

W e s t c h e s t e r  
R e g i o n a l  
E m e r g e n c y  
M e d i c a l  
S e r v i c e s  
C o u n c i l

POLICIES AND PROCEDURES FOR:

- MUNICIPAL CERTIFICATE OF NEED (CON) PROCESS
- TRANSFER OF AMBULANCE SERVICE OPERATING AUTHORITY
- DETERMINATION OF NEED FOR NEW OR EXPANDING EMS SERVICES

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# **INTRODUCTION**

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In fulfillment of our statutory obligation, this packet is intended to provide the reader with necessary information regarding policies in effect within the Westchester Region for the transfer, creation, or expansion of ambulance or emergency medical services within Westchester County, New York<sup>1</sup>.

The following are pertinent excerpts from New York State Public Health Law regarding the authority of the Westchester Regional EMS Council in matters of EMS service certification:

**ARTICLE 30  
and  
ARTICLE 30A  
of the  
STATE OF NEW YORK  
PUBLIC HEALTH LAW  
Emergency Medical Services**

REVISIONS AS PROVIDED FOR BY:

- CHAPTER 190 OF THE LAWS OF 2001
- CHAPTER 349 OF THE LAWS OF 2001
- CHAPTER 463 OF THE LAWS OF 2001

NEW YORK STATE DEPARTMENT OF HEALTH  
Emergency Medical Services Program  
433 River Street  
Hedley Building, Suite 303  
Troy, New York 12180-2299  
518-402-0996  
FAX: 518-402-0985

## **SECTION 3003.5 REGIONAL EMERGENCY MEDICAL SERVICES COUNCILS.**

The regional council shall have the responsibility to make determinations of public need for the establishment of additional emergency medical services and ambulance services and to make the determinations of public need as provided in section three thousand eight. The regional council shall make such determination by an affirmative vote of a majority of all of those members consisting of voting members.

## **SECTION 3008. APPLICATIONS FOR DETERMINATIONS OF PUBLIC NEED.**

1. Every application for a determination of public need shall be made in writing to the appropriate regional council, shall specify the primary territory within which the applicant requests to operate, be

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<sup>1</sup> The Westchester Regional EMS Council graciously acknowledges the Hudson Valley Regional EMS Council and New York City Regional EMS Council, whose policies and procedures provided inspiration and technical guidance. In addition, the following have kindly contributed their time to review and improve this manual: Joseph Barca, Katherine O'Connor, David Dawson, and Michael Liverzani.

-Daniel Blum, Policy Author

verified under oath, and shall be in such form and contain such information as required by the rules and regulations promulgated pursuant to this article.

2. Notice of the application shall be forwarded by registered or certified mail by the appropriate regional council to the chief executive officers of all general hospitals, ambulance services, and municipalities operating within the same county or counties where the service seeks to operate. The notice shall provide opportunity for comment.

3. Notice pursuant to this section shall be deemed filed with the ambulance service and municipality upon being mailed by the appropriate regional or state council by registered or certified mail.

4. The appropriate regional council or the state council shall make its determination of public need within sixty days after receipt of the application.

5. The applicant or any concerned party may appeal the determination of the appropriate regional council to the state council within thirty days after the regional council makes its determination.

6. In the case of an application for certification under this article by a municipal ambulance service to serve the area within the municipality, and the municipal ambulance service meets appropriate training, staffing and equipment standards, there should be a presumption in favor of approving the application.

7-a. Notwithstanding any other provision of law and subject to the provisions of this article, any municipality within this state, or fire district acting on behalf of any such municipality, and acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions to establish and operate advanced life support first responder services or municipal ambulance services within the municipality, upon meeting or exceeding all standards set by the department for appropriate training, staffing and equipment, and upon filing with the New York State Emergency Medical Services Council, a written request for such authorization. Upon such filing, such municipal advanced life support first responder service or municipal ambulance service shall be deemed to have satisfied any and all requirements for determination public need for the establishment of additional emergency medical services pursuant to this article for a period of two years following the date of such filing. Nothing in this article shall be deemed to exclude the municipal advanced life support first responder service or municipal ambulance service authorized to be established and operated pursuant to this article from complying with any other requirement or provision of this article or any other applicable provision of law.

7-b. In the case of an application for certification pursuant to this subdivision, for a municipal advanced life support or municipal ambulance service, to serve the area within the municipality, where the proposed service meets or exceeds the appropriate training, staffing and equipment standards, there shall be a strong presumption in favor of approving the application.

**Applicants should also consult New York State Department of Health, Bureau of EMS policy statements:**

- **Municipal Certificate of Need Applications, No. 01-06, Date: 06/26/01**
- **EMS Service Operating Authority, No. 93-10, Date: 12/1/93**

## THE WESTCHESTER REGIONAL EMS COUNCIL

Through delegated authority established pursuant to Articles 30 and 30A of New York State Public Health Law, the Westchester Regional EMS Council (WREMSCO) is responsible for overseeing and coordinating EMS operations in the County of Westchester, New York. The WREMSCO has no jurisdictional authority over other Counties within New York State, nor does any other Regional EMS Council have statutory authority over the Westchester Region. The Regional Authority of the WREMSCO is coterminous with the geographical borders of Westchester County, New York. Accordingly, if a determination (of need, fitness or competency) compelled under Public Health Law involves the territory of Westchester County, the procedures promulgated herein must be followed. If the application (in part) covers another region(s), such other Regional EMS Council(s) must also be consulted for approval.

The Westchester REMSCO is reflective of our community; comprised of representatives of the public, health care community and EMS organizations within Westchester itself. Bordered by New York City to the South, Long Island Sound and the State of Connecticut to the east, the Hudson River to the west and Putnam County to the north, the region covers an area of 450 square miles and almost one million residents.

A fusion of both volunteer and career professionals, Westchester EMS agencies include hospital based, commercial, independent, fire service, police service, and governmental organizations. Forty-three (43) certified ambulance services, two (2) ALS First Response agencies, and over thirty (30) BLS First Response agencies provide caring, professional emergency medical services within our community.

The Westchester County Department of Emergency Services is the Regional Program Agency authorized by the New York State Department of Health to:

- Facilitate quality improvement of emergency medical care within the region;
- Staff the Regional Emergency Medical Advisory Committee;
- Provide pre-hospital education programs approved by the Department of Health; and, support and facilitate regional emergency medical services systems through other activities.

The WREMSCO appoints various committees to execute business on behalf of the Council. Two sub-committees that have influence on the application process are described below:

**The Regional Emergency Medical Advisory Committee (REMAC)** of Westchester County is a subcommittee of the Westchester Regional Emergency Medical Services Council. It is established to promulgate standards and provide medical guidance and advice on pre-hospital care and inter-facility transport to the emergency care providers that operate in Westchester County, New York.

The specific functions of the REMAC are:

1. To coordinate the development of a regional medical control system;

2. To develop regional standard of pre-hospital care, inter-facility transport, and medical direction thereof;
3. To approve treatment, triage, and transfer protocols, ambulance destinations, including 911 receiving facilities;
4. Participate in quality improvement activities addressing system-wide concerns, including the review of protocol compliance, medical care rendered and medical supervision provide thought the system; and
5. To approve ALS services, training sites, course curricula, and certification standards and processes including continuing medical education (CME) for pre-hospital personnel and medical control physicians.

Agencies wishing to provide Advanced Life Support (ALS) service must meet the minimum standards established by the Westchester REMAC and be approved by the REMAC to provide ALS service in Westchester County.

**The Transportation Committee** of the WREMSCO is a standing subcommittee comprised of not less than five (5) members of the WREMSCO who represent various constituency groups of EMS.

The Transportation Committee is charged with:

1. Developing policies for the orderly, lawful, consistent and equitable review of applications for
  - a. Municipal Certificate of Need Process (two years from the date of the original filing with SEMSCO);
  - b. Transfer of Ambulance Service Operating Authority; and,
  - c. Determination of need for new or expanding EMS services.
2. Meeting on an ad hoc basis (within prescribed time periods) to review such applications for completeness.
3. Rendering to the WREMSCO a recommendation for approval, denial or such other action based on application review.

## MUNICIPAL CERTIFICATE OF NEED (CON)

If a municipality, as defined by Article 1 of the General Municipal Law, wishes to obtain operating authority in order to establish and operate either an Advanced Life Support First Response Service (ALSFR) or an Ambulance Service under the provisions of Public Health Law Section 3008(7).a, the municipality must complete the following steps:

1. The municipality must file a written request with the State Emergency Medical Services Council (SEMSCO). The request must be sent to the SEMSCO in care of the Bureau of Emergency Medical Services (BEMS) and must include the following items:
  - a. A certified copy of the local law, ordinance or resolution from the municipal legislative body empowering the municipality to establish and operate an EMS service. The local law, ordinance or resolution should include, but not be limited to, the following:
    - A statement of need;
    - A statement establishing the type of service (ie. ALS-FR or Ambulance);
    - A statement declaring the area to be served; and
    - The date the resolution is to take effect.
  - b. A letter from the chief executive officer of the municipality requesting Public Health Law Operating Authority as a certified ALS-FR or ambulance service.
  - c. A complete Application for EMS Operating Certificate, a map identifying the area of operation (geography to be served may not exceed the boundaries of the applying municipality) and evidence that the service meets or exceeds all New York State Department of Health applicable standards.
  - d. If the municipality intends on providing Advanced Life Support, it must apply to the Westchester Regional Emergency Medical Services Advisory Council (WREMAC) and be approved. The approval letter from the REMAC must be included in the submission.
  - e. If the municipality intends to contract with another EMS provider for service, the filing should include copies of signed contracts or agreements.
  - f. If the municipality intends to operate an ALS-FR, the filing must include a transport agreement with an appropriately authorized ambulance service.
  - g. The filing for a municipal service must be sent to the following address by **certified mail or other return receipt delivery**:

New York State EMS Council  
Bureau of Emergency Medical Services and Trauma Systems  
New York State Department of Health  
875 Central Avenue  
Albany, NY 12206-1388
2. The ALSFR or Ambulance Service will be issued a Certificate of Operating Authority upon completion of a full service inspection to be conducted by the Department's appropriate regional office. The full service inspection may not take place before the filing is complete, received and reviewed by the Bureau of EMS.
3. Upon successful completion of the inspection and receipt of the NYS DOH Operating Certificate, the service may begin operation. The municipality shall be granted operating authority for a period of two years from the date the request is received by the Bureau of EMS.
4. Prior to the expiration of the municipal ALSFR or Ambulance Service (two years from the date of the original filing with SEMSCO) a complete application for New Ambulance or ALSFR Service must be received by the Westchester REMSCO for determination of need pursuant to PHL 3008.

It is strongly recommended that the municipality file the application for a new service at least 90 days prior to the expiration of the original certificate.

**NOTE:** The municipality is responsible for this service even if they enter into contracts with another agency to provide EMS.

Please request applications or direct requests for information or questions to the Bureau of EMS, Operations Unit at 518-402-0996.

## **TRANSFER OF OPERATING AUTHORITY**

In order to determine if the transfer of ambulance service operating authority of an existing ambulance service may occur in Westchester County, New York, the Westchester Regional EMS Council has approved a procedure that consists of the following components:

1. The Application
2. Public Notice
3. Review of Competency and Fitness
4. Regional Council Determination
5. NYS Department of Health Determination
6. Transfer of Operating Authority

Article 30, Section 3010 as amended July 1, 1993, permits EMS services to transfer operating authority to a new owner(s) following a review of fitness and competency of the new operator(s) and with the approval of the Westchester Regional EMS Council (Regional Council) and the New York State Department of Health (Department).

If a new certificate is requested to be added to the total number of certificates in existence or if a change of geography is requested to amend an existing primary operating territory, this procedure is not applicable and the applicant is referred to the procedures for Determination of Need for New or Expanding EMS Services.

### **DEFINITIONS**

**Competent<sup>2</sup>** means any proposed operator of any ambulance service or advanced life support first response service who is already or has been within the last ten (10) years an incorporator, officer, director, sponsor, principal stockholder, or operator of any service / agency who is rendering or did render a substantially consistent high level of care, and has been issued an operating certificate/license by any or all of the following:

- The NYS Department of Health or equivalent in any other State,
- The NYS Department of Social Services or equivalent in any other State,
- The NYS Department of Mental Hygiene or equivalent in any other State,

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<sup>2</sup> For complete definition of Fitness and Competency, refer to Article 30 of the Public Health Law of the State of New York, Section 3005(8).

- The NYS Department of Transportation or equivalent in any other State

**A consistently high level of care** will not be considered to have been rendered where there have been violations of the State EMS code, or other applicable rules and regulations, that:

- a. threatened to directly affect the health, safety, or welfare of any patient, or
- b. were recurrent or were not promptly corrected

**Fit**<sup>3</sup> means that the operator or proposed operator:

- a. has not been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuser, or sale of drugs; and,
- b. is not or was not subject to a state or federal administrative order relating to fraud or embezzlement, unless the New York State Commissioner of Health finds that such conviction or such order does not demonstrate a present risk or danger to patients or the public.

#### **ALLOWABLE TRANSFER CIRCUMSTANCES**<sup>4</sup>

Transfers of operating authority are allowable in the following circumstances with the approval of the Westchester Regional EMS Council and the Department of Health:

- Any change in the individual who is the sole proprietor (3010.2(a))
- Any change that results in adding new partners (3010.2(b))
- Any transfer, assignment, or other disposition of ten percent or more of a corporation's stock (3010.2)
- Any transfer of all or substantially all of the assets of a corporation to a new corporation or owner (3010.2(d))

**Examples:** the change in an operator without changing the territory of a sole proprietor, a sole proprietor incorporating for the first time, or a fire department service and assets being assumed by a volunteer ambulance corp. Individual questions and circumstances should be directed to the Regional Council and the Department of Health for guidance.

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<sup>3</sup> For complete definition of Fitness and Competency, refer to Article 30 of the Public Health Law of the State of New York, Section 3005(8).

<sup>4</sup> For complete definition of Allowable Transfer Circumstances, refer to Article 30 of the Public health Law of the State of New York, Section 3010(2)

## THE APPLICATION

1. The applicant is responsible for using all proscribed forms and responding to the “criteria” enumerated in the DOH application(s) and applicable policies and regulations.
2. It is the applicant’s responsibility to verify, that prior to submission, the proper applications are fully and accurately completed and that all of the necessary attachments, endorsements, evidence and other supporting and explanatory material the applicant wishes the Westchester Regional EMS Council to consider are submitted in accordance with all policies, rules and regulations. As required, forms must be notarized and affirmed.
3. All applications must be accompanied by the application fee of two thousand dollars (\$2,000.00). Payment shall be paid in the form of certified or bank check (or money orders) and made payable to the Westchester Regional EMS Council. The application fee is to be used to cover any expenses that the Council will incur as a result of the review process. If the review process costs less than the fee charged, the balance will be returned to the applicant upon written request of the applicant. If the review process exceeds the payment of two thousand dollars (\$2,000.00), the applicant will be billed for the balance and the applicant must pay all invoiced expenses in full within 30 days of receipt of invoice. All expenses are determined at the sole discretion of the Westchester Regional EMS Council, and the applicant is financially responsible for all costs incurred.
4. The complete application is the basis for the determination made by the Regional Council and the Department.
5. The applicant shall submit to the Regional Council two (2) originals and thirty five (35) duplicate copies of the following documents:
  - a. A completed application for the new EMS service, Expansion of Primary Territory or Transfer of Ownership
  - b. Complete, notarized and sworn Affirmation of Competency and Fitness (DOH 3778)
  - c. A statement of purpose and intent, signed by both parties that explains in common terms what is being proposed and including the end effect on both individuals, partnerships or corporations.
  - d. A complete resume for the new owner(s)/operator(s) that includes all health related licenses and a history of all employment and/or activities in any regulated health care/facility or activity for the past ten (10) years.
  - e. A list of any malpractice actions within the past ten (10) years that relate to patient care or harm and the outcome of each.
  - f. A copy of any stock sale and/or transfer agreement or other contract or legal agreement.
  - g. A listing of all property, plant, equipment, and stock involved in the matter  
(*Note: Disclosure of the financial values of each is not required*)

- h. A complete listing of the final owner(s).
- i. A copy of the most current NYS DOH Ambulance Service Operating Certificate of the service to be transferred.
- j. A list and/or copy of orders or deficiency notices within the past ten (10) years from any NYS Department or equivalent out of state agency listed that have deficiencies identified (singular or repetitive) that did or could have caused patient harm or were repetitive and un-corrected.

## **THE APPLICATION PROCESS**

The application submission process is as follows:

1. Two (2) original copies with original signatures and thirty five (35) copies of the completed application and a certified or bank check or money order in the amount of two thousand dollars (\$2,000.00) are to be sent to the offices of the Council at the following address:  
**Westchester Regional EMS Council**  
**4 Dana Rd.**  
**Valhalla, NY 10595**  
**Attn: Transportation Committee – TIME SENSITIVE**
2. All applications shall be submitted via U.S. Mail- certified return receipt requested, or such other commercial courier (ex. FedEx, UPS, etc.) that provides an independently verifiable receipt of delivery that demonstrates delivery date, time, and name of recipient.
3. All applications, when received, will be reviewed by staff to ensure that all requirements have been met and that all documents are complete. (*Note: The staff will review the application for completeness, not merit.*)
4. Upon receipt by the WREMSCO of appropriately signed and notarized copies of the Affirmation of Competency and Fitness and all other required documents, the NYS DOH Area Office will be notified to begin collecting information for the Regional Council's review of competency and fitness (to determine if a new operator has provided a consistently high level of care and therefore is competent to operate the service). Since approval of both the Regional Council and the Department are required, joint development of all required information is preferable and will expedite the process.
5. The application shall be referred to the WREMSCO Transportation Committee for review and recommendation, and if the Committee deems the application to be incomplete the applicant will be notified within seven (7) business days from the date of receipt. A checklist will be furnished identifying missing items.

6. If the application is found to be incomplete the applicant will be given sixty (60) days to complete the application. If at the end of the sixty (60) day period the applicant has not sent in a completed application or a request for an extension of the time period, a final accounting of expenses will be sent to the applicant as well as a refund of any of the two thousand dollars (\$2,000.00) not expended in the review of the application.
7. If the Transportation Committee deems the application to be complete, the applicant will be notified by certified mail within seven (7) business days of the date of the receipt of the application. The applicant will be advised of the date the application will be considered by the Westchester Regional EMS Council.
8. The Regional Council staff will forward a copy of the complete application and affirmation to the DOH Area Office within seven (7) business days of the application being deemed complete. The DOH Area Office shall collect and assemble information regarding fitness and competency for the review of the Transportation Committee and Council.
9. The Transportation Committee shall review the application within seven business days of receipt of all available documentation from the NYS DOH Area Office, all pertinent agencies, and responses from public notice regarding competency and fitness of the proposed new owner(s)/operator(s). The DOH Area Office will attempt to have information available to the Regional Council at least two (2) weeks prior to the scheduled Regional Council meeting. The Chairperson (or appointee) of the Transportation Committee of the Westchester Regional EMS Council shall present the Transportation Committee report, including the summary and specific recommendations to the Regional Council at its next regularly scheduled meeting for its review of Competency and Fitness.
10. The Regional Council meeting is a public (on the record) meeting and a determination of fitness and competency shall be established by a vote for the Transfer of Operating Authority, using the definition of majority from the Regional Council's By-Laws, which shall not contradict the PHL requirement that a majority shall consist of at least a majority of all members of the Council.
11. Within seven (7) business days following a vote of the Regional Council, Council staff shall forward to the Department of Health one complete original copy of the application and the written Regional Council decision. A complete record of the process will be maintained including the meeting minutes and a record of the vote and any Transportation Committee recommendations. The Regional Council will justify a detailed rationale and explanation for any negative decision.
12. The Department of Health will review the application and the Regional Council decision and within ten (10) business days of receiving the decision, confirm or deny the Regional Council decision and notify the applicant and the Regional Council accordingly.

13. Approval of the application and subsequent transfer of operating authority will be granted only upon approval of both the Regional Council and the Department.

## **THE WESTCHESTER REGIONAL EMS COUNCIL MEETING**

1. The Chairperson of the Transportation Committee shall present the Transportation Committee report, including the summary and specific recommendations to the Regional Council at its next regularly scheduled meeting.
2. The recommendation of the Transportation Committee comes to the floor of the Council as a seconded motion for consideration
3. The Regional Council is a public meeting and the vote for the review of the competency and fitness shall be conducted by vote, using the definition of majority from the Regional Council's By-Laws, which shall not contradict the PHL requirement that a majority shall consist of at least a majority of all members of the Council.
4. As mandated by NYS Ethics Rules and as further established by the State EMS Council, Westchester Regional EMS Council Members shall abstain from voting in cases of conflict of interest. A Council Member is considered to have a clear conflict of interest if that Member holds any financial interest in the application that is being voted on. A financial interest for this purpose is defined as any ownership interest, employee or consulting relationship with the entity (or any related entity thereto) submitting the application. When an Officer or Member of the Council is uncertain as to whether a conflict of interest exists, he or she should disclose the matter to the full Council, which shall decide whether a conflict of interest exists.

## **ISSUANCE OF OPERATING AUTHORITY**

1. The Regional Council shall provide written notice of its determination to the Department within seven (7) days along with one complete, original application and competency affirmation.
2. The Department will review the application and the Regional Council decision and within ten (10) business days of receiving the decision, confirm or deny the Regional Council decision and notify the applicant and the Regional Council accordingly.
3. Approval of the application and subsequent transfer of operating authority will be granted only upon approval of both the Regional Council and the Department.

## **DETERMINATION OF NEED (NEW or EXPANDING SERVICES)**

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In order to determine the need for a new ambulance or ALS FR service, or the expansion of an existing service (in response to a formal request submitted in a manner that is consistent with this Westchester REMSCO policy, established Westchester REMAC policies, and NYS DOH policies for such determination), the Westchester Regional EMS Council has approved a procedure that consists of the following components:

- I. Introduction
- II. Definitions
- III. Application Details and Required Content
- IV. Requirements for Public Notice
- V. Regional Public Hearing / Transportation Committee
- VI. Regional EMS Council Determination of Need
- VII. Issuing Service Operating Authority
- VIII. Grandfathering Existing Services
- IX. Advanced Life Support First Responder Services

### **I - INTRODUCTION**

There are five distinct steps that can be identified in the (PHL) Article 30 process for determining public need for a proposed ambulance service. Every new EMS service or any existing service seeking to expand its primary service territory must, by statute, receive the approval of the Westchester Regional EMS Council through this process prior to the New York State Department of Health issuing operating authority. These steps are:

1. The Application
2. Public Notice
3. The Public Hearing and Application Review
4. Westchester Regional EMS Council Determination
5. Certificate Issuance or Appeal

Each step has to be successfully completed in order to move to the next.

### **II - DEFINITIONS**

**Public Need** is defined to be the demonstrated absence, reduced availability or inadequate level of care in ambulance or emergency medical service available to a geographical area that is not readily correctable through the reallocation or improvement of existing resources.

## **Variables in considering “Public Need”**

If the application proposes to solve a problem, are there any viable alternatives other than licensing a new ambulance service or expanding an existing one? This question becomes seminal if the application may have adverse impact on existing services.

- **Geography & Call Volume**

*How many calls for service and how many emergency calls are made in the proposed area? What is the average daily frequency of calls for this area? Would the area have a large enough demand to maintain services proposed in the application (in addition to current services)? Is the territory that is currently covered by existing services too large, impacting response times? How would the proposal change this set of circumstances?*

- **Population – size, density, projections**

*What is the population of the jurisdiction requesting the ambulance service, including tourism and traffic flow through the area? Does the area have a large enough population base to support a new ambulance service?*

- **Level of care – existing, available**

*Does the application propose a level of service that is unique or does not currently exist (or does not exist in adequate volume / concentration) in the area in question? Could existing services provide this level of care?*

- **Quality, reliability and response of existing services**

*What is the average response time for all calls and emergency calls during a recent time period? Is the average response time reasonably prompt or under response-time specifications? If response time is a contention, what empirical steps does the new / expanding provider propose to take to reduce response times. Can these changes be supported over time (financially? Adequate personnel and equipment?)*

*What is the quality of existing services and how do the present conditions affect public convenience? Do the nearby ambulance services adequately cover the emergency medical needs of the area? Would a newly licensed ambulance service be an improvement to public convenience?*

- **Type of service – emergency, non-emergency**

*What is the mission of the service proposal? Does the proposed mission or the new or expanding service diminish or infringe on the mission of any existing service in the Westchester Region?*

- **Special Need (i.e. Air, Industrial or Facility)**

*Is there a special need for capability that is in fact offered by the proposed new or expanded service that cannot be offered by an existing service?*

- **Service effectiveness, cost and operational**

*How will the ambulance service be organized and administered? Does management seem willing to support an ambulance service and is management capable of performing its duties?*

*What will be the total cost to start-up and operate the new ambulance service? How will the expenses be funded? Is the pro forma (financial plan) logical and sustainable? Are the benefits that the proposed area would receive worth the expense?*

*Would opportunities exist for personnel to maintain their level of skill? If an additional ambulance service was added, would the dilution of service calls between the ambulance services cause a decay in skills due to inactivity?*

*How will the ambulance service be financed? Are the financial resources available to the proposed ambulance service sufficient for maintaining a full-time service?*

*What is the likelihood that the service proposal will have adverse impact on existing services in the Westchester Region, which could result in a destabilization of services and system effectiveness?*

- **Other Regional factors that may manifest from time to time**

*Do mutual-aid ambulance agreements exist in the area under consideration and the nearby ambulance, police, and fire units? Are these agreements necessary for adequate coverage of this particular area?*

*Does public opinion in the proposed area favor the establishment of a new ambulance service?*

*Are the existing communications capabilities adequate for maintaining medical control and directing operations? Would the proposed facilities be an improvement or over-burden existing infrastructure?*

*Do the local government planning agencies favor establishment of a new ambulance service?*

**Competent**<sup>5</sup> means any proposed operator of any ambulance service or advanced life support first response service who is already or has been within the last ten (10) years

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<sup>5</sup> For complete definition of Fitness and Competency, refer to Article 30 of the Public Health Law of the State of New York, Section 3005(8).

an incorporator, officer, director, sponsor, principal stockholder, or operator of any service / agency who is rendering or did render a substantially consistent high level of care, and has been issued an operating certificate/license by any or all of the following:

- The NYS Department of Health or equivalent in any other State,
- The NYS Department of Social Services or equivalent in any other State,
- The NYS Department of Mental Hygiene or equivalent in any other State,
- The NYS Department of Transportation or equivalent in any other State

**A consistently high level of care** will not be considered to have been rendered where there have been violations of the State EMS code, or other applicable rules and regulations, that:

- threatened to directly affect the health, safety, or welfare of any patient, or
- were recurrent or were not promptly corrected

**Fit**<sup>6</sup> means that the operator or proposed operator:

- has not been convicted of a crime or pleaded nolo contendere to a felony charge involving murder, manslaughter, assault, sexual abuse, theft, robbery, fraud, embezzlement, drug abuser, or sale of drugs; and,
- is not or was not subject to a state or federal administrative order relating to fraud or embezzlement, unless the New York State Commissioner of Health finds that such conviction or such order does not demonstrate a present risk or danger to patients or the public.

The Westchester Regional EMS Council shall prepare a statement, which will be reviewed annually, and be made available to each applicant. This statement will provide regional definitions and minimum standards, alone or in combination, for these variables and any other local criteria that are appropriate to the development and review of an application.

The Westchester Regional EMS Council has an obligation to determine if the issues identified are truly ones of public need/necessity or, as an alternative, if an improvement in existing resource allocation or coordination within a specific time frame can solve the problem. Inherent in this review is a determination as to why appropriate measures were not taken by existing providers prior to the submission of the new application.

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<sup>6</sup> For complete definition of Fitness and Competency, refer to Article 30 of the Public Health Law of the State of New York, Section 3005(8).

### III – APPLICATION DETAILS AND REQUIRED CONTENT

It is the applicant's responsibility to verify that, prior to submission, the application is properly completed and that all necessary attachments are submitted in accordance with all policies, rules and/or regulations of the Westchester Regional EMS Council, WREMAC and New York State Department of Health.

Two (2) original and complete applications (and thirty-five (35) collated copies) shall be provided to the Westchester Regional EMS Council. Each copy shall include a completed Application for New EMS Service, Expansion of Primary Operating Territory or Transfer of Ownership (DOH 3777).

All applications shall be submitted via U.S. Mail- certified return receipt requested, or such other commercial courier (ex. FedEx, UPS, etc.) that provides an independently verifiable receipt of delivery that demonstrates delivery date, time, and name of recipient.

All applications shall be complete, submitted on the prescribed State Forms (DOH 3777, DOH 3778), be notarized and affirmed, be accompanied by all required attachments, endorsements, evidence and other supporting and explanatory material the applicant wishes the Council to consider. The applicant shall attest to the competency and fitness of the Owners, Directors and Officers of the corporation by providing a description of the organizational background and a biography or Curriculum Vitae for each, highlighting their experience relevant to running an ambulance service. The Affirmation of Fitness and Competency (DOH 3778) shall be provided for each owner, director and/or officer of the corporation.

The Applicant must include a certified or bank check or money order for three thousand dollars (\$3,000.00) made payable to the Westchester Regional EMS Council. The application fee is to be used to cover any expenses that the Council will incur as a result of the review process. If the review process costs less than the fee charged, the balance will be returned to the applicant upon written request of the applicant. If the review process exceeds the payment of three thousand dollars (\$3,000.00) the applicant will be billed for the balance, and the applicant must pay all invoiced expenses in full within thirty (30) days of receipt of invoice. All expenses are determined at the sole discretion of the Westchester Regional EMS Council, and the applicant is financially responsible for all costs incurred.

The application shall be delivered to:

**Westchester Regional EMS Council  
4 Dana Rd.  
Valhalla, NY 10595  
Attn: Transportation Committee – TIME SENSITIVE**

The application shall attest to the competency and fitness of the applicant(s) and/or officers of the corporation. An Affirmation of Competency and Fitness (DOH 3778) shall be provided. All applications shall focus on the definition of public need. The narrative and endorsements shall respond to and document issues related to this definition. Statements of want, desire, feeling or other unsubstantiated sentiment are not acceptable. The applicant bears the burden of proof for the demonstration of public need. The applicant shall have sufficient knowledge of the EMS system in the area to be able to describe the **positive and negative** impact the proposed agency shall have on the area and providers. The complete application is the basis for the determination of need. At the public hearing the Applicant may be restricted to corroborating and/or explaining the data therein.

The application and narrative must:

1. Describe the exact proposed area of service using recognized geo-political boundaries (such as fire districts, municipalities, etc.).
2. Include a map of the exact proposed area to be covered
3. Include a comprehensive budget for the first year of operation (including anticipated revenues, expenses, depreciation funding, working capital, and capital expenditures) and budget narrative (including a description of the initial source of funds, the adequacy of future revenues, etc.) which shall be attached to the application. The budget must reflect the specific anticipated needs of the proposed new or expanded service.
4. Contain an impact statement that describes the *positive and negative* impact that the proposed new or expanded service shall have on the area and the existing providers of first response and ambulance service. The impact statement must include, but is not limited to the following:
  - a. Regarding all existing first response and ambulance services licensed to provide service within the proposed service area, please provide impact on:
    - i. service areas;
    - ii. staffing;
    - iii. levels and types of service provided;
    - iv. call volume;
    - v. actual response times;
    - vi. mutual aid;
    - vii. ability and quality of existing services;
    - viii. finances; and,
    - ix. adverse effects on existing services.
  - b. The EMS system in Westchester County (as a whole) in terms of but not limited to:

- i. all existing EMS agencies;
  - ii. hospitals, nursing homes, and other institutions that generate calls;
  - iii. participation agreements;
  - iv. communication system interface;
  - v. medical direction and control;
  - vi. protocols;
  - vii. quality assurance;
  - viii. receiving hospitals;
  - ix. any possible economies of scale and improvements in service to be anticipated from the applicant; and,
  - x. the positive effects and benefits the new service will provide to the EMS system.
5. The application shall demonstrate the ability to meet the definition of “**Public Need**” defined by the Westchester Regional EMS Council and New York State Department of Health. The application must speak to the Variables considered under “**Public Need**” identified in the **Definition** section above.
6. With regard to any alleged need for a new service or expansion of an existing service, the applicant must identify the specific public need and propose how the new service or service expansion will meet the need. The narrative and supporting data (submitted in the format specified below) will be the basis of evaluating the public need:
- a. New Service Description:
    - i. Describe all relevant operational aspects for the proposed new service including but not limited to:
      - (1) number and type of ambulances;
      - (2) number and type of other response vehicles;
      - (3) service location(s);
      - (4) name and NYS DOH certification number of each EMT and/or AEMT;
      - (5) staffing patterns;
      - (6) hours of operation;
      - (7) levels of service; and,
      - (8) client service agreements.
  - b. Population Demographics:
    - i. Describe the area to be served and the population of the jurisdiction requesting the ambulance service, including but not limited to residential and special needs populations, industry, tourism and traffic flow through the area?
    - ii. Does the area have a large enough population base to support a new or expanded ambulance service?

- iii. Is the area under-served or inadequately resourced by existing providers?

c. Description of Calls

- i. How many calls for service and how many emergency calls are made in the proposed area?
- ii. What is the average daily rate of calls for this area?
- iii. Would the area have a large enough demand to maintain full-time service?
- iv. Does the area have such great demand to support existing services in addition to the proposed new or expanded service?
- v. What is projected call volume for the next three (3) years for the new service?
- vi. What are the sources of calls?
- vii. What are the projected response times?
- viii. Provide a list of the destination hospitals that will receive the service's patients.

d. Response Times:

- i. What is the average response time for calls in the area in question during the previous 12 months?
- ii. Do existing EMS providers in the area experience difficulty in responding to requests for ambulance service?
- iii. Is the average response time reasonably prompt for the type of calls received?

c. Quality of Service:

- i. What is the quality of existing services and how do present conditions affect the public?
- ii. Do existing services (and mutual aid providers) adequately cover the emergency and transport medical needs of the area?
- iii. Would a newly licensed or expanded ambulance service be an improvement to public convenience?

d. Mutual Aid:

- i. Do adequate mutual-aid agreements exist among existing area service providers?
- ii. Are these agreements necessary for the provision of adequate coverage of this particular area?

e. Employee/Member Qualifications:

- i. Will the pre-hospital care provider staff of the proposed ambulance service have a sufficient level of clinical experience to achieve proficiency?

f. Skill Retention:

- i. Would opportunities exist for personnel to maintain their level of skill?
  - ii. If a new or expanded ambulance service was added, would the dilution of service calls between the ambulance services cause decay in skills due to inactivity?
  
- g. Communications:
  - i. Are the existing communication capabilities adequate for maintaining medical control and directing ambulance personnel?
  - ii. Would the proposed new or expanded ambulance service be a burden to the current system of communications, or a positive addition or improvement?
  - iii. Describe all aspects of communications systems and equipment that will be used by the proposed new or expanded service.
  
- h. Fiscal Stability:
  - i. Speak to previous financial management experience, especially experiences operating EMS services. Please justify how the proposed comprehensive budget is realistic in terms of expected revenues and expenses?
  - ii. Ensure that all budget assumptions (capital, operations, cash flow, revenue, etc.) are fully explained?
  - iii. Are the financial resources available sufficient to maintain the service?
  
- i. Organization and Administration:
  - i. How will the ambulance service be organized and administered?
  - ii. What is the mission / goals of the service?
  - iii. What is the principal business of the incorporators?
  - iv. Are the principles of the organization dedicating to supporting the service and contributing to the community of EMS?
  - v. Is management capable of performing its duties?
  
- j. Cost Benefit Ratio:
  - i. What is the total cost (risks, liabilities) of the new or expanded ambulance service?
  - ii. Are the benefits that the proposed area would receive worth the expense?
  
- k. Community Support:
  - i. Does public opinion in the proposed area favor the establishment of new or expanded ambulance service?
  - ii. Who in the community will benefit from the proposed service?
  - iii. Who may be injured (and how)?
  
- l. Government Support:

- i. Do local government planning agencies favor establishment of the new or expanded ambulance service?
  - m. Reallocation of Existing Resources:
    - i. Are there any viable alternatives other than licensing a new or expanded ambulance service?
    - ii. To what extent have these alternatives been explored and how likely are they to be implemented?
7. Please provide a job description for the proposed new or expanding service's Medical Director and list his/her credentials. Please provide a statement from the Medical Director acknowledging s/he has read and understands DOH BEMS policy statement 03-07 regarding Agency Medical Directors, and acknowledging his/her intent to serve as Medical Director for the proposed new or expanded service.
8. If applicant is applying for Advanced Life Support (ALS) level of service, documentation that:
  - a. All employees providing ALS have been or will be tested and certified by the Westchester Regional Emergency Medical Advisory Committee;
  - b. The service and personnel intend to operate under the ALS Standards and Protocols promulgated for the region by the Regional Emergency Medical Advisory Committee;
  - c. The service has made provision for On-Line Medical Control as approved by the Regional Emergency Medical Advisory Committee;
  - d. The service agrees to file periodic statements signed by the Chief Executive Officer and Medical Director documenting Medical Control and agreeing to abide by the Regional ALS Standards and Protocols;
  - e. The service agrees to participate in the Regional QA/I program and Regional Mutual Aid Program;
  - f. The service agrees to abide by all other regulatory requirements, such as those promulgated by the Bureau of Controlled Substances.

**NOTE: All ALS agencies operating in the Westchester Region must be approved by the Westchester REMAC in addition to the Westchester REMSCO.**

It is the intent of the public application and hearing process to obtain input from all who use, provide, pay for or compete in the EMS arena. Therefore, applicants shall solicit letters of endorsement from, but not limited to, the following agencies or organizations within the proposed service area and those with service areas or influence areas (i.e. adjacent ambulance primary service areas or hospitals with bordering patient catchment areas) bordering:

- All EMS and ALSFR agencies licensed to provide service in the area.

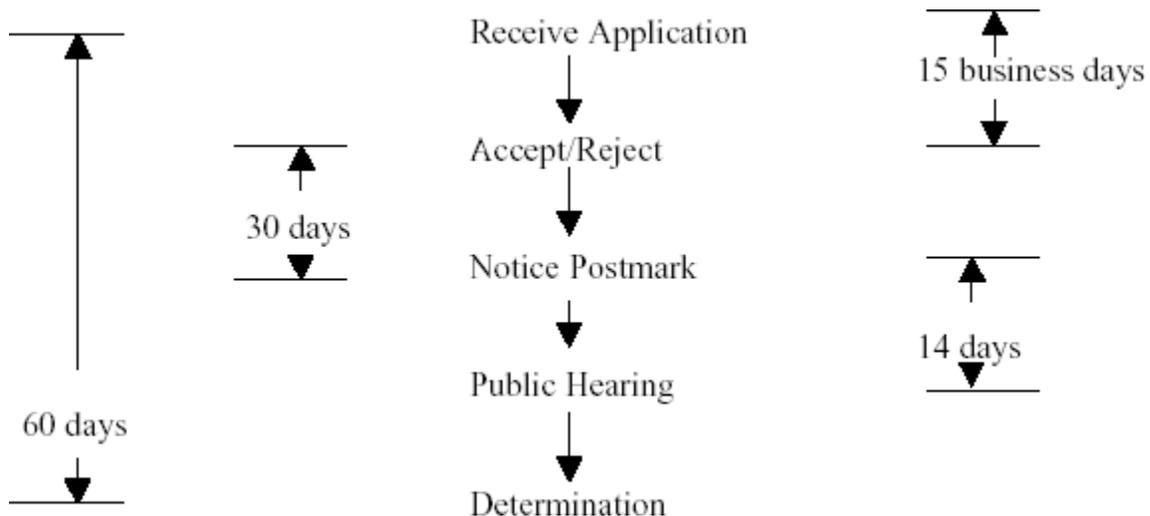
- EMS Medical Director(s) in the region.
- The chairperson of any County EMS organization and county EMS coordinator.
- All hospital CEO's and emergency department directors.
- The CEO's of all municipalities.

All letters of solicitation shall include a general description of the new service, the type and level of service to be provided, the definition of public need and a request for response by a specified date. All letters in response to the applicant's solicitation shall be signed by the CEO of the organization or authorized designee, can be no more than 6 months old and shall include an acknowledgement of receipt of the definition of public need.

The application shall include a complete copy of all letters of solicitation, a list of the agencies/individuals to which it was sent and any response received.

The Westchester Regional EMS Council has established a **uniform and non-waivable** fee to be paid by the applicant to defray the **direct and real costs** of the application review, the process of public notice and the hearing. The fee shall be reviewed and re-approved annually by the Council and be made available at the normal place of council business.

Unless this timeline is requested to be waived by the applicant, the following timeline must be maintained for the processing of all applications:



## **Review Of Application**

Upon receipt of the application it shall be reviewed for completeness by Westchester Regional EMS Council staff. The application shall be accepted if it is deemed to be complete in accordance with these policies. If found to be incomplete, it shall be returned via U.S. Mail- certified return receipt requested, or such other commercial courier (ex. FedEx, UPS, etc.) that provides an independently verifiable receipt of delivery that demonstrates delivery date, time, and name of recipient. In this case the materials shall be returned to the applicant within one week, along with an explanation of the grounds for the rejection.

Upon receipt of the returned Application, the Applicant may request in writing a return of the balance of the application fee, which shall be paid upon final disbursement of all costs incurred. The applicant may re-submit to the WREMESC two complete originals and the thirty five (35) collated copies without prejudice to the merit of the application; however the clock for review begins anew at the time of re-submission.

When deemed complete and accepted, the next segment of time frames established by Public Health Law, Section 3008 begin. The applicant may request that any hearing and the final determination be made using the original application.

The Westchester Regional EMS Council shall begin action immediately upon receipt and acceptance of a complete application, including scheduling a hearing date, sending public notice and establishing a Council meeting date at which to make a determination to comply with the sixty (60) day limit.

Upon determination by Council staff that the application is complete:

- a) The applicant will be notified via certified mail within five (5) business days of the date the application is deemed complete;
- b) The Public Hearing shall be scheduled upon acceptance of a complete application;
- c) A copy of the application will be forwarded to (1) the New York State Department of Health Bureau of EMS Regional Office (New York City), and (2) The Central Office in Troy, NY. The WREMESCO shall formally request that the DOH complete the review of fitness and competency, and provide a detailed report of their findings to the WREMESC in advance of the Public Hearing.

## **IV – REQUIREMENTS FOR PUBLIC NOTICE**

Upon receipt of a complete Application, The Westchester Regional EMS Council shall establish a date, time and location for a public hearing to review the application and receive all comments. The hearing shall be held within thirty (30) days of accepting a complete application and the notice shall be postmarked at least fourteen (14) days prior to the hearing date. Letters of notice of the Public Hearing shall be sent by the

Westchester Regional EMS Council in accordance with PHL 3008; certified return receipt to:

*“The chief executive officers of all general hospitals, ambulance services, and municipalities operating within the same county or counties where the service seeks to operate...”*

Hospitals adjoining the proposed service area and ambulance agencies with adjoining primary service areas and the local health systems agency shall also be included in the notice.

The council shall maintain a copy of the letter of notice, a list of recipients, and all postal receipts until final disposition of the application is made. The information contained in the letter of notice shall be published in the Journal News, which is the newspaper designated by the Westchester Regional EMS Council to receive legal notices. The notice will include the following:

1. Date, time and location of Hearing;
2. Guidelines for Determination of Public Need;
3. A solicitation of response to the application by a specific date;
4. Notification of the availability for review of the application at the Offices of the Westchester Regional EMS Council by appointment.

The hearing shall be established at a time and place logical to the application, generally at the headquarters of the Regional Council.

Should the Application involve one or more established Regional EMS Councils (Councils that are recognized by the New York State Department of Health), the Westchester Regional EMS Council requires an individual Public Hearing specific to the application related to the jurisdiction of Westchester County.

## **V - REGIONAL PUBLIC HEARING / TRANSPORTATION COMMITTEE**

The purpose of the public hearing is to provide a technical review, objective evaluation and public need fact finding of the Applicant’s statement of need and receive any public comment regarding the Application.

The application accepted as complete is the basis for the determination of need. In the public hearing the applicant shall be restricted to corroborating and or explaining the data therein. The Applicant has the right to participate in the hearing to the extent permitted in this policy, and to be represented there by legal counsel of the Applicant’s choosing and at the Applicant’s expense. If the Applicant elects to be represented by legal counsel at the hearing and more than one counselor attends, the Applicant must designate which attorney shall participate in the proceeding on the applicant’s behalf, and only the one designated attorney shall be recognized. Included in the expense

budget (which the Applicant is responsible to fund) is funding for equivalent legal counsel retained by the WREMSCO to represent the interests of the WREMSCO.

The Applicant is not required to participate in the public fact finding hearing however, if the Applicant is requested to testify and refuses to do so, the members of the Council may draw inferences unfavorable to the Applicant from the Applicant's refusal to testify.

The Regional Council shall complete and maintain a record of the proceeding of any and all hearings. This may be in stenographic or tape form. It is recommended that a record be transcribed and considered along with all other evidence in making the determination, which determination shall occur at a later time at a meeting of the Westchester Regional EMS Council. Especially pertinent for the record are all discussions relating to public need. A written summary of the hearing shall be prepared that includes a finding of fact and a recommendation to support, deny, or modify the application. A detailed justification for the recommendation shall be included in the written summary. Any other pertinent findings for presentation at the Regional Council (determination) meeting are also included. A copy of the transcript may be made available to the Applicant and any other party at the expense of the party or parties requesting it.

The Westchester Regional EMS Council shall establish a committee (the Transportation Committee) which shall review each application and manage the Public Hearing process. A Chairman of this committee shall preside over the committee, shall manage the application process and Hearing, and shall ensure compliance with these procedures. The purpose of the committee is to provide a technical review and objective evaluation of the applicant's statement of need as well as any other information presented. The Committee shall consist of not less than five members of the Westchester Regional EMS Council, ensuring (by definition) that the committee members shall be from the County or area the applicant proposes to serve, and at least one committee member shall represent the majority of the ambulance constituency in the area proposed to be served.

The committee may hear witnesses, receive written statements, ask questions and accept testimony in any form that will lend credibility to the application and the ultimate determination. The committee shall present their impartial review of the Application to the Westchester Regional EMS Council for their determination of need, fitness, or competency, which meeting shall occur following a Public Hearing. It is recommended that the WREMSCO meeting to determine public need occur at a time other than immediately prior to the Council meeting.

In the event the Transportation Committee cannot meet the established timeframes to manage the application process, and at the sole discretion of the Westchester Regional EMS Council (by majority vote of the Council Executive Committee), the Council may use a hearing officer designated by the Council and charged with finding fact and preparing a report for the Council. The hearing officer may be authorized by any one of

various State agencies (DEC, State, etc.) as hearing officers, or other individuals with similar training and experience. A hearing officer may also be utilized as a facilitator for the Transportation Committee to moderate and insure the hearing process follows Westchester Regional EMS Council policies and generally accepted procedures. In this case the Council renders its decision following the hearing and does not utilize a report. If a hearing officer's report is the principle process, the Transportation Committee should review the report and prepare the recommendation for the Council following a similar outline.

In the conduct of the hearing, the WREMESC shall not be bound by the formal rules of evidence of the State of New York as set forth, and amended, in the Civil Practice Law and Rules.

It is the applicant's burden to document and demonstrate the absence, reduced availability or an inadequate level of care in ambulance or emergency medical service available to a geographical area which is not readily correctable through the reallocation or improvement of existing resources (New York State Department of Health, Bureau of Emergency Medical Services, Policy 93-10 EMS Service Operating authority Approvals)

The format of the Public Hearing shall be as follows:

- a) A statement by the hearing officer or meeting Chair setting forth the rules and procedures to be followed as enumerated below;
- b) A roll call shall be taken or 'sign in' sheet employed to document who is present at the meeting including:
  - i. Name
  - ii. Residential Address and Phone Number
  - iii. Purpose for Attendance
  - iv. Affiliation to or interest in EMS;
- c) At the discretion of the hearing officer or meeting Chair, opening statements may be made by the Applicant, or applicant's counsel, and by protestants, or by protestant's counsel;
- d) The applicant shall be given the opportunity to put forth its proof first, and may call witnesses to offer testimony relevant to the facts at issue. Each witness must be identified (by name, occupation, and employer) and their anticipated testimony must be summarized in advance and provided to the Transportation Committee in advance of the Public Hearing;
- e) The protestants, if any, or their counsel, shall have the right to question each of the applicant's witnesses with respect to any testimony such witnesses gave;

- f) Each protestant, if any, may offer testimony that is relevant to the facts in issue. Each protestant shall have the right to be represented by counsel subject to the same conditions as apply to the Applicant's right to counsel;
- g) The hearing officer or meeting Chair shall have the right to question any witness with respect to any testimony given upon completion of the witness' direct testimony;
- h) The Applicant, or Applicant's counsel, shall have the right to question every protestant with respect to the testimony offered by the protestants or any witnesses testifying on behalf of the protestants;
- i) A period of time shall be available for testimony from the general public. The time allotted to each speaker shall be determined by the Hearing Officer or meeting Chair. The Hearing Officer or meeting Chair may request that groups select a single speaker to act as their representative. Groups or individuals wishing to present testimony regarding the application must summarize their testimony and provide same to the Transportation Committee in advance of the Public Hearing.
- j) At the hearing officer or Chair's discretion, the Applicant or Applicant's counsel, and each protestant or their counsel, shall have the right to make a closing statement;
- k) Upon conclusion, the Chair or hearing officer shall deem the hearing closed, dismissing all participants except members of the Transportation Committee, other members of the Council, and legal Counsel to the WREMCO who will work together to summarize the Public Hearing;
- l) The Chair or hearing officer shall invite discussion among the members, and when appropriate, call for a motion to be proposed to the WREMCO regarding the proposed application. Motions may recommend:
  - i. Approval of the application;
  - ii. Denial of the application;
  - iii. Modification of the application; or,
  - iv. Other actions that may be appropriate to meet public need.
- m) The Chair or hearing officer shall issue a written report and recommendation to the WREMCO (based upon all the evidence produced at the Public Hearing) within ten (10) days after the completion of the hearing. The report will contain findings of fact to support the recommendation / motion.

## **VI - REGIONAL COUNCIL DETERMINATION OF NEED**

At the designated Westchester Regional EMS Council meeting, the hearing officer or Chairperson of the hearing committee shall present the application, committee report, including the summary, any technical review, finding of fact and a specific recommendation. The recommendation of the hearing committee comes to the floor of the Council as a seconded motion for debate. Opportunity shall be provided for Council members present to make inquiry and ask questions prior to making a determination. No opportunity is to be given to non-council members to speak at this time as the public hearing(s) constituted the appropriate forum.

One responsibility of the application process is to insure a high quality of ownership and management of an ambulance service to the degree of attempting to identify any issues of character that would be detrimental to this highly personal service. With this as a purpose, the Regional Council shall address issues relative to the competency and fitness of the applicant and/or officers of the corporation as prescribed in PHL 3005(5). The determination may include factors such as the individual's standing in the community, a demonstration of experience in the industry and an evaluation of any dubious history, including any convictions for any crime or crimes involving moral turpitude including, but not limited to, murder, manslaughter, assault, sexual abuse, theft, robbery, drug abuse or sale of drugs or fraud.

As an integral part of the Application, the Applicant should have submitted a completed Affirmation of Fitness and Competency (DOH 3778). The results of review of the applicant's fitness and competency that was conducted by the Department of Health (in accordance with the provisions of PHL Section 3005 and described in DOH Policy 93-09) shall be available to the entire Council.

The Westchester Regional EMS Council may place binding contingencies on the approval of an application as long as the conditions are in the best interest of the EMS system and are not in conflict with any State law, regulation or policy. The applicant may amend the application at any time during the process.

As mandated by NYS Ethics Rules and as further established by the State EMS Council, Westchester Regional EMS Council Members shall abstain from voting in cases of conflict of interest. A Council Member is considered to have a clear conflict of interest if that Member holds any financial interest in the application that is being voted on. A financial interest for this purpose is defined as any ownership interest, employee or consulting relationship with the entity (or any related entity thereto) submitting the application. When an Officer or Member of the Council is uncertain as to whether a conflict of interest exists, he or she should disclose the matter to the full Council, which shall decide whether a conflict of interest exists.

The Westchester Regional EMS Council has the obligation to discuss and record in the record, all pertinent points and issues of the application relating to need, the definition of

public need, and specific reasons and rationale for and against the application based on the application, evidence presented and testimony from the public hearing. A motion **approving** the application is the proper form. The motion is supported by a recommendation from the committee for or against the application and shall contain rationale and justification, positive and negative, for the recommendation presented. The Regional Council shall make its determination by a roll call ballot of the members present to accept or reject the recommendation of the committee. A majority of the voting members of the Council is required to make a determination. A statement shall be entered into the record that clearly defines the authority of alternates to vote in the procedure and a statement of the needed majority to pass the motion. The record of the roll call ballot shall list all voting members of the Council to include at least:

- Member name, affiliation and status as member or alternate
- Present or absent for ballot
- Voting for, against or abstaining
- Declarations and/or decisions of conflict of interest

## **VII – ISSUING SERVICE OPERATING AUTHORITY**

The Regional Council shall provide written notice of its determination to the applicant within seven (7) working days and shall forward to the Department of Health a copy of this notice along with an original copy (a first generation copy in original format with original signatures) of the complete and accepted application.

The applicant or any other party directly involved has the right to appeal by filing notice with the Executive Secretary of the State EMS Council at the Department. This notice must be received by the Department, **using receipted delivery, within thirty (30) calendar days** of the date of the Regional Council's determination. If the Regional Council's determination was to grant operating authority, and no notice of appeal is filed within the 30 days, the Department shall issue the Ambulance Service Certificate or Certificate of Registration. If the Regional Council's determination was to grant operating authority, and a notice of appeal is filed within the 30 days, the Department shall not issue the registration or ambulance service certificate. This shall stand until the conclusion of all legal processes.

The Department's Regional EMS representative shall obtain other application paperwork, conduct any necessary inspections, and collect any necessary fee for a new service.

In the event of an appeal the Department of Health shall request the assignment of an Administrative Law Judge (ALJ) to hear the appeal and make a finding of fact and recommendation to the State EMS Council. State EMS Council meetings and considerations of service application appeals are not *dunovo* hearings of the application; therefore discussion will be limited to State EMS Council members and the record. The State EMS Council's Systems Committee shall review any appeal and the recommendation of the ALJ and shall make a recommendation to the State Council.

The complete application and pertinent record and the ALJ's report shall be provided to the Council prior to their consideration of the appeal and a decision in accordance with PHL 3002(3).

## **VIII - GRANDFATHERING EXISTING SERVICES**

Ambulance services in bone fide operation prior to April 1, 1975, and Advanced Life Support First Response (ALFRS) services in bone fide operation prior to January 1, 1993, are considered eligible to be grandfathered without the burden of proving public need under the provisions of Public Health Law 3005. ALSFR services are required to hold a valid EMS service operating certificate as of July 1, 1993.

## **IX – ADVANCED LIFE SUPPORT SERVICES**

To be considered in bone fide operation by the Department of Health and the Westchester Regional EMS Council, an ALS agency must submit an application to the Department of Health that includes:

1. A completed new EMS service application (DOH 3777);
2. Evidence of having been available and dispatched to calls for assistance at the ALS level on or before January 1 or July 1, 1993 as appropriate;
3. Evidence of having provided ALS care at an approved level on or before January 1 or July 1, 1993 as appropriate;
4. A statement from the regional and or agency medical director that the agency and its personnel were authorized by the MD to provide ALS service on or before January 1, or July 1, 1993 as appropriate;
5. Written acknowledgement of the existence and provision of service by the agency and any remarks by the Westchester Regional EMS Council;
6. A description of the exact geographical area being applied for as a primary operating territory **using existing** political subdivision boundary definitions **and** includes an endorsement from the CEO of all named political subdivisions.

After January 1, 1995, any ambulance service or ALSFR service will be required to apply to the appropriate Regional Council for approval under the provisions of Public Health Law sections 3003.5 and 3010.2.

### **Upgrading Or Changing ALS Level Of Service (Including Paramedic Level Of Care)**

Any ambulance or ALSFR service is referred to the Westchester Regional Medical Advisory Committee (REMAC) for policy, application and approval procedures. The Article 30 Certificate of Need (CON) process does not govern in this case.

Appendix 1 –  
**APPLICATION FOR PUBLIC NEED WORK SHEET**

**1. Required DOH Applications**

YES	NO	
		DOH Form 3777, Application for New EMS Service, Expansion of Primary Operating Territory or Transfer of Ownership, completed and notarized.
		DOH Form 3778, Affirmation of Fitness and Competency, completed and notarized for each person identified as an officer, director holder of greater than 10% of companies stock.

**2. Narrative which includes the following operational aspects of the proposed service:**

YES	NO	
		Proposed area of service
		Proposed level of care of service
		Proposed hours of operation
		Proposed physical location(s) of the service
		Proposed number of employees/members
		Number of ambulances/ ALSFR vehicles

**3. The applicant has included financial information including:**

YES	NO	
		Source of initial funds
		First / next year(s) proposed operating budget
		Proof of adequacy of funding sources/ future revenue
		Documentation to support that the applicant has financial resources capable of support proposed service/ expansion

4. The narrative shall include documentation of the positive and negative impact of the proposed new/expanded service to include (but not be limited to):

Impact on all existing ambulance/EMS relating to:

YES	NO	
		Response times
		Staffing
		Level of service
		Call volume of last twelve (12) month/proposed first twelve (12) months of operation
		Mutual aid
		Medical direction
		Quality assurance
		Financial impact on any existing service(s)
		Any adverse impact the proposed service will have on any existing services

5. **Narrative addendum of the application lists all segments of the EMS system in the proposed new/expanded operating territory including:**

YES	NO	
		All existing EMS agencies
		All hospitals and other institutions generating calls (nursing homes, adult homes, centers for independent living, community residences for the disabled. etc
		An / all mutual aid agreements
		Actual and projected response times for last and next twelve (12) months Communications system and the impact additional/expanded service will have on the existing communications system.
		Medical direction/control of system and impact additional/expanded service will have on existing system.
		Any anticipated improvements the new/expanded service intends to make in the communications system if approved.

6. The applicant shall include copies of letters showing they have advised various entities of their proposal and solicit letters of support.

The letters sent by the applicant must:

YES	NO	
		Include a definition of public need
		Include a general description of the new/expanded service
		Include the type and level of the service proposed
		Request a response by a specific date and that the request be signed by the CEO of the entity
		Letters received back in support or opposition are not more than six (6) months old

7. Applicant documents letters have been sent to:

YES	NO	
		All ambulance and Advanced Life Support First Response (ALSFR) services within the proposed operating territory
		All EMS medical Directors in the Region
		The Chairperson(s) of any county(ies) EMS organization(s) and County EMS Coordinator(s)
		All Hospital CEOs
		All Hospital Emergency Department Directors
		The CEOs of all municipalities
		All ambulance services in areas adjacent to the proposed operating territory
		All hospitals in areas adjacent to the proposed operating territory
		The applicant submitted proof of receipt of letters by entities (copies of registered mail receipts signed by agency representative to whom the letter was sent)

8. Required Fees

YES	NO	
		Applicant has submitted required REMSCO application fee

**9. Application Deemed Complete:**

YES	NO		DATE
		Regional Council/Program Agency Staff	
		Transportation/Ambulance Committee	
		Full Regional EMS Council	
		Provide written notification to the Applicant indicating complete submission	

**10. Dates of Action:**

YES	NO		DATE
		Request for Fitness and Competency (F&C) review from DOH	
		Received results of F&C review from DOH	
		Public hearing officer assigned	
		Public hearing scheduled	
		Transportation/ambulance committee/ REMSCO meeting	
		Copy of complete application and determination sent to DOH	

**11. Regional Council Decisions:**

YES	NO		DATE
		Transportation/ Ambulance Committee	
		Public Hearing Officer	
		REMSCO Determination	

Appendix 2 –  
**WESTCHESTER REGIONAL EMS AGENCIES & HOSPITALS**

**NYS DOH Certified EMS Services**

**Use these links for a full listing of EMS Agencies in Westchester County:**

Via the WREMSCO website: [WREMSCO Agencies](#)

Via the NYS DOH Bureau of EMS and Trauma Services website (Scroll to Westchester County):

[https://www.health.ny.gov/professionals/ems/pdf/agency\\_list\\_blsnt.pdf](https://www.health.ny.gov/professionals/ems/pdf/agency_list_blsnt.pdf)

[https://www.health.ny.gov/professionals/ems/pdf/agency\\_list\\_aalffrs.pdf](https://www.health.ny.gov/professionals/ems/pdf/agency_list_aalffrs.pdf)

## Hospital Information

Hospital	Address	City	Zip	ER #	ER Fax #
Montefiore Mt. Vernon Hospital	12 N 7th Ave.	Mt Vernon	10550	914-361-6040	914-699-1865
Montefiore New Rochelle Hospital	16 Guion Pl	New Rochelle	10801	914-632-3770	914-576-4055
New York Presbyterian Hudson Valley Hospital Center	1980 Crompond Rd.	Cortlandt Manor	10567	914-734-3300	914-734-3398
New York-Presbyterian Westchester	55 Palmer Ave.	Bronxville	10708	914-787-1035	914-787-5068
Northern Westchester Hospital/Northwell Health	400 E Main St.	Mt Kisco	10549	914-666-1254	914-699-1268
Phelps Hospital/Northwell Health	701 N Broadway	Sleepy Hollow	10951	914-366-3590	914-366-1554
St John's Riverside Hospital Dobbs Ferry Pavilion	128 Ashford Ave.	Dobbs Ferry	10522	914-693-5187	914-479-0867
St. John's Riverside Hospital	967 N Broadway	Yonkers	10701	914-964-4349	914-964-4802
St. Joseph's Medical Center	127 S Broadway	Yonkers	10701	914-378-7471	914-378-7240
Westchester Medical Center	Grasslands Rd.	Valhalla	10595	914-493-7307	914-493-8298
White Plains Medical Center	Davis Ave. & E Post Rd.	White Plains	10601	914-681-1155	914-681-2912

Appendix 3 –  
**NYS DEPARTMENT OF HEALTH CONTACT INFORMATION**

**Bureau of EMS Central Office**

NYS Department of Health  
Bureau of EMS and Trauma Systems  
875 Central Avenue  
Albany, NY 12206-1388

(518) 402-0996 Phone  
(518) 402-0985 Fax

**Metropolitan Area Regional Office:**

NYS Department of Health Metropolitan Area Office  
EMS Branch Chief  
145 Huguenot Street  
6th Floor Room 603  
New Rochelle, NY 10801

(212) 417-4455 Phone  
(212) 417-4641 Fax