

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 nurse¹.
- 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(w) 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 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 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, except as noted in (c)(2) below.

Effective April 7, 2023, an ambulance service may apply for a temporary variance from the staffing requirements in K.A.R. 109-2-6(c)(1)(C). The Board will consider a temporary variance from K.A.R. 109-2-6(c)(1)(C).

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

¹ K.S.A. 65-6112 defines a professional nurse to mean a person licensed to practice professional nursing as defined in K.S.A. 65-1113 (d)(1). These are commonly referred to in practice as Registered Nurses (RN).

- a. 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 twenty-four (24) 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 which shall include, at a minimum:
 - i. emergency vehicle operations;
 - ii. first aid;
 - iii. CPR;
 - iv. AED;
 - v. Stop-the-Bleed/tourniquet application;
 - vi. naloxone administration;
 - vii. patient confidentiality; and
 - viii. potential workplace hazards;
 9. a plan detailing the applicant's future effort(s) to recruit additional certified EMS providers;
 10. 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.
- b. If the period of time for which the variance is requested is in excess of 12 months OR if this is a second or subsequent request within an 18-month rolling time period, prior to the approval of any variance, the ambulance service shall conduct a meeting open to the public and under the following conditions:
 1. The date and time of the meeting shall be mutually agreed upon by the operator and the Board's Executive Director;
 2. at least 7 days in advance of the meeting, notice of the meeting 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 shall be made available for viewing at the public meeting;
 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 meeting;
 5. the ambulance service may use the following language to issue notice of the public meeting:

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. The variance, if approved, would allow the provider to operate their ambulances without meeting the minimum staffing requirement of at least two certified EMS providers or one certified EMS provider and a health care provider while transporting patients. This variance is due to our service experiencing a significant shortage of personnel that is resulting in a hardship to our community for the continued 24/7 operation of our ambulance service. This variance requires a public meeting to be held prior to being granted. The meeting 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.
- c. Upon approval of the variance and upon verification of successful completion of the service's training and requirements listed in (b)(8) above, the ambulance service may:
 1. staff an ambulance with one non-EMS certified 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:
 - i. EMT
 - ii. AEMT
 - iii. Paramedic
 - iv. Physician
 - v. Physician Assistant
 - vi. Advanced Practice Registered Nurse
 - vii. Professional Nurse
 2. staff as noted above for interfacility ground transports for any patient who requires no more than EMT-level care during that transport if the patient's condition is not life-threatening and it is not reasonably expected for the condition to degrade during transport.
- d. Reporting. The ambulance service shall:
 1. Maintain training records verifying the successful completion of each training and requirement the service utilized for (b)(8) for each individual being used and provide such records to the Board upon request;
 2. place each individual utilized for this function in the ambulance service's list of personnel within the board's online licensing system;
 3. notify the Board of each use of this variance for interfacility ground transport when staffing consistent with 109-2-6(c)(1)(C) was available, but not used in an effort to maintain 911 coverage.

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