

ORDINANCE 11-32

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, REGARDING ISSUANCE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NEED; ESTABLISHING APPLICATION PROCESS; REQUIRING APPLICANT TO PRESENT COMPETENT EMPIRICAL AND STATISTICAL EVIDENCE TO SUPPORT ISSUANCE OF CERTIFICATE; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA:

Section 1. Authority; Intent

Pursuant to chapter 401 of the Florida Statutes, the Board of County Commissioners of Bay County ("board") may adopt an ordinance that provides reasonable standards for the issuance of certificates of public convenience and necessity for advanced life support (ALS) or basic life support (BLS) and air ambulance services. The Board of County Commissioners finds that it is necessary for the public health and safety of Bay County citizens to establish standards for the issuance of such certificates. The Board intends that the provisions of this ordinance will ensure a fair and equitable process that considers state guidelines, recommendations of the local or regional trauma agency created under chapter 395, the recommendations of municipalities within its jurisdiction, and provides due process to an applicant.

Section 2. Certificate of Public Convenience and Necessity

The Bay County Code is hereby amended to add the following provisions to be entitled "Certificate of Public Convenience and Necessity ("COPCN")."

Section 15-200 Certificate required.

a. Every person or operator owning or acting as agent for the owner of any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in advanced life support (ALS), basic life support (BLS) or any other licensed emergency medical services provider pursuant to chapter 401 of the Florida Statutes within the county, shall first obtain a certificate of public convenience and necessity as an advance life support service or a basic life support service as is appropriate, prior to offering such services to the public. The application for such certificate shall be on a form provided by the county, in writing, signed and sworn to by the applicant, and filed with the county manager.

b. The applicant shall provide, before the effective date of the COPCN, proof that the applicant has met all appropriate requirements and obtained all appropriate certificates, licenses and permits from the state as required by chapter 401 of the Florida Statutes or other applicable state law.

c. The certificates required by this ordinance shall be in addition to all certificates, licenses and permits required by chapter 401 of the Florida Statutes.

Section 15-201 Application.

Every applicant for a certificate must include an application fee of \$1500, which amount may be amended from time to time by resolution of the board, and shall contain the following information and items:

- a. the name and business address of the owner or operator of the service;
- b. the licensed name under which the applicant will operate;
- c. a list of the names and addresses of all officers, directors and shareholders of applicant;
- d. the geographic area within Bay County which the applicant desires to serve;
- e. the number of vehicles; a brief description of the kind or type, passenger capacity, arrangement, size and gross weight of each vehicle;
- f. the location and description of each place from which applicant's service is intended to operate.
- g. the training and experience of the applicant in the transportation and care of patients;
- h. a description of each vehicle to be used in the applicant's business or service including: the make, model, year of manufacture, mileage and vehicle identification number (VIN); state or federal aviation or marine agency registration number, where applicable; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate the applicant's vehicle or vehicles;
- i. the names and addresses of at least three physicians or medical services providers of the county available as references;
- j. a requirement of the applicants to file, in event that the application shall be granted and prior to the effective date of the COPCN, copies of public liability, property damage and malpractice insurance or a surety bond conditioned for the payment and satisfaction of any final judgment as required or provided for in this ordinance and chapter 401, Fla. Stats.;

k. in the event that the application is granted and prior to the effective date of the COPCN, a contract between the applicant and the County that shall include the terms, conditions and protocols under which the services granted by the COPCN will be rendered;

l. a statement certifying the time periods of service to be provided and the minimum level of patient care rendered or available will always be advanced life support or basic life support, as appropriate for the application, with the exceptions of disasters or extraordinary circumstances;

m. competent empirical and statistical information, data, documents, and studies that support and prove the public need for the services to be provided by the applicant;

n. such other information as the board may deem reasonable and necessary to make a fair determination.

Section 15-202 Investigation of applicant.

a. Upon receipt of an application, the county manager may cause an investigation to be made of the character and reputation of the applicant as a law abiding citizen, the financial ability of the applicant to render safe and comfortable service and to maintain or replace equipment for such service, the financial responsibility of the applicant to maintain insurance for the payment of personal injury, death and property damage claims and of such other pertinent facts which the board may deem relevant in determining the fitness of the applicant to assume the occupation of an operator.

b. Bay County shall also have the right, at any time, to inspect and review the vehicles and equipment to be used by the service to ascertain compliance with state and federal specifications and ensure manufacturer recommended maintenance standards are followed. Any vehicle or piece of equipment determined unsafe or not meeting acceptable maintenance criteria may result in an investigation leading to revocation of the COPCN.

Section 15-203 Hearings on applications; Issuance or denial.

a. The county manager will review the application for completeness and schedule a public hearing before the board.

b. Notice of the public hearing shall be provided, at least ten (10) days before the hearing, by certified US mail to the applicant, the county department of health, any local or regional trauma agency created under chapter

395 of the Florida Statutes, the municipalities in the county, and all current providers of any ALS, BLS, or air ambulance service in the county.

c. The hearing on the application will be a quasi-judicial proceeding at which all persons attending will have an opportunity to be heard.

d. The board may issue a certificate as applied for or may modify the terms, conditions and protocols of a certificate as the evidence of public convenience and necessity may require or support. A certificate may be denied, in writing, for failure to comply with the provisions of chapter 401, Fla. Stats., or this ordinance, or if there is not competent empirical and statistical evidence to support the public convenience or necessity for the services to be provided.

e. If the board denies an application, the applicant may appeal the matter to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within 30 days of the date of the written denial of the application.

Section 15-204 Form of certificate; Renewal.

a. The certificate and any renewal shall be valid for a period of two years from the approval date unless earlier suspended, revoked or terminated.

b. Every certificate issued under this ordinance shall state the minimum requirements for the motor vehicles to be used in the rendition of services and such conditions and limitations as the board may deem necessary for protecting the public interest.

c. A certificate will not be valid for a vehicle which is unsafe, does not have the appropriate permits, or which fails in use to conform to the requirements of this ordinance and chapter 401.

d. While a certificate is valid, the county manager's designee shall inspect each service, including an examination or review of each ambulance emergency medical service vehicle, equipment, personnel, records, premises and operational procedures, at reasonable times and whenever such inspection is deemed necessary by the county manager. This inspection is discretionary and shall be in addition to other state inspections required under general law and shall not impede the provision of patient care by the service provider.

e. A service provider must file an application for renewal, which shall include all the information contained in section 15-201, within 60 days of the expiration date of the certificate. After a public hearing, as provided in section 15-203, the board may renew the certificate if such renewal is in the public convenience and necessity.

Section 15-205 Transferability or assignment.

No certificate issued under this article shall be assigned or transferred by the person to whom it is issued, except upon approval of the board of such assignment or transfer. Such approval shall be granted in the same manner and subject to the same application requirements and procedures as original applications for certificates.

Section 15-206 Grounds for revocation, alteration or suspension.

Every certificate under this article shall be subject to revocation, alteration or suspension by the board where it shall appear that:

a. The operator has failed or neglected to render all services authorized by its certificate for a period of three consecutive days during any calendar year without reasonable cause.

b. The operator has been convicted of a felony or any criminal offense involving moral turpitude.

c. The certificate was obtained by an application in which any material fact was omitted or falsely stated.

d. The operator has permitted any vehicle to be operated in violation of the laws of the state or this article, which violation results in a conviction of the driver or operator of the vehicle of a misdemeanor in the second degree or greater.

e. The operator has permitted any person or employee to provide service under its certificate without that person possessing the appropriate license, certificate or permit as required by this article and F.S. ch. 401.

f. The operator has failed to comply with any of the provisions of this ordinance, ch. 401 of the Florida Statutes, or rule 64J of the Florida Administrative Code.

g. The operator, its agents or employees have demanded money or compensation other than that established and prescribed under this article.

h. The operator, its agents or employees have been found guilty of malpractice or negligence in the operation of the service.

i. The operator knowingly allows its agents or employees to violate the provisions of this ordinance, ch. 401 of the Florida Statutes, or rule 64J of the Florida Administrative Code.

j. Or other good cause, or as provided for otherwise in this article.

k. The board shall initiate any proceedings for investigation and recommending of revocation, alteration or suspension of a certificate, and conduct any hearing upon the investigation. The county manager shall investigate complaints within fifteen (15) business days of receiving a complaint, and make a report to the board, together with findings and recommendations, at the next available regular meeting of the board.

l. If the county manager will recommend revocation, alteration or suspension of any certificate, the county manager shall give fifteen (15) business days' notice to the operator holding the certificate that the recommendation for revocation, alteration or suspension of a certificate will be considered at a specific board meeting. The notice shall be provided at least ten days before the hearing. At the public hearing, the board shall consider the complaint and investigation results and may revoke, alter or suspend the certificate or dismiss the complaint.

m. If the board decides to revoke, alter, or suspend the certificate, the operator may appeal the matter to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within 30 days of the date of the written denial of the application.

Section 3. Severability.

Should any section or provision of this ordinance, or any portion thereof, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the remainder, as a whole or any part hereof, other than that part declared to be invalid.

Section 4. Inclusion in Code.

The provisions of this Ordinance shall become and be made a part of the Bay County Code. Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate designation.

Section 5. Effective Date.

This ordinance shall take effect pursuant to Florida law.

Duly adopted by the Board of County Commissioners on September 20, 2011.

Attest:



William T. Dozier
William T Dozier, Chairman

Approved for form and sufficiency:

Bill Kinsaul
Bill Kinsaul, Clerk

Joni L Craig
for Terrell Arline, County Attorney

