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New York State Volunteer Ambulance and Rescue Association, Inc.

214 Kent Avenue #278, Endwell NY 13760

(877) NYS-VARA -- www.nysvara.org

Statement on the 2023-2024 NYS Executive Budget and Proposed Revisions to Article 30 of Public Health Law Emergency Medical Services

Over the last year, many in the NYS EMS community worked together to build consensus on proposals to improve EMS in NYS. Those proposals were forwarded to the NYS Executive Branch for consideration and NYSVARA is pleased that Governor Hochul has incorporated emergency medical service reforms into the 2023-2024 Executive Budget proposal.

Ambulance agencies are paid much less than it costs to transport a Medicaid patient. Despite our crucial role in public safety and the commitment to responding 24-7-365, the Medicaid program doesn't even come close to paying its share of costs. NYSVARA is pleased that Governor Hochul has proposed funding to increase Medicaid payments for ambulance transportation. NYSVARA is also pleased that the Executive Budget recognizes the need to enhance the definition of EMS, which includes mobile integrated health abilities of the EMS community and will allow payments to EMS agencies for treat-in-place and alternate destinations as an alternative to ambulance transportation to the hospital emergency department.

The Executive Budget proposes a series of changes to Article 30 of Public Health Law, commonly referred to as "**Part S.**" Many of the items included in Part S are reflective of the input provided to the Department of Health by the NYS EMS Council (SEMSCO) during 2022. While it is difficult to ascertain the detailed breadth of the proposed changes from the legislative language, these provisions focus on serious concerns in the EMS system that need to be addressed. With two exceptions noted below and with their removal, these provisions should be adopted (see some recommendations in the addendum for suggested technical amendments) and the SEMSCO and State Medical Advisory Committee (SEMAC) should be intimately involved in the drafting of the detailed implementation regulations and policies.

Two sections that address certificate of need reforms (sec. 3008) and regional emergency medical service districts (sec. 3033) need further development and should be removed from the Executive Budget proposal. EMS stakeholders and policymakers are far from consensus on these sections, which go to the core of an agency's ability to serve its patients, and are in need of further discussion. NYSVARA recommends moving discussion of these topics from the budget to the regular legislative process to allow additional input from stakeholder experts in the EMS community.

NYSVARA also has some suggestions for improvement of the proposed EMS reforms during the legislative and regulatory process, which are included in the attached addendum. NYSVARA appreciates the attention to EMS by elected officials and looks forward to working with the Governor, Department of Health, SEMSCO, SEMAC, and Legislature to improve EMS for our communities.

Addendum

NYSVARA Recommendations for Improvement to Proposed “Part S” Revisions to Article 30 of Public Health Law Emergency Medical Services

Removing Sections 3008 and 3033 From the State Budget Process

The proposed change to Sec. 3008 eliminates the regional councils from the “certificate of need” process. This eliminates a transparent process that provides valuable public input and important regional perspective and expertise. It is a defined and time limited process (60 days) that is not the cause of undue delays.

The proposed new addition of Sec. 3033 calls for the establishment of an entirely new unit of local government. It is unclear how ten emergency medical service districts, coterminous with the state’s economic development zones, relate to EMS needs. They do not seem to have any relation or coordination with any local unit of government, REMSCO or REMAC. They seem to have broad powers with no defined accountability or transparency in relation to any existing EMS stakeholders.

NYSVARA and other statewide EMS stakeholder organizations (UNYAN, FASNY, NYSAFC, Professional FF’s) have been meeting and coalescing over the past year in a cooperative effort. We do have to note that we and other stakeholders including the NY State EMS Council (SEMSCO) did not have any input into these proposed sections of Part S. Therefore, we believe that the regular legislative process would provide better opportunities for input from the EMS community.

Recommendations for Improvement of Part S

In regard to the other sections of **Part S** we offer the following recommendations for technical amendments to further enhance and build upon the collaborative nature of the document:

§ 3002-a. State emergency medical advisory committee.

1. There shall be a state emergency medical advisory committee of the state emergency medical services council consisting of thirty-one members. Twenty-three members shall be physicians appointed by the commissioner, including one ~~nominated by~~ member from each regional emergency medical services council,

Commentary: Currently the local REMSCO, which is most in-tune and aware of which physicians are most broadly knowledgeable of the local EMS system and most integrated into the development of protocols, nominates physicians for the SEMAC. This proposed change could restrict that valuable local input.

Recommendation: The responsibility of the REMSCOs to nominate physicians for SEMAC appointment should be maintained.

~~§ 3032. Rules and regulations. The state council, with the approval of the commissioner, shall promulgate rules and regulations to effectuate the purposes of sections three thousand thirty and three thousand thirty one of this article.~~

§ 3037. Rules and regulations. The commissioner, upon approval of the state emergency medical services council, may promulgate rules and regulations to effectuate the purposes of this article.

Commentary: The proposed law eliminates the State Council's ability (with the approval of the Commissioner) to promulgate rules and regulations. It adds the Commissioner's ability (with the approval of the state council) to promulgate rules and regulations.

Recommendation: We don't see the need to remove the existing ability of the State Council to promulgate rules and regulations, as that can only be done with the approval of the Commissioner. Add the Commissioner as proposed, but do not eliminate the current ability of the State Council. These need not be mutually exclusive.

A new sec. 3004 is added regarding establishment of agency performance standards.

Commentary: We recognized that EMS performance is below desirable levels in areas of the State and that some measures of performance will be helpful. We strongly suggest this be focused on agencies that are primarily responsible for providing 911 emergency response to communities and that it initially be focused on quality improvement, rather than punitive actions. It is also important that local REMSCOs be engaged in this process, particularly given the widely different demographics, population density and geography of the different regions.

Recommendation: amend subsection 5 and add two new sections

5.EMS services that do not meet the standards may be subject to the requirement, in cooperation with the State Council and Department of Health, and in consultation with the appropriate regional council, to develop performance improvement plans. EMS services that do not meet the goals set forth in such plans may be subject to enforcement actions.

6.The department shall consult with regional councils on enforcement actions taken pursuant to this section.

7.Each regional council shall advise the state emergency medical services council, the Commissioner and the Department on the appropriate regional performance guidelines and goals required for the provision of emergency medical services.

A new sec. 3020 on Recruitment and retention is added. The section also allows the commissioner to establish licensure of EMS practitioners.

Recommendation: Continue collaboration and amend subsection 3 to read:

3. The Commissioner, in consultation with the state council, may establish in regulation standards for the licensure of emergency medical services practitioners by the department of health.