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**OFFICE OF THE LIEUTENANT GOVERNOR
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MEMORANDUM

TO: Chip Wagoner, AAC Contact
Department of Commerce, Community and Economic Development

FROM: Scott Meriwether, Special Assistant 

DATE: October 28, 2015

RE: Filed Permanent Regulations: Division of Insurance
Division of Insurance Regulations re: Air Ambulance Services (3 AAC 31.600 - .690, .900)

Attorney General File: JU2015200204
Regulation Filed: October 27, 2015
Effective Date: November 26, 2015
Print: Register 216, January 2016

cc with enclosures: Linda Miller, Department of Law
Jesse Logan, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER RA 15-01a ADOPTING CHANGES TO
REGULATIONS OF THE DIVISION OF INSURANCE

The attached eleven pages of regulations dealing with air ambulance services are hereby adopted and certified to be a correct copy of the regulation changes that the Division of Insurance adopts (3 AAC 31.060, 3 AAC 31.600 – 3 AAC 31.690, and 3 AAC 31.900 under the authority of AS 21.06.060, AS 21.06.090; AS 21.36.355; AS 21.42.120; AS 21.42.250; AS 21.61.105; AS 21.61.106; AS 21.61.180 and AS 21.61.109, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Division of Insurance paid special attention to the cost to private persons of the regulatory action being taken.

The regulations adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor.

DATED October 15th, 2015



Lori Wing-Heier
Director
Division of Insurance
Department of Commerce, Community, and
Economic Development

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on 10/27, 2015, at 9:40 A. m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Lieutenant Governor

Effective November 26, 2015

Register 216, January 2016

Title 3. Commerce, Community, and Economic Development.

Part 2. Division of Insurance.

Chapter 31. Miscellaneous.

Article 1. Fees.

3 AAC 31.060(a)(31) is amended to read:

(31) licensee request for course credit under 3 AAC 23.204, \$50; [.]

3 AAC 31.060(a) is amended by adding new paragraphs to read:

(32) air ambulance service provider initial biennial registration application fee,
\$1,000;

(33) air ambulance service provider renewal biennial registration application fee,
\$200.

(Eff. 6/2/88, Register 106; am 7/1/89, Register 110; am 7/1/92, Register 123; am 3/30/94,
Register 129; am 3/15/97, Register 141; am 8/23/2001, Register 159; am 12/30/2006, Register
180; am 10/13/2011, Register 200; am 1/1/2014, Register 208; am 9/4/2014, register 211; am
11 / 26 / 2015, Register 216)

Authority:	AS 21.06.090	AS 21.34.040	<u>AS 21.61.109</u>
	AS 21.06.250	AS 21.36.355	AS 21.66.210
	AS 21.27.025	<u>AS 21.61.105</u>	AS 21.75.045

Article 5. Air Ambulance Services.

3 AAC 31 is amended by adding new sections to read:

Section

600. Term of initial provider registration period; renewal

610. Provider registration

620. Provider bond requirements

630. Reinstatement, suspension, or revocation of registration

640. Trade practices

650. Membership agreements

660. Provider records

690. Definitions

3 AAC 31.600. Term of initial provider registration period; renewal. (a) An initial provider biennial registration period ends on June 30 of the renewal year assigned by the division at the time the director approves the initial provider registration. Except as provided in (b) of this section, the initial provider biennial registration period consists of the remainder of the calendar year in which the provider registration is approved and the first six months of the following calendar year.

(b) If the director approves a provider registration on or after April 1, but before January 1, the initial provider biennial registration period consists of the remainder of the calendar year in which the provider registration is approved and all of the following 18 months.

(c) A provider's biennial registration period ends on June 30 of the provider's biennial registration period. A provider is responsible for knowing the date that a provider's biennial registration period ends. To renew a registration, a provider must submit a renewal provider registration application for the next provider biennial registration period by June 1 of the year the provider's biennial registration period ends. (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.105 AS 21.61.109

3 AAC 31.610. Provider registration. (a) A person may not sell, solicit, or negotiate a membership agreement in this state unless registered as a provider under this section. Initial provider registration applications may be filed at any time. Renewal provider registration applications shall be filed on or before June 1 of the year the provider's current provider biennial registration period ends.

(b) An initial provider registration application must include

(1) payment of the initial biennial registration application fee under 3 AAC 31.060(a)(32);

(2) a completed provider registration application form prescribed by the director that includes the

(A) name of each state in which the applicant is authorized to offer membership agreements;

(B) name of the state in which the applicant is domiciled;

(C) name of the applicant;

(D) "doing business as" name of the applicant;

(E) complete physical address, mailing address, electronic mail address, phone number, and facsimile number of the

(i) applicant's principal place of business in the applicant's state of domicile; and

(ii) applicant's principal place of business in this state;

(F) electronic mail address the applicant wants the division to use to communicate with the applicant;

(G) internet address of the applicant; and

(H) federal employer identification number of the applicant;

(3) a copy of the business license issued to the applicant by the department;

(4) for registrations filed

(A) before January 1, 2017, audited or reviewed financial statements for each of the preceding two calendar years;

(B) on or after January 1, 2017, audited financial statements for each of the preceding two calendar years;

(5) a biographical information affidavit for each officer, director, and individual acting in a fiduciary capacity that includes

(A) the affiant's full name;

(B) the physical address, mailing address, electronic mail address, telephone number, and facsimile number where the affiant works;

(C) the affiant's employment record for the past ten years which includes for each office and position held the

(i) affiant's title;

(ii) beginning and ending dates;

(iii) employer's name, address, and telephone number;

(iv) type of business; and

(v) name of the affiant's supervisor or contact person;

(D) any judicial, administrative, regulatory, or disciplinary action during the past ten years taken against any occupational, professional, or vocational license or permit the affiant holds or has held;

(E) any guilty or nolo contendere plea, or conviction of a crime during the past ten years, other than a minor traffic violation; and

(F) any civil action in which the affiant is or was a party during the past ten years involving dishonesty, breach of trust, or a financial dispute;

(6) a plan of operation satisfactory to the director that demonstrates the applicant has the financial resources necessary to sustain operations for at least two years with qualified staff at the proposed level of service and in the proposed service area or areas;

(7) a plan demonstrating actions the applicant will take should the applicant cease operations;

(8) a copy of each proposed membership agreement, proposed fee or other consideration, and the expected ratio of the total annual membership benefits to the total amount of annual considerations;

(9) all agreements directly or indirectly associated with membership agreements including reciprocal provider agreements, aircraft lease agreements, and service contracts;

(10) a certification issued by the Department of Health and Social Services under AS 18.08.082(a)(3); and

(11) a detailed description of any criteria used in determining who is eligible for a membership agreement.

(c) In complying with (b)(5)(D), (E), and (F) of this section, no response is required if a record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged. If a response is required, the affiant shall provide the

- (1) nature of the action or crime;
- (2) date;
- (3) location; and
- (4) disposition.

(d) A renewal provider registration application must include

- (1) the renewal biennial registration application fee under 3 AAC 31.060(a)(33);
- and
- (2) all of the requirements under (b)(2) – (11), and (c) of this section.

(e) If a change occurs in the information submitted to the director in a registration application, a provider shall update the information in the registration application by sending the changes to the director in writing not later than 30 days after the change. If an officer, director, or person acting in a fiduciary capacity is appointed after the registration application has been filed with the director, the provider shall file a biographical information affidavit not later than 30 days after the appointment of the person.

(f) The following information received by the director under this section is confidential and not subject to public inspection:

- (1) biographical information affidavits;
- (2) information that is confidential under AS 21.06.060. (Eff.

11 / 26 / 2015, Register 216)

Authority: AS 21.06.060 AS 21.36.355 AS 21.61.109
AS 21.06.090 AS 21.61.105

3 AAC 31.620. Provider bond requirements. (a) A registration will not be issued by the director unless the provider posts with the director a bond in the amount of \$100,000, issued by a corporate surety authorized under AS 21 to act as surety and conditioned upon the provider's faithful fulfillment of its membership agreements. The director will surrender the bond after the provider has been registered in this state for two years.

(b) The bond requirements under (a) of this section apply only to a provider who does not provide evidence satisfactory to the director at the time the provider files its initial registration that the provider has been in operation in this state for at least two years. (Eff.

11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.105 AS 21.61.109

3 AAC 31.630. Reinstatement, suspension, or revocation of registration. (a) If a producer fails to file its provider renewal biennial registration application for the next biennial renewal period by July 30 in the year the provider's biennial registration period ends, the

provider may not solicit or write a new membership agreement in this state until the provider submits a provider renewal biennial registration application under 3 AAC 31.610 and pays the fee under 3 AAC 31.060(a).

(b) The director, after a hearing, may suspend or revoke a provider registration for any of the following causes:

(1) failure to meet the provider registration application requirements under 3 AAC 31.610;

(2) failure to meet the provider bond requirements under 3 AAC 31.620;

(3) failure to comply with membership agreements issued to residents of this state;

(4) the provider is in unsound condition, or in a condition, or using methods or practices in the conduct of its business, that render its further transaction of insurance in this state injurious or hazardous to its air ambulance service members or to the public;

(5) ceasing provider operations in this state without first providing at least 60 days' notice by certified mail to the director and obtaining the director's written authorization.

(c) Suspension of a provider's registration shall be for a fixed period of time determined by the director, or until the occurrence of a specific event necessary for remedying the reasons for suspension. The director may modify, rescind or reverse a suspension under this section.

(d) During the period of suspension, the provider

(1) may not solicit or write a new or renewal membership agreement in this state;

(2) shall file its renewal biennial provider registration application and pay the fee required under 3 AAC 31.060(a); and

(3) may service its outstanding membership agreements in force in this state as if the registration had continued in full force. (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.109 AS 21.61.180
AS 21.61.105

3 AAC 31.640. Trade practices. (a) If the benefits under a membership agreement are in whole or in part contingent upon a medical necessity determination by the provider,

(1) medical necessity must be determined by a qualified medical professional;
and

(2) what constitutes medical necessity must be clearly defined in the membership agreement.

(b) A provider shall comply with 3 AAC 26.605 – 3 AAC 26.749.

(c) A membership agreement must include

- (1) a statement that the membership agreement is an insurance contract;
- (2) the effective date of the agreement;
- (3) a grace period of 30 days for payment of a renewal air ambulance service membership fee;
- (4) a free-look period of 10 days during which a membership agreement may be returned by the member with a full refund of any air ambulance service membership fee; and
- (5) if eligibility for a membership agreement is contingent upon the member's current and continuing insurance coverage, a description of what constitutes acceptable insurance coverage.

(d) A provider may not condition membership or continued membership on a person's health status.

(e) A membership agreement may not contain a provision asserting exclusive or discretionary authority to interpret the terms of the agreement.

(f) An air ambulance service membership fee or other consideration must be reasonable in relation to the benefits provided under a membership agreement and in aggregate must reasonably approximate the amounts that the members would expect to pay in the absence of the membership agreement over the period covered by the membership agreement. (Eff.

11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.106 AS 21.61.109
AS 21.42.120

3 AAC 31.650. Membership agreements. (a) A membership agreement may not be issued or renewed in this state unless

(1) filed with and approved by the director under AS 21.42.120; and

(2) in compliance with 3 AAC 31.205, 3 AAC 31.215(c) – 3 AAC 31.215(h), and

3 AAC 31.250.

(b) A provider may deliver a membership agreement consistent with

AS 21.42.250(c). (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.42.250 AS 21.61.106
AS 21.42.120 AS 21.61.100 AS 21.61.109

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3 AAC 31.660. Provider records. (a) A provider shall establish and maintain on an annual basis complete and accurate records and accounts of the provider's transactions and operations in this state.

(b) A provider shall reply in writing not later than 10 working days to a records inquiry of the director. The director may inspect or request summary or detailed copies of records and accounts for examination by the division. (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.106 AS 21.61.109

3 AAC 31.690. Definitions. In 3 AAC 31.600 – 3 AAC 31.690,

(1) "membership agreement" means an air ambulance membership agreement as defined under AS 21.61.110(2);

(2) "provider" means an air ambulance service provider as defined under AS 21.61.110(3). (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.61.109

Article 6. General Provisions.

3 AAC 31.900 is amended to add a new paragraph to read:

(7) "department" means the Department of Commerce, Community, and Economic Development. (Eff. 12/4/94, Register 132; am 4/20/97, Register 142; am (Eff. 11 / 26 / 2015, Register 216)

Authority: AS 21.06.090 AS 21.09.200