



State of New Jersey

DEPARTMENT OF HEALTH  
OFFICE OF EMERGENCY MEDICAL SERVICES  
PO BOX 360  
TRENTON, N.J. 08625-0360

PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

[www.nj.gov/health](http://www.nj.gov/health)

JUDITH M. PERSICILLI, RN, BSN, MA  
Acting Commissioner

November 18, 2019

Chief Jason Kerestes  
Somerville Rescue Squad  
21 Park Avenue  
Somerville, New Jersey 08876

Re: **Notice of Proposed Assessment of Penalties:  
Basic Life Support Ambulance Provider  
Investigation Control #2019-0102V**

Dear Chief Kerestes:

The New Jersey Department of Health (Department) is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2(b), health care services include ambulance services. Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department adopted regulations that govern the licensure and inspection of ambulance providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1 et seq.

The Department's Office of Emergency Medical Services (OEMS) received an anonymous complaint that Somerville Rescue Squad (Somerville) was operating unlicensed vehicles when providing 911 emergency medical care to the residents of Somerville and its contiguous area. Consistent with its regulatory authority and OEMS policy, the OEMS opened an investigation in response to this notification.

Upon opening the investigation, the OEMS investigator confirmed that Somerville is currently licensed to provide basic life support (BLS) services within the State. According to the OEMS Licensing system, Somerville operates two licensed vehicles: BLS vehicle #54-3 and BLS vehicle #54-4. OEMS then commenced an audit of Somerville on August 16, 2019. During the audit, Somerville's employee roster,

credentials, insurance and standard operating procedures were reviewed. At this time, investigators advised Somerville that it was not permitted to operate ANY unlicensed vehicles as a licensed provider with the New Jersey Department of Health.

On August 29, 2019, while still investigating the first complaint, OEMS received a second anonymous complaint that Somerville was operating unlicensed vehicles. The investigator reviewed Somerville's electronic patient care reports, which revealed that 962 of Somerville's assignments from September 1, 2018 to August 29, 2019 required an ambulance response. Of those assignments, vehicle #54-3 responded to 278 assignments and vehicle #54-4 responded to 542 assignments. However, it was also found that Somerville used three other vehicles to respond to emergency assignments, even though these vehicles were not licensed by OEMS as required by N.J.A.C. 8:40-2.3. Specifically, vehicle #54-1 responded to 17 emergency assignments over thirteen days; vehicle #54-2 responded to 8 emergency assignments over three days; and vehicle #54-5 responded to 117 emergency assignments over 61 days. In total, vehicles #54-1, #54-2, and #54-5 were used 142 times spanning a 77-day time period, even though all three vehicles were unlicensed. Even more, OEMS discovered that the Somerville operated vehicle #54-5 to respond to an emergency call on August 21, 2019, despite being told during its August 16, 2019 audit that use of an unlicensed vehicle was prohibited.

OEMS also discovered that Somerville failed to staff its ambulances with at least two EMTs, as required by N.J.A.C. 8:40-6.3. Specifically, Somerville staffed its ambulances with only one EMT on 96 days with multiple ambulances maintaining only one EMT on nine of those days. In total, there were 105 occurrences where only one EMT was used to staff an ambulance

As Somerville should already be aware, a BLS provider may only operate Department licensed vehicles when responding to emergency assignments. N.J.A.C. 8:40-6.15 and N.J.A.C. 8:40-2.3. Utilizing an unlicensed vehicle when responding to an emergency assignment is not permitted. Additionally, N.J.A.C. 8:40-6.3 provides that each in-service ambulance must be staffed with a minimum of two EMTs. Pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:40-7.2(e), the Department may impose monetary penalties for violations of any of the rules set forth in N.J.A.C. 8:40. Specifically, N.J.A.C. 8:40-7.2(e)(5) provides that "[v]iolations of any vehicle licensure requirements or utilization of a vehicle ordered or placed in DIOOS status shall result in a monetary penalty of \$1,000 per vehicle/per calendar day." N.J.A.C. 8:40-7.2(e)(3) further provides that "[v]iolations of any rule pertaining to minimum crewmember requirements . . . shall result in a monetary penalty of \$ 1,000 per violation/per calendar day."

Based upon the investigation, the OEMS finds that Somerville Rescue Squad violated the Department's administrative rules, specifically N.J.A.C. 8:40-2.3, by utilizing unlicensed vehicles for BLS services, and N.J.A.C. 8:40-6.3, by staffing ambulances with only one EMT rather than the required two. Consistent with N.J.A.C. 8:40-7.2(e)(5), Somerville Rescue Squad is assessed a penalty of \$1,000 for each of the 77 occurrences that Vehicles #54-1, #54-2 and #54-5 were utilized for patient calls without obtaining



proper vehicle licensure prior to use. And, pursuant to N.J.A.C. 8:40-7.2(e)(3), Somerville is assessed a penalty of \$1,000 for each of the 105 occurrences when it failed to staff its ambulances with at least two EMTs. **Accordingly, Somerville Rescue Squad is hereby assessed a monetary penalty of \$77,000.00 for operating unlicensed ambulances and \$105,000 for violating minimum crewmember requirements, pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:40-7.2. In total, Somerville is fined \$182,000.**

Payment of \$182,000.00 must be submitted within 30 days from the date of this Notice. Payment must be submitted electronically through the E-Pay link on our website ([www.state.nj.us/health/ems](http://www.state.nj.us/health/ems)). No payments made by company business check, personal check, cashier's check and/or money order will be accepted. If you attempt to pay the penalty by any method other than electronic E-Pay, the paper instrument will be returned to you.

In the event of future violations, the Department may seek to impose stricter penalty and/or corrective actions, which include, but are not limited to doubling the monetary penalty, and/or suspending and/or revoking Somerville Rescue Squad's provider license.

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3(b), Somerville Rescue Squad may request a hearing before the Office of Administrative Law to contest this proposed penalty assessment. The request for a hearing on this matter must be submitted in writing, within 30 days from the date on this correspondence, and must be accompanied by a response to the deficiencies noted above, indicating why the Department was incorrect in alleging the cited violations to the governing rules. In the event that a hearing is requested, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

The request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health  
Office of Legal & Regulatory Compliance  
PO Box 360, Room 805  
Trenton, N.J. 08625-0360  
Attn: Ms. Tami Roach

Please include control number **2019-0102V** on all correspondence. Finally, please note that failure to submit a request for a hearing within 30 days from the date of this Notice shall render this Notice final, and the entire **\$182,000.00** shall be immediately due and payable. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection, pursuant to N.J.S.A. 2A:58-1, et seq., refusal by OEMS

to issue or renew Somerville Rescue Squad's license and/or any such other action as authorized by law.

If you have any questions concerning this matter, please contact Dr. Jo-Bea Sciarrotta, Compliance Officer, at (609) 633-7777.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CN', is positioned above the typed name.

Christopher Neuwirth, MA, MEP, CBCP, CEM  
Assistant Commissioner  
PHILEP Division

CC: Scot Phelps, JD, MPH, Paramedic, Director, OEMS  
Eric Hicken, OEMS  
James Sweeney, OEMS  
Tami Roach, OLRC

SENT VIA REGULAR US MAIL AND  
CERTIFIED MAIL # 7014 0510 0000 9054 2996  
RETURN RECEIPT REQUEST