

October 11, 2021

Hon. Michael G. Adams
Kentucky Secretary of State
700 Capital Avenue, Suite 152
Frankfort, KY 40601

Re: Emergency Waiver and Modification to 202 KAR 7:545

Dear Secretary Adams:

Senate Bill 150 § 1(13) (2020 Regular Session) granted the Kentucky Board of Emergency Medical Services (the "Board") the authority to waive or modify statutes and administrative regulations related to the emergency medical services profession during the State of Emergency declared by the Governor in Executive Order 2020-215. On April 6, 2020, pursuant to KRS 311A.020(3), the Board adopted an Order delegating its SB 150 authorities to the Executive Director of the Board. The Order grants the Executive Director the authority to waive or modify statutes or administrative regulations pursuant to SB 150 upon determining that such waiver or modification is necessary to protect public health or safety. On September 7, 2021, House Joint Resolution 1 (Special Session 2021) became law. The Resolution ratified the Board's existing emergency waivers and modifications and extended the State of Emergency declared in Executive Order 2020-215 until January 15, 2022, to the extent necessary to extend SB 150. HJR 1, §§ 2, 4(29).

Pursuant to the foregoing authorities, I have determined that an emergency waiver and modification to 202 KAR 7:545, License Classifications, is necessary to protect public health and safety. Specifically, subsections (3) and (4) of the administrative regulation require EMS agencies to obtain a license from the Board within ninety (90) days of issuance of a Certificate of Need from the Cabinet for Health and Family Services. However, before a license may be issued by the Board, new EMS agencies must contract with a medical director, order medications, purchase and acquire ambulances, hire staff, procure physical locations, etc. Due to staffing shortages, supply chain disruptions, and other circumstances created by the COVID-19 pandemic, it is difficult for agencies to satisfy the requirement that they receive a license from the Board within 90 days of issuance of a Certificate of Need. If the Board were to strictly enforce subsections (3) and (4), some otherwise qualified agencies would be denied a license. Consequently, communities in need may be deprived of adequate EMS services during the COVID-19 pandemic. Accordingly, an emergency waiver and modification to 202 KAR 7:545 striking subsections (3) and (4) is necessary to protect public health and safety for the duration of the State of Emergency.

Sincerely,



Michael Poynter
Executive Director
Kentucky Board of Emergency Medical Services