

ORDINANCE NO.: 19-05

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, AMENDING BAY COUNTY CODE CHAPTER 15, ARTICLE VII, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, BY AMENDING APPLICATION REQUIREMENTS, CRITERIA FOR CERTIFICATE CONSIDERATION, AND THE FORM OF CERTIFICATE.

BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida as follows:

SECTION 1. AMENDMENT. Chapter 16, Article VII, is amended as set forth below with underlined text as additions and strikethrough text as deletions.

Sec. 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 F.S. ch. 401 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 F.S. ch. 401 or other applicable state law.
- (c) The certificates required by this article shall be in addition to all certificates, licenses and permits required by F.S. ch. 401.
- (d) Nothing in this article is intended to apply to any ambulance that is owned or operated by Bay County or by any agency of the state or federal government.

Sec. 15-201. - Application.

Every applicant for a certificate must include an application fee of \$1,500.00, which amount may be amended from time to time by resolution of the board, and shall contain the following information and items:

- (1) The name and business address of the owner or operator of the service;
- (2) The licensed name under which the applicant will operate;
- (3) A list of the names and addresses of all officers, directors and shareholders of applicant;
- (4) The geographic area within Bay County which the applicant desires to serve;
- (5) The number of vehicles; a brief description of the kind or type, passenger capacity, arrangement, size and gross weight of each vehicle;
- (6) The location and description of each place from which applicant's service is intended to operate.
- (7) The training and experience of the applicant in the transportation and care of patients;
- (8) 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;
- (9) The names and addresses of at least three physicians or medical services providers of the county available as references;
- (10) 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 article and F.S. ch. 401;
- (11) 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;
- (12) 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;
- ~~(13) 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;~~
- (14) (13) Such other information as the board may deem reasonable and necessary to make a fair determination.

Sec. 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, 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.

Sec. 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 days before the hearing, by certified U.S. mail to the applicant, the county department of health, any local or regional trauma agency created under F.S. ch. 395, 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) After public hearing, the board may issue or refuse to issue the certificate as applied for, or may issue a certificate with such modifications or upon such terms and conditions as the public convenience and necessity may require. In reaching its determination, the commission shall consider the application, any staff report or recommendation, and all matters presented at the public hearing. Additionally, the board may consider the following criteria:
 - 1) The experience of the applicant and its financial ability of the applicant to provide the proposed services;
 - 2) Any recommendations received by municipalities, medical providers, public agencies or other ALS/BLS providers;
 - 3) The number and type of entities currently providing ALS/BLS emergency medical service or air medical transportation services to the area;

- 4) The past performance and service record of the applicant obtained from sources such as hospitals, medical providers, nursing homes, public agencies, and/or consumer protection organizations;
 - 5) The benefits that would accrue to the public interest from the proposed services;
 - 6) The community's need for the proposed service;
 - 7) The applicant's compliance with Florida Statutes and Florida Administrative Code;
 - 8) Any other relevant criteria bearing on the health, safety or welfare of the public.
- (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.

Sec. 15-204. - Form of certificate; renewal.

- (a) The certificate and any renewal shall be valid for a period of four years from the approval date unless earlier suspended, revoked or terminated.
- (b) Every certificate issued under this article shall ~~state the minimum requirements for the motor vehicles to be used in the rendition of services and~~ may include 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 article and F.S. ch. 401.~~
- ~~(d)~~ (c) While a certificate is valid, the county manager's designee shall may 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.

Sec. 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.

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

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

- (1) 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.
- (2) The operator has been convicted of a felony or any criminal offense involving moral turpitude.
- (3) The certificate was obtained by an application in which any material fact was omitted or falsely stated.
- (4) 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.
- (5) 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.
- (6) The operator has failed to comply with any of the provisions of this article, F.S. ch. 401, or Rule 64J of the Florida Administrative Code.
- (7) The operator, its agents or employees have demanded money or compensation other than that established and prescribed under this article.
- (8) The operator, its agents or employees have been found guilty of malpractice or negligence in the operation of the service.
- (9) The operator knowingly allows its agents or employees to violate the provisions of this article, F.S. ch. 401, or Rule 64J of the Florida Administrative Code.
- (10) Or other good cause, or as provided for otherwise in this article.
- (11) 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 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.

- (12) If the county manager will recommend revocation, alteration or suspension of any certificate, the county manager shall give 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.
- (13) 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 2. SEVERABILITY. If any section, subsection, clause, phrase, or provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 3. REPEAL. All ordinances or parts of ordinances in conflict with this ordinance are to the extent of such conflict hereby repealed.

SECTION 4. INCLUSION IN CODE. This ordinance shall become and be made a part of the Code of Bay County, Florida. Sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or other appropriate designation.

SECTION 5. EFFECTIVE DATE. A certified copy of this ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment and this ordinance shall take effect immediately in accordance with Section 125.66 (2), Florida Statutes.

DULY ADOPTED in regular session on this 2 day of July, 2019.



ATTEST:

Bill Kinsaul, Clerk

BOARD OF COUNTY COMMISSIONERS
BAY COUNTY, FLORIDA

Philip "Griff" Griffiths, Chairman

Approved as to form:

Jennifer Shuler
Office of County Attorney

