

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: August 5, 2013

SUBJECT: Amendments to County Code Chapter 87 – EMS

PRESENTER: Rocky Hyder

ATTACHMENTS: Yes – Chapter 87 with proposed amendments & summary

SUMMARY OF REQUEST:

Following a review of the Patient Protection and Affordable Care Act staff has drafted several proposed amendments to Chapter 87-EMS of the Henderson County Code for the Boards consideration. In general, the proposed amendments are designed to place the County in a position of being able to manage emergency and routine patient transportation and care under the PPACA.

BOARD ACTION REQUESTED:

Staff suggests the Board consider the proposed amendments and provide direction with regard to amiability or alteration. The Board may amend Chapter 87 by giving staff direction on any changes needed and amending the Code by majority vote on the second reading or adopting the changes unanimously on the first reading. Following adoption of the amendments, staff would prefer to provide a 60 day notice of termination to all existing franchisee's and have the Board determine which franchises to renew on an individual basis.

Suggested Motion:

I move to adopt the amendments to Chapter 87 of the Henderson County Code as presented.

Summary of Proposed Changes to Henderson County Code

Chapter 87 – Emergency Medical Services

Page	Reference	Proposed Amendment
1	87-1 (2)	Delete Ambulance Attendant definition because AA is no longer recognized by NCOEMS. Replaced with Medical Responder
2	87.1 (14)	Added Medical Responder definition to replace Ambulance Attendant
2	87-2 (C)	Changed the wording in paragraph 1 to enable the County to utilize any NCOEMS approved ambulance in cases of disaster or imminent emergency
2	87-2 (C)	Deleted “or other locations” in paragraph 2 because we can’t regulate other locations
3	87-2 (C)	Added paragraph 5 to exempt inter-facility hospital transport services from the franchise requirement (e.g. Mission Regional Transport)
3	87-2 (C)	Added paragraph 6 to exempt licensed medical helicopter services from the franchise requirement
3	87-3 (C)	Inserted language to require training transcripts and references from previous franchisors, if any.
3	87-3 (I)	Added language to require some basic information needed to determine the scope of the request and basic capability of the applicant
3	87-3 (K)	Included a paragraph to provide the explicit option to deny or refuse applications based on the best interest of the citizens in the County
3	87-4 (B)	Eliminated the emergency transportation franchise due to the change in 87-2 (C) that allows the utilization of any NCOEMS approved ambulance in a disaster / emergency
3	87-4 (C)	Changed the hearing requirement to may and extended the timeframe to 90 days
4	87-4 (D)	Changed paragraph 1 to enable the County to ensure a benefit for the citizens from a franchise agreement
4	87-4 (D)	Added paragraph 4 to clearly state the franchisee must offer additional capability without negatively impacting the County
4	87-5 -11	Language clean-up
6	87-14	Language improvement for responsibilities and reporting

Chapter 87
Emergency Medical Services

[HISTORY: Adopted by the Board of Commissioners of Henderson County 1-19-1983; amended in its entirety 5-17-1995. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Nonemergency Transport Service Franchise - See Ch. 401.

§ 87-1. Definitions.

Unless the context otherwise requires, the following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) Ambulance - Any privately or publicly owned motor vehicle, aircraft or vessel that is specially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways or airways of this County of persons who are sick, injured, wounded or otherwise incapacitated or helpless and that is permitted by the Department of Human Resources, Division of Facility Services, Office of Emergency Medical Services, and any vehicle meeting the definition of an "EMS nontransporting vehicle" under Title 10A of the North Carolina Administrative Code (currently found in 10A NCAC 13P.0109), as it may be amended from time to time. [Amended 11-18-1998; 9-6-2005]

~~(2) Ambulance Attendant - An individual who has completed a training program in emergency medical care and first aid approved by the North Carolina Office of Emergency Medical Services (NCOEMS) and has been certified as an ambulance attendant by NCOEMS. [Amended 11-18-1998]~~

- (32) Ambulance Provider License - The legal authorization issued by NCOEMS for a person, firm, corporation or association to operate an ambulance service within a specified geographical service area which includes the areas of Henderson County that a franchisee is authorized to serve under the terms of the franchise. [Added 11-18-1998]

(43) Ambulance Service - A public or privately owned enterprise that is engaged in the transportation of patients to emergency and/or nonemergency medical facilities.

(54) Approved - Approved by the North Carolina Medical Care Commission pursuant to the latter's rules and regulations promulgated under N.C.G.S. 143B-165. [Amended 11-18-1998]

(65) Backup Ambulance Service - The system of personnel and equipment meeting the same criteria as ambulance service but not normally dispatched at first-call response.

(76) County - The County of Henderson Board of Commissioners or designated representative.

(87) Dispatcher - A person who is available at all times to receive requests for emergency services, to dispatch emergency services and to advise the city police, County Sheriff and emergency medical facilities of any existing or threatened emergencies.

(98) Emergency And Emergency Transportation Service - The operation of an ambulance in order to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

(109) Emergency Medical Technician - An individual who has completed a training program in emergency medical care at least equal to the National Standard Training Program for emergency medical technicians as defined by the United States Department of Transportation and has been certified as an emergency medical technician by NCOEMS. [Amended 11-18-1998]

(110) First Responder - The first dispatched medical or rescue aid to arrive at the scene and provide emergency medical assistance to stabilize the patient while waiting for further medical aid and/or transport.

(111) Franchise - A permit issued by the County to a person for the operation of an ambulance service.

Comment [RDH1]: Ambulance Attendant is no longer recognized by NCOEMS – replaced by Medical Responder

- (4312) Franchisee - Any person having been issued a franchise by the County for the operation of an ambulance service.
- (4413) License - Any driver's license or permit to operate a motor vehicle issued under or granted by the laws of the State of North Carolina.
- (14) ~~Medical Responder - An individual who has completed a training program in emergency medical care and first aid approved by the North Carolina Office of Emergency Medical Services (NCOEMS) and has been certified as an Medical Responder by NCOEMS. [Amended 11-18-1998]~~
- (15) Nonemergency Transportation Services - The operation of an ambulance for any purpose other than an emergency.
- (4616) Operator - A person in actual physical control of an ambulance which is in motion or which has the engine running.
- (4717) Owner - Any person or entity who or which owns and operates an ambulance service.
- (4818) Patient - An individual who is sick, injured, wounded or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated. [Amended 11-18-1998]
- (4919) Person - Any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.
- (2020) Rescue - Situations where the victim cannot escape an area through the normal exit or under his-their own power.

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§ 87-2. Franchise Required.

- A. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or nonemergency transportation of patients within the County of Henderson unless the person holds a valid permit for each ambulance used in such business or service issued by the Office of Emergency Medical Services of the North Carolina Department of Human Resources and an ambulance provider license and has been granted a franchise for the operation of such business or service by the County pursuant to this chapter. [Amended 11-18-1998]
- B. No person shall operate an ambulance or drive, attend or permit a vehicle to be operated for ambulance purposes within the County of Henderson unless he or she holds a currently valid certificate as an ambulance attendant or emergency medical technician issued by the State of North Carolina, except pursuant to a mutual aid agreement entered into between Henderson County and an agency or entity licensed under standards comparable to those employed in this chapter. [Amended 8-1-2005; 9-6-2005]
- C. No franchise shall be required for:
 - (1) Any entity rendering assistance ~~to a franchised ambulance service at the request of Henderson County~~ in the case of ~~a major catastrophe or emergency-other emergent situation~~ for which the services ~~franchised by the~~ ~~County of Henderson~~ ~~County~~ are insufficient or ~~with which the services franchised by~~ ~~the County of Henderson are~~ unable to cope.
[Amended 11-18-1998]
 - (2) Any entity operated from a location or headquarters outside of ~~the County of Henderson~~ in order to transport patients who are picked up beyond the limits of ~~the County of Henderson,~~ but no such entity shall be used to pick up patients ~~within~~ ~~the County of Henderson~~ for transporting to locations within the County ~~of Henderson or other locations~~ unless it is rendering assistance as referred to in ~~Subsection C (1),~~ ~~above.~~
 - (3) Law enforcement personnel.
 - (4) County-owned and -operated ambulances.

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- (5) ~~Hospital transportation services for the purpose of patient transfer in which the service is exclusively owned and operated by one of the hospitals involved.~~
- (6) ~~Medical air ambulances which are properly licensed to provide emergency medical transportation services.~~

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§ 87-3. Franchise Application.

Application for a franchise to operate ambulances in the County of Henderson shall be made upon such forms as may be prepared or prescribed by the County and shall contain:

- A. The name and address of the applicant and of the owner of the ambulance.
- B. The trade or other fictitious names, if any, under which the applicant does business along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- ~~C. A resume transcript of the training and experience of the applicant in the transportation and care of _____ patients, including references from every location in which the applicant has been franchised for the past 15 years, if any.~~
- D. A description and copy of state certification for each ambulance owned and operated by the applicant.
- E. A description and copy of the ambulance provider license issued by NCOEMS. [Added 11-18-1998]
- F. The location and description of the place from which it is intended to operate.
- G. An audited financial statement of the applicant as the same pertains to the operations in the County of Henderson, said financial statement to be in such form and in such detail as may be required by the County.
- H. A description of the applicant's capability to provide twenty-four-hour coverage, seven days per week, for the district covered by the franchise applied for and an accurate estimate of the minimum and maximum time for a response call within such districts demonstrating that minimum and maximum response times within the district covered by the franchise applied for would meet the requirements for the level of service for which application is made. [Amended 8-1-2005]
- ~~I. A description of: 1) Proposed service area. 2) Arrangements for medical direction and oversight. 3) Agency medical certification level from NCOEMS. 4) Compliance plan for EMS system continuing education training requirements.~~
- ~~J. Any information the County shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance service in the County of Henderson in accordance with the requirements of state laws and the provisions of this regulation.~~
- ~~K. The County reserves the right to deny any application if the Board of Commissioners finds the grant of such application is contrary to the interest of the citizens of the County.~~

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§ 87-4. Grant of Franchise.

- A. Prior to accepting applications from applicants for the operation of an ambulance service, the Board of Commissioners may designate specific service areas as franchise districts. Said districts will be established on criteria that include geographic size, road access, and the location of existing medical transportation services, population and response time. The Board of Commissioners shall have the authority to redistrict or rearrange existing districts at any time at its discretion.
- ~~B. An applicant may apply for a franchise to operate either emergency transportation service _____ or a nonemergency transportation service. Emergency transportation services will be provided pursuant to Section 87-2 Subsection C(1) of this Code. If both types of service are to be provided, _____ separate applications must be filed for each type.~~
- ~~C. Upon receipt of an application for a franchise, the County shall may schedule a time and place _____ for hearing the applicant. Within 30-90 days after the hearing, the County shall cause such _____ investigation as it may deem necessary to be made of the applicant and his proposed _____ operations.~~
- D. A franchise may be granted if the County finds that:

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- (1) The public convenience and necessity require the proposed ambulance service and the franchise will benefit the county.
- (2) Each such ambulance of the applicant, his required equipment and the premises designated in the application has been certified by the County and the State of North Carolina.
- (3) Only duly licensed ambulance attendants and emergency medical technicians are employed in such capacities.
- (4) The franchise will provide services and equipment the county does not or cannot provide and will not adversely affect current operations financially or otherwise.

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§ 87-5. Term of Franchise.

- A. The County may issue a franchise hereunder to an owner of an ambulance service, to be valid for a term to be determined by the County, provided that either, as its option, may terminate the franchise upon 60 days' prior written notice to the other party. After a notice of service termination is given, the ambulance service shall reapply for a franchise if continued service is desired.
- B. If any franchisee shall violate or fail to comply with any provision of this chapter or a franchise issued hereunder, said franchisee shall be cited by the County for said violation or failure to comply. The County, after a hearing pursuant to the citation, may impose a civil penalty as provided in § 87-13 hereinafter or may suspend or revoke the franchise. If, upon such hearing, the County shall find that the franchisee has corrected any deficiencies and has brought his-the operation into compliance with the provisions of this chapter, the franchise shall not may be suspended or, revoked, but or a civil penalty as provided 1998] in § 87-13 hereinafter may be imposed. [Amended 11-18-

provided
1998]

- C. Upon suspension, revocation or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation or termination of a driver's license or attendant's-medical responders certificate or emergency medical technician certificate, such person shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service or attend an ambulance, and no person shall employ or permit such individual to drive an ambulance or provide medical care in conjunction with an ambulance service.

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§ 87-6. Operation of Franchise; Sale or Transfer.

- A. Each franchised ambulance service shall comply at all times with the requirements of this chapter, the franchise granted hereunder and all applicable state and local laws relating to health, sanitation, safety, equipment and ambulance design and all other laws and ordinances. Each franchised ambulance service shall also comply at all times with the then-current Henderson County Emergency Services program. Each franchised ambulance service shall be provided with a copy of this program and all its requirements at the time of the grant of its franchise, and shall be provided with copies of all amendments to the program. [Amended 9-6-2005]
- B. Prior approval of the County shall be required where ownership or control of more than 10% of the right of control of the franchisee is acquired by a person or group of persons acting in concert, none of whom own or control 10% or more of such right of control, singularly or collectively, at the date of the franchise. By its acceptance of the franchise, the franchisee specifically agrees that any such acquisition occurring without prior approval of the County shall constitute a violation of the franchise by the franchisee and shall be cause for termination at the option of the County.
- C. Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this chapter as upon original franchising.

- D. No franchise may be sold, assigned, mortgaged or otherwise transferred without the approval of the County and a finding of conformance with all requirements of this chapter as upon original franchising. Each franchised ambulance service, its equipment and the premises designated in the application, and all records relating to its maintenance and operation, as such, shall be open to inspection by the state, the County or their designated representatives.
- E. No official entry made upon a franchise may be defeated, removed or obliterated.

§ 87-7. Drivers and Attendants. [Amended 11-18-1998]

Standards for drivers and ~~attendants~~ ~~attendants~~ as developed by the North Carolina Medical Care Commission as requirements for certification of ~~ambulance attendants~~ ~~medical responders~~ and emergency medical technicians pursuant to North Carolina General Statutes Chapter 131E, Article 7, and Chapter 143, Article 56, shall be applied, and the same are incorporated herein by reference.

§ 87-8. Vehicles and Equipment. [Amended 11-18-1998]

Vehicle and equipment standards as developed by the North Carolina Medical Care Commission pursuant to North Carolina General Statutes Chapter 131E, Article 7, and Chapter 143, Article 56, shall be applied, and the same are incorporated herein by reference.

§ 87-9. Communications.

- A. Each ambulance must be equipped with a two-way VHF radio licensed by the Federal Communications Commission which must be in operative condition at all times.
- B. Each ambulance service shall provide the County a copy of the Federal Communications Commission license authorizing the use of the communication equipment owned and operated by that service.
- C. Each base of operations must have at least one open telephone line. Telephone numbers must be registered with each law enforcement agency and communications center in the County of Henderson.

§ 87-10. Insurance.

No ambulance franchise shall be issued under this chapter, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County of Henderson, unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and/or operated by or for the ambulance service providing the payment of damages:

- A. In the sum of no less than \$1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agent; and
- B. In the sum of \$1,000,000 for the loss of or damage to the property of another, including personal property, under like circumstances, in sums as may be required by the State of North Carolina or as approved by the County of Henderson. [Amended 11-18-1998]

§ 87-11. Records.

Each franchisee shall maintain the following records:

- A. Record of dispatch, which shall show the time the call was received, the time the ambulance dispatched, the time arrived on the scene, the time arrived at destination, the time in service and the time returned to base.
- B. Trip record, which shall state all information required in Subsection A, in addition to the patient's address and telephone number, condition of the patient, type of medical assistance administered before reaching the hospital, total trip miles, schedule of charges and the name of the attendant and the driver. The trip record shall be so designated as to provide the patient with a copy thereof containing all required information. A copy of the trip record may serve as a receipt for any charges made.

- C. Daily report log, which shall be maintained for the purpose of identifying more than one person transported in any one day.
- D. Daily driver and attendant checklist and inspection report, which shall list contents and description of operations for each vehicle, signed by the individual verifying vehicle operations and equipment.
- E. Monthly activities report, which shall be submitted as requested to ~~the~~ Henderson County ~~Department of~~ Emergency Medical Services. [Amended 11-18-1998]

§ 87-12. Rates and Charges.

- A. The franchisee must keep on file with the Henderson County Office of Emergency Medical Services its current rate schedule for services provided in accordance with the franchise. The franchisee is expressly prohibited from charging any rate of service that exceeds the comparable rate of service charged by Henderson County without first obtaining specific approval from the Henderson County Board of Commissioners. [Amended 7-26-2000]
- B. No ambulance service shall attempt to collect rates on emergency calls until the patient has reached the point of destination, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance service, but such service may attempt to collect rates with the family or guardian of the patient once the patient is in the process of receiving medical attention.
- C. On nonemergency calls, or calls where a person requires transportation to a nonemergency facility, attempts to collect payment can be made before the ambulance begins its trip.

§ 87-13. Violations and Penalties. [Amended 11-18-1998]

Violation of this chapter, or the terms of any franchise granted hereunder, shall be subject to the penalties set forth in Chapter 1, General Provisions, Article II.

§ 87-14. Enforcement.

The Henderson County Office of Emergency Medical Services shall be the enforcing agency for the regulations contained in this chapter. Such office will:

- A. Receive all franchise proposals from potential providers.
- B. Study each proposal for conformance with this chapter.
- C. Recommend to the Board of Commissioners ~~the whether or not to award of~~ the franchise ~~(s) to the~~ ~~applicant(s) submitting the best proposal(s).~~
- D. Inspect the premises, vehicles, equipment and personnel of franchisees to assure compliance with this chapter and perform any other inspections that may be required.
- E. Recommend the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this chapter.
- F. Recommend the imposition of misdemeanor or civil penalties ~~as provided therein.~~
- G. Ensure by cooperative agreement with other ambulance services the continued service in a district where an ambulance service franchise has been suspended.
- H. ~~Bi-annually or as requested,~~ Receive ~~monthly~~ reports from ambulance services and consolidate the same into a ~~quarterly~~ summary for review by the Board of Commissioners ~~upon request.~~
- I. Receive complaints from the public, other enforcing agencies and ambulance services ~~regarding franchise infractions and,~~ review the complaint ~~and recommend actions to~~ with the Board of ~~Commissioners~~ ~~by monthly written report.~~
- J. Recommend improvements to the County which will ensure better medical transportation.
- K. Maintain all records required by this chapter and other applicable County regulations.

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§ 87-15. Territorial Jurisdiction.

The provisions of this chapter shall apply in both the incorporated and unincorporated areas within the geographic confines of the County of Henderson.

§ 87-16. Inspections.

The County may inspect a franchisee's records, premises and equipment at any time in order to ensure compliance with this chapter and any franchise granted hereunder.

§ 87-17. Amendments.

The Board of Commissioners of the County of Henderson may, through appropriate actions, amend or expand this chapter to include other emergency departments or agencies as deemed necessary.

§ 87-18. Through 87-35. (Reserved)