1. Call to Order – 10:00 a.m.

2. Public Comment – 10:05 a.m.
   The public comment portion of the Board meeting is where the public is invited to address the Board on subjects which are not part of the meeting agenda. Persons wishing to speak are asked to complete the participation form located at the meeting room door prior to the start of the meeting. Please limit remarks to three minutes.

3. Review and Approve Agenda – 10:10 a.m.

4. Review and Approve Meeting Minutes – 10:15 a.m. M 1

5. Presentation by Biospatial, Inc. – Dave Zaiman – 10:20 p.m.

6. Board Chair Report – 10:50 a.m.

7. Executive Director Report – 11:00 a.m.
   - HealthEast Ambulance Licensure Transfer of Ownership – Staff Report ED 1
   - Light-but-no-siren Legislative Language – Discussion ED 2
   - MNSTAR Transition from Version 2 to Version 3 – Update
   - Hospital Integration Accounts – Update

8. New Business – 12:00 noon

9. Adjourn – 12:05 a.m.

If you plan to attend the meeting and need accommodations for a disability, please contact Melody Nagy at (651) 201-2802. In accordance with the Minnesota Open Meeting Law and the Internal Operating Procedures of the Emergency Medical Services Regulatory Board, this agenda is posted at: [https://mn.gov/emsrb](https://mn.gov/emsrb)

Next Meeting:
April 16, 2020, 10:00 a.m.
2829 University Avenue Southeast
University Room, First Floor
Minneapolis, MN 55414
The Mission of the EMSRB is to protect the public’s health and safety through regulation and support of the EMS system.
Mr. Chris Ballard explained there are six regional trauma advisory groups. He said staff at MDH analyze the major trauma cases in the state and the transport of the patients. He said they do performance metrics using NEMSIS data.

Dr. Albert Tsai said he works with the stroke program and engages with ambulance services regarding protocols. This is a voluntary process and staff are hoping to provide performance reports. MDH staff have been involved in supporting training at the regions. They are working on developing on-line learning.

Ms. Hoffer said Lucas devices were provided by grants to EMS providers. She said the distribution was determined by looking at MNSTAR data to see what services would benefit from having this device. She said grants were also provided for 12 lead EKGs.

Mr. Kinde said he wanted to speak about injury and violence prevention. He said the data comes from numerous sources. Part of the data is EMS related. EMS in on scene for a lot of these interactions. He said that there was state funding provided to regional programs regarding the opioid overdose epidemic to provide training and naloxone. This has been a tremendous partnership. The regions have been collecting data and sharing it with MDH. Mr. Kinde said federal funding will be granted to regions to provide additional linkage for continued care.

Mr. Kinde said 15 years ago there was a partnership with EMS regarding crash data and reporting of alcohol use; for patients admitted there were confirmation blood draws. There was a 98% confirmation with EMS records. This demonstrates a powerful use of the data. Including prehospital data provided the best available data analysis.

Mr. Held said MDH staff are just beginning to find all the ways the data can be used. Data validation is the key. Linking of EMS record for the trauma system has been the most immediate success. MDH staff can report on and share this data.

Mr. Held provided information on the data security policies for MDH. He described in his power point presentation how the data is secured. He said there are limits for viewing the data. Mr. Held said that data use agreements are commonplace. He provided a sampling of who data is shared with. This is collaborative work. This is a good tool for government agencies. Dr. Ho said that EMS data is different than other data. They provide aggregate data. EMS data is protected by statute. Mr. Held said MDH can be a partner at a greater level. This can be a collaboration.

Mr. Ballard said this data provides an important public health service and this can be a good partnership. He said the extraction of the data to the hospital and then transmission of the data to the trauma data center does not provide the same quality data. Source data is always best. There are more errors when the data is extracted numerous times. Trauma registrars would need to extract all this data again and that would increase costs for hospitals. He said there would be a problem expanding the trauma data set to increase the number of data elements. He said that the hospitals are not in favor of this scenario. He said he would be concerned about missing records. He said there are runs that do not get transported to a designed trauma hospital. He said there are also transports outside Minnesota that data is not collected for.

Mr. Guiton said this is not an issue of “want”. The EMSRB wants to share the data and must make sure we are legally following requirements for data sharing. Mr. Held provided a handout. (Minnesota Statute 144E.123) that would allow data sharing. Ms. Hartigan said this is not EMS data; this is the patient’s private data.
Mr. Miller said the EMSRB is charged to protect the health and public safety of Minnesota citizens. Mr. Miller said he wants to see measurable data from MDH to share with ambulance services.

Mr. Held suggested a joint meeting between MDH and the Data Policy Standing Advisory Committee (DPSAC).

Dr. Ho said his biggest concern is that this is not the EMSRB’s data to share. The EMSRB is a clearinghouse for this data. There must be an assurance of the regulatory board’s authority to share this information.

Mr. Schaefer said it is the patient identifiable data that is the concern. He said non patient identifiable data can be shared. Dr. Ho said there should be an easy way to match the non-patient identifiable data. Mr. Schaefer said MDH can request MNSTAR information and the EMSRB would remove the patient identifiable information.

Mr. Spector said the EMSRB has been sharing data since 2011. This was all the MNSTAR data. There was no data sharing agreement in place and when he discussed this scenario with staff at the Department of Administration, they said there must be a statutory provision to allow this data sharing to occur. This data is classified as private, non-public data. Mr. Spector said when he reported this to the Executive Committee, they decided to temporarily suspend sharing of this data. It was determined that this data can be shared by using hospital integration accounts.

Mr. Soucheray asked for a sample of data shared with other agencies. Mr. Kinde said MDH has interagency agreements with other agencies and hospital data has been shared to write papers for the hospital association. He said information was shared regarding prison system cases for patient’s mental health.

Mr. Held thanked the committee for giving MDH staff the time to present this information. Mr. Held said statute would allow the EMSRB to designate MDH as a designee to share this data. He said this would allow sharing of data without violating Minnesota statute. He suggested MDH attorneys could have a discussion with Mr. Schaefer and staff at the Department of Administration to discuss how this can be allowed. Mr. Spector said he had this discussion with staff at the Department of Administration and there was concern about this provision for allowing the sharing of the data.

Mr. Spector said there have been a million patient care records shared since 2017. Mr. Kinde said there was a lot of time spent analyzing the data. He said he would like to provide a report in the future on several topics. He said that the data has been used to look at injury prevention outcomes. Ms. Hartigan said the Board needs further time for discussion about supporting sharing this data. Mr. Guiton said the legal determination needs to occur first.

Motion: Ms. Hartigan moved to have a group from MDH and EMSRB and the Attorney General’s office assembled for this discussion. Mr. Miller seconded. Motion carried.

Mr. Guiton said the Board would take a short break.

6. Executive Director Report – 11:15 a.m.
Ambulance Service Licensure Changes of Ownership Update
CentraCare Health Systems and Carris Health/Rice Memorial Hospital
Mr. Spector referred to Minnesota Statute 144E.14 and said CentraCare contacted the EMSRB regarding a change of ownership. The first request was a name change which is not a problem. The second part is a change of ownership. They are moving their EMS function to centralized process. The
third piece is the City of Willmar would be transferring ownership of their license to Carris Health. He said that EMSRB staff needed to complete an analysis of this request.

Mr. Schaefer said not every acquisition mandates a new license. He said the Primary Service Area (PSA) has not expanded. This is a transfer of license or ownership. Mr. Miller asked if this is an expansion of a PSA. Mr. Schaefer the addition of a PSA is not an expansion of PSA. Mr. Guiton said if the legacy territory remains the same but is acquired by a new owner this does not meet the requirements of change of ownership.

Mr. Vosberg, an employee of CentraCare, said each PSA operates on its own. The goal is to consolidate leadership and provide efficiencies in management. CentraCare owns Redwood Falls and that is a name change. This is a transfer of ownership from a subsidiary to the parent organization.

Dr. Ho said that this is precedence setting. He said these changes create a new base of operations. Mr. Miller asked for more explanation and asked how this triggers a change. Mr. Schaefer said a transfer is the acquisition. He said a new license is triggered by expansion of a PSA. That would require a change of ownership.

Mr. Vosberg said that there are operating agreements in place that would take effect January 1. The documents were provided to the EMSRB in September requesting the transfer of ownership.

Mr. Schaefer said a new license would be when a service expands to another PSA. Mr. Miller said he sees that this would be a concern in the metro area. He asked what the Board’s position would be. Mr. Schaefer referred to the current rules and if the Board would want to make changes to the current rules that would require legislation. Dr. Ho said that there needs to be a discussion of how this affects the public safety.

Ms. Hartigan asked what the Board needs to do so that CentraCare can continue to provide service. Mr. Schaefer asked if staff have determined this does not trigger a change of ownership. Mr. Guiton the Board may not agree.

Mr. Vosberg said his agency followed the process as it has been outlined to request a change of ownership. He said that until the Board makes their determination they will operate under their operating agreements. Mr. Guiton said he wanted to congratulate CentraCare that they complied with EMSRB requests. Mr. Guiton asked that Mr. Schaefer have a recommendation for the next Board meeting and the Board will take action at that time.

Granite Falls Health and Avera Health
Mr. Spector said Granite Falls Hospital is the owner of the ambulance. Avera does not own any other license in the State of Minnesota. He said this is a request for a transfer of ownership. The base of operations remains the same the PSA remains the same. Mr. Schaefer the change is a new license is being acquired by an agency that has not previously held a license. Mr. Spector said he is seeking further clarification regarding this request.

HealthEast and Fairview
Mr. Spector said there are questions regarding where the base of operations will exist. He said information was communicated to the Board in November explaining the change of base of operations. Mr. Soucheray said there were many questions discussed by staff. Different information is being provided from their historical information. Over the years there have been several changes listed in their renewal applications. This base of operation is not in their PSA. HealthEast has not been operating within the required statute. Mr. Soucheray said there are two questions: transfer of
ownership, and clarification of their base of operations. Mr. Spector said the definition of base of operation is muddy. There is an agreement with South Metro Fire and EMSRB staff want to review this agreement.

Mr. Miller asked about the 30-minute requirement. Mr. Soucheray said that is for geographic boundaries.

Mr. Guiton said staff need to continue with their fact finding. Mr. Spector staff are working on this and this takes time. There was an acquisition or merger that was not formalized with the EMSRB. Ms. Hartigan said the EMSRB must follow statute but not put services out of business. Mr. Spector said that Board needs to take care to not have legal issues with geopolitical boundaries. Mr. Spector said he wants clear direction from the Executive Committee and Board.

Agency Update
Mr. Spector said the EMSRB has been working with Mr. Steve Klein as a project manager for regional program issues and office remodeling efforts. He said when the regional program Request for Proposal (RFP) process was closing he reached out to Ms. Anderson, Mr. Klein and Mr. Shreckengaust to review the regional program submissions. Mr. Spector said Mr. Klein is my brother-in-law. He said he does not see this as a conflict of interest. He does not receive financial compensation for this contract. The Department of Administration is questioning this contract. Mr. Spector said Mr. Klein attended Board meetings and other meetings on behalf of the agency. Mr. Spector said the Department of Administration sees this as a conflict. Mr. Spector said he did not attempt to hide this relationship and Mr. Klein was hired to do a job as a consultant. Mr. Spector said this was his mistake and had I known this was a policy issue I would have not made this same decision. Staff have been informed of this situation. Mr. Spector said the Department of Administration has requested that the EMSRB suspend activities with this contractor. Mr. Spector said he wants to apologize to staff and the constituents for this mistake and said he will do whatever it takes to resolve this issue with the Department of Administration. Mr. Guiton said this contract went through the normal contract process. Mr. Guiton complemented Mr. Klein’s work.

Mr. Spector said the remodeling project did not go well and there are some remaining issues that Mr. Klein has been handling as a contractor for the EMSRB. Mr. Spector said Mr. Klein has experience in commercial remodeling and that was another reason to have him as a contract.

Ms. Hartigan said the Executive Director reports to the Board. She asked how the agency can retain Mr. Klein’s services. The agency has received benefit from this contract. Mr. Klein has accomplished good work with the regional programs. Dr. Ho agreed that there has been a positive impact with the regions.

Mr. Guiton said he would offer to provide oversight of the contractor’s activities if this would assist in resolving the conflict of interest scenario.

Mr. Spector said there was a motion made to remove social security numbers from MNSTAR at a previous board meeting. Image Trend is in the final processes of removing social security numbers from MNSTAR.

Mr. Spector said information is being shared with the BCA regarding opioid overdoses. He was asked if this information can be shared with OD map but only information that is not identifiable. Mr. Spector said when he discussed this with OD map that if you sent records identified by zip code it would geo plot back to the post office or the center of the zip code and that would provide an inaccurate picture of these incidents. He said OD map offered to scrub the data. He said the concern
for this agency would be that there are ways to determine patient identifiable data in their system using location. He said he wanted to report that data sharing was explored but not completed due to data privacy issues.

7. **New Business – 1:30 p.m.**

City of Lino Lakes Resolution No 19-176

Mr. Guiton provided a handout that describes the city’s position regarding ambulance service changes. He suggested staff respond to this resolution. Mr. Swenson said it is their request to have the application process include a public hearing process. Mr. Swenson said this has been on the horizon for about four years. There was legislation proposed regarding PSA changes. Lino Lakes is hoping for acknowledgement of the local services role in their area and to be able to have input to changes in their area.

Mr. Guiton asked who has these PSAs. Mr. Swenson said there is an overlap in the PSA. Lino Lakes does not want to get in the business of delivering ambulance service but is concerned about increases in response times in their area. Mr. Guiton said there can be a voluntary withdrawal of PSA. Mr. Spector identified the overlap.

Mr. Swenson said he continues to explore their options and sees a need to be proactive for the best interest of our citizens. He said there is a potential contract change as of June 1. Mr. Miller said the state does not have the authority to change a PSA. Mr. Spector said the agency does not have the authority to change a PSA.

Mr. Simpson asked to change the meeting times to add adequate time for discussion.

8. **Adjourn – 1:40 p.m.**

Mr. Guiton asked for a motion to adjourn

Motion: Ms. Hartigan moved to adjourn. Mr. Miller seconded. Motion carried.

Reviewed and Approved By

Megan Hartigan (by email) 2/10/20
Board Secretary/Treasurer Date
MEMORANDUM

Date: February 19, 2020

To: EMSRB Executive Committee

From: EMSRB Staff

Re: Transfer of Ownership of a Licensed Ambulance Service

HealthEast Care System to Fairview Health Services

Introduction

EMSRB staff seeks the Board’s guidance in determining whether the transfer of ownership of the licensed ambulance service from HealthEast Care System to Fairview Health Services requires the submission to the Board of a written application for an ambulance license. At issue is whether HealthEast maintains a base of operations within Dakota County for its advanced life support license number 0234. EMSRB staff have engaged in site visits, gathered information, and engaged in analysis, and the following is presented to aid the Board in its decision-making process.

Background

HealthEast Care Systems, a domestic nonprofit corporation (hereinafter “HealthEast”) possesses several ambulance licenses: No. 0217, 0219, 0234, 0338, and 0389. HealthEast has its headquarters located at 799 Reaney Avenue in Saint Paul, Minnesota.

Fairview Health Services, a domestic nonprofit corporation, (hereinafter “Fairview”) possesses an ambulance license, License No. 0084 (which at times is referred to as the Forest Lakes/Lino Lakes license). Fairview currently contracts with North Memorial Health to operate this license.

In March 2017, Fairview and HealthEast announced that, pending regulatory approval from the Federal Trade Commission and the Minnesota Attorney General’s Office, the two healthcare systems would merge.1 In May 2017, the boards of Fairview and HealthEast approved the merger and established the merger date of June 1, 2017.2 To that end, on May 30, 2017, HealthEast filed amended articles of incorporation with the Minnesota Secretary of State, effective

---


The Mission of the EMSRB is to protect the public’s health and safety through regulation and support of the EMS system.
June 1, 2017, in which it stated, *inter alia*, that the sole member of HealthEast is now Fairview. HealthEast’s previous articles of incorporation, filed with the Minnesota Secretary of State on December 2, 2009, specifically stated that there were no members.

**Relevant Statutes and Rules**

The following statutes are included for the convenience of review:

- **Minnesota Statutes section 144E.001**, subdivision 4 defines a base of operations as follows:

  Subd. 4. *Base of operations.* "Base of operations" means the address at which the physical plant housing ambulances, related equipment, and personnel is located.

- **Minnesota Statutes section 144E.10** is entitled Ambulance Service Licensing:

  **144E.10 AMBULANCE SERVICE LICENSING.**

  Subd. 1. License required. No natural person, partnership, association, corporation, or unit of government may operate an ambulance service within this state unless it possesses a valid license to do so issued by the board. The license shall specify the base of operations, the primary service area, and the type or types of ambulance service for which the licensee is licensed. The licensee shall obtain a new license if it wishes to expand its primary service area, or to provide a new type or types of service.

  Subd. 2. Requirements for new licenses. The board shall not issue a license authorizing the operation of a new ambulance service, provision of a new type or types of ambulance service by an existing service, or an expanded primary service area for an existing service unless the requirements of this section and sections 144E.101 to 144E.127 and 144E.18 are met.

- **Minnesota Statutes section 144E.14** is entitled Transfer of License or Ownership:

  **144E.14 TRANSFER OF LICENSE OR OWNERSHIP.**

  A license, or the ownership of a licensed ambulance service, may be transferred only upon approval of the board, based upon a finding that the proposed licensee or proposed new owner of a licensed ambulance service meets or will meet the requirements of sections 144E.101 to 144E.127. If the proposed transfer would result in an addition of a new base of operations, expansion of the service's primary service area, or provision of a new type or types of ambulance service, the board shall require the prospective licensee or owner to comply with section 144E.11. The board may approve the license or ownership transfer prior to completion of the application process described in section 144E.11 upon obtaining written assurances from the proposed licensee or proposed new owner that no expansion of the service's primary service area or provision of a new type or types of ambulance service will occur during the processing of the application. If requesting a transfer of its base of operations, an applicant must comply with the requirements of section 144E.15.

  History: *1997 c 199 s 9; 1999 c 245 art 9 s 63*

- **Minnesota Statutes Section 144E.15** is entitled Relocation of Base of Operations:

  **144E.15 RELOCATION OF BASE OF OPERATIONS.**

  To relocate the base of operations to another municipality or township within its primary service area, a licensee must provide written notification to the board prior to relocating. The board shall review the proposal to determine if relocation would adversely affect service coverage within the primary service area. The applicant must furnish any additional information requested by the board to support its proposed transfer. If the board does not approve the relocation proposal, the licensee must comply with the application requirements for a new license under section 144E.11.

  History: *1997 c 199 s 10*
Minnesota Rule 4690.0100, subpart 3 definition of a base of operation is identical to its statutory counterpart:

Subp. 3. Base of operation. "Base of operation" means the address at which the physical plant housing ambulances, related equipment, and personnel is located.

Minnesota Rule 4690.0100, subpart 33 defines a substation:

Subp. 33. Substation. "Substation" means the location from which ambulances and personnel operate to provide ambulance service which is supplementary to that provided from the base of operation and which enables the licensee to serve all points in its primary service area in accordance with the requirements in parts 4690.3400 to 4690.3700.

Minnesota Rule 4690.0100, subpart 7 defines a change in base of operations:

Subp. 7. Change of base of operation. "Change of base of operation" means the relocation of vehicles, related equipment, and personnel housed at one location to another location such that it is no longer possible for the service making the change to meet the conditions of its license regarding its designated primary service area.

Minnesota Rule 4690.0100, subparts 37 and 38 define a Variance and a Waiver:

§ Subp. 37. Variance. "Variance" means permission to comply in a manner other than that specified by parts 4690.0100 to 4690.8300.

Subp. 38. Waiver. "Waiver" means permission not to comply with parts 4690.0100 to 4690.8300.

Minnesota Rule 4690.3400 is entitled Designation of Primary Service Area:

4690.3400 DESIGNATION OF PRIMARY SERVICE AREA.

Subpart 1. Declaration; requirements. An applicant for a new license, for a change in type of service or base of operation, or for expansion of a primary service area must declare the primary service area that it intends to serve and seek designation of that area. A primary service area must contain one base of operation and may contain substations.

Subp. 2. Reasonableness of primary service area. In applying for initial designation of a primary service area or for expansion of a primary service area, an applicant must show the reasonableness of the primary service area for which designation is sought according to the following considerations:

A. the average and maximum probable response times in good and severe weather from its proposed base of operation to the most distant boundary in its proposed primary service area; or, if the applicant's primary service area is to contain a base of operation and substations, the average and maximum probable response times in good and severe weather from the base of operation and substations to the most distant point covered by the base of operation;

B. the projected distances to be traveled to provide such service;

C. the specific type of service to be provided;

D. the applicant's current status as a licensed provider of ambulance services to the population of that area; and

E. the applicant's intention to be responsible to the population of the declared primary service area or to a specified group of persons as a source of ambulance service.

Subp. 3. Maximum primary service area. The maximum primary service areas designated, as measured from a base of operation or substation, may not exceed:

A. eight miles or ten minutes travel time at maximum allowable speeds, whichever is greater, for proposed primary service areas that include any portion of a city of the first class;

B. 15 miles or 20 minutes travel time at maximum allowable speeds, whichever is greater, for proposed primary service areas that include any portion of a city of the second class; or

C. 25 miles or 30 minutes travel time at maximum allowable speeds, whichever is greater, for proposed primary service areas that do not include any portion of a city of the first or second class.
• Minnesota Rule 4690.8100 is entitled Waiver:

4690.8100 WAIVERS.
Subpart 1. Application. The board shall waive any of parts 4690.0100 to 4690.8300 except part 4690.83 subpart 4 if the applicant shows that:
A. applying the rule would impose an undue burden on the applicant; and
B. granting the waiver will not adversely affect the public health or welfare.
Subp. 2. Renewal, revocation, and reporting. The board shall renew the waiver upon reapplication in conformance with subpart 1.

The board shall revoke a waiver if a material change occurs in the circumstances that justified granting the waiver.

An applicant that has been granted a waiver shall notify the board in writing of any material change in circumstances.

Subp. 3. Limitation. No waiver may be granted for a period longer than the current license period.

• Minnesota Rule 4690.8200 is entitled Variance:

4690.8200 VARIANCES.
Subpart 1. Application. The board shall grant a variance from parts 4690.0100 to 4690.8300 except part 4690.8300, subpart 9, if the applicant proposes alternative practices equivalent or superior to those prescribed in the rule in question and shows that:
A. applying the rule would impose an undue burden on the applicant; and
B. granting the variance will not adversely affect the public health or welfare.
Subp. 2. Renewal, revocation, and reporting. The board shall renew a variance upon reapplication in conformance with subpart 1. The board shall revoke a variance if:
A. a material change occurs in the circumstances which justified granting the variance; or
B. the applicant fails to comply with the alternative practice specified in its successful application for a variance.

An applicant that has been granted a variance must notify the board of any material change in circumstances.

Subp. 3. Limitation. No variance may be granted for a period longer than the current license period.

Relevant Timeline

August 2019

The University of Minnesota and Fairview (which in 1997 acquired the University of Minnesota’s hospitals) planned to announce on October 1, 2019, a new clinical brand: M Health Fairview. The new clinical brand would also impact HealthEast. Fairview’s CEO was quoted in the Star Tribune as saying, “We’re flying one brand. . . [t]he HealthEast brand has now gone away.”

In anticipation of the new clinical branding, in late August 2019, HealthEast’s Chief of EMS approached the EMSRB and explained that HealthEast wished to rebrand its ambulance vehicles starting on or about October 1, 2019 with a completion date on or before April 30, 2021. In an email to the EMSRB on August 29, 2019, HealthEast’s EMS Chief said that he would be working

to “change [its] licensure to Fairview” prior to the end of the rebranding process. The email also explained that its legal team is working to “complete a DBA for HealthEast to operate under the Fairview name.”

**September 2019**

On September 3, 2019, EMSRB staff met with representatives from HealthEast. After the meeting, EMSRB staff understood HealthEast’s request to be a change of name and accordingly requested a written request for a name change from HealthEast to Fairview.

On September 13, 2019, the EMSRB received a correspondence from HealthEast stating that:

1) HealthEast is a wholly-owned subsidiary of Fairview; and
2) It was seeking a name change from HealthEast to Fairview for License No. 0127, 0219, 0234, 0338, and 0389.

Because the correspondence specified that HealthEast became a wholly-owned subsidiary of Fairview, EMSRB staff pondered whether the sought-after name change was in reality a sought-after (and after-the-fact) transfer of an ambulance license/transfer of a licensed ambulance service. The distinction is one with a difference.

Ambulance license name changes are not uncommon but what is common in all name changes is that the owner remains unchanged. Name changes occur at the request of the ambulance license holder, and barring certain unusual situations (e.g., seeking a name change that would infringe on the trademark name of another service or would be too generic such as only the word “Ambulance”), the EMSRB processes these name changes administratively.

Transfers of ownership, however, are governed specifically by Minnesota Statutes section 144E.14, which reads as follows:

**144E.14 TRANSFER OF LICENSE OR OWNERSHIP.**

A license, or the ownership of a licensed ambulance service, may be transferred only upon approval of the board, based upon a finding that the proposed licensee or proposed new owner of a licensed ambulance service meets or will meet the requirements of sections 144E.101 to 144E.127. If the proposed transfer would result in an addition of a new base of operations, expansion of the service’s primary service area, or provision of a new type or types of ambulance service, the board shall require the prospective licensee or owner to comply with section 144E.11. The board may approve the license or ownership transfer prior to completion of the application process described in section 144E.11 upon obtaining written assurances from the proposed licensee or proposed new owner that no expansion of the service’s primary service area or provision of a new type or types of ambulance service will occur during the processing of the application. If requesting a transfer of its base of operations, an applicant must comply with the requirements of section 144E.15.

Because this statute imposes findings requirements upon the EMSRB, the question for EMSRB staff and agency counsel was to determine whether the 2017 merger of Fairview and HealthEast resulted in the transfer of an ambulance license or the transfer of ownership of a licensed ambulance service. There is no simple algorithm or rubric to guide the analysis, and Minnesota statutes chapter 144E does not define a change of ownership and likewise does not prescribe the
criteria to be used to evaluate whether there is a change of ownership. In its research, EMSRB staff and counsel learned and understood the following to be true:

1) The merger resulted in Fairview being the sole member of the HealthEast corporation where prior to the merger there were no corporation members to HealthEast;
2) HealthEast employees became employees of Fairview;
3) Fairview acquired capital assets formerly of HealthEast;
4) Fairview acquired new capital assets used by HealthEast.

Based upon its analysis, agency counsel and EMSRB staff believe that the HealthEast/Fairview merger resulted in a transfer of the ownership of a licensed ambulance service, but this transfer had occurred without EMSRB board approval. Neither Fairview nor HealthEast approached the EMSRB back in 2017 when the merger was contemplated or when it had occurred.4

**November 2019**

In preparation for the November 2019 EMSRB board meeting, EMSRB staff and agency counsel continued its research and analysis. On November 13, 2019, and at the direction of agency counsel, EMSRB staff sent an email to HealthEast seeking, *inter alia*, a listing of:

1) Each license and corresponding primary service area;
2) The existing base of operation locations for each primary service area;
3) The base of operation locations that existed in June 2017;
4) Any existing substation locations for each primary service area;
5) Any substation locations for each primary service area that existed in June 2017;
6) The existing type or types of ambulance service in each primary service area; and
7) The type or types of ambulance service in each primary service area that existed in June 2017.

On November 14, 2019, HealthEast submitted its response. For License No. 0234, its advanced life support ambulance license for Dakota County, HealthEast listed 1650 Humboldt Avenue in West Saint Paul as its base of operations. This address happens to be Fire Station No. 1 for the South Metro Fire Department.5

This submission and follow-up research revealed certain discrepancies. On September 10, 2019, HealthEast renewed License No. 0234 through the EMSRB digital eLicense system and listed as its base of operations the headquarters address of 799 Reaney Avenue in Saint Paul. HealthEast also listed as its base of operations its headquarters address in Saint Paul during its August 3, 2017 renewal. The headquarters address is not located within the primary service area of License No. 0234. On April 10, 2013, HealthEast filed a change of its base of operations from South Metro Fire Station No. 1 to Inver Grove Heights Fire Station No. 3.

---

4 To be fair to the HealthEast EMS leadership, understanding regulatory compliance obligations within the landscape of healthcare mergers and acquisitions can be a complicated task.
5 South Metro Fire Department is a joint powers entity formed by the Dakota County cities of West Saint Paul and South Saint Paul.
January 2020

On January 3, 2020, and in consultation with agency counsel, the EMSRB transmitted a letter to HealthEast informing it of the determination that there was a transfer of ownership of an ambulance service and therefore as outlined in Minnesota Statutes section 144E.14, the EMSRB is obligated to verify:

1) the base of operations in the primary service area for each ambulance license;
2) the level of ambulance service being provided in the primary service area for each license; and
3) whether there is an expansion of the primary service area for each license.

On January 6, 2020, the EMSRB inspected South Metro Fire Station No. 1 in West Saint Paul. During that inspection, EMSRB staff verified that HealthEast has an operating agreement with South Metro Fire for it to operate only as a basic life support service within the cities of West Saint Paul and South Saint Paul. The basic life support ambulances are municipally-owned assets and are staffed by South Metro firefighters. The EMSRB obtained a copy of this operating agreement from South Metro Fire. The operating agreement calls for HealthEast to be allowed to stage its ambulances at South Metro fire stations, but fire command staff cannot recall a time when HealthEast staged HealthEast ambulances at either South Metro fire station. HealthEast crews do not report for work at South Metro Fire Station No. 1.

HealthEast also holds License No. 0338. This is a basic life support license with a primary service area that includes parts of Dakota, Ramsey, and Washington counties including the cities of South Saint Paul and West Saint Paul. Based upon its analysis, it appears to EMSRB staff that the South Metro fire stations serve as substations for License No. 0338 and not as a base of operations for advanced life support License No. 0234.

February 2020

On February 3, 2020, the EMSRB staff and its counsel met with HealthEast command staff and its counsel at the EMSRB offices. The purpose of this meeting was to discuss the discrepancies discovered by EMSRB staff during its verification obligations as outlined in Minnesota Statutes section 144E.14. EMSRB staff informed HealthEast of its finding during the January 6, 2020 site visit of South Metro Fire Station No. 1. HealthEast explained that the base of operations for License No. 0234 actually is in Inver Grove Heights Fire Station No. 3, and the previous eLicense renewal submissions noting 799 Reaney Avenue as the base of operations were unfortunate clerical errors. HealthEast also mentioned bases of operation for License No. 0234 at locations in Eagan and Rosemount (at specific fire stations).

On February 5, 2020, the EMSRB sent an email to HealthEast asking it to submit a request to change its base of operations (as required by Minnesota Statutes section 144E.15).

---

6 The location identified by HealthEast in its November 14, 2019 correspondence to the EMSRB as the base of operations for advanced life support License No. 0234.
On February 6, 2020, the EMSRB received a correspondence from M Health Fairview requesting to change the base of operations for License No. 0234 to Inver Grove Heights Fire Station No. 3.\footnote{7 2059 Upper 55th Street East in Inver Grove Heights.}

On February 13, 2020, EMSRB staff visited Inver Grove Heights Fire Station No. 3. During this site visit EMSRB staff discovered the following:

- The fire station has garage space for one (1) ambulance;
- An ambulance crew dayroom is located on the second floor;
- An ambulance crew office also is located on the second floor;
- Shrink-wrapped bins containing supplies are in this office; and
- Copy of License No. 0234 is on display.

EMSRB staff took the following photographs during the site visit:
In speaking with Inver Grove Heights fire command staff, EMSRB staff learned the following:

- HealthEast does not house or park unstaffed ambulances at Fire Station No. 3;
- HealthEast crews obtain their ambulances from the headquarters location on Reaney Avenue in Saint Paul;
- HealthEast crews then stage at Inver Grove Heights Fire Station No. 3;
- HealthEast crews return to the Reaney Avenue headquarters with their ambulance to conclude their shifts;
- HealthEast ambulance vehicles possess wireless garage door controllers to open the bay door at Fire Station No. 3;
- HealthEast employees possess a code to access the mechanical lock on an exterior door to Fire Station No. 3;
Inver Grove Heights has allowed HealthEast use of its fire station “for years”; Inver Grove Heights does not have a written agreement with HealthEast; and Inver Grove Heights was not aware that HealthEast was claiming fire station 3 as a base of operations for License No. 0234.

**Discussion**

The statutory definition of a base of operations seems to lack precision. Despite this, the EMSRB is tasked with determining whether HealthEast maintains a base of operations for License No. 0234 within its primary service area of Dakota County. This determination is critical as it relates to the transfer of license or ownership statute, because if this transfer from HealthEast to Fairview results in a new base of operations, then it appears that the EMSRB must follow the provisions of statute and shall require compliance with the ambulance service application procedure found in Minnesota Statutes section 144E.11.

Adding to the complexity, larger healthcare ambulance services seem to be implementing a system of dynamic deployment of its resources within primary service areas. There may be other services utilizing a dynamic deployment model without actually having a base of operation within a primary service area. This, of course, is an issue, and it begs the question whether the executive committee (or full Board) wishes the EMSRB staff to be more proactive in discovering and seeking resolution to these issues. As it relates to HealthEast, though, the EMSRB’s obligations in connection with the transfer of ownership statute seems clear.

Minnesota Rules chapter 4690 allows for waivers and variances in certain circumstances. While the Board may waive the base of operations requirement as found in chapter 4690, it is unclear whether the Board may grant a waiver or variance for the base of operations requirements found in statute. Sections of Minnesota Statutes chapter 144E contain language where the Board may grant a waiver or variance for a statutory requirement (e.g., a staffing variance as defined in Minn. Statutes section 144E.101, subd. 7(f)). The base of operations section, however, does not possess such permissive language.

Ultimately, EMSRB staff seek guidance from the Board to answer the following questions:

1) Does Inver Grove Heights Fire Station No. 3 qualify as a base of operations within the Dakota County primary service area for License No. 0234?
2) Does the transfer of ownership as defined in Minnesota Statutes section 144E.14 trigger a 144E.11 application requirement?
3) Can the EMSRB grant a waiver or variance to the base of operations requirement as found in Minnesota Statutes chapter 144E?
   a. If the answer to the question is yes, then what would be the criteria to determine whether requiring a base of operations in the License No. 0234 primary service area would create an undue burden on HealthEast;
   b. Can HealthEast demonstrate that the proposal of a dynamic deployment model is equivalent or superior to the requirement of a primary service area; and
c. How could the EMSRB objectively measure assess this? What metrics or series of metrics should be used?

EMSRB staff appreciates and looks forward to your continued guidance.

*   *   *
MEMORANDUM

Date: February 14, 2020

To: EMSRB Executive Committee

From: Tony Spector, Executive Director

Re: Proposed Amendment to Minnesota Statutes Section 169.17
(proposed by Senator Torrey Westrom)

Background

Senator Torrey Westrom wishes to introduce the proposed amendment to Minnesota Statutes section 169.17, entitled *Emergency Vehicle*.

The statute currently requires an ambulance when operating as an emergency vehicle to sound a siren and display red light to the front (i.e., to respond with “lights and siren”). Senator Westrom’s amendment carves out an exception: “[A]n ambulance is not required to use an audible signal by siren between the hours of 10:00 p.m. and 6:00 a.m.” Senator Westrom’s committee legislative assistant informed me that the impetus for this proposed language change relates to late-night ambulance sirens disturbing constituents.

Action

Senator Westrom’s committee legislative assistant seeks input from the EMSRB regarding the proposed legislative change. It is requested that the Executive Committee provide guidance to EMSRB staff on crafting input to Senator Westrom’s office.
A bill for an act relating to motor vehicles; allowing ambulances to not use an audible siren between 10:00 p.m. and 6:00 a.m.; amending Minnesota Statutes 2018, section 169.17.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 169.17, is amended to read:

**169.17 EMERGENCY VEHICLE.**

(a) The speed limitations set forth in sections 169.14 to 169.17 do not apply to an authorized emergency vehicle responding to an emergency call. Drivers of all emergency vehicles shall sound an audible signal by siren and display at least one lighted red light to the front, except that:

(1) law enforcement vehicles shall sound an audible signal by siren or display at least one lighted red light to the front; and

(2) an ambulance is not required to use an audible signal by siren between the hours of 10:00 p.m. and 6:00 a.m.

(b) This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequence of a reckless disregard of the safety of others.