

ORDINANCE NO. 2016-34

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO EMERGENCY MEDICAL SERVICE PROVIDERS AND NONEMERGENCY MEDICAL TRANSPORTATION SERVICE ("NEMTS"); AMENDING SECTION 3½-1 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO PROVIDE DEFINITIONS; AMENDING SECTIONS 3½-8 AND 3½-15 TO ENABLE THE TRAUMA MANAGEMENT AGENCY TO REVIEW AND ADMINISTRATIVELY APPROVE NEMTS APPLICATIONS FOR RENEWAL LICENSES THAT HAVE NOT RECEIVED A COMPLAINT; AMENDING SECTIONS 3½-6 THROUGH 3½-8 OF THE CODE TO RECONCILE CERTAIN PROVISIONS AND ESTABLISH ADDITIONAL STANDARDS; AMENDING SECTION 3½-17 OF THE CODE TO INCREASE THE MINIMUM LIMITS FOR AUTOMOBILE INSURANCE COVERAGE REQUIRED OF NONGOVERNMENTAL EMERGENCY MEDICAL SERVICE AND NEMTS PROVIDERS; AMENDING SECTION 3½-19 OF THE CODE TO ESTABLISH REPORTING REQUIREMENTS FOR EMS PROVIDERS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the Broward County Board of County Commissioners ("Board") desires to amend various sections of Chapter 3½ of the Broward County Code of Ordinances ("Code") in order to (1) more efficiently process certain nonemergency medical transportation service applications; (2) provide additional standards for the Board to consider at a public hearing when determining whether the public convenience and necessity of the residents of Broward County are best served by the granting or denying of applications; and (3) increase minimum insurance requirements for both emergency and nonemergency medical transportation providers; and

1 WHEREAS, the Board finds that receiving certain information from EMS
2 providers would assist the County in determining the community's needs and level of
3 service; and

4 WHEREAS, the Board finds that the revisions to the Code, as set forth herein,
5 are necessary and in the best interest of Broward County,

6 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
7 BROWARD COUNTY, FLORIDA:

8
9 Section 1. Section 3½-1 of the Broward County Code of Ordinances is hereby
10 amended to read as follows:

11 **Sec. 3½-1. Definitions.**

12 As used in this chapter, the following words and terms shall have the meanings
13 assigned herein:

14 . . .

15 (22) Response time: As used herein, "response time" means the interval of
16 time between the moment the certificate holder's dispatch center receives
17 a call requesting a response to the moment the certificate holder's
18 ambulance arrives at the requested location of the pickup. Response time
19 for interfacility or routine transfers shall mean the interval of time between
20 such interfacility or routine transfer scheduled pickup time and the moment
21 the certificate holder's ambulance arrives at the requested location of the
22 pickup.

1 Section 2. Section 3½-6 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 3½-6. Certificates for ALS services.**

4 . . .

5 (d) Subsequent to receiving the application and processing fee, the county
6 administrator shall cause an investigation to be made of the applicant. The
7 investigation shall include, but not be limited to, the following for a certificate for ALS
8 service:

9 . . .

10 (4) ~~The current average response times of each service that previously~~
11 ~~served the area applied for, if applicable~~ The response times of existing
12 EMS providers, excluding Class 1-ALS rescue and Class 4-ALS air
13 rescue, as compared with the benchmark response times as stated in
14 each EMS provider's most recent application;

15 . . .

16 (12) The type of vehicles to be used by the applicant; and

17 (13) ~~Such other information as the county administrator or designee may deem~~
18 ~~necessary.~~ For new applications and renewals filed after January 1, 2017,
19 a survey of the community's needs, conducted by the County, for Class
20 2-ALS transfer and Class 3-BLS transport classifications; and

21 (14) Such other information as the county administrator or designee may deem
22 necessary.

23 (e) The EMS Review Committee ~~established in Section 3½-9~~ shall review all
24 new applications for certificates, and renewal applications for certificates as provided for

1 in Section 3½-15, and shall make a recommendations for approval or denial to the
2 board through the administrator. Based upon the information received in ~~each~~ the
3 applications and after completion of the investigation, the administrator shall
4 recommend to the board the granting or denial of ~~each pending application for a~~
5 certificates of public convenience and necessity reviewed by the EMS Review
6 Committee.

7 . . .

8 (g) At such hearing, the board shall consider all pending applications for
9 certificates of public convenience and necessity, ~~and shall~~ make its findings as to each
10 applicant, and ~~shall~~ determine whether the public convenience and necessity of the
11 residents of Broward County would be best served by granting or by denying such
12 applications. In making its findings and determinations, the board ~~may~~ shall consider
13 those specifications established by its adopted rules and regulations and shall consider,
14 in addition to those items set out in Subsection 3½-6(d) ~~above~~, the following:

15 (1) The recommendations of the administrator; ~~and~~

16 (2) ~~Such other matters deemed to be in the best interests of the public health,~~
17 ~~safety, welfare, convenience, and necessity of the residents of Broward~~
18 ~~County.~~ With the exception of Class 1—ALS rescue and Class 4—ALS air
19 rescue classifications, the adequacy of the management plan of each
20 applicant;

21 (3) The benefits that will accrue to the public interest from the proposed
22 service, including, but not limited to, the community's need for additional
23 service. With the exception of Class 1—ALS rescue and Class 4—ALS air
24

1 rescue classifications, the applicant has the burden of proving that there is
2 such a need by providing verifiable documents and other evidence;

3 (4) The results of a survey of the community's needs conducted by the
4 County;

5 (5) Any recommendations received from the municipalities within Broward
6 County;

7 (6) All relevant matters presented at the public hearing; and

8 (7) Such other matters deemed to be in the best interests of the public health,
9 safety, welfare, convenience, and necessity of the residents of Broward
10 County.

11 ...

12 (j) The certificate granted by the board shall be valid for a definite period of
13 time established by the board not to exceed ~~three (3)~~ five (5) years unless otherwise
14 revoked, suspended, or modified.

15 Section 3. Section 3½-7 of the Broward County Code of Ordinances is hereby
16 amended to read as follows:

17 **Sec. 3½-7. Certificates for BLS services.**

18 ...

19 (d) Subsequent to receiving the application and processing fee, the county
20 administrator shall cause an investigation to be made of the applicant. The
21 investigation shall include, but not be limited to, the following for a certificate for BLS
22 ground service:

23 ...

24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

(4) ~~The current average response times of each service that previously served the area or zone applied for, if applicable~~ The response times of existing EMS providers as compared with the benchmark response times as stated in each EMS provider's most recent application;

...

(12) The maximum number of units which the applicant stated in its application would be placed in the area or zone requested to respond to emergency and/or routine and interfacility calls; and

(13) ~~Such other information as the county administrator or designee may deem necessary.~~ For new applications and renewals filed after January 1, 2017, a survey of the community's needs, conducted by the County, for Class 2—ALS transfer and Class 3—BLS transport classifications; and

(14) Such other information as the county administrator or designee may deem necessary.

(e) The EMS Review Committee ~~established in Section 3½-9~~ shall review all new applications for certificates, and renewal applications for certificates as provided for in ~~§~~Section 3½-15, and shall make a recommendations for approval or denial to the board through the administrator. Based upon the information received in the applications and after completion of the investigation, the administrator shall recommend to the board the granting or denial of ~~each pending application for a~~ certificates of public convenience and necessity reviewed by the EMS Review Committee.

...

1 (g) At such hearing, the board shall consider all pending applications for
2 certificates of public convenience and necessity, ~~and shall~~ make its findings as to each
3 applicant, ~~and shall~~ determine whether the public convenience and necessity of the
4 residents of Broward County would be best served by granting or by denying such
5 applications. In making its findings and determinations, the board ~~may~~ shall consider
6 those specifications established by its adopted rules and regulations and shall consider,
7 in addition to those items set out in ~~Subsection 3~~^{1/2}-7(d), the following:

8 (1) The recommendations of the administrator; ~~and~~

9 (2) ~~Such other matters deemed to be in the best interests of the public health,~~
10 ~~safety, welfare, convenience and necessity of the residents of Broward~~
11 ~~County.~~ The adequacy of the management plan of each applicant;

12 (3) The benefits that will accrue to the public interest from the proposed
13 service, including, but not limited to, the community's need for additional
14 service. The applicant has the burden of proving that there is such a need
15 by providing verifiable documents and other evidence;

16 (4) The results of a survey of the community's needs conducted by the
17 County;

18 (5) Any recommendations received from the municipalities within Broward
19 County;

20 (6) All relevant matters presented at the public hearing; and

21 (7) Such other matters deemed to be in the best interests of the public health,
22 safety, welfare, convenience, and necessity of the residents of Broward
23 County.

24 . . .

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underscored type are additions.

1 Section 4. Section 3½-8 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 3½-8. Licenses for nonemergency medical transportation service.**

4 . . .

5 (e) The EMS Review Committee ~~established in Section 3½-9~~ shall review all
6 new applications for licenses, and renewal applications for licenses as provided for in
7 Section 3½-15, and shall make a recommendations for approval or denial to the board
8 through the administrator. Based upon the information received in the applications and
9 after completion of the investigation, the administrator shall recommend to the board the
10 granting or denial of ~~each pending application for a license~~ licenses reviewed by the
11 EMS Review Committee.

12 (f) Subsequent to receiving the recommendation of the administrator, the
13 board shall hold a public hearing ~~for the purpose of to~~ considering all ~~pending new~~
14 applications for licenses, and those renewal applications for licenses that are reviewable
15 by the EMS Review Committee. The administrator shall, within a reasonable time
16 period, provide written notice by U.S. mail, or email, or facsimile when authorized, to all
17 applicants and all ~~present~~ current nonemergency licensees of the date, time, and place
18 of the public hearing.

19 (g) At such hearing, the board ~~of county commissioners shall consider all~~
20 ~~pending applications for licenses and~~ shall make its findings as to each applicant and
21 shall determine whether the applicant meets the requirements set forth herein. In
22 making its findings and determinations, the board ~~may~~ shall consider those
23 specifications established by its adopted rules and regulations and shall consider, in
24 addition to those items set out in ~~s~~Section 3½-8(d), the following:

- (1) The recommendations of the administrator; and
- ~~(2) Such other matters deemed to be in the best interest of the public health, safety and welfare of the residents of Broward County.~~
- (2) The benefits that will accrue to the public interest from the proposed service.
- (3) Any recommendations received from the municipalities within Broward County;
- (4) All relevant matters presented at the public hearing; and
- (5) Such other matters deemed to be in the best interests of the public health, safety, and welfare of the residents of Broward County.

...

Section 5. Section 3½-15 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 3½-15. Renewal of certificates and licenses.

...

(b) The trauma management agency shall review renewal applications for certificates of public convenience and necessity and licenses for nonemergency medical transportation services. If the trauma management agency has not received any complaints against the a certificate or license holder within the past certificate or license period, it may shall recommend renewal to the board, through the administrator. If the trauma management agency has not received any complaints against a license holder within the past license period, the administrator shall renew the license. If the trauma management agency has received a complaint against the certificate or license holder within the past certificate or license period, the renewal application ~~will~~ shall be

1 forwarded to the EMS Review Committee for its review and recommendation to the
2 board, through the administrator. Subsequent to receiving the recommendation of the
3 administrator, the board shall hold a public hearing in accordance with Sections 3½-6,
4 3½-7, and 3½-8, as applicable, to consider the ~~pending~~ renewal application, and shall
5 make its findings for approval or denial of the application.

6 Section 6. Section 3½-17 of the Broward County Code of Ordinances is
7 hereby amended to read as follows:

8 **Sec. 3½-17. Insurance.**

9 (a) *Business Automobile Liability.*

10 (1) *Nongovernmental EMS provider.* Every nongovernmental EMS provider
11 shall carry bodily injury and property damage insurance with an insurance
12 carrier or company qualified as an insurance company authorized to
13 transact insurance in the state of Florida to secure payment for any loss or
14 damage resulting from any occurrence arising out of or caused by the
15 operation or use of any of the provider's motor vehicles. Each transporting
16 vehicle, including owned, hired, and ~~non-owned~~ nonowned vehicles, shall
17 be insured for a minimum of ~~Five Hundred Thousand Dollars~~
18 ~~(\$500,000.00)~~ One Million Dollars (\$1,000,000) for each occurrence,
19 combined single limit bodily injury, death, or property damage liability.
20 Each EMS provider with medical personnel employed by the provider shall
21 maintain malpractice insurance in an amount not less than ~~Five Hundred~~
22 ~~Thousand Dollars (\$500,000.00)~~ One Million Dollars (\$1,000,000) for
23 injury to one (1) person. If an EMS provider does not employ medical
24 personnel, the provider must provide Broward County with satisfactory

evidence in the amount of ~~Five Hundred Thousand Dollars (\$500,000.00)~~
One Million Dollars (\$1,000,000) of malpractice insurance from the entity
which is providing the medical personnel.

(2) *Nonemergency medical transportation services provider.* Every
nonemergency medical transportation services provider shall carry bodily
injury and property damage insurance with an insurance carrier or
company qualified as an insurance company authorized to transact
insurance in the state of Florida to secure payment for any loss or damage
resulting from any occurrence arising out of, or caused by, the operation
or use of any of the provider's motor vehicles. Each transporting vehicle,
including owned, hired, and ~~non-owned~~ nonowned vehicles, shall be
insured for a minimum limit of ~~Three Hundred Thousand Dollars~~
~~(\$300,000.00)~~ Five Hundred Thousand Dollars (\$500,000) for each
occurrence, combined bodily injury and property damage liability.
Nonemergency medical transportation service providers are not required
to carry malpractice insurance. ~~The minimum insurance limits established~~
~~in this subsection (2) shall be effective immediately for all new applicants~~
~~for licensure and December 1, 2008, for existing license holders.~~

...

Section 7. Section 3½-19 of the Broward County Code of Ordinances is
hereby amended to read as follows:

Sec. 3½-19. Rules, and regulations, and reporting.

...

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1 (c) Reporting. All EMS providers and nonemergency medical transportation
2 service providers shall report the following information electronically to the office of EMS
3 on a semiannual basis for each applicable certificate:

4 (1) The total number of calls;

5 (2) The total number of patients transported;

6 (3) The total number of routine transfers and interfacility transfers;

7 (4) For each routine transfer or interfacility transfer, an EMS provider shall
8 provide the origination point, end point, and the length of time of the trip.

9 For example, from hospital to hospital, hospital to home, assisted living
10 facility to hospital, etc.;

11 (5) Response times; and

12 (6) Such other information as the county administrator or designee may deem
13 necessary, as approved by the Board.

14 Section 8. SEVERABILITY.

15 If any portion of this Ordinance is determined by any Court to be invalid, the
16 invalid portion shall be stricken, and such striking shall not affect the validity of the
17 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
18 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
19 or circumstance(s), such determination shall not affect the applicability hereof to any
20 other individual, group, entity, property, or circumstance.

21 Section 9. INCLUSION IN CODE.

22 It is the intention of the Board of County Commissioners that the provisions of
23 this Ordinance shall become and be made a part of the Broward County Code; and that
24 the sections of this Ordinance may be renumbered or relettered and the word

1 "ordinance" may be changed to "section," "article," or such other appropriate word or
2 phrase in order to accomplish such intentions.

3 Section 10. EFFECTIVE DATE.

4 This Ordinance shall become effective as provided by law.

6 ENACTED November 29, 2016

7 FILED WITH THE DEPARTMENT OF STATE November 30, 2016

8 EFFECTIVE November 30, 2016

10
11 Approved as to form and legal sufficiency:
Joni Armstrong Coffey, County Attorney

14 By /s/ Adam Katzman 11/30/16
15 Adam Katzman (date)
Assistant County Attorney

23 AMK/mm
11/30/16
24 NEMTS Renewal Applications and Insurance Requirements
#16-417

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