



COMMONWEALTH of VIRGINIA

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Town Hall Response Memorandum

DATE: September 29, 2015

TO: Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

THROUGH: David H. Trump, MD, MPH, MPA *DHT*
Chief Deputy Commissioner
Public Health and Preparedness

THROUGH: Gary R. Brown, Director *GRB*
Office of Emergency Medical Services

FROM: Michael D. Berg, BS, NRP *MDB*
Manager, Regulation and Compliance
Office of Emergency Medical Services

SUBJECT: Response to Department of Planning and Budget (DPB)
Economic Impact Analysis

PURPOSE

To provide a response to the DPB review and comments regarding the recommendation to add the term "affiliation" to the *Virginia EMS Regulations*, specifically 12VAC5-31-910 Criminal or enforcement history <http://townhall.virginia.gov?L?viewstage.cfm?stageid=7067>. The following language was submitted by DPB: "On the other hand, there is a cost to limiting job opportunities for people who are otherwise qualified and have "paid their debt to society". These individuals are worse off by the denial of opportunity to make a living within the law. Also, roadblocks to legitimate employment may potentially encourage recidivism for individuals who otherwise might not have repeat offended."

BACKGROUND

This revision adds criteria that prevent an individual from becoming affiliated with an EMS agency if they have a prior history of committing certain crimes that would also exclude them

from becoming certified as a Virginia EMS provider. This proposed language was in the 2003 version of the Virginia EMS Regulations and is a technical revision for inclusion in the current version of the EMS Regulations.

"Affiliation" is the broader term. Per 12VAC5-31-10. Definitions, "Affiliated" means a person who is employed by or a member of an EMS agency. "Certification" means a credential issued by the Office of EMS for a specified period of time to a person who has successfully completed an approved training program.

The *Code of Virginia (Code)* Section 32.1-111.5. E. requires "a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information" for purposes of a criminal background check. 12VAC5-31-540. Personnel Records already requires that an EMS agency "shall have a record for each individual affiliated with the EMS agency documenting the results of a criminal history background check conducted through the Central Criminal Records Exchange and the National Crime Information Center via the Virginia State Police."

It is important to note that the language adopted is reflective of that of the National Registry of Emergency Medical Technicians (NREMT) exclusionary criteria for criminal convictions. The following is an excerpt as to the justification of their rationale for such criteria:

"EMS professionals, under the authority of their state licensure, have unsupervised, intimate, physical and emotional contact with patients at a time of maximum physical and emotional vulnerability, as well as unsupervised access to a patient's personal property. These patients may be unable to defend or protect themselves, voice objections to particular actions, or provide accurate accounts of events at a later time. EMS professionals, therefore, are placed in a position of the highest public trust.

The public in need of out-of-hospital medical services relies on state licensure and national certification to assure that those EMS professionals who respond to their calls for aid qualify for this extraordinary trust. For these reasons, the NREMT has adopted the following Criminal Conviction Policy to ensure that individuals, who have been convicted of certain crimes, are identified and appropriately evaluated as to whether they would pose a risk to public safety as an EMS provider."

https://www.nremt.org/nremt/about/policy_felony.asp

Based on provisions within the *Virginia EMS Regulations* individuals who have been convicted of certain crimes, after a defined waiting period, may apply to gain Virginia EMS certification and also affiliate with an EMS agency as a volunteer or an employee. Furthermore, individuals who have been pardoned by the Governor and/or had their rights restored may be eligible for Virginia EMS certification as well as affiliation with a volunteer or career EMS agency.

JUSTIFICATION

The National Registry of Emergency Medical Technicians (NREMT) states patients that EMS professionals come in contact with may be vulnerable and unable to defend themselves. Therefore, there are increased standards and requirements for individuals seeking certification as an EMS provider or affiliation with an EMS agency. Certain heinous crimes do prevent an individual from entering the Virginia EMS system. However, not all individuals with a criminal history are denied certification or affiliation. The current regulation provides individuals who have committed certain crimes the opportunity to demonstrate that their affiliation with EMS will not jeopardize public health safety.

DPB also noted that "Banning the employment of people with criminal backgrounds in EMS agencies may reduce their exposure to people in vulnerable positions. This may reduce the likelihood that people receiving EMS services, as well as other EMS employees, may be victimized. Protecting the well-being of patients and other employees has significant value." The *Code* (Section 32.1-111.5. E) requires the completion of a criminal background check for any volunteer with or employee of an EMS agency. By including the term "affiliation" in 12VAC5-31-910, the Regulations will clearly apply the same criteria in evaluating the results of the Code-required criminal background check for both certified and non-certified (but nonetheless affiliated) volunteers with or employees of an EMS agency.