



**DOH**  
New York State  
Department of Health  
**Bureau of Emergency Medical Services**

**POLICY STATEMENT**  
*Supersedes/Updates: 97-01, 01-06*

**No. 09 – 01**

**Date: January 6, 2009**

**Re: Municipal Certificate  
of Need Applications  
“Muni-CON”**

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Under the provisions of New York State Public Health Law Article 30, section 3008(7)a, a municipality, as defined by Article 1 of the General Municipal Law, may determine that need exists to establish an ambulance or advanced life support service (ALS-FR). Before the municipality may begin operation, it must make notification to the State Emergency Medical Services Council (SEMSCO) and possess an EMS Operating Certificate. In order to obtain an EMS operating certificate, 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). The written request 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 a certified 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 appropriate Regional Emergency Medical Services Advisory Council (REMAC) and be approved to provide advanced life support care. The approval letter from the REMAC, stating the actual level of care approved, 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 NYS certified 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  
c/o Bureau of Emergency Medical Services - Operations Unit  
New York State Department of Health  
875 Central Avenue  
Albany, New York 12206-1388

- 2- Prior to the issuance of a Certificate of Operating Authority, the ALS-FR or ambulance service must complete and submit the following to the appropriate DOH EMS Regional Office:
  - The Application for EMS Operating Certificate (DOH-206) packet.
  - If intending to provide adjunct Basic Life Support (BLS) and ALS levels of care, include written REMAC authorization.
  - Identify a physician medical director using the Medical Director Verification Form (DOH-4362).
- 3- A full service inspection will then be conducted by the Department's appropriate regional EMS staff. The full service inspection may not take place before the filing is complete, received and reviewed by the Bureau of EMS. The inspection establishes that the EMS service meets or exceeds the appropriate training, staffing and equipment standards as set forth by 10NYCRR Part 800.
- 4- 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 starting on the date the request is received by the Bureau of EMS.**
- 5- In order to convert the municipal declaration to a permanent operating authority, the ALS-FR or ambulance service must receive a determination of public need from the Regional EMS Council (REMSCO). Prior to the expiration of the municipal ALS-FR or ambulance service (two years from the date of the original filing with SEMSCO) a complete application for New ALS-FR or ambulance service must be received by the REMSCO. The REMSCO must render a determination of need pursuant to PHL 3008. The application process, filing information and required documentation may be found in DOH Policy Statement 06-06. The policy may be found at [www.health.state.ny.us/nysdoh/ems/pdf/06-06.pdf](http://www.health.state.ny.us/nysdoh/ems/pdf/06-06.pdf). 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.
- 6- Should the municipality make notification to the SEMSCO that it wishes to operate an ALS-FR or ambulance service and then, prior to beginning service or anytime during the two year period, determine that it is not in the best interest of the local government and/or community, it may rescind the declaration. As with the original declaration, this must be done by local law, ordinance or resolution rescinding the original local law, ordinance or resolution. This must be accompanied by a cover letter and submitted to the SEMSCO, in care of the Department by certified mail or other return receipt delivery.

### **Additional Information**

- < The municipality is responsible for this EMS agency, even if they enter into contracts with another organization to provide the EMS response.
- < An operating certificate obtained under the provisions of 3008 section 7(a) for the original two year authority and the subsequent permanent authority may not be transferred.
- < If the municipality fails to become operational during the initial two years and does not rescind the declaration, it may not file another municipal declaration to establish an EMS service under the provisions of 3008 section 7(a).
- < With the exception of an entire county, a municipality may only declare operating authority for the geography over which it has direct jurisdiction (e.g. an incorporated village contained within the borders of a town would not be included within the authority of an EMS agency established by the town {Also see next item}).

- < Multiple municipalities, under written inter-municipal agreements, may collaborate to operate a single EMS service to serve several municipalities as long as each participating municipality submits a declaration to the SEMSCO.
- < A municipality that intends to collect fees for the provision of EMS services (patient billing) will need to apply for provider status in accordance with Federal and State Medicare/Medicaid regulations. While the municipality may contract for billing services, it must be the billing entity.
- < The failure to initiate EMS operation in a timely manner (within 60 days of notification to the SEMSCO) may contradict the declaration of need and may work against the municipality's ability to transition to a permanent operating authority after the two year period.

### **Available Web Based Resources**

Prior to filing for a Muni-CON with the SEMSCO/Department, the following documentation may provide additional information.

- < Municipal Certificate of Need (Muni-CON): An Overview  
[www.health.ny.gov/nysdoh/ems/operational\\_authority/municipal\\_certificate\\_of\\_need.htm](http://www.health.ny.gov/nysdoh/ems/operational_authority/municipal_certificate_of_need.htm)
- < Public Health Law, Article 30, section 3008  
[www.health.ny.gov/nysdoh/ems/art30.htm#BM3008](http://www.health.ny.gov/nysdoh/ems/art30.htm#BM3008)
- < Title 10 of the NYS Codes, Rules and Regulations related to EMS  
[www.health.ny.gov/nysdoh/ems/publaw.htm](http://www.health.ny.gov/nysdoh/ems/publaw.htm)
- < GML - Article 1, Section 2 - Definitions  
<http://public.leginfo.state.ny.us/menugetf.cgi>
- < 06-06 EMS Operating Certificate Application Process (CON)  
[www.health.ny.gov/nysdoh/ems/pdf/06-06.pdf](http://www.health.ny.gov/nysdoh/ems/pdf/06-06.pdf)
- < Application for Ambulance and ALS-FR Operating Authority  
[www.health.ny.gov/nysdoh/ems/operational\\_authority/certified/application\\_instructions.htm](http://www.health.ny.gov/nysdoh/ems/operational_authority/certified/application_instructions.htm)
- < DOH Regional Offices – EMS Representatives  
[www.health.ny.gov/nysdoh/ems/emsrep.htm](http://www.health.ny.gov/nysdoh/ems/emsrep.htm)
- < Regional EMS Council (REMSCO) Contact Information  
[www.health.ny.gov/nysdoh/ems/regional.htm](http://www.health.ny.gov/nysdoh/ems/regional.htm)

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