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**GADSDEN EMS**

**POST OFFICE BOX 488**

**QUINCY, FLORIDA 32353-0488**

**PHONE 850-875-8688**

**FAX 850-875-8687**

**GADSDENEMS@YAHOO.COM**

TO: Marlon Brown

FROM: Brian Beasley EMS Chief



REF: Medical Director Variance

DATE: 01-14-2008

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Mr. Manager attached is the signed and approved variance from the Department of Health. This variance was mandated by Statute 120.542. This approval will allow Dr. Sutton to continue as the Medical Director for Gadsden EMS. I am furnishing this copy to you for file and receipt, if you deem necessary. Please call me if you need anything further.

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH  
BUREAU OF EMERGENCY MEDICAL SERVICES**

**In Re: Petition for Variance of Florida Administrative Code Rule 64E-2.004(3)(c), by Carol Sutton, M.D. (Petitioner)**

**ORDER AND DISPOSITION ON PETITION FOR VARIANCE**

Pursuant to section 120.542, Florida Statutes, Petitioner filed the above styled petition October 10, 2007 seeking variance of the rule provisions set further below. Notice of filing the petition was submitted to the Florida Administrative Weekly and published October 26, 2007.

**FINDINGS OF FACT**

1. Petitioner has been practicing medicine for twenty-four years. Petitioner has been the Medical Director for Gadsden County Emergency Medical Services ("Gadsden County EMS") for over a year and for Liberty County Emergency Medical Services ("Liberty County EMS") for eight years. Petitioner is also the County Jail Doctor for Gadsden County and serves as a medical director for several rural counties. *Petition, ¶1, Resume*

2. Effective December 18, 2006, Rule 64E-2.004(3)(c), Florida Administrative Code, was promulgated and added the requirement that medical directors employed or contracted by an EMS provider must be board certified. Petitioner is not board certified and therefore, does not satisfy the rule.

3. A substantial hardship would be placed upon Gadsden County EMS and Liberty County EMS should Petitioner not be allowed to continue as their medical director.

**CONCLUSIONS OF LAW**

1. The statute governing state agency authority to grant variances and waivers provides, in pertinent part, "Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by

other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.” §120.542(2), F.S.

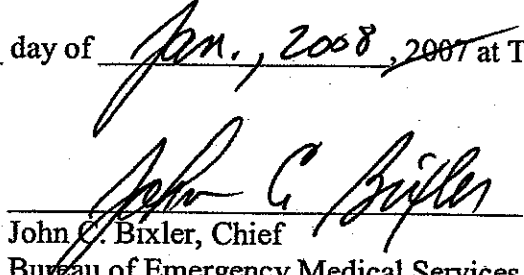
2. The general purpose of the underlying statute is to ensure that EMS providers employ or contract with a qualified medical director to “supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics operating for that emergency medical services system. The medical director must perform duties including advising, consulting, training, counseling, and overseeing of services, including appropriate quality assurance...” §401.265(1), F.S.

3. Petitioner’s extensive experience and proven competence in the practice of emergency medicine and prehospital care, both administrative and clinical, demonstrates that she possesses the skills required to achieve the purpose of §401.265(1), F.S.

4. Gadsden County EMS and Liberty County EMS have demonstrated substantial hardship under 64E-2.004(3)(c), F.A.C., as they would be forced to recruit another physician to replace Petitioner, a difficult undertaking in such small rural counties. Neither county has a local hospital, so advanced life support is critical to ensure that both counties have access to medical care.

**WHEREFORE**, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that the petition of Carol Sutton, M.D., for a variance to 64E-2.004(3)(c), F.A.C., is **GRANTED**. For the purposes of §401.265(1), F.S., this temporary variance will allow Petitioner to continue as medical director without board certification while serving as medical director for Gadsden County EMS and Liberty County EMS.

**DONE and ORDERED** this 2 day of Jan., 2008, 2007 at Tallahassee, Leon County, Florida.

  
John C. Bixler, Chief  
Bureau of Emergency Medical Services

**NOTICE OF RIGHTS**

**This order contains an agency decision. To appeal an Agency Decision, you must submit a proper petition within twenty-one days of your receipt of this order to the Agency Clerk, Office of the General Counsel, Department of Health, 4052 Bald Cypress Way, Bin# A02, Tallahassee, FL 32399-1703. The procedural rules governing such appeal are found in Chapter 28-106 of the Florida Administrative Code.**

**Absent timely petition, this decision becomes final agency action. Review of final agency action may only be had by filing notices of appeal in both the appellate district where the petitioner resides and with the clerk of the Department within 30 calendar days after this becomes final agency action. §120.68, F.S.; Fla. R. App. P. 9.110.**

**Copies furnished to:**

Carol Sutton, M.D.  
Gadsden County EMS  
412 East Jefferson Street  
Quincy, Florida 32353-0488

Brian Beasley  
EMS Chief  
Gadsden County EMS  
412 East Jefferson Street  
Quincy, Florida 32353-0488

Patricia Shuler  
EMS Director  
Liberty County EMS  
11109 NW State Road 20  
Bristol, Florida 32321

Michael A. Greif, Esq.  
Senior Attorney, Department of Health  
Office of the General Counsel  
4052 Bald Cypress Way, Bin A-02  
Tallahassee, Florida 32399-1703

Marjorie C. Holladay, Esq.  
Senior Attorney  
Joint Administrative Procedures Committee  
The Holland Building, Room 120  
Tallahassee, Florida 32399-1300



GADSDEN COUNTY  
Board of County Commissioners

**EMERGENCY MEDICAL SERVICES**

412 East Jefferson Street  
Post Office Box 488  
Quincy, Florida 32353-0488  
(850) 875-8688  
gadsdenems@yahoo.com

RECEIVED  
DEPARTMENT OF HEALTH  
2007 OCT 10 AM 11:42  
OFFICE OF THE CLERK

October 2, 2007

R. Samuel Power  
Agency Clerk  
Department of Health  
4052 Bald Cypress Way  
Bin A-02  
Tallahassee Fl. 32399

Joint Administrative Procedures Committee  
Holland Building, Room 120  
Tallahassee fl. 32399

Dear Sir:

I am requesting a waiver from 64E-2.004 sub paragraph 2c. This rule requires Medical directors to be Board Certified. I have in the past been Board Certified, I am still Board Eligible. I have ACLS and ATLS. I am covering several rural counties as their Medical Director. I am also the County Jail Doctor for Gadsden County. I am the only Physician available at this time to provide the necessary services. If this variance is not approved it will place several rural counties at jeopardy of not being able to provide advance life support. Under chapter 28-104.004 it states that the above facts will have an adverse effect on the ability of citizens of rural counties access to medical care. With the facts listed I am asking for the variance to continue to provide quality medical care to all citizens of these rural counties.

Sincerely:

A handwritten signature in cursive script, appearing to read "Carol Sutton".

Carol Sutton M.D.  
Gadsden County Medical Director

**Pippin, Roy**

**From:** Brian Beasley [brianb@gadsgov.net]  
**Sent:** Wednesday, December 05, 2007 12:00 PM  
**To:** Pippin, Roy  
**Cc:** ledymd@hotmail.com  
**Subject:** Dr. Sutton Letter

**TO:** Bureau of EMS ATTN: Roy pippin  
**REF:** Dr. Sutton

Dr. Sutton is the Medical Director for Gadsden and Liberty County EMS. Dr. Sutton has stepped in for Gadsden County when our former Medical Director Dr Furlow passed away. The ability to find a Medical Director for the rural small counties is nearly impossible. The Variance will enable two rural counties to maintain Advance Life Support to their residents. Both Gadsden and Liberty County's do not have hospitals. Advance Life Support is a must for us, when we have such a lengthy transport time. It would be a severe hardship for both counties if we did not have Dr. Sutton's loyalty.

Thank You;

Brian Beasley  
EMS Chief  
Gadsden EMS  
850-875-8688  
850-875-2547 fax  
850-933-7927 cell

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. The information contained in this email and/or attachment(s) may be confidential and intended solely for the use of the individual or entity to whom it is addressed. This email and/or attachment(s) may contain material that is privileged or protected from disclosure under applicable law. If you are not the intended recipient or the individual responsible for delivering to the intended recipient, please notify sender immediately by telephone to obtain instructions as to whether information in this email and/or attachment(s) is confidential and privileged or protected from disclosure under applicable law.

12/5/2007

**Pippin, Roy**

**From:** PATRICIA SHULER [pshuler59@yahoo.com]  
**Sent:** Friday, December 07, 2007 10:59 AM  
**To:** Pippin, Roy  
**Subject:** Dr. Sutton's Letter

**To:** Roy Pippin

**From:** Patricia Shuler, EMS Director for Liberty County

Dr. Sutton is the Medical Director for Liberty and Gadsden County EMS. Dr. Sutton has been the Medical Director for Liberty County at least 4 or more years. It is very difficult and almost impossible to find a Medical Director in these rural counties. The Variance will help both counties maintain Advance Life Support to their residents. Liberty County does not have a hospital, so therefore Advance Life Support is a must. Liberty and Gadsden Counties have such long distance transports that a Advance Life Support ambulance is well needed in the two counties. It will be a severe hardship on both counties if we did not have the support and loyalty of Dr. Sutton. Dr. Sutton has made herself available so that she can be reached at all times if needed.

Thank you,

Patricia Shuler, EMS Director for Liberty County  
(850) 643-5866  
(850) 643-2866-fax

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12/7/2007