

Resolution 16-72

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO MEDICAL TRANSPORTATION PROVIDERS; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapter Law 67-1690, Laws of Florida, authorizes Manatee County (the County) to furnish ambulance services to the citizens of the County either directly and/or through the use of private firms; and

WHEREAS, Chapter Law 67-1690, Laws of Florida, authorizes providers of ambulance services to charge reasonable fees for these services, and authorizes the County to adopt reasonable restrictions and safeguards on the provision of ambulance services within the County deemed necessary by the County Commission for the protection of the public interest; and

WHEREAS, Florida Statutes § 401.25(1) requires that every firm or governmental entity providing prehospital or inter-facility advanced live support services or basic life support transportation services must be licensed by the State of Florida as a basic life support (BLS) service or an advanced life support (ALS) service before offering service to the public; and

WHEREAS, Florida Statutes § 401.25(2)(d) provides that an applicant for state licensure must, among other things, first obtain a certificate of public convenience and necessity (COPCN) from the governing bodies of each county in which the applicant will operate; and

WHEREAS, Florida Statutes § 401.25(2)(d) provides that the governing body of a county is deciding whether to issue a Certificate of Public Convenience and Necessity (COPCN or certificate) to an applicant, it shall consider the recommendations, if any, of municipalities within its jurisdiction; and

WHEREAS, Florida Statutes § 401.25(4) provides that each license issued by the State will expire automatically every two years; and,

WHEREAS, Florida Statutes § 401.25(6) provides that the governing body of a county may adopt ordinances that provide reasonable standards for COPCNs for BLS or ALS services and air ambulance services; and

WHEREAS, the statute provides that when developing such standards, the governing body must consider state guidelines concerning the operation of BLS and ALS services, and the recommendations of municipalities within its jurisdiction and of the local or regional trauma agency, if any such recommendations are offered; and

WHEREAS, pursuant to this authority, the Manatee County Commission adopted County Ordinance 15-37, which was subsequently codified as Article IV of Chapter 2-13 of the Manatee County Code concerning Emergency Medical Transportation, inclusive of Sections 2-13-50 through and including 2-13-64; and

WHEREAS, Manatee County Code § 2-13-54(a) requires all providers seeking to provide service in the County to submit a written detailed application for a Certificate of Public Convenience and Necessity; and

WHEREAS, Manatee County Code § 2-13-54(c) requires the County administration to review each application against the criteria established in Manatee County Code § 2-13-54(d); and

WHEREAS, Manatee County Code § 2-13-54(d) authorizes the Commission to issue a certificate for a period not to exceed two years and upon such terms and conditions as the public convenience and necessity may require; and

WHEREAS, Manatee County Code § 2-13-54(d) provides that in deciding whether to issue a certificate, the Commission must consider, among other things, the application, the County Administrator's report and recommendation, and any other matters presented to it at the meeting at which the application is considered, and that the following criteria are to be evaluated:

(1) The financial ability of the applicant to provide the proposed services based on, at minimum, the following criteria:

- a. Audited financial statements or federal tax returns or, for newly formed corporations, personal audited financial statements from the principal(s), as defined by the county administrator;
- b. Pro forma statements;
- c. Credit and bank references, and current official credit report; and
- d. Disclosure of any and all pending liabilities.

(2) The adequacy of the management plan of the applicant.

(3) The benefits that will accrue to the public interest from the proposed service.

(4) The community's need for the proposed service. The applicant shall bear the burden of proving there is such a need by providing verifiable documents and other information concerning community need, including impacts on response times and service quality. The commission will also consider any analysis submitted by the administration concerning these factors, including:

- a. Response time analysis of existing private providers for the previous two (2) years as compared with the benchmark response time as stated in each provider's most recent certificate application.
- b. Quality of existing service as determined by the results of the comprehensive market survey conducted during the year preceding the term for certificate renewal and acceptance of new applications.

and

WHEREAS, since the enactment of the County's new COPCN ordinance, the County has received applications for certificates from Ambitrans Medical Transport, Inc., West Coast Southern Medical Services, Inc., and Professional MED Transportation Services, LLC; and

WHEREAS, the Public Safety Department has reviewed each application and has conducted the necessary independent verifications and reviews of the relevant facts related to each applicant; and

WHEREAS, the Commission finds that Ambitrans Medical Transport, Inc., filed a complete application, has the technical, legal and financial ability to perform the services within the County and otherwise qualifies under the County's standards to receive a certificate; and

WHEREAS, the Commission finds that West Coast Southern Medical Services, Inc., filed a complete application, is the current incumbent provider in the County, and with certain exceptions has the technical, legal and financial ability to perform the services within the County and otherwise qualifies under the County's standards to receive a certificate; and

WHEREAS, in light of the recency of the County's adoption of its new COPCN code, incumbent provider West Coast Southern Medical Services, Inc., has not yet had the time to convert several of its systems and practices to comply with certain standards in the Code; but

WHEREAS, West Coast Southern Medical Services, Inc., has submitted an acceptable transition plan to the Public Safety Department to accomplish full compliance in a timely manner, and this plan has been accepted by the Public Safety Director; and

WHEREAS, the Commission finds that Professional MED Transportation Services, LLC has not filed a complete application and has not demonstrated that it has the technical, legal and financial ability to perform the services within the County and otherwise lacks the qualifications under the County's standards to receive a certificate; and

WHEREAS, among the reasons for the foregoing finding are that the application of Professional MED Transportation Services, LLC demonstrated questionable financial stability, failed to list any relevant business references, failed to provide complete medical director information, included only a draft balance sheet, failed to provide a service or management plan for business operations, failed to provide evidence of medical malpractice insurance, did not demonstrate a uniformity in vehicles to be used, did not demonstrate it is an established business in the State of Florida with no reference to community partners, and did not provide information on the quality of services historically provided; and

WHEREAS, the Commission finds that public convenience and necessity requires the issuance of only two certificates inasmuch as two countywide providers will help ensure marketplace competition, the improvement in the service, performance and accountability of the incumbent provider, and lower the cost of service to the County's medical transport customers; and

WHEREAS, the Commission finds that public convenience and necessity requires the two certificates should go to the most qualified, proven and established providers who have applied; and

WHEREAS, the Commission finds that Ambitrans Medical Transport, Inc., and West Coast Southern Medical Services, Inc., are the two most qualified, proven and established providers from among the applicants, and should therefore be awarded certificates; and

WHEREAS, to both create a staggered renewal period and to allow the County to ensure West Coast Southern Medical Services, Inc., to establish the systems so as to meet all of the new Code's requirements, it should receive a one year certificate while Ambitrans Medical Transport, Inc., having already demonstrated it is currently able to comply with the new Code, should receive a two year certificate.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Section 1. Ambitrans Medical Transport, Inc. Inc., is hereby issued a non-exclusive COPCN for the provision of Advanced and Basic Life Support services within Manatee County. The COPCN is conditioned upon the following terms and conditions:

- A. The provision of Basic or Advanced Life Support services as defined by Chapter 401, Part III, Florida Statutes, and Florida Administrative Code 64-J, for inter-facility transports between licensed medical facilities and includes transport requests from residences to licensed medical facilities for routine medical appointments and for stand-by for special events and, when requested by the County and provided for by agreement with the County and consistent with the above recitals, calls transferred from County 9-1-1 to Ambitrans Medical Transport, Inc. Inc., and any other type of pre-hospital medical assistance.
- B. At no time shall a Ambitrans Medical Transport, Inc. Inc., ambulance await the arrival of County EMS if the condition of the patient warrants immediate care and ground or air transportation. This includes trauma, STEMI and stroke alerts.
- C. This COPCN is non-exclusive, and the County reserves its right to grant similar certificates during the term of this COPCN as may be authorized by law.

Section 2. The CPOCN authorized herein shall remain valid for the period of time provided below based upon continued compliance by Ambitrans Medical Transport, Inc. Inc., with the following provisions:

- A. In the event it is determined by County officials that additional ambulances are required from Ambitrans Medical Transport, Inc. Inc., to augment County EMS, such request will be made by an official from the County's Emergency Medical Service, Emergency Communication Center or Emergency Management Division.
- B. In the provision of Basic and Advanced Life Support services authorized herein, Ambitrans Medical Transport, Inc. Inc., shall maintain compliance with all applicable local, state and federal laws and regulations including, but limited to, all statutes and ordinances related to ambulance transportation or the COPCN process.
- C. Calls for services which Ambitrans Medical Transport, Inc., is not authorized to provide under this resolution shall be immediately directed to the County's Emergency Communication Center.

Section 3. The COPCN issued pursuant to this Resolution shall take effect upon issuance, and shall have a term of not longer than two years unless its state license expires before that term or unless sooner revoked, suspended, extended, or renewed as provided by state law or County Code.

Section 4. Assignment, sale or transfer of the COPCN authorized herein shall be governed by the terms of Manatee County Code § 2-13-54(g). Nothing contained herein is intended to convey any license or right to perform non-emergency medical transportation services or inter-hospital transportation services in derogation of any licensure requirement established by the State of Florida.

Section 5. West Coast-Southern Medical Service, Inc. is hereby issued a non-exclusive COPCN for the provision of Advanced and Basic Life Support services within Manatee County. The COPCN is conditioned upon the following terms and conditions:

- A. The provision of Basic or Advanced Life Support services as defined by Chapter 401, Part III, Florida Statutes, and Florida Administrative Code 64-J, for inter-facility transports between licensed medical facilities and includes transport requests from residences to licensed medical facilities for routine medical appointments and for stand-by for special events and, when requested by the County and provided for by agreement with the County and consistent with the above recitals, calls transferred from County 9-1-1 to West Coast-Southern Medical Service, Inc., and any other type of pre-hospital medical assistance.
- B. At no time shall a West Coast-Southern Medical Service, Inc., ambulance await the arrival of County EMS, if the condition of the patient warrants immediate care and ground or air transportation. This includes trauma, STEMI and stroke alerts.
- C. This COPCN is non-exclusive, and the County reserves its right to grant similar certificates during the term of this COPCN.

Section 6. The COPCN authorized herein shall remain valid for the period of time provided below based upon continued compliance by West Coast-Southern Medical Service, Inc., with the following provisions:

- A. In the event it is determined by county officials that additional ambulances are required from West Coast-Southern Medical Service, Inc., to augment County EMS, such request will be made by an official from the County's Emergency Medical Service, Emergency Communication Center or Emergency Management Division.
- B. In the provision of Basic and Advanced Life Support services authorized herein, West Coast-Southern Medical Service, Inc. shall maintain compliance with all applicable local, state and federal laws and regulations including, but limited to, all statutes and ordinances related to ambulance transportation or the COPCN process.
- C. Calls for services which West Coast-Southern Medical, Inc. is not authorized to provide under this resolution shall be immediately directed to the County's Emergency Communication Center.

Section 7. The COPCN issued pursuant to this Resolution shall take effect upon expiration of the COPCN authorized by the County in Resolution R-14-75, and shall have a term of not longer than one year, which coincides with the expiration of West Coast Southern Medical Inc.'s state license, unless sooner revoked, suspended, extended, or renewed as provided by state law or County Code.

Section 8. Assignment, sale or transfer of the COPCN authorized herein shall be governed by the terms of Manatee County Code § 2-13-54(g). Nothing contained herein is intended to convey any license or right to perform non-emergency medical transportation services or inter-hospital transportation services in derogation of any licensure requirement established by the State of Florida.

Section 9. Pursuant to and subject to the pre-conditions of Manatee County Code § 2-13-54(e), the Administrator or designee is authorized to execute COPCN certificates conforming to the terms of this resolution.

Section 10. If any section, subsection, sentence, clause, provision or word of this Resolution is held invalid, same shall be severable and the remainder of this Resolution shall not be affected by such invalidity, such that any remainder of the Resolution shall withstand any severed provision, as the Board of County Commissioners would have adopted the Resolution even absent the invalid part(s).

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon adoption.

DULY ADOPTED with a quorum present and voting this 10th day of May, 2016.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____

ATTEST: Angelina Coloneso
Clerk of the Circuit Court and Comptroller

By: Robin Roth OC
Deputy Clerk

