

Emergency Medical Services Scope of Practice  
February 2010

**Background**

Since the late 1970's, the Colorado Board of Medical Examiners (B.M.E.) within the Colorado Department of Regulatory Agencies (DORA) has been statutorily responsible for the regulation of licensed physicians who serve as medical directors for emergency medical service agencies. Pursuant to this authority, the B.M.E. has been responsible for promulgating rules that govern the duties of emergency medical services (EMS) medical directors and authorize the scope of practice for each level of certified emergency medical technician (EMT), and for approving waivers to the scope of practice through individual EMS service medical directors. As the Colorado Department of Public Health and Environment (CDPHE), Emergency Medical and Trauma Services Section (EMTS) has statutory responsibility for the certification/credentialing of EMTs; is tasked with working closely with EMS and trauma services; and is funded to provide system development support to local and county services, the overlap of interests between the B.M.E. and CDPHE is significant. Both agencies have historically worked together to ensure the most appropriate decision-making process possible under existing law; however, this has at times resulted in a complex system that has not been able to respond to the needs of the industry as efficiently as possible.

In 2010, the statutes governing the B.M.E. responsibilities in this arena are under "sunset review." During 2009, staff from DORA contacted several EMTS stakeholders and the CDPHE to explore the possibility of amending statutes to allow authority related to the governance of EMS medical directors, scope of practice and waivers to exist in the CDPHE. The sunset review report was released by DORA in November 2009 and contained the following recommendation:

***Transfer all regulatory authority pertaining to emergency medical technicians to the Colorado Department of Public Health and Environment, effective January 1, 2011, create the State Board of Emergency Medical and Trauma Services, and schedule the new board and regulation to sunset in 2015.***

Under the current, bi-furcated regulatory system, the Colorado Department of Public Health and Environment (CDPHE) certifies individual emergency medical technicians (EMTs), but the Board, by rule, determines the protocols EMTs may implement in the field. A more efficient system, and one that is utilized across the nation, is to centralize all regulatory authority at CDPHE.

As a result of this recommendation, legislation has been developed that would transfer to the CDPHE the scope of practice oversight authority related to EMS providers and the qualifications for EMS service medical directors.

**Discussion**

Under the legislative sunset review process, proposed bills are drafted based on the recommendations of the sunset review report. Consequently, a bill to transfer statutory authority for the promulgation of rules pertaining to EMT scope of practice, waivers to the scope of practice and qualifications/duties of EMS service medical directors was drafted to create an independent regulatory board, known as a Type 1 board, within CDPHE to accomplish these and other EMS responsibilities. However, the CDPHE, in consultation with DORA, has developed an amendment to the proposed bill that will vest the authority to regulate these specific areas of responsibility through rules promulgated by the CDPHE Executive Director (ED) or the state

Chief Medical Officer (CMO), whichever is a licensed physician. Expert advice and vetting of these responsibilities will be accomplished by the creation of an advisory board, known as a Type 2 board, and prior to rules being considered and promulgated by the ED/CMO. This advisory board, called the “Emergency Medical Practice Advisory Council” will consist of 9 voting members, one of whom is a current member of the state emergency medical and trauma services advisory council (SEMTAC), and 2 ex-officio members from CDPHE. The Governor will appoint eight of the voting members for specific terms, and the CDPHE ED will appoint the SEMTAC member and the ex-officio members. Membership of the advisory committee will consist of 5 physicians from rural and urban communities with expertise in providing EMS medical oversight and 4 certified emergency medical technicians at both advanced life support and basic life support levels of care.

The rationale to create an advisory board and promulgate rules through the ED/CMO is to ensure the lowest cost for services as well as providing an expeditious process that best serves the needs of the stakeholder community. Costs for maintaining and operating an advisory board that does not have rule-making authority are less since there is no need for significant external legal services and associated rule making costs for the board. Additionally, limiting the scope of this advisory board to work related to the scope of practice of EMTs, including waiver reviews and duties of EMS service medical directors allows the current regulatory structure already in place for EMT certification to remain, again reducing the overall fiscal impact of this proposed bill.

The fiscal impact of this bill will include additional administrative costs to support operations of the EMPAC, rule development and attorney review. Under the CDPHE amendment, these costs will be minimized, but must be covered from existing funds or the introduction of new funds in the form of certification fees. Understanding the importance of minimizing impact to Colorado’s EMS providers, these additional costs would be initially covered by using existing funds from the Highway Tax Users Fund (HUTF) EMS account. Once this change is effected, the department, in concert with the Colorado EMTS community may review alternative sources of funding at some future date.

Finally, given the on-going rapid advances in the practice of emergency medical care in terms of scope of practice and technology available to field providers, it is also important that this system of oversight have the ability to react in an efficient time frame and from a deliberative standpoint. It is thought that this model of regulatory oversight best accomplishes these goals. The ability of the stakeholder community and interested members of the public to access this regulatory process remains unchanged with regard to public notice, testimony and input. As with all other rules related to EMS and trauma authority under Title 25 of the Colorado Revised Statutes, rules promulgated pursuant to this new authority will be required to undergo an open and transparent vetting process in accord with the Administrative Procedures Act.

This legislative change is presently under consideration by the 2010 Colorado General Assembly. The CDPHE and DORA are supportive of this legislation and will work to ensure that stakeholder input is solicited as appropriate. For information concerning this initiative, contact D. Randy Kuykendall at 303-692-2945 or via email at [randy.kuykendall@state.co.us](mailto:randy.kuykendall@state.co.us).