

Ground Ambulance Staffing Alternative

This Guidance Document describes how the Kansas Board of Emergency Medical Services (Board) will generally exercise its discretionary function of granting variances for ground ambulance services in Kansas communities facing staffing shortages.

Applicable Law

- K.S.A. 65-6128 requires all ambulance services to be staffed in accordance with Board rules and regulations.
- K.S.A. 65-6135 requires all ambulance services to be staffed with at least one person certified at the EMT level or above, a physician, a physician assistant, an advanced practice registered nurse, or a professional nurse.
- K.A.R. 109-2-6(c)(1)(C) requires each ground ambulance service to “staff each ambulance with, at a minimum, either two attendants or one attendant and a health care provider, as defined in K.A.R. 109-1-1, and ensure that an attendant certified pursuant to K.S.A. 65-6119, 65-6120, or 65-6121, and amendments thereto, or a health care provider is in the patient compartment during patient transport.”
- K.A.R. 109-1-1(z) defines a health care provider as “a physician, physician assistant, licensed professional nurse, advanced practice registered nurse, or respiratory therapist.”
- K.A.R. 109-2-9 allows the Board to grant a “temporary variance from any or all portions of an identified regulation . . . based upon the nature of the variance requested and the needs of the applicant.”

General Statements of Policy that Describe How and When the Board Will Exercise Discretionary Functions:

The Board believes that the staffing requirements found in K.A.R. 109-2-6(c)(1)(C), serve the public interest, safety, and welfare by ensuring the public’s access to safe and quality emergency medical services. As a result, the Board maintains that providing emergency medical services, including interfacility ground transports, while staffed with fewer than the minimum individuals generally increases the public’s risk of exposure to substandard emergency medical care.

The Board also recognizes the unique challenge of staffing ambulance services in some Kansas communities. The Board believes that utilization of its temporary variance authority provides the needed flexibility to address short-term staffing issues for certain interfacility ground transports while ensuring that patients receive adequate emergency medical care. A variance does not relieve an ambulance service of the duty to staff its ambulances in accordance with the requirements of K.A.R. 109-2-6(c)(1)(C) when such staffing is available.

Effective June 7, 2019, an ambulance service may apply for a temporary variance from the staffing requirements in K.A.R. 109-2-6(c)(1)(C) for interfacility ground transports of stable patients. The Board will consider a temporary variance from K.A.R. 109-2-6(c)(1)(C) for interfacility ground transports of stable patients. For purposes of this document, a patient is stable if his or her condition is not life-threatening, is not reasonably expected to degrade during interfacility transport, and does not require care beyond that authorized to be performed by an EMT.

The Board will consider granting a variance under the following conditions:

- a. There are no other permitted ambulance services within the same county or within twenty-five (25) miles of the hospital where transport would originate.
- b. A complete variance application has been submitted no later than 30 calendar days before a regularly scheduled Board meeting that includes:
 1. The name, address, and certificate level of the applicant;
 2. an explanation of the reason for the variance request;
 3. the specific portion or portions of the identified regulation from which the variance is requested;
 4. the period of time for which the variance is requested, which shall not exceed twelve (12) months;
 5. the number of units or persons involved;
 6. an explanation of how adherence to each portion or portions of the regulation from which the variance is requested would result in a serious hardship to the applicant;
 7. an explanation indicating how a variance would not result in an unreasonable risk to the public interest, safety, or welfare;
 8. a list of the training and specific requirements the service will use to qualify a person to safely operate the ambulance during interfacility ground transfers of stable patients;
 9. a plan for complying with K.A.R. 109-2-6(c)(1)(C). The plan shall provide that the service will act as a sponsoring organization for at least one initial course of instruction at the EMR or EMT level; and
 10. a financial overview of the ambulance service, which includes:
 - i. Categorized sources of revenue and their corresponding amounts;
 - ii. the ambulance service's annual budget; and
 - iii. the current mil levy, if any, being assessed specifically for ambulance service pursuant to K.S.A. 65-6113, K.S.A. 65-6115, or K.S.A. 65-6118.
- c. Prior to the approval of any variance, the ambulance service shall conduct a hearing open to the public under the following conditions:
 1. The date and time of the hearing shall be mutually agreed upon by the operator and the Board's Executive Director;
 2. at least 7 days in advance of the hearing, notice of the hearing shall be published in the local newspaper and sent to city and county officials within the area served by the ambulance service;
 3. copies of the completed variance application and compliance plan shall be made available for viewing at the public hearing;
 4. after being given reasonable time to review the variance request documents, members of the public shall be allowed to provide public comment during the hearing;
 5. the ambulance service may use the following language to issue notice of the public hearing:

Notice is hereby given that (name of ambulance service operator) has requested a variance from the Kansas Emergency Medical Services Board to operate their EMS service while not in compliance with Kansas law regarding staffing of an ambulance during interfacility transports of stable patients. The variance, if approved, would allow the provider to operate their ambulances without meeting the minimum staffing requirement of at least two certified attendants or one certified attendant and a health care provider while transporting stable patients needing basic care from one hospital to another hospital. This variance requires a public hearing to be held prior to being granted. The hearing is scheduled for (date, time and location). The public is encouraged to attend.

6. the ambulance service shall submit the comments to the Executive Director within 10 days after the meeting.
- d. Upon approval of the variance, the ambulance service may staff an ambulance for interfacility ground transports for any patient who requires no more than EMT-level care during that transfer, with one person qualified to operate the ambulance and one person holding any of the following certifications/licenses, who must be in the patient compartment during transport:
 1. EMT
 2. AEMT
 3. Paramedic
 4. Physician
 5. Physician Assistant
 6. Advanced Practice Registered Nurse
 7. Professional Nurse
- e. Reporting. On the 10th day of each month, the ambulance service shall submit to the Executive Director a report including:
 1. Progress, or lack of progress, on completion of the compliance plan submitted in the variance application;
 2. any challenges being encountered;
 3. the number of interfacility transports the ambulance service performed in the preceding month;
 4. the number of times the ambulance service used the variance in the preceding month; and
 5. the run number for each time the ambulance service used the variance.

This Guidance Document may be withdrawn by the Board at any time without notice.