



Monroe-Livingston Region Program Agency


Division of Prehospital Medicine, University of Rochester

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To: All EMS Providers and Agencies

From: Jeremy T. Cushman, MD, MS, EMT-P 
Regional Medical Director

Date: July 21, 2015

Re: Advisory 15-08: NYS DOH 15-04 Certification for Individuals with Criminal Convictions

The New York State Department of Health issued Policy Statement 15-04 on Thursday July 2, 2015 to reflect changes in Title 10 of the NYCRR Part 800. These changes relate to certification, recertification and continuing medical education recertification requirements of an individual with criminal convictions.

The NYS DOH policy specifies the process for the review of applicants with a history of criminal convictions, seeking Emergency Medical Services (EMS) certification. It also describes the responsibilities of the applicant, the Certified Instructor Coordinator (CIC) and the Department of Health.

Please review this information, and with any questions, please do not hesitate to contact our office.



Department
of Health

New York State
Department of Health
Bureau of Emergency Medical Services

POLICY STATEMENT

Supercedes/Updates: 00-12, 02-02, 09-05

No. 15 – 04

Date: July 2, 2015

Re: **Certification for
Individuals with Criminal
Convictions**

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On May 6, 2015, Title 10 of the New York Codes, Rules and Regulations (NYCRR) Part 800 were amended as they relate to certification, recertification and continuing medical education recertification requirements. These sections reflect the policy of New York State to encourage the licensure and employment of persons previously convicted of one or more criminal offenses and incorporate Article 23-A of the NYS Corrections Law into the review of an applicant's prior criminal offenses.

The following provisions are contained in 10 NYCRR Part 800:

...if the applicant has been convicted of one or more criminal offenses, as defined in §800.3(ak), be found eligible after a balancing of the factors set out in Article 23-A of Corrections Law. In accordance with that Article, no application for a license shall be denied by reason of the applicant having been previously convicted of one or more criminal offenses unless (i) there is a direct relationship between one or more of the previous criminal offenses and duties required of this certificate or (ii) certifying the applicant would involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public. In determining these questions, the agency will look at the eight factors listed under New York State Corrections Law Section 753.

...not have been found guilty or in violation, in any jurisdiction, of any other non-criminal offense or statutory and/or regulatory violation, as those terms are defined in Section 800.3 of this Part, relating to patient safety unless the department determines such applicant would not involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public.

Purpose:

This policy specifies the process for the review of applicants with a history of criminal convictions, seeking Emergency Medical Services (EMS) certification. It also describes the responsibilities of the applicant, the Certified Instructor Coordinator (CIC) and the Department of Health.

Applications for Original EMS Certification or Recertification:

In accordance with the provisions of the State Emergency Medical Services Code - 10 NYCRR Part 800; applicants for EMS certification or recertification must not have been convicted of certain misdemeanors or felonies. The Department will review **all** criminal convictions from any federal, military, state and/or local jurisdiction to determine if such convictions fall within the scope of those specified in Part 800. If the applicant has been convicted of one or more criminal offenses, the review will include a balancing of the factors set out in Article 23-A of NYS Corrections Law. The Department will also consider the eight factors listed under New York State Corrections Law Section 753, to determine if the applicant represents an unreasonable risk to property or the safety or welfare of the general public.

Certain Family Court or other designated governmental agency findings are also subject to review by the Department. If an applicant is unsure as to the status of any court proceeding, he/she **SHOULD NOT** sign the Application for Emergency Medical Services Certification (DOH-65).

10 NYCRR Part 800 does not prevent an applicant with a criminal conviction from attending and completing all of the training requirements of an EMS certification course. However, it may prevent the applicant from becoming certified in New York State until the Department has completed a review and investigation of the circumstances of the conviction(s) and made a determination that the applicant does not represent an unreasonable risk to property or the safety or welfare of the general public.

If the Department makes a determination allowing certification, the applicant will be eligible to take the applicable New York State practical and written certification examinations, if otherwise qualified. **All applicants must be fully informed of these requirements by the Certified Instructor Coordinator (CIC) during the initial session of the course.**

Applicants will not be permitted to take the NYS practical or written certification examination until the background review and investigation are completed and the Department's final written determination is received by the applicant, approving him/her to take the certification examinations.

The Certification Application:

All applicants applying for NYS EMS certification at any level must complete the Application for Emergency Medical Services Certification (DOH-65). The bottom of the application contains an affirmation that states "Do not sign this if you have any convictions". **Under no circumstances should an applicant sign this application if he or she has a criminal conviction of any type.**

The CIC must identify all unsigned applications and send them with the Course Memorandum (DOH- 263) and all other applications to the Department immediately after the second class session. The CIC should include a separate memorandum or note identifying each unsigned application. The applicant(s) will be listed on the class list but **will not** be issued an examination ticket until receiving a favorable determination from the Department. It is the responsibility of the applicant to understand this policy, gather the required documentation and provide it to the Department. An EMS representative from the Department may conduct an interview. This may take the form of a personal meeting or telephone interview. In an effort to permit a timely review and determination, the applicant must provide all the required documentation within 30 days of the initial Department contact. If the applicant does not provide the documentation, the investigatory review will be closed and the applicant will not be able to seek EMS certification.

There is no need for the applicant to contact the Bureau of EMS (BEMS) directly. Upon the receipt and processing of the unsigned DOH-65 application form, the applicant will be sent a package of information outlining the investigative process, the required information to be supplied and the contact name and telephone number of the Bureau of EMS Representative assigned to their case.

The Department will only discuss issues related to criminal convictions with the applicant or their legal representative. **There is no requirement or need for the applicant to divulge or discuss the circumstances of any conviction(s) with the CIC.**

The Review Process:

All applicants entered in the review process must provide the following written documentation concerning all convictions. This information must be sent directly to the Department regional office as detailed in the letter sent to the applicant.

1. A notarized sworn affidavit stating that the applicant has not had any conviction (s) for a crime or crimes other than those currently identified.
2. If the applicant is recertifying and has signed previous certification applications, he/she must provide an explanation as to why these applications were signed.

3. A signed and dated statement describing the reason that they are seeking EMS certification.
4. A signed and dated written narrative description of the circumstances leading to and surrounding each conviction.
5. An original or certified copy of the plea and sentence minutes, certificate of disposition and the pre-sentencing report (if available) from the court. A Certificate of Relief from Disabilities does not fulfill this documentation requirement. If any of these items are not available, an original letter from the court must be supplied attesting that the documentation does not exist or is no longer available. Please note that the applicant may be responsible for the cost of obtaining these documents.
6. A letter from the applicant's probation/parole officer (if applicable) documenting compliance with their probation/parole. A copy of the final probation/parole report must also be included.
7. If the applicant's conviction resulted in any court ordered therapy, clinical evaluations or counseling, a letter or report from the organization or individual who provided the evaluation, counseling or therapy is required. The letter or report should indicate if treatment is ongoing or if it has been completed and whether or not it was considered to have been successful. The letter should also indicate that the counselor/therapist believes that the applicant is suitable to perform patient care in a prehospital setting.
8. The applicant is required to submit letters from the administration of each EMS agency with whom he/she is affiliated. These letters must be on official letterhead and presented to the Department EMS Representative in a **sealed** envelope, **signed on the outside**, by the EMS agency representative. These letters must describe any involvement in EMS or other health care settings, the length of the affiliation with the agency, **an awareness of the specific conviction(s), the circumstances and the agency's willingness to monitor the individual during the performance of his/her EMS duties.**
9. The applicant must submit other letters of recommendation. These letters must also be presented to the EMS Representative in a **sealed and signed** envelope. These recommendations must include a description of the relationship with the applicant, confirming that the author has knowledge of the conviction, an understanding of the EMS environment, and can attest to the applicant's good character. The letters may be from individuals or organizations including, but not be limited to:
 1. current employers;
 2. health care professionals;
 3. community leaders (ie clergy, law enforcement or educators)
10. Each applicant may have a personal interview with a Department EMS Representative after all of the documentation requirements have been met. A telephone interview may be conducted in the place of a personal meeting. Upon completion of the investigation and review, the applicant will be notified in writing of the Department's decision.

While the investigation and review are in process, an applicant may attend all classes. However, the applicant is not allowed to take any NYS certifying examination, including the challenge practical skills examination at the beginning of the refresher program, the practical examination at the conclusion of the training program and the final written certification examination, until all of the EMS certification course requirements are completed and a favorable determination is made in writing by the Department.

Individuals possessing current NYS EMS certification who have been convicted of a crime delineated in Part 800, may be afforded a hearing in accordance with the provisions of Section 12-a of the Public Health Law if the Department seeks suspension, revocation or any other legal action.