

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 90

An Act to amend and reenact § 32.1-111.9 of the Code of Virginia, relating to emergency medical services; variances.

[H 1675]

Approved March 15, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-111.9 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-111.9. Applications for variances or exemptions.

A. Prior to the submission of (i) *an application for a variance to the Commissioner of Health or (ii) an application for an exemption from any regulations promulgated pursuant to this chapter to the Board of Health* by an agency; or governmental entity; ~~or provider~~ licensed or certified by the Office of Emergency Medical Services ~~of an application for a variance; or to the Board of Health for an exemption from any regulations promulgated pursuant to this chapter~~, the application shall be reviewed by the governing body *or chief administrative officer* of the jurisdiction in which the principal office ~~or legal residence~~ of the agency; or governmental entity; ~~or provider~~ licensed or certified by the Office of Emergency Medical Services is located. The recommendation of the governing body *or chief administrative officer of the jurisdiction* regarding the variance or exemption shall be submitted with the application; and, ~~absent compelling reasons to the contrary~~, the Commissioner or Board, whichever is appropriate, shall ~~adopt~~ *consider* that recommendation for the purposes of granting or denying the variance or exemption.

B. A provider who is certified or is a candidate for certification by the Office of Emergency Medical Services shall not be required to submit an application for a variance or exemption to the local governing body or chief administrative officer of the jurisdiction for review, but shall submit the application for a variance or exemption to the Operational Medical Director and the agency head of the agency with which the provider is affiliated, and shall include the recommendations of such Operational Medical Director and the agency head together with the application for a variance or exemption. The recommendation of the Operational Medical Director and the agency head regarding the variance or exemption shall be submitted with the application and the Commissioner or Board, whichever is appropriate, shall consider that recommendation for the purposes of granting or denying the variance or exemption.

C. A provider who is not affiliated with an agency shall submit an application for a variance or exemption to the Commissioner or Board, whichever is appropriate, and the Commissioner or Board, whichever is appropriate, shall consider the application for the purposes of granting or denying the variance or exemption. The Commissioner or Board, whichever is appropriate, may require a provider who is not affiliated with an agency to submit additional case-specific endorsements or supporting documentation as part of an application for a variance or exemption.

D. The applicant shall have the right to appeal any denial by the Commissioner or Board of an application for a variance or exemption pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).