

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Health and Human Services

Bureau name:

Population Health and Community Services

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2020-81 HS

Title of proposed rule set:

EMS Personnel Licensing and Education

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Comparisons were made with standards from CAMTS, CAAS, NAAMTA, Guidelines for the Use and Availability of Helicopter Emergency Medical Transport by the U.S. Department of Transportation, NHTSA, for consistency in standards for EMS agencies and vehicles.

A. Are these rules required by state law or federal mandate?

Yes, section 20910 of 1978 PA 368, MCL 333.20910, mandates rule promulgation.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed any federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rules do not exceed standards in similarly situated states or federal standards, nor do they exceed standards from the States within the Great Lakes State Council of the National Association of State EMS Officials (NASEMSO) (Ohio, Indiana, Illinois, Wisconsin, and Minnesota).

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The proposed rules do not exceed standards in the states as part of the NASEMSO Association.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

Currently, the Air Ambulance Operations duplicates Rules from the Certificate of Need.

The Certificate of Need for air ambulance services, section 22215 of 1978 PA 368 as amended, and sections 7 and 8 of Act 1969 PA 306 as amended, MCL 333.22215, 24.207, and 24.208, is being discontinued due to the Airline Deregulation Act. This necessitates ensuring that appropriate portions of the Certificate of Need that address medical care requirements for air ambulances are contained in the rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

Meetings were held with the Certificate of Need State Officials and Air Medical groups to coordinate the transition from Certificate of Need to ambulance operation rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply to the proposed rules.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply to the proposed rules.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules are meant to: streamline the new and annual licensing processes for all 830 life support agencies and the thousands of life support vehicles; improve the ability of reporting and tracking of licensing and compliance activities to ensure consistency and follow through; and improve patient safety through increased reporting and investigating identified issues with system, agency and other public health concerns.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

Currently receiving approximately 300 complaints per year, it is anticipated that this number will increase due to ease of reporting and clarifying rules for personnel, medical control authorities, and agencies.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, notification of complaints is received on a reactive basis when departmental licensing action is needed. The desired practice would be notification when remediation is still possible.

C. What is the desired outcome?

Consistent and high quality patient care throughout the state.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Without clear and consistent rules to define behavior and standards for EMS agencies, vehicles, and medical control authorities, the public, patients, and EMS personnel are at risk for serious harm, up to and including death. There are 59 medical control authorities that provide medical oversight to all EMS agencies, vehicles, and personnel. Without standards of care, there would be no consistency or assurance that patients are receiving quality care.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The current rules are outdated, redundant, and there is language that is not clear, which results in confusion over roles and responsibilities for EMS agencies and medical control authorities. In addition, the medical quality component needed to be included in the rules due to the Certificate of Need being eliminated for air ambulances.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

There are no fee increases or new unfunded mandates to EMS agencies or medical control authorities. The proposed rule changes are designed to clarify and eliminate redundancies in order to protect the health, safety, and welfare of Michigan citizens.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

R 325.22338 has been added to R 325.22325 and can be rescinded.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The fiscal impact on the agency is zero.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

There have been no agency appropriations made or a funding source provided for any expenditures associated with the proposed rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

There is a potential minimum cost to four EMS agencies that may need to adjust the lettering on their ambulances to reflect the actual level of service that the EMS agency provides. This is not a new requirement or burden on agencies, however, there was confusion on the interpretation of the rule, so changes were made to clarify.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The requirement to show the actual level of service on the EMS agency vehicle is necessary so that the public knows what level of service they can expect. For example, there are four levels of service that are provided to the public: medical first response, basic life support, limited advanced life support, and advanced life support. Each increased level has the ability to provide more advanced care to patients.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

If a municipal EMS agency has a vehicle that is not properly lettered, it would cost approximately \$50 per vehicle to re-letter.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

DHHS is not aware of any rural EMS agency that would be affected by the proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

If an EMS agency that is also a governmental unit does not have their vehicles lettered properly, they will have to purchase either vinyl or magnetic lettering to display the appropriate level of service they provide.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There are no appropriations or funding sources identified for any additional expenditures associated with the proposed rule.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The rule change will not have a specific impact to rural areas. Changes to personnel and training as outlined in the proposed rules will provide consistent training and service to all areas of Michigan, rural and urban.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Consistent training and service requirements for all staff and businesses associated with the proposed rules for all areas of Michigan, rural and urban.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

There are no impacts on the environment with the proposed rules.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

MDHHS did not consider exempting any life support agencies from the proposed rules.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed changes to the rules do not have a disproportionate impact on life support agencies – rural, private, or municipal.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

There will be no impact on small businesses and the number affected by the proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

There is no differentiation between small and large businesses with compliance/reporting requirements or timetables under these proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

DHHS has not consolidated or simplified compliance and reporting requirements for small businesses. Compliance and reporting requirements are the same for all businesses in the proposed rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

MDHHS did not establish performance standards to replace design or operation standards required by the proposed rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact the rules will impose on small businesses due to the business' size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no identified costs attributed to the small business for preparation in complying with the proposed rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no anticipated additional costs attributable to the proposed rules involving equipment, supplies, labor, and increased administrative costs.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no identified costs associated with legal, consulting, or accounting services to small businesses to comply with the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

As there are no anticipated costs associated with these proposed rules, there is no identified economic harm to the small business.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There is no anticipated costs to MDHHS. The rules do not exempt or set a lesser standard for small businesses. All businesses are expected to comply with the requirements of the rules.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is no impact on the public interest. All businesses will comply with the personnel and training standards as set by the rules to ensure consistent training, safety, and service to all Michigan citizens.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The rules were developed in coordination with all EMS stakeholders in the public over a timeframe of 2 years.

A. If small businesses were involved in the development of the rules, please identify the business(es).

All EMS agencies, including municipal, private, and rural agencies were involved in the development through the EMSCC, their subcommittees, and public comment of all of their constituent groups.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

With the exception of lettering costs approximated at \$50 for each vehicle as identified above, there are no anticipated compliance costs for the proposed rule amendments.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Anyone who requires EMS will benefit from access to a safe and high quality EMS system. The cost of compliance with the rules is minimal and only reflect an increase under answer 28.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There are no additional costs anticipated for compliance with the rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The current rules already require training and other requirements for EMS personnel. Any additional costs for compliance with the proposed rules will be minimal.

A. How many and what category of individuals will be affected by the rules?

811 EMS agencies, 3,870 vehicles, approximately 28,000 licensed EMS personnel, and 59 medical control authorities.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Consistent training, testing, vehicle requirements will impact not only the EMS personnel and staff but all Michigan citizens when EMS services are needed.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Cost reductions may include less turnover, more accountability for training and education that leads to a more efficient and consistent EMS force.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The cost reductions are unknown but it is anticipated that quality training of EMS staff and expectations under the rules may lead to quality service for those needing EMS services and reduced turnover as the expectations of what is required for EMS personnel is consistent statewide.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules may not impact business growth or job creation in Michigan. The rules will provide consistency in training for all EMS personnel and may reduce turnover.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There are no known individuals or businesses that will be disproportionately affected by the rules.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

Aside from a \$50 charge for lettering for some EMS vehicles, there was no cost analysis that was needed for this rule set.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

In the two year discussions with stakeholders, the lettering charge was the only identified cost change associated with the rule set.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The only other alternative to the rules was to amend current legislation. This did not seem reasonable given the length of the rule set. Further, the industry has been functioning based on the rule set successfully for years.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

Statutory amendments would not be necessary nor reasonable due to the large number of administrative rules applicable to this subject.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

A private-market based mechanism is not considered feasible under the proposed rule set as the statute does not contemplate enforcement of the rules by any other entity other than the state agency, MDHHS.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No other alternatives were considered to incorporate into the rules. The proposed rules are a result of over two years of stakeholder suggestions and compromise to make the most efficient system available for the citizens of Michigan.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Based on the current and proposed rules, forms, training requirements, and other directives in following training and staff protocols will be created.