county within the region shall serve as an ex officio member of the regional council; provided, however, nothing in this subdivision shall prevent a county EMS coordinator from serving as a voting member of a regional council. Members of each regional council shall be residents living within the geographic area to be served by the regional council. The presence of a majority of members shall constitute a quorum.

3. Each regional council shall have the power to:

(a) have a seal and alter the same at pleasure;

(b) acquire, lease, hold, and dispose of real and personal property or any interest therein for its purposes;

(c) make and alter by-laws for its organization and internal management, and rules and regulations

governing the exercise of its powers and the fulfillment of its purposes under this article; such rules and regulations must be filed with the secretary of state and the state EMS council;

(d) enter into contracts for employment of such officers and employees as it may require for the performance of its duties; and to fix and determine their qualifications, duties, and compensation, and to retain and employ such personnel as may be required for its purposes; and private consultants on a contract basis or otherwise, for the rendering of professional or technical services and advice;

(e) enter into contracts, leases, and subleases and to execute all instruments necessary or convenient for the conduct of its business, including contracts with the commissioner and any state agency or municipal entity; and contracts with hospitals and physicians for the purposes of carrying out its powers under this article;

(f) undertake or cause to be undertaken plans, surveys, analyses and studies necessary, convenient or desirable for the effectuation of its purposes and powers, and to prepare recommendations and reports in regard thereto;

(g) fix and collect reasonable fees, rents, and other charges for the use of its equipment and the provision of its services;

(h) contract for and to accept any gifts or grants, subsidies, or loans of funds or property, or financial or other aid in any form from the federal or state government or any agency or instrumentality thereof; or from any other source, public or private, and to comply, subject to the provisions of this article, with the terms and conditions thereof; provided, however, that the councils may contract for payment of debt evidenced by bonds or notes or other evidence of indebtedness, either directly or through a lease purchase agreement;

(i) recommend to the department approval of training course sponsors within its region, and to develop, promulgate and implement annually an EMS training plan which addresses the needs of its region;

(j) enter into contracts or memoranda of agreement with other regional councils to provide services in a joint or cooperative manner; and to enter into contracts or memoranda of agreement with an EMS program agency to carry out one or more of its responsibilities under this article;

(k) procure insurance against any loss or liability in connection with the use, management, maintenance, and operation of its equipment and facilities, in such amounts and from such insurers as it reasonably deems necessary;

(l) approve regional medical advisory committee nominees;

(m) provide focused technical assistance and support to those voluntary ambulance services operating under exemptions, to assist such services in progressing toward the uniform standards established

pursuant to this section. Such assistance and support shall include, but not be limited to, volunteer recruitment and management training; and

(n) do all things necessary, convenient and desirable to carry out its purposes and for the exercise of the powers granted in this article.

4. Each regional council shall have the responsibility to coordinate emergency medical services programs within its region, including but not limited to, the establishment of emergency medical technician courses and the issuance of uniform emergency medical technician insignia and certificates.

5. The regional council shall have the responsibility to make determinations of public need for the establishment of additional emergency medical services and ambulance services and to make the determinations of public need as provided in section three thousand eight. The regional council shall make such determination by an affirmative vote of a majority of all of those members consisting of voting members.

5-A The regional emergency medical services council is authorized to grant an exemption from the staffing standards set forth in section three thousand five-a of this article to a voluntary ambulance service operating solely with enrolled members or paid emergency medical technicians which has demonstrated a good faith effort to meet the standards and is unable to meet such standards because of factors deemed appropriate by the regional council. An exemption shall be for a period not to exceed two years and shall be conditioned on the participation by the voluntary service in a program to achieve compliance which shall include technical assistance and support from the regional council tailored to the needs and resources at the local level, as provided by paragraph (m) of subdivision three of the section, to be funded by the New York state emergency medical services training account established pursuant to section ninety-seven-q of the state finance law, such account as funded by a chapter of the laws of nineteen hundred ninety-three. Nothing shall prevent the regional council from issuing subsequent exemptions. Such exemptions shall have no effect whatsoever on the insurability of the organization receiving such exemption and such exemption shall not be used as a basis for increasing insurance rates or premiums related thereto, notwithstanding any other provision of law, rule, regulation, or commissioner's ruling or advisory to the contrary. Prior to issuing an exemption, the regional council shall provide written notice by certified mail to the chief executive officers of all general hospitals and municipalities in the county or counties within which the service requesting an exemption operates. Such notice shall provide opportunity for comment on the issuance of the exemption. Notice of the determination of the regional council shall be provided within ten days of the determination to the applicant, the department, and any party receiving notification of the application who requests notice of the determination. The applicant, the department, or any concerned party may appeal the determination of the regional council to the state council within thirty days after the regional council makes its determination.

6. The term of office of members of the regional council shall be four years, except that of those members first appointed, at least one-half but not more than two-thirds shall be for terms not to exceed

two years.

7. Each regional council shall meet as frequently as its business may require.

8. The commissioner, upon request of the regional council, may designate an officer or employee of the department to act as secretary of the regional council, and may assign from time to time such other employees as the regional council may require.

9. No civil action shall be brought in any court against any member, officer or employee of any designated regional council for any act done, failure to act, or statement or opinion made, while discharging his duties as a member, officer or employee of the regional council, without leave from a justice of the supreme court, first had and obtained. In any event such member, officer or employee shall not be liable for damages in any such action if he shall have acted in good faith, with reasonable care and upon probable cause.

10. (a) The department shall provide each regional council with the funds necessary to enable such regional council to carry out its responsibilities as mandated under this section within amounts appropriated therefor.

(b) Such funds shall be provided upon approval by the department of an application submitted by a regional council. The application shall contain such information and be in such form as the commissioner shall require pursuant to rules and regulations which he shall promulgate after consultation with the state council in order to effect the purposes and provisions of this subdivision.

### **SECTION 3003-A. EMS PROGRAM AGENCIES.**

1. As provided by agreement with the commissioner or regional councils based on needs identified by the regional emergency medical services councils, an EMS program agency may be responsible for facilitating quality improvement of emergency medical care within its region, staffing the regional emergency medical advisory committees provided for in section three thousand four-a of this article, providing prehospital education programs approved by the department, and other activities to support and facilitate regional emergency medical services systems.

2. The programs developed by the agencies established by subdivision one of this section shall be implemented beginning in nineteen hundred ninety-three using funds collected by the New York state emergency medical services training account, established within the miscellaneous special revenue fund - 339 by section ninety-seven-q of the state finance law.

3. The portion of the funds collected by the emergency medical services training New York state account, established and allocated within the miscellaneous special revenue fund - 339 by section ninety-seven-q of the state finance law, shall be adequate to support the costs incurred in implementing the programs described in subdivision one of this section.

## **SECTION 3003-b. Emergency medical service training; cable television**

Notwithstanding any other provision of law to the contrary, the department shall allocate funds from the New York state emergency medical services training account established pursuant to section ninety-seven-q of the state finance law for the purpose of establishing a pilot project in the county of Orange under the control and supervision of the Hudson Valley emergency medical service council for the purpose of providing training to emergency medical service field providers by means of cable television or other broadcast medium programming produced by a group such as the Fire Training Education Network. The Hudson Valley emergency medical service council shall on or before December fifteenth, two thousand prepare and file with the commissioner and the state council a report with recommendations concerning, among other things, the effectiveness of such programming in training emergency medical services field providers.

## **SECTION 3004. REPEALED AS OF JULY 1, 1993.**

### **SECTION 3004-A. REGIONAL EMERGENCY MEDICAL ADVISORY COMMITTEES.**

1. Regional emergency medical advisory committees shall develop policies, procedures, and triage, treatment, and transportation protocols which are consistent with the standards of the state emergency medical advisory committee and which address specific local conditions. Regional emergency medical advisory committees may also approve physicians to provide on line medical control, coordinate the development of regional medical control systems, and participate in quality improvement activities addressing system-wide concerns. Hospitals and prehospital medical care services shall be authorized to release patient outcome information to regional emergency medical advisory committees for purposes of assessing prehospital care concerns. Regional quality improvement programs shall be presumed to be an extension of the quality improvement program set forth in section three thousand six of this article, and the provisions of subdivisions two and three of such section three thousand six shall apply to such programs.

2. The committee shall nominate to the commissioner a physician with demonstrated knowledge and experience in emergency medical services to serve on the state emergency medical advisory committee.

3. No civil action shall be brought in any court against any member, officer or employee of the committee for any act done, failure to act, or statement or opinion made, while discharging his or her duties as a member, officer, or employee of the committee, without leave from a justice of the supreme court, first had and obtained. In no event shall such member, officer, or employee be liable for damages in any such action if he or she shall have acted in good faith, with reasonable care and upon probable cause.

4. Any decision of a regional emergency medical advisory committee regarding provision of a level of care, including staffing requirements, may be appealed to the state emergency medical advisory

committee by any regional EMS council, ambulance service, advanced life support service, certified first responder, emergency medical technician, or advanced emergency medical technician adversely affected. No action shall be taken to implement a decision regarding existing levels of care or staffing while an appeal of such decision is pending. Any decision of the state emergency medical advisory committee may be appealed pursuant to subdivision two-a of section three thousand two-a of this article.

## **SECTION 3005. AMBULANCE SERVICE CERTIFICATES.**

1. No ambulance service operating for profit, hospital ambulance service or municipal ambulance service of a city of over one million population shall operate on or after September first, nineteen hundred seventy-five unless it possesses a valid ambulance service certificate issued pursuant to this article. Effective January first, nineteen hundred ninety-seven, no ambulance service shall be operated unless it possesses a valid ambulance service operating certificate issued pursuant to this article or has been issued a statement of registration. No advanced life support first response service shall operate unless it possesses a valid advanced life support first responder service operating certificate. Effective January first, two thousand, no ambulance service shall be operated unless it possesses a valid operating certificate.

2. The department shall issue an initial certificate to an ambulance service certified prior to the effective date of this section upon submission of proof that it is the holder of a valid ambulance service certificate and is otherwise in compliance with provisions of section three thousand nine of this article.

2-a. Prior to January first, two thousand, the department shall issue an initial certificate to a registered ambulance service in possession of a valid registration provided that such service has been issued an exemption issued by a regional council pursuant to subdivision five-a of section three thousand three of this article.

3. The department shall issue an initial certificate to an advanced life support first response service upon submission of proof that such advanced life support first response service is staffed and equipped in accordance with rules and regulations promulgated pursuant to this article and is otherwise in compliance with provisions of section three thousand nine of this article.

4. A certificate issued to an ambulance service or advanced life support first response service shall be valid for two years. The initial certification fee shall be one hundred dollars. Thereafter the biennial fee shall be in accordance with the schedule of fees established by the commissioner pursuant to this article. However, there shall be no initial or renewal certification fee required of a voluntary ambulance service or voluntary advanced life support first response service.

5. No initial certificate (except initial certificates issued pursuant to subdivision two of this section) shall be issued unless the commissioner finds that the proposed operator or operators are competent and fit to operate the service and that the ambulance service or advanced life support first response service is staffed and equipped in accordance with rules and regulations promulgated pursuant to this article.

6. No ambulance service or advanced life support first response service shall begin operation without prior approval of the appropriate regional council, or if there is no appropriate regional council established such ambulance service or advanced life support first response service shall apply for approval from the state council as to the public need for the establishment of additional ambulance service or advanced life support first response service, pursuant to section three thousand eight of this article.

7. Applications for a certificate shall be made by the owner of an ambulance service or advanced life support first response service operating for profit or the responsible official of a voluntary ambulance service or advanced life support first response service upon forms provided by the department. The application shall state the name and address of the owner and such other information as the department may require pursuant to rules and regulations.

8. For purposes of this article, competent means that any proposed operator of any ambulance service or advanced life support first response service who is already or had been within the last ten years an incorporator, director, sponsor, principal stockholder, or operator of any ambulance service, hospital, private proprietary home for adults, residence for adults, or non-profit home for the aged or blind which has been issued an operating certificate by the state department of social services, or a halfway house, hostel, or other residential facility or institution for the care, custody, or treatment of the mentally disabled subject to the approval by the department of mental hygiene, or any invalid coach service subject to approval by the department of transportation, is rendering or did render a substantially consistent high level of care. For purposes of this subdivision, the state emergency medical services council shall adopt rules and regulations, subject to the approval of the commissioner, to establish the criteria to be used to define substantially consistent high level of care with respect to ambulanceservices, advanced life support first response services, and invalid coaches, except that the commissioner may not find that a consistently high level of care has been rendered where there have been violations of the state EMS code, or other applicable rules and regulations, that (i) threatened to directly affect the health, safety, or welfare of any patient, and (ii) were recurrent or were not promptly corrected. For purposes of this article, the rules adopted by the state hospital review and planning council with respect to subdivision three of section twenty-eight hundred one-a of this chapter shall apply to other types of operators. Fit means that the operator or proposed operator (a) has not been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs and (b) is not or was not subject to a state or federal administrative order relating to fraud or embezzlement, unless the commissioner finds that such conviction or such order does not demonstrate a present risk or danger to patients or the public.

### **SECTION 3005-A. STAFFING STANDARDS; AMBULANCE SERVICES AND ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICES.**

1. The following staffing standards shall be in effect unless otherwise provided by this section:

(a) effective January first, nineteen hundred ninety-seven the minimum staffing standard for a registered

ambulance service shall be a certified first responder with the patient;

(b) effective January first, two thousand, the minimum staffing standard for a voluntary ambulance service shall be an emergency medical technician with the patient;

(c) the minimum staffing standard for all other ambulance services shall be an emergency medical technician with the patient; and

(d) the minimum staffing standard for an advanced life support first response service shall be an advanced emergency medical technician with the patient. Circumstances permitting other than advanced life support care by an advanced life support first response service may be established by rule by the state council, subject to the approval of the commissioner.

2. Any service granted an exemption by the regional council pursuant to subdivision five-a of section three thousand three of this article shall be subject to the standards and terms of the exemption.

3. Notwithstanding any other provision of the article, the effective date of the standards established by this section shall be delayed by one year for each fiscal year, prior to January first, two thousand, in which the amounts appropriated are less than that which would have been expended pursuant to the provisions of section ninety-seven-q of the state finance law.

#### **SECTION 3005-B. [Expired and repealed July 1, 2008] EMERGENCY MEDICAL TECHNICIAN FIVE YEAR RE-CERTIFICATION DEMONSTRATION PROGRAM**

1. There is hereby created within the department a demonstration program (referred to in this section as the "program") to allow emergency medical technicians and advanced emergency medical technicians who have been in continuous practice and who have demonstrated competence in applicable behavioral and performance objectives, to be re-certified for a five year period. No person shall be re-certified under the program unless he or she has completed at least one hundred thirty hours of instruction in emergency medical services as approved by the commissioner including but not limited to pediatrics, geriatrics, environmental emergencies, legal issues, emergency vehicle operations course and medical emergencies. Renewals of certification under the program shall be deemed equivalent to renewals under subdivision two of section three thousand two of this article.

2. The program shall be limited to persons who are in practice in the following counties: Delaware, Fulton, Hamilton, Montgomery, Nassau, Otsego, Schoharie or Suffolk. The commissioner may limit the number of participants in the program, except that such limit shall be no less than one thousand participants.

3. Within a year after implementing the program and annually thereafter, the commissioner shall report to the governor and the legislature on the impact of the program on the quality of patient care and the effectiveness of the program in retaining and recruiting certified emergency medical technicians and

advanced emergency medical technicians.

4. The commissioner, in consultation with the state emergency medical services council, shall make regulations necessary to implement this section.

### **SECTION 3006. QUALITY IMPROVEMENT PROGRAM.**

1. By January first, nineteen hundred ninety-seven, every ambulance service and advanced life support first response service shall establish or participate in a quality improvement program, which shall be an ongoing system to monitor and evaluate the quality and appropriateness of the medical care provided by the ambulance service or advanced life support first response service, and which shall pursue opportunities to improve patient care and to resolve identified problems. The quality improvement program may be conducted independently or in collaboration with other services, with the appropriate regional council, with an EMS program agency, with a hospital, or with another appropriate organization approved by the department. Such program shall include a committee of at least five members, at least three of whom do not participate in the provision of care by the service. At least one member shall be a physician, and the others shall be nurses, or emergency medical technicians, or advanced emergency medical technicians, or other appropriately qualified allied health personnel. The quality improvement committee shall have the following responsibilities:

(a) to review the care rendered by the service, as documented in prehospital care reports and other materials. The committee shall have the authority to use such information to review and to recommend to the governing body changes in administrative policies and procedures, as may be necessary, and shall notify the governing body of significant deficiencies;

(b) to periodically review the credentials and performance of all persons providing emergency medical care on behalf of the service;

(c) to periodically review information concerning compliance with standard of care procedures and protocols, grievances filed with the service by patients or their families, and the occurrence of incidents injurious or potentially injurious to patients. A quality improvement program shall also include participation in the department's prehospital care reporting system and the provision of continuing education programs to address areas in which compliance with procedures and protocols is most deficient and to inform personnel of changes in procedures and protocols. Continuing education programs may be provided by the service itself or by other organizations; and

(d) to present data to the regional medical advisory committee and to participate in system-wide evaluation.

2. The information required to be collected and maintained, including information from the prehospital care reporting system which identifies an individual, shall be kept confidential and shall not be released except to the department or pursuant to section three thousand four-a of this article.

3. Notwithstanding any other provisions of law, none of the records, documentation, or committee actions or records required pursuant to this section shall be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules, except as hereinafter provided or as provided in any other provision of law. No person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition related to disclosure of testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject of which was reviewed at the meeting. The prohibition of disclosure of information from the prehospital care reporting system shall not apply to information which does not identify a particular ambulance service or individual.

4. Any person who in good faith and without malice provides information to further the purpose of this section or who, in good faith and without malice, participates on the quality improvement committee shall not be subject to any action for civil damages or other relief as a result of such activity.

### **SECTION 3007. NOTICE OF ALTERNATIVE DESTINATION.**

In any city having a population of one million or more, whenever an individual is transported by ambulance from one facility to a second facility and the destination is changed, it shall be the responsibility of the senior ambulance dispatcher to inform the facility of origin by telephone of the ultimate destination immediately upon arrival thereat.

### **SECTION 3008. APPLICATIONS FOR DETERMINATIONS OF PUBLIC NEED.**

1. Every application for a determination of public need shall be made in writing to the appropriate regional council, shall specify the primary territory within which the applicant requests to operate, be verified under oath, and shall be in such form and contain such information as required by the rules and regulations promulgated pursuant to this article.

2. Notice of the application shall be forwarded by registered or certified mail by the appropriate regional council to the chief executive officers of all general hospitals, ambulance services, and municipalities operating within the same county or counties where the services seeks to operate. The notice shall provide opportunity for comment.

3. Notice pursuant to this section shall be deemed filed with the ambulance service and municipality upon being mailed by the appropriate regional or state council by registered or certified mail.

4. The appropriate regional council or the state council shall make its determination of public need within sixty days after receipt of the application.

5. The applicant or any concerned party may appeal the determination of the appropriate regional council to the state council within thirty days after the regional council makes its determination.

6. In the case of an application for certification under this article by a municipal ambulance service to serve the area within the municipality, and the municipal ambulance service meets appropriate training, staffing and equipment standards, there should be a presumption in favor of approving the application.

7-a. Notwithstanding any other provision of law and subject to the provisions of this article, any municipality within this state, or fire district acting on behalf of any such municipality, and acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions to establish and operate advanced life support first responder services or municipal ambulance services within the municipality, upon meeting or exceeding all standards set by the department for appropriate training, staffing and equipment, and upon filing with the New York State Emergency Medical Services Council, a written request for such authorization. Upon such filing, such municipal advanced life support first responder service or municipal ambulance service shall be deemed to have satisfied any and all requirements for determination public need for the establishment of additional emergency medical services pursuant to this article for a period of two years following the date of such filing. Nothing in this article shall be deemed to exclude the municipal advanced life support first responder service or municipal ambulance service authorized to be established and operated pursuant to this article from complying with any other requirement or provision of this article or any other applicable provision of law.

7-b. In the case of an application for certification pursuant to this subdivision, for a municipal advanced life support or municipal ambulance service, to serve the area within the municipality, where the proposed service meets or exceeds the appropriate training, staffing and equipment standards, there shall be a strong presumption in favor of approving the application.

### **SECTION 3009. CONTINUATION OF EXISTING SERVICES.**

1. Notwithstanding the provisions of sections three thousand four and three thousand five of this article, if any ambulance service or a predecessor in interest was in bona fide operation as an ambulance service on April first, nineteen hundred seventy-five, within the territory for which application for an ambulance service certificate or voluntary ambulance service statement of registration is made pursuant to any provisions of this article, and has so operated since that time, the department shall issue such certificate or statement of registration without requiring proof that there is a public need for such ambulance service and without further proceedings, provided application for such certificate or statement of registration is submitted to the department in accordance with this article prior to September first, nineteen hundred seventy-five. Pending the determination of any such application the continuance of such operation shall be lawful. In all other cases the application shall be decided in accordance with the procedures provided for in section three thousand four, or three thousand five of this article and such application shall be approved or denied accordingly. An application pursuant to this section shall be deemed filed with the department upon being mailed to the department by registered or certified mail.

2. Notwithstanding the provisions of section three thousand five of this article, if any advanced life support first response service or a predecessor in interest was in bona fide operation as an advanced life

support first response service at the intermediate, critical care, or paramedic level on January first, nineteen hundred ninety-three, within the territory for which application for a certificate is made pursuant to any provisions of this article, and has so operated since that time, the department shall issue such certificate without requiring that there is a public need for such service and without further proceedings, provided application for such certificate or statement of registration is submitted to the department in accordance with this article prior to January first, nineteen hundred ninety-four. Notwithstanding the provisions of section three thousand five of this article, if any advanced life support first response service or a predecessor in interest was in bona fide operation as an advanced life support first response service at the emt-defibrillation level on July first, nineteen hundred ninety-three, within the territory for which application for a certificate is made pursuant to any provisions of this article, and has so operated since that time, the department shall issue such certificate without requiring that there is a public need for such service and without further proceedings, provided application for such certificate or statement of registration is submitted to the department in accordance with this article prior to January first, nineteen hundred ninety-four. Pending the determination of any such application, the continuance of such operation shall be lawful. In all other cases the application shall be decided in accordance with the procedures provided in section three thousand five of this article and such application shall be approved or denied accordingly. An application pursuant to this section shall be deemed filed with the department upon being mailed to the department by certified or registered mail.

### **SECTION 3010. AREA OF OPERATION; TRANSFERS.**

1. Every ambulance service certificate or statement of registration issued under this article shall specify the primary territory within which the ambulance service shall be permitted to operate. An ambulance service shall receive patients only within the primary territory specified on its ambulance service certificate or statement of registration, except:

- (a) when receiving a patient which it initially transported to a facility or location outside its primary territory;
- (b) as required for the fulfillment of a mutual aid agreement authorized by the regional council;
- (c) upon express approval of the department and the appropriate regional emergency medical services council for a maximum of sixty days if necessary to meet an emergency need; provided that in order to continue such operation beyond the sixty day maximum period necessary to meet an emergency need, the ambulance service must satisfy the requirements of this article, regarding determination of public need and specification of the primary territory on the ambulance service certificate or statement of registration; or
- (d) an ambulance service or advanced life support first response service organization formed to serve the need for the provision of emergency medical services in accordance with the religious convictions of a religious denomination may serve such needs in an area adjacent to such primary territory and, while responding to a call for such service, the needs of other residents of such area at the emergency scene.

Any ambulance service seeking to operate in more than one region shall make application to each appropriate regional council. Whenever an application is made simultaneously to more than one regional council, the applications submitted to the regional councils shall be identical, or copies of each application shall be submitted to all the regional councils involved.

2. No ambulance service certificate shall be transferable unless the regional council and the department reviews and approves the transfer as follows:

(a) Any change in the individual who is the sole proprietor of an ambulance service shall only be approved upon a determination that the proposed new operator is competent and fit to operate the service.

(b) Any change in a partnership which is the owner of an ambulance service shall be approved based upon a determination that the new partner or partners are competent and fit to operate the service. The remaining partners shall not be subject to a character and fitness review.

(c) Any transfer, assignment or other disposition of ten percent or more of the stock or voting rights thereunder of a corporation which is the owner of an ambulance service, or any transfer, assignment or other disposition of the stock or voting rights thereunder of such a corporation which results in the ownership or control of ten percent or more of the stock or voting rights thereunder by any person, shall be approved based upon a determination that the new stockholder or stockholder proposing to obtain ten percent or more of the stock or voting rights thereunder of such corporation is competent and fit to operate the service. The remaining stockholders shall not be subject to a character and fitness review.

(d) Any transfer of all or substantially all of the assets of a corporation which owns or operates a certified ambulance service shall be approved based upon a determination that the individual, partnership, or corporation proposing to obtain all or substantially all of the assets of the corporation is competent and fit to operate the service.

(e) Any transfer affected in the absence of the review and approval required by this section shall be null and void and the certificate of such ambulance service shall be subject to revocation or suspension.

3. Nothing contained in this section shall be construed to prohibit any voluntary ambulance service authorized by its governing authority to do so from transporting any sick or injured resident of its primary territory from any general hospital or other health care facility licensed by the department, whether or not such general hospital or health care facility is within the service's primary territory, to any other general hospital or health care facility licensed by the department for further care, or to such resident's home. Nothing contained in this section shall be construed to prohibit any proprietary ambulance service authorized by its governing body to do so from transporting any sick or injured patient from any general hospital or other health care facility licensed by the department whether or not such general hospital or health care facility is within the service's primary territory, to any other general hospital or health care facility licensed by the department within the service's primary territory for

further care, or to such patient's home, if such patient's home is within its primary territory. Any ambulance service owned by or under contract to a general hospital licensed by the department may transport any specialty patient from any other general hospital or health care facility licensed by the department to the hospital owning such ambulance service, or with which it has a contract. Categories of specialty patients shall be defined by rule by the state emergency medical services council, subject to the approval of the commissioner.

4. No ambulance service certificate of an ambulance service which has discontinued operations for a continuous period in excess of thirty days shall be transferable without the approval of the appropriate regional council.

## **SECTION 3011. POWERS AND DUTIES OF THE DEPARTMENT AND THE COMMISSIONER.**

1. The department may inquire into the operation of ambulance services and advanced life support first response services and conduct periodic inspections of facilities, communication services, vehicles, methods, procedures, materials, staff and equipment. It may also evaluate data received from ambulance services and advanced life support first response services.

2. The department may require ambulance services and advanced life support first response services to submit periodic reports of calls received, services performed and such other information as may be necessary to carry out the provisions of this article.

3. The commissioner, with the advice and consent of the state council, shall designate not more than eighteen geographic areas within the state wherein a regional emergency medical services council shall be established. In making the determination of a geographic area, the commissioner shall take into consideration the presence of ambulance services, hospital facilities, existing emergency medical services committees, trained health personnel, health planning agencies and communication and transportation facilities; and shall establish a separate regional emergency medical services council for the county of Nassau. The commissioner shall promote and encourage the establishment of a regional emergency medical services council in each of said designated areas.

4. The commissioner may propose rules and regulations and amendments thereto for consideration by the state council. The commissioner shall establish a schedule of certification fees for ambulance services and advanced life support first response services other than voluntary ambulance services and voluntary advanced life support first response services.

5. For the purpose of promoting the public health, safety and welfare the commissioner is hereby authorized and empowered to contract with voluntary ambulance services and municipal ambulance services, or with the fire commissioners of fire districts operating voluntary ambulance services, upon such terms and conditions as he shall deem appropriate and within amounts made available therefor, for reimbursement of the necessary and incidental costs incurred by such ambulance services in order to

effectuate the provisions of this article.

6. The commissioner is hereby authorized, for the purposes of effectuating the provisions of this article in the development of a statewide emergency medical service system, to contract with any ambulance service or with the fire commissioners of fire districts operating certified voluntary ambulance services for the use of necessary equipment upon such terms and conditions as the commissioner shall deem appropriate.

7. The commissioner may recommend to the state council minimum qualifications for certified first responders (which shall not exceed fifty-one hours), emergency medical technicians and advanced emergency medical technicians in all phases of emergency medical technology including but not limited to, communications, first aid, equipment, maintenance, emergency techniques and procedures, patient management and knowledge of procedures and equipment for emergency medical care.

8. The commissioner shall provide every certified ambulance service and advanced life support first response service with an official insignia which may be attached to every vehicle owned or operated by a certified ambulance service or advanced life support first response service.

9. The department shall provide the state council with such assistance as the council may request in order to carry out its responsibilities as set forth in subdivision two-a of section three thousand two of this article.

10. The commissioner is hereby authorized and empowered to extend the certification for emergency medical technicians or advanced emergency medical technicians who have been federally ordered to active military duty, other than for training, related to the persian gulf crisis and whose certification will expire during their military duty. The extended certification shall be for the period of military duty and for six months after they have been released from active military duty.

11. The commissioner, with the advice and consent of the state council, shall promulgate rules and regulations necessary to ensure compliance with the provisions of subdivision two of section sixty-seven hundred thirteen of the education law.

## **SECTION 3012. ENFORCEMENT.**

1. Any ambulance service or advanced life support first response service certificate issued pursuant to section three thousand five of this article may be revoked, suspended, limited or annulled by the department upon proof that the operator or certificate holder or one or more enrolled members or one or more persons in his employ:

(a) has been guilty of misrepresentation in obtaining the certificate or in the operation of the ambulance service or advanced life support first response service; or

(b) has not been competent in the operation of the service or has shown inability to provide adequate ambulance services or advanced life support first response service; or

(c) has failed to pay the biennial certification fee as required except in the case of any voluntary ambulance service or voluntary advanced life support first response service; or

(d) has failed to file any report required by the provisions of this article or the rules and regulations promulgated thereunder; or

(e) has violated or aided and abetted in the violation of any provision of this article, the rules and regulations promulgated or continued thereunder, or the state sanitary code; or

(f) had discontinued operations for a period in excess of one month; or

(g) a voluntary ambulance service or voluntary advanced life support first response service has failed to meet the minimum staffing standard and has not been issued an exemption, except that such certificate shall not be suspended or revoked unless the commissioner finds that an adequate alternative service exists. The commissioner shall consider the recommendation of the regional emergency medical services council in making a finding; or

(h) an ambulance service operating for profit has failed to meet the minimum staffing standard; or

(i) has been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuse, or sale of drugs, unless the commissioner finds that such conviction does not demonstrate a present risk or danger to patients or the public; or

(j) is or was subject to a state or federal administrative order relating to fraud or embezzlement, unless the commissioner finds that such order does not demonstrate a present risk or danger to patients or the public.

2. Proceedings under this section may be initiated by any person, corporation, association, or public officer, or by the department by the filing of written charges with the department. Whenever the department seeks revocation or suspension of a certificate of an ambulance service or an advanced life support first response service, a copy of the charges shall be referred to the appropriate regional council for review and recommendation to the department prior to a hearing. Such recommendation shall include a determination as to whether the public need would be served by a revocation, suspension, annulment or limitation. If there is no appropriate regional council established, the state council shall make such determination and present to the department its recommendations.

3. No certificate shall be revoked, suspended, limited or annulled without a hearing. However, a certificate may be temporarily suspended without a hearing and without the approval of the appropriate

regional council or state council for a period not in excess of thirty days upon notice to the certificate holder following a finding by the department that the public health, safety or welfare is in imminent danger.

4. The commissioner shall fix a time and place for the hearing. A copy of the charges and the recommendations of the appropriate regional council or state council together with the notice of the time and place of the hearing, shall be mailed to the certificate holder by registered or certified mail, at the address specified on the certificate, at least fifteen days before the date fixed for the hearing. The appropriate regional council may be a party to such hearing. The certificate holder may file with the department, not less than five days prior to the hearing, a written answer to the charges.

### **SECTION 3013. IMMUNITY FROM LIABILITY.**

1. Notwithstanding any inconsistent provision of any general, special or local law, a voluntary ambulance service or voluntary advanced life support first response service described in section three thousand one of this article and any member thereof who is a certified first responder, an emergency medical technician, an advanced emergency medical technician or a person acting under the direction of an emergency medical technician or advanced emergency medical technician and who voluntarily and without the expectation of monetary compensation renders medical assistance in an emergency to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such medical assistance in an emergency unless it is established that such injuries were or such death was caused by gross negligence on the part of such certified first responder, emergency medical technician or advanced emergency medical technician or person acting under the direction of an emergency medical technician or advanced emergency medical technician

2. Nothing in this section shall be deemed to relieve any such voluntary ambulance service or voluntary advanced life support first response service from liability for damages or injuries or death caused by an act or omission on the part of any person other than a certified first responder, an emergency medical technician, advanced emergency medical technician or person acting under the direction of an emergency medical technician or advanced emergency medical technician acting in behalf of the voluntary ambulance service or voluntary advanced life support first response service.

3. Nothing in this section shall be deemed to relieve or alter the liability of any such voluntary ambulance service or members for damages or injuries or death arising out of the operation of motor vehicles.

4. A certified first responder, emergency medical technician or advanced emergency medical technician, whether or not he or she is acting on behalf of an ambulance service, or advanced life support first response service, who voluntarily and without the expectation of monetary compensation renders medical assistance in an emergency to a person who is unconscious, ill or injured shall not be liable for damages alleged to have been sustained by such person or for damages for the death of such person

alleged to have occurred by reason of an act or omission in the rendering of such medical assistance in an emergency unless it is established that such injuries were or such death was caused by gross negligence on the part of such certified first responder, emergency medical technician or advanced emergency medical technician.

5. Notwithstanding any inconsistent provision of any general, special or local law, any physician who voluntarily and without the expectation of monetary compensation provides indirect medical control, as defined in paragraph (b) of subdivision fifteen of section three thousand one of this article, to a voluntary ambulance service or voluntary advanced life support first response service described in section three thousand one of this article shall not be liable for damages for injuries or death alleged to have been sustained by any person as a result of such medical direction unless it is established that such injuries or death were caused by gross negligence on the part of such physician.

#### **SECTION 3014. CONSTRUCTION.**

Notwithstanding any inconsistent provision of any general, special or local law, the provisions of this article shall be deemed to apply to the city of New York.

#### **SECTION 3015. SEPARABILITY.**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

#### **SECTION 3016. CONTINUANCE OF RULES AND REGULATIONS.**

All rules and regulations heretofore adopted by the commissioner pertaining to all ambulance services shall continue in full force and effect as rules and regulations until duly modified or superseded by rules and regulations hereafter adopted and enacted by the state council pursuant to section three thousand two of this article.

#### **SECTION 3017. EMERGENCY MEDICAL SERVICE, SUFFOLK COUNTY. [Expires and Repealed January 1, 2003]**

1. No ambulance service or advanced life support first response service shall respond to any call or request for emergency medical services within a town, village or fire district in Suffolk County that currently provides ambulance service or advanced life support services first response service, if the municipality has designated one or more ambulance services or advanced life support first response services to respond to such calls unless:

(a) the service is so designated;

- (b) the response is in accordance with a mutual aid plan approved by the appropriate regional emergency medical services council;
- (c) the response is to a verbal mutual aid request from a designated service;
- (d) the service was specifically requested to respond by the patient or someone acting on behalf of that patient; or
- (e) the response site is a hospital licensed under Article 28 of this chapter for a transfer to another such facility.

2. Every ambulance service or advanced life support first response service shall disclose as part of any solicitation or advertisement in Suffolk County that there is a fee for services rendered, if in fact there is a fee charged for the performance of such service.

3. Every ambulance service or advanced life support first response service that operates in Suffolk County and has vehicles which travel through communities with designated ambulance service or advanced life support first response service shall require its drivers and emergency medical technicians:

- (a) to immediately notify a central alarm or other publicly operated dispatch entity, or a person designated under Section 209-b of the general municipal law to receive calls for emergency services for the purpose of dispatching emergency medical services whenever an emergency is found in a public place;
- (b) to evaluate the need to transport any patient found in extremis to a hospital; and
- (c) to comply with appropriate instructions from the dispatch entity. The dispatch entity, when appropriate, may instruct the service to transport any patient to an appropriate hospital.

### **SECTION 3030. ADVANCED LIFE SUPPORT SERVICES.**

Advanced life support services provided by an advanced emergency medical technician, shall be

- (1) provided under the direction of qualified medical and health personnel utilizing patient information and data transmitted by voice or telemetry,
- (2) limited to the category or categories in which the advanced emergency medical technician is certified pursuant to this article, and
- (3) recorded for each patient, on an individual treatment-management record.

### **SECTION 3031. ADVANCED LIFE SUPPORT SYSTEM.**

Advanced life support system must

- (1) be under the overall supervision and direction of a qualified physician with respect to the advanced life support services provided,
- (2) be staffed by qualified medical and health personnel,
- (3) utilize advanced emergency medical technicians whose certification is appropriate to the advanced life support services provided,
- (4) utilize advanced support mobile units appropriate to the advanced life support services provided,
- (5) maintain a treatment-management record for each patient receiving advanced life support services, and
- (6) be integrated with a hospital emergency, intensive care, coronary care or other appropriate service.

### **SECTION 3032. RULES AND REGULATIONS.**

The state council, with the approval of the commissioner, shall promulgate rules and regulations to effectuate the purposes of sections three thousand thirty and three thousand thirty-one of this article.

### **SECTION 3050. SHORT TITLE.**

This article shall be known and may be cited as the "emergency medical services personnel training act of nineteen hundred eighty-six".

### **SECTION 3051. DECLARATION OF PURPOSE.**

Emergency medical services provided to those suffering from sudden illness or injury have potential to reduce the incidence of disability and death and are therefore, invaluable. A training program of high quality is the key to assuring that emergency medical services personnel have the knowledge and skills to care for acutely ill and injured patients in a manner which will prevent further illness and injury. There is therefore a need to provide flexible, diverse and high quality training opportunities which are reasonably available, particularly to volunteers who devote considerable time, effort, and often personal resources, to improve or retain their knowledge and skills. The state has a responsibility to support and further the work of those who provide emergency medical care by providing needed instructional resources.

The purpose of this article is to expand and improve training opportunities for emergency medical service personnel, thereby benefiting all the residents of New York state who rely on the services of these personnel.

## **SECTION 3052. ESTABLISHMENT OF A TRAINING PROGRAM FOR EMERGENCY MEDICAL SERVICES PERSONNEL.**

1. There is hereby established a training program for emergency medical services personnel including, but not limited to, first responders, emergency medical technicians, advanced emergency medical technicians and emergency vehicle operators.

2. The commissioner shall provide state aid within the amount appropriated to entities such as local governments, regional emergency medical services councils, and voluntary agencies and organizations to conduct training courses for emergency medical services personnel and to conduct practical examinations for certification of such personnel. The commissioner shall establish a schedule for determining the amount of state aid provided pursuant to this section.

(a) Such schedule may include varying rates for distinct geographic areas of the state and for various course sizes, giving special consideration to areas with the most need for additional emergency medical technicians. In determining the need for additional emergency medical technicians, the commissioner shall use measurements such as the average number of emergency medical technicians per ambulance service, the ratio of emergency medical technicians per square mile, the average number of calls per service and the percentage of calls to which an emergency medical technician has responded, provided such data is available to the commissioner.

(b) Such schedule shall provide sufficient reimbursement to permit sponsors to offer basic emergency medical technician courses which adhere to curricula approved by the New York state emergency medical services council and the commissioner without the need to charge tuition to participants.

3. Upon request, the commissioner shall provide management advice and technical assistance to regional emergency medical services councils, county emergency medical services coordinators, and course sponsors and instructors to stimulate the improvement of training courses and the provision of courses in a manner which encourages participation. Such advice and technical assistance may relate to, but need not be limited to the location, scheduling and structure of courses.

4. The department is authorized, either directly or through contractual arrangement, to develop and distribute training materials for use by course instructors and sponsors, to recruit additional instructors and sponsors, and to provide training courses for instructors.

5. The commissioner shall conduct a public service campaign to recruit additional volunteers to join ambulance services targeted to areas in need for additional emergency medical technicians.

## **SECTION 3053. REPORTING**

Advance life support first response services and ambulance services registered or certified pursuant to article thirty of this chapter shall submit detailed individual call reports on a form to be provided by the department, or may submit data electronically in a format approved by the department. The state emergency medical services council, with the approval of the commissioner, may adopt rules and regulations permitting or requiring ambulance services whose volume exceeds twenty thousand calls per year to submit call report data electronically. Such rules shall define the data elements to be submitted, and may include requirements that assure availability of data to the regional emergency medical advisory committee.

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