Landon State Office Building
900 SW Jackson Street, Room 1031
Topeka, KS 66612-1228

Kansas
Board of
Emergency Medical Services

phone: 785-296-7296
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Dr. Joel E Hornung, Chair
Joseph House, Executive Director

Laura Kelly, Governor

# Board Meeting

Joel Hornung – Chair

**AGENDA**
**Friday, April 5, 2024 – 9:00 AM**

**LANDON STATE OFFICE BUILDING**
**900 SW Jackson, Room 509; Topeka, Kansas**

**VIRTUAL LOCATION(S):**
**From your computer, tablet or smartphone – Remember to Mute.**
https://meet.goto.com/219365229

**Dialing in using your phone – Remember to Mute.**
United States: +1 (646) 749-3122
**Access Code:** 219-365-229

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## I. CALL TO ORDER

## II. APPROVAL OF MINUTES – MARCH 5, 2024

## III. STANDING ITEMS

a. Executive Committee Actions – No decisions requiring affirmation
b. Variance(s) Approved –
   - Staffing – Both asked for 12 months to commence upon date training reported as completed.
     1. Ottawa County Fire District #4 (#1475)
     2. Concordia Fire (#420)
c. Investigation Committee Actions – ***Chairwoman Wheatley***
d. Office Update – ***Report – Executive Director House***
   - Regulations Update

## IV. OLD BUSINESS

a. HB 2579 - Legislation Adding Distribution of Over-the-Counter (OTC) Medications to the Authorized Activities of the EMR – ***Executive Director House***
   - DRAFT Guidance Document (2024-A DRAFT) – Passage of HB2579 renders this document unnecessary.
   - Considerations if/when passage occurs

## V. NEW BUSINESS

a. Kansas Revolving Assistance Fund (KRAF) Grant Awards – ***Action Requested***
b. Potential Action Items from Standing Committees
   - Education, Examination, Training and Certification – ***Chairman Ralston***

## VI. PUBLIC COMMENT UPON ITEMS NOT LISTED ON THE AGENDA

**NOTES:** Those desiring to provide information or comment upon an item appearing on the Agenda shall submit that information in writing via email to joseph.house@ks.gov by 4:30pm on **April 1, 2024**.

## VII. RECONSIDERATION OF 2021-189-01

a. Board will be discussing and issuing their order related to the reconsideration
   - In the matter of William Hank Besack,
   - Case #2021-189-01; OAH #2022-EM-0005-EMS

## VIII. ADJOURNMENT

**BOARD ASSIGNED TASKS –**

Any comments, suggestions, or input upon these tasks shall be submitted in writing to the staff member listed for dissemination to, and consideration by, the assigned entity.

| ASSIGNED TO: | TASK | REPORT OUT DATE |
|---|---|---|
| **KBEMS Staff**<br>Carman Allen;<br>carman.m.allen@ks.gov | Develop AEMT Skills Portfolio to replace AEMT Skills Examination | April 2024 |

**NOTES:** Those desiring to provide information or comment upon an item appearing on the Agenda shall submit that information in writing via email to joseph.house@ks.gov by 4:30pm on **April 1, 2024**.

**SUGGESTIONS SUBMITTED FOR FUTURE BOARD CONSIDERATION –**

**The Board is accepting comments, suggestions, or input upon all items listed within this section for assistance in building a Board Brief. Comments, suggestions, or input shall be submitted to Executive Director House via email (joseph.house@ks.gov) and need to reference the item's assigned number. Items in red have been added since the last agenda. Green currently has a Board assigned task (as listed above).**

a. **2023PS0001** – AEMT Med List – Addition of Calcium, Magnesium, and Sodium Bicarbonate.
b. **2023PS0002** – AEMT Authorized Activities – Addition of needle decompression.
c. **2023PS0003** – Supervision of Students – Allowing Paramedics to supervise EMS students in a Medical Care Facility
d. **2023PS0006** – Authorized activities – reduction of EMR authorized activities to match National EMR.
e. **2023PS0007** – Ambulance staffing – allowance of single EMS provider minimum staffing in counties with population of less than 15,000 and only for interfacility transfers.
f. **2023PS0008** – Occupational Licensing/Agency Licensing – addition of certification for Critical Care Paramedic.
g. **2023PS0009** – Occupational Licensing/Agency Licensing – addition of certification for Mobile Integrated Health.
h. **2023PS0010** – Ambulance operations – creation of protected peer review.
i. **2023PS0011** – Provider Support – creation of an impaired provider program.

## Has received final action of the Board:

a. **2023PS0005** – Continuing Education – addition of Provider Well-Being as a required Category of CE for renewal purposes – Final Action - Board concurred with committee recommendation to not add as a required category but to ensure individuals understand that this type of education does qualify for EMS CE and to promote inclusion.
b. **2023AS0001** – Renewal Submission – require renewal applications to be submitted at least 30 days prior to the certificate's expiration – Final Action – Board moved to proceed with regulation to put this into effect.
c. **2023PS0012** – ALS Skills Examination – Board is seeking input related to the sunsetting of the NREMT Skills examination (currently the state skills exam) for the AEMT and Paramedic levels. – Final Action – Board moved to proceed to eliminate the requirement of a Paramedic Skills State Examination and reflect appropriately in regulation.
d. **2023PS0004** – Continuing Education – allow non-clinical, EMS Administrator based training to be considered approved CE for renewal purposes – Final Action – if training meets the Educational standards, it can be considered.
e. **2023PS0013** – Paramedic Course Completion Requirements – request to consider aligning initial certification and recognition of non-Kansas credential related to course completion requirement of ability to have a minimum of an associate's degree conferred - Final Action – no action necessary at this time and no strong evidence supporting a change is needed in current regulation.

**NOTES:** Those desiring to provide information or comment upon an item appearing on the Agenda shall submit that information in writing via email to joseph.house@ks.gov by 4:30pm on **April 1, 2024**.

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# Board Meeting Minutes

**March 5, 2024**

DRAFT
3/5/24

Board Members Present
Director David Adams - virtual
Rep. Stephanie Clayton
Rep. John Eplee - virtual
Sen. Faust-Goudeau-virtual
Dr. Gregory Faimon-virtual
Director Deb Kaufman-virtual
Chief Shane Pearson-virtual
Director John Ralston-virtual
Dr. Martin Sellberg-virtual
Director Jeri Wheatley-virtual

Guests

Staff Present
Joseph House, Exec. Director
Terry Lower
James Kennedy
Scott Hird-virtual

Board Members Absent
Sen. Michael Fagg - Excused
Dr. Joel Hornung - Excused

## Call to Order

Vice-Chairman Pearson called the Board Meeting to order on Tuesday, March 5, 2024 at 10:04 a.m.

Vice-Chairman Pearson called for a motion to approve the minutes.

***Director Adams moved to approve the February 2, 2024 minutes. Director Wheatley seconded the motion. No further discussion. No opposition noted. The motion carried.***

## Old Business

Vice-Chairman Pearson stated that one regulation was up for discussion and adoption and called upon Director House to provide a brief overview.

Director House explained that K.A.R. 109-2-2 is a regulation related to ambulance service permit initial and renewal processes, as well as ambulance (vehicle) license initial and

renewal processes. No public comment was received on the proposed amendment during the 61-day public comment period and there were no comments provided during the public hearing which concluded immediately prior to this meeting.

***Rep. Eplee moved that K.A.R. 109-2-2 be adopted as amended. Director Wheatley seconded the motion. No further discussion. Roll call vote taken.***

***Roll call vote to adopt K.A.R. 109-2-2 as amended:***

| | | | |
|---|---|---|---|
| *Director Adams* | *Aye* | *Deb Kaufman* | *Aye* |
| *Rep. Eplee* | *Aye* | *Vice-Chairman Pearson* | *Aye* |
| *Sen. Fagg* | *Absent* | *Director Ralston* | *Aye* |
| *Dr. Faimon* | *Aye* | *Rep. Sawyer Clayton* | *Aye* |
| *Sen. Faust-Goudeau* | *Absent* | *Dr. Sellberg* | *Aye* |
| *Chairman Hornung* | *Absent* | *Director Wheatley* | *Aye* |

***Revision of K.A.R. 109-2-2 is adopted by the Board on a 9-0 vote (9 Yes; 0 No; 3 Absent).***

Having reached the end of the published agenda and there being no further business before the Board, the meeting was adjourned at 10:10 a.m.

**Virtual Guests**
Scott Sare

DRAFT

# Board Variance Checklist – K.A.R. 109-2-6 (c)(1)(C)

## Utilizing Guidance Document 2023-A

Allowance for staffing with only 1 certified provider and a trained individual driving the ambulance.

| | | |
|---|---|---|
| **Date Requested** | February 20, 2024 | ✓ 30 days prior to meeting |
| **Service** | Ottawa County Fire District #4 | ✓ 1st request |
| **Requested Time** | 12 months | ✓ No public meeting needed |
| **Identified Hardship** | 11 of the 13 staff are PRN and work other full time jobs outside of the area and most have school aged children that participate in sports that leaves a gap in day time coverage and on some nights and weekends. | |
| **Number of Personnel** | 13 total | |
| **Training to be supplied to those driving ambulance:** | Basic Ambulance Operating Training<br>First Aid to include Stop the Bleed training and Naloxone administration<br>CPR to include AED<br>Patient Confidentiality/HIPAA<br>Bloodborne pathogen/HAZMAT<br>Patient packaging and loading | ✓ Meets minimum after follow-up |
| **How will training be delivered?** | In-service course | ✓ Provide date(s) of course for Board staff to attend |
| **Current Mil Levy** | 6.0 | ✓ Answer provided upon follow-up |
| **Plan for future effort(s) to recruit additional certified EMS providers** | • Continuing to support advancement for existing staff.<br>• Continuing to recruit from within the community | ✓ Provided |

Call Information (January 1, 2023 – January 1, 2024):

214 Total Requests – 70 transports
- 190 – 911 Requests
- 21 – Standbys
- 2 – Transfers
- 1 – Public Assistance

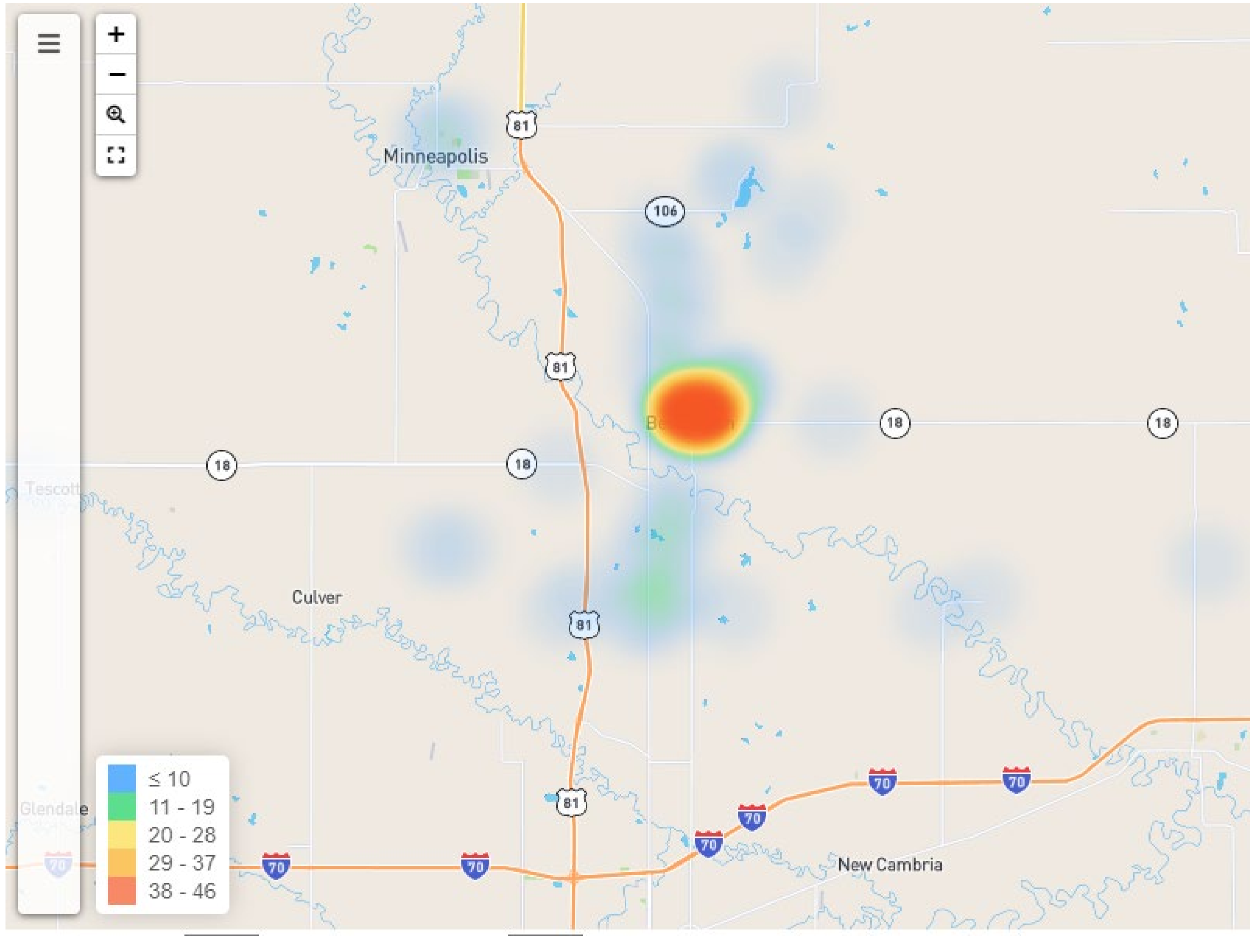
Average time from 911 call to Unit arriving on scene: 9.0 minutes
Median time from Scene to Destination: 21.0 minutes for 911
Average time from Scene to Destination: 24.8 minutes for 911

## Board staff comments:

A complete application was submitted that initially did not address all items within the guidance document, but deficiencies were addressed upon follow-up. No identified concerns other than

training meets minimum listing and no detail as to time involved with the trainings. Date of training is to be determined at a March 7th meeting and then communicated to Board staff.

Service is 1 of 2 ambulance services in Ottawa County (OCFD#4 and Minneapolis). Service runs approximately 29.3% of calls that occur within Ottawa County.




***Gradient Heat Map of All Responses by Requesting Service***

Recommendation: Approve variance for a 12-month period to begin upon completion of in-service training and the service providing Board staff with the date(s) upon which the training will occur with adequate notice for staff to attend, if desired.

# Board Variance Checklist – K.A.R. 109-2-6 (c)(1)(C)

## Utilizing Guidance Document 2023-A

Allowance for staffing with only 1 certified provider and a trained individual driving the ambulance.

| **Date Requested** | February 27, 2024 | ✓ 30 days prior to meeting |
|---|---|---|
| **Service** | Concordia Fire Department | ✓ 1st request |
| **Requested Time** | 12 months | ✓ No public meeting needed |
| **Identified Hardship** | We are struggling finding 2 certified providers for long-distance transfers and to maintain 911 coverage. Current staff have outside employment and other jobs that are minimizing their availability to be called back for a transfer. | |
| **Number of Personnel** | 20 total | |
| **Training to be supplied to those driving ambulance:** | Emergency Vehicle Operations<br>AHA first aid/CPR/AED<br>Stop the Bleed/tourniquet application<br>Naloxone administration<br>Patient Confidentiality/HIPAA<br>Potential workplace hazards | ✓ Meets minimum |
| **How will training be delivered?** | In-service course | ✓ Provide date(s) of course for Board staff to attend |
| **Current Mil Levy** | 16.6 | ✓ Provided |
| **Plan for future effort(s) to recruit additional certified EMS providers** | • Partnering with other area ambulance services<br>• Hosting an EMT class | ✓ Provided |

Call Information (January 1, 2023 – January 1, 2024):

915 Total Requests – 578 transports

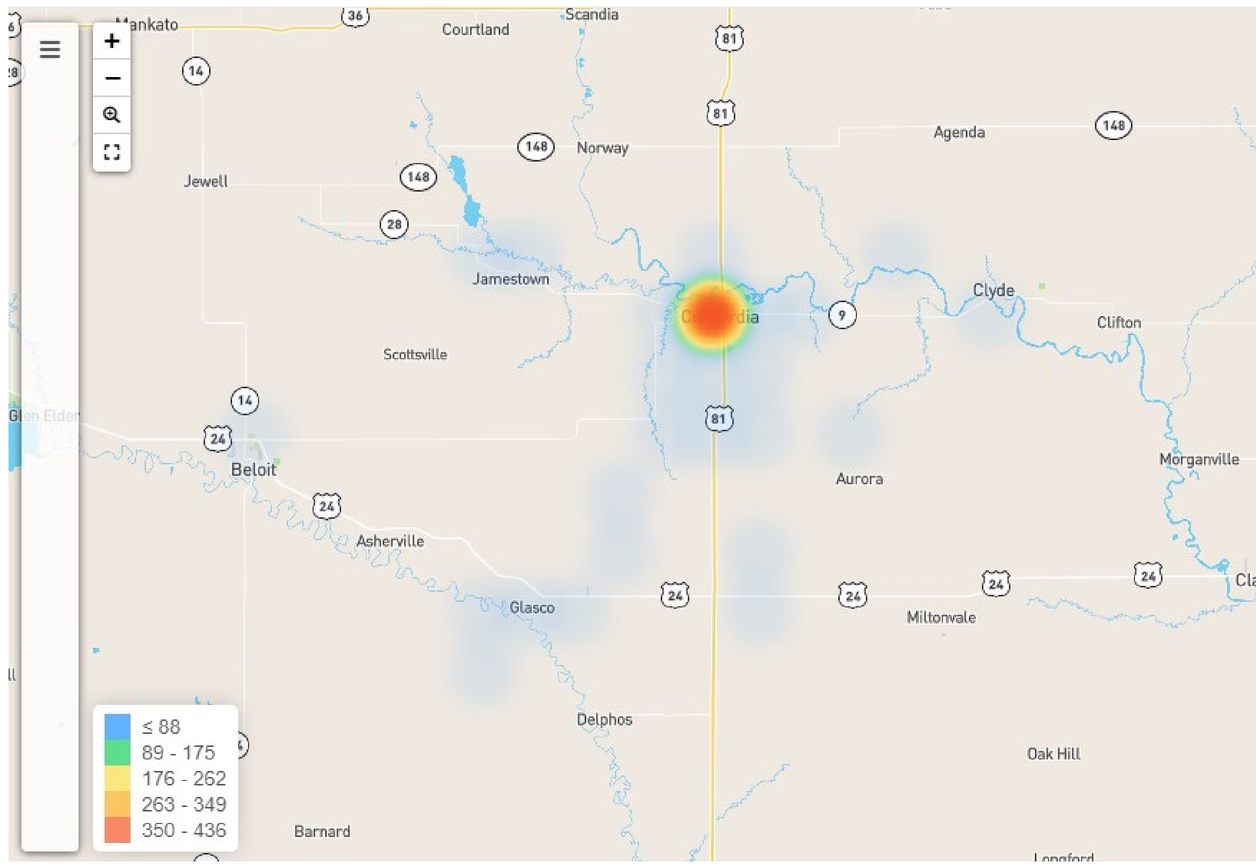
- 703 – 911 Requests
- 144 - Transfers
- 41 – Standby
- 27 – Public Assistance

| | |
|---|---|
| Average time from 911 call to Unit arriving on scene: | 9.3 minutes |
| Median time from Scene to Destination: | 6.0 minutes for 911 – 7.0 minutes for all |
| Average time from Scene to Destination: | 10.5 minutes for 911 – 25.2 minutes for all |

## Board staff comments:

A complete application was submitted with the finding as noted above. No identified concerns other than training meets minimum listing and no detail as to time involved with the trainings.

Service is 1 of 3 ambulance services in Cloud County (Miltonvale, Clyde, and Concordia). Service runs approximately 82.9% of calls that occur within Cloud County.




***Gradient Heat Map of All Responses by Requesting Service***

Recommendation: Approve variance for a 12-month period to begin upon completion of in-service training and the service providing Board staff with the date(s) upon which the training will occur with adequate notice for staff to attend, if desired.  Operator has asked for an April 15, 2024 start date.

**Board Section:** **Old Business**

**Agenda Item:** **HB 2579 - Legislation amending the authorized activities of the EMR to include distribution of any Over-the-Counter (OTC) Medication**

## BACKGROUND

*On January 16, 2024, Board members received an email from the Mid-America Regional Council (MARC) to notify them of the ask for legislation to be filed to "correct the problem of paramedics not being able to leave behind opioid antagonist medication due to the interpretation of the KS EMS laws regarding scope of practice."[1]*

*The email states attorneys with Johnson County, and several EMS agency administrators have stated if the legislation is drafted narrowly to deal with only "emergency opioid antagonists", it will mean that the distribution of other OTC medications such as Tylenol® would be seriously in question. Therefore, the draft legislation is being adjusted to cover all OTC medications.*

*The email further goes on to request the Board of EMS endorse this effort and cites the reasoning as allowing EMS agencies to "more effectively participate with the community response to the Opioid Epidemic".*

*KEMSIS response data for the last 4 years related to opioid overdoses as well as non-fatal overdoses (any and all medications):*

| | ***2020*** | ***2021*** | ***2022*** | ***2023*** |
|---|---|---|---|---|
| ***Opioid Overdose*** | *1447* | *2081* | *2257* | *2021* |
| ***All non-fatal OD*** | *3573* | *4485* | *4169* | *4115* |
| ***Total 911 Responses*** | *289,226* | *310,968* | *318,565* | *318,989* |

*The following 5 counties are the incident location for approximately 70-77% of the volumes for opioid overdoses and all non-fatal overdoses: Sedgwick, Johnson, Shawnee, Wyandotte, and Leavenworth.*
*These same 5 counties comprise 56-58% of the total call volume for 911 responses in the state.*

*In 2023, approximately 400 responses indicated a patient experienced an opioid overdose that was potentially reversed and the patient was not transported. This would be the estimated number of recipients that would have been eligible for naloxone leave-behind under a standard program.*

*K.S.A. 65-6112 defines Emergency medical service as the "effective and coordinated delivery of such care as may be required by an emergency that includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or emergency medical service provider".*

*K.S.A. 65-6144 are the authorized activities of the Emergency Medical Responder and identifies when those activities are authorized. K.S.A. 65-6121 does the same for the Emergency Medical Technician. K.S.A. 65-6120 does the same for the Advanced Emergency Medical Technician. K.S.A. 65-6119 does the same for the Paramedic.*
*These 4 laws are constructed in a manner by which they build upon each other. K.S.A. 65-6121 includes all in 65-6144. K.S.A. 65-6120 includes all in 65-6144 and 65-6121. K.S.A. 65-6119 includes all in 65-6144, 65-6120, and 65-6121.*

***Administration vs. Distribution***

*Kansas law does have different meanings for these two words. Administration means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient. Distribution means to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any product.*
*The administration of a medication is included as an authorized activity.*

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[1] Email from MARC to Board Members

***Scope of Practice***

*The scope of practice in Kansas is a combination of 4 events that must occur. The individual may only perform a skill or role for which the person is:*

1) *Educated (has been trained to perform the skill or role) AND*
2) *Certified (has demonstrated competence in the skill or role) AND*
3) *Licensed (has legal authority issued by the State to perform the skill or role) AND*
4) *Credentialed (has been authorized by a medical director to perform the skill or role).*

*If ANY of the 4 items do not exist, the individual is operating outside of their scope of practice. EMS laws currently govern authorized emergency care and emergency situations.*

## ADDITIONAL SINCE LAST MEETING

***HB 2579 timeline***

On January 24th, the Bill was introduced in the House by Representative Susan Ruiz on behalf of Johnson County MED-ACT, Kansas City Kansas Fire Department, Johnson County EMS Physician, and MARCER.
On January 31st, the Bill received a hearing in the House Committee on Health and Human Services. The Board offered Opponent Testimony.
On February 2nd, the Board heard discussion related to this bill and topic and directed the Executive Director to complete 2 items: 1) Change to a neutral party and 2) Draft a guidance document to identify the Board's current approach and direction to staff on addressing the distribution of non-prescription, over the counter medications and/or supplies by EMS providers.
On February 22nd, the Bill passed the House 120-0.
On March 5th, a draft of the proposed Guidance Document (2024-A) was provided to Board members as well as members of MARC, MED-ACT, KCK Fire, and KEMSA.
On March 12th, the Bill received a hearing in the Senate Committee on Public Health and Welfare. The Board was slated to provide Neutral Testimony and the Chair closed the hearing after the Proponent Testimony. Our testimony, submitted on March 7th at 9:20am clearly indicated our desire to provide in-person, neutral testimony and notification of offering 2 amendments. We received confirmation of being added to their agenda as in-person testimony at 10:02am on March 7th.
Our 2 amendments were to 1) Make the changes to 65-6144 the Board has directed from their December 2022 meeting and 2) Add 65-16,127 to the bill with amendments to subsection (e) to add the word "distribute" in 2 locations (thereby authorizing EMS providers to possess, store, distribute, and administer an emergency opioid antagonist).
On March 19th, the Bill was worked and passed favorably out of committee without amendment.
The Senate has until March 28th to pass the bill.
The bill, if enacted, would go into effect upon publication in the statute book (anticipated July 1, 2024).
HB 2579 should be expected to be enacted during this legislative session.

## DISCUSSION

The draft guidance document relates to the distribution of non-prescription, over-the-counter medications as well as supplies. HB 2579 clearly only includes medications and excludes any over-the-counter medication which could be used for the manufacturing of methamphetamine (ephedrine or pseudoephedrine). Does the Board need to proceed with language to address non-prescription supplies (gauze, band-aids, cold packs, hot packs, etc.)?

If HB 2579 is enacted, the Legislature has clearly indicated their desire and intent as it relates to EMR authorized activities and over-the-counter medications.  Therefore, adopting guidance document 2024-A is no longer necessary or applicable as the Board must follow the Legislature's current approach to addressing the distribution of over-the-counter medications.  This means the following:

- This may only be done by an EMS provider affiliated with a service (and service is not specifically defined, therefore it could mean an emergency medical service or an ambulance service) and only upon the medication being approved by the physician functioning as the service medical director; AND
- The EMS Provider will need to be able to demonstrate completing an approved course of instruction including content related to the distribution of over-the-counter medications; AND
- The EMS Provider will need to be able to demonstrate local specialized device training; AND
- The EMS Provider will need to be able to demonstrate competency validation; AND
- The EMS Provider will need to be able to demonstrate authorization by medical protocols OR able to demonstrate the receipt of an order to distribute when direct communication is maintained and monitored.

Furthermore, if an ambulance service includes this within their medical protocols, the ambulance service is required to maintain stock of all medications necessary to execute their protocols.

Currently, just like ibuprofen, both an over-the-counter version and a prescription version are available for naloxone.  A prescription version clearly indicates "Rx use only".  The FDA has stated any OTC formulation of naloxone must have its packaging remarked by the manufacturer in order for the formulation to not be for prescription use only.  Therefore, if the medication is still marked by the manufacturer as Rx use or Rx use only, it can only be dispensed with a proper prescription.

Both manufacturers of OTC naloxone indicated they would not remark existing packaging as they did not feel they could adequately ensure storage requirements were maintained by those in possession. Therefore, the medication must be treated as it is marked on the original packaging and by the manufacturer.

***Regulatory Conflict***:
HB 2579, if enacted, creates a disconnect and conflict with regulation.  Currently, the Board has, very clearly, not approved the administration of over-the-counter antipyretics or over-the-counter non-opioid analgesics (i.e. Acetaminophen, Naproxen, and Ibuprofen) at the level of the EMR.  This sets up the disconnect of the EMR being able to distribute these medications; however, makes it unlawful for them to administer them to a patient when clinically indicated.

***Statutory Conflict (emergency opioid antagonist):***
HB 2579 does not address 65-16,127, yet this law includes an EMS provider, whether regular or volunteer, in the definition of first responder.  Subsection (e) of this law authorizes any first responder to possess, store, and administer emergency opioid antagonists as clinically indicated and lists out minimal training requirements for having such authority (including the reporting of any emergency opioid antagonist to a healthcare provider).  EMS law further states an EMS provider may administer naloxone via Autoinjector, Intranasal administration, or Intramuscular administration as long as the last 4 bullets above are met.

Distribution means anything that is not the administering or dispensing of a drug. Dispensing means to deliver prescription medications. Distribution is not addressed in 65-16,127; however, both administration and dispensing are addressed. This is due, in part, to the law being written and enacted long before any emergency opioid antagonist was approved for over-the-counter usage, therefore distribution was unnecessary. 65-16,127 clearly covers emergency opioid antagonists, clearly includes EMS providers, and clearly authorizes them to solely possess, store, or administer. 65-6144 addresses administration as an authorized activity consistent with 65-16,127. 65-6144 also would now include distribution of these emergency opioid antagonists. Therefore, any EMS provider distributing an emergency opioid antagonist could do so as an authorized activity in EMS law; however, since they are only allowed to possess, store, or administer in Pharmacy law, the EMS provider could be violating pharmacy laws.

This disconnect was why we asked for the amendment in 65-16,127 to include "distribute".

## ALTERNATIVES

The Board has the following potential alternatives concerning the matter at hand. The Board may:

1. Address the regulatory conflict through consideration of amending the Board's regulations to allow for the administration of these over-the-counter medications.
2. Address the statutory conflict through engagement with the Board of Pharmacy to amend the emergency opioid antagonist law and to ask for clemency for any potential statutory violations.
3. Perform a combination of all or parts of the above.
4. Close the item as being adequately addressed within the current bill.
5. Table the item to a future meeting.

## RECOMMENDATION

This recommendation is based upon the assumption HB 2579 is enacted.

Staff believes actions were taken by the Board to mitigate the identified issues and conflicts during the Legislative process. The Legislature was made aware of those potential conflicts and mitigative actions and chose to not amend the bill to address.

Staff believes the action by the Board to direct the drafting of a guidance document related to this topic was an attempt to mitigate the concerns expressed by those seeking introduction of the bill through the administrative means afforded to the Board until a more permanent solution could be developed and implemented. However, Legislative action has removed this administrative means to address this topic.

Based upon this, staff recommends the Board close the item. It is clear the Board made all efforts possible to identify potential consequences/issues and offer solutions to avoid or mitigate them. If these issues come to fruition, they are simply the known by-product of the legislation and the Board should accept them as such.

***Enclosures***:

1. Draft Guidance Document 2024-A
2. HB 2579
3. Board Neutral Testimony

# Distribution of Non-Prescription, Over-the-Counter Medications by EMS Providers

This Guidance Document describes the Kansas Board of Emergency Medical Services (Board) current approach to addressing the distribution of non-prescription, over-the-counter medications and/or supplies by EMS providers.

## Applicable Law

- K.S.A. 65-6112 defines emergency medical service (EMS) as the “effective and coordinated delivery of such care as may be required by an emergency that includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or emergency medical service provider.”
- K.S.A. 65-6133 grants the Board the authority to deny, revoke, limit, modify, or suspend a certificate upon proof an individual has performed or attempted to perform activities not authorized by statute at the level of certification held by the individual or for engaging in unprofessional conduct.
- K.A.R. 109-1-1 (pp) defines unprofessional conduct in relevant part as “conduct that violates those standards of professional behavior… performing acts beyond the activities authorized for the level at which the individual is certified; … diverting drugs or any property belonging to a patient or an agency…”
- K.S.A. 65-1626 defines distribution as “to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any product…”
- K.S.A. 65-1626 defines administer as “the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject…”
- K.S.A. 65-1626 defines dispensing as “to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner, including, but not limited to, delivering prescription medication to a patient by mail, common carrier, personal delivery or third-party delivery to any location requested by the patient.”

## The Board’s Current Approach to the Applicable Law:

1) ***Distribution of non-prescription, over-the-counter medications and/or supplies by EMS providers when so authorized by medical protocol or the ambulance service’s operational policies does not constitute unprofessional conduct nor does it constitute an unauthorized activity.***

   The Board considers the gratuitous giving to a patient of non-prescription, over-the-counter medications and/or supplies and for use later as the distribution of a medication or supply and not the administration of such medication or supply.

   The Board reserves the right to otherwise consider the following as proof of unprofessional conduct:

DRAFT

(a) the diversion of ambulance service non-prescription, over-the-counter medications and/or supplies without the ambulance service's approval or in conflict with an ambulance service's established protocol or policy;
(b) the diversion, or dispensing, of any medication and/or supply indicating the medication and/or supply is for prescription use only;
(c) the distribution of a non-prescription, over-the-counter medication and/or supply without documentation of the purpose of distribution;
(d) the distribution of a non-prescription, over-the-counter medication and/or supply not within its original packaging;
(e) failing to provide education or educational materials, which could include a manufacturer product insert, to the patient upon the proper usage, storage, and/or shelf life of the specific medication and/or supply; and
(f) the distribution of any non-prescription, over-the-counter medication containing any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

The Board may choose to act at variance with the expressed position of this Guidance Document if it finds there is reasonable justification for such variance and such justification outweighs the affected person's reliance on this Guidance Document. *See* K.S.A. 77-438(c). This Guidance Document may be withdrawn by the Board at any time without notice.

DRAFT

*Session of 2024*

# HOUSE BILL No. 2579

By Committee on Health and Human Services

Requested by Representative Ruiz on behalf of Johnson County MED-ACT, Kansas City Kansas Fire Department, Johnson County Emergency Medical Services Physician, Mid-America Regional Council Emergency Rescue

1-24

AN ACT concerning health professions and practices; relating to the board of emergency medical services; authorized activities; authorizing distribution of non prescription over-the-counter medications; amending K.S.A. 65-6144 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 65-6144 is hereby amended to read as follows: 65-6144. (a) An emergency medical responder may perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced practice registered nurse when authorized by a physician or a professional nurse when authorized by a physician, upon order of such person:

(1) Emergency vehicle operations;

(2) initial scene management;

(3) patient assessment and stabilization;

(4) cardiac arrest management through the use of cardiopulmonary resuscitation and the use of an automated external defibrillator;

(5) airway management and oxygen therapy;

(6) utilization of equipment for the purposes of acquiring an EKG rhythm strip;

(7) control of bleeding;

(8) extremity splinting;

(9) spinal immobilization;

(10) nebulizer therapy;

(11) intramuscular injections with auto-injector;

(12) administration of medications as approved by the board by appropriate routes;

(13) recognize and comply with advanced directives;

(14) use of blood glucose monitoring;

(15) ~~assist~~ *assistance* with childbirth;

(16) non-invasive monitoring of hemoglobin derivatives;

*(17) distribution of non prescription, over-the-counter medications as approved by the service medical director, except an emergency medical responder shall not distribute:*

*(A) Any compound, mixture, or preparation that contains any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers and is exempt from being reported to the statewide electronic logging system for the sale of methamphetamine precursors; or*

*(B) any compound, mixture, or preparation that contains any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers and is exempt from being reported to the statewide electronic logging system for the sale of methamphetamine precursors;* and

~~(17)~~*(18)* other techniques and devices of preliminary care an emergency medical responder is trained to provide as approved by the board.

Sec. 2. K.S.A. 65-6144 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

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Dr. Joel E Hornung, Chair
Joseph House, Executive Director

Laura Kelly, Governor

**HB 2579 – Authorizing the board of emergency medical services to distribute non-prescription over-the-counter (OTC) medications.**

*Joseph House, Paramedic*
*Executive Director*
*Emergency Medical Services Board*

***Neutral Testimony***

Madam Chair Gossage and members of the committee, thank you for the opportunity to provide this testimony upon HB 2579. The Board currently stands neutral on this bill and leaves it to the will of this body.

The Emergency Medical Services Board is the lead EMS agency in our state responsible for protecting the public through the effective oversight of all things EMS related in Kansas; this includes ambulance services, ambulances, EMS providers, and EMS educational entities. We have been tirelessly providing guidance, input, and support to our 170 EMS agencies across the state of Kansas as we remain in close and frequent contact with them to attempt to identify and address challenges as early as possible.

The Board stands neutral as we believe the additional language is unnecessary and asks to legislate a practice bystanders and laypersons can do today. Thereby creating and placing obstacles in the path of the EMS provider to be able to do what the general public can do today without the obstacles. However, the industry believes the language before you today provides a necessary clarity and we appreciate their desire to have clarity within statute.

The obstacles HB 2579 would introduce to the EMS provider for this situation – the EMS provider would need to demonstrate they had successfully completed an approved course of instruction, local specialized device training and competency validation, and then could only distribute if authorized by medical protocols or upon an order of a physician, physician assistant, advanced practice registered nurse, or professional nurse when direct communication is maintained and monitored. The general public has none of these obstacles, simply a request to give, a supply on hand, and them giving.

In the vein of necessary clarity, we do request your consideration of two items the Board has asked to pursue legislation upon to effect and is the product of over 3 years' worth of meetings and discussions related to the authorized activities of the Emergency Medical Responder (Proposed amendment #1).

- Adding "acquisition of serial EKG rhythm strips if the primary care provider during transportation is a physician, physician assistant, advanced practice registered nurse, professional nurse, advanced emergency medical technician or paramedic;" as an authorized activity. This fixes a concern of a one and done approach afforded by subsection (a)(6) and places the guardrail to differentiate between the skill of acquisition and the practice of EKG monitoring.
- Deleting (a)(11) "intramuscular injections with auto-injector". It is duplicative with (12).

Finally, for your consideration, it is the Board's current opinion this bill, if enacted, creates a potential statutory disconnect within the emergency opioid antagonist law – K.S.A. 65-16,127. EMS providers would be authorized from this bill to distribute OTC emergency opioid antagonists, but K.S.A. 65-16,127 clearly only authorizes them to store, possess, or administer. EMS providers would be in violation of 65-16,127 with every distribution of an OTC emergency opioid antagonist. This disconnect could prove disastrous for naloxone leave-behind programs by EMS services – programs designed for victims of an

overdose who have responded appropriately to the administration of naloxone for the immediate concern, but refuse transportation or further care. The goal of these programs is, through distribution, to provide and place OTC emergency opioid antagonists in the hands of those having a demonstrated need to have this important safety measure for accidental overdoses.

K.S.A. 65-16,127 does not differentiate between medications approved for prescription usage and those approved for OTC usage, it simply references medications approved by the U.S. Food and Drug Administration to treat an opioid overdose. And quite appropriately so, K.S.A. 65-16,127 was enacted prior to an OTC emergency opioid antagonist existing.

As OTC medications are approved by the U.S. Food and Drug Administration and they approved the first OTC emergency opioid antagonist medication on March 29, 2023, we would additionally ask if your will is to advance this bill, please look to address this potential disconnect and add "distribute" in K.S.A. 65-16,127 subsection (e) to clearly allow the practice of naloxone leave behind for first responders, scientists or technicians operating under a first response agency, or school nurses so they all may utilize these programs without fear of unintentionally violating a state law (Proposed amendment #2).

We thank you for your time, for your consideration of our requests for amendments, and stand ready, as always, to execute the direction of the Legislature.

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Proposed amendment #1 (on page 1):

21 (4) cardiac arrest management through the use of cardiopulmonary
22 resuscitation and the use of an automated external defibrillator;
23 (5) airway management and oxygen therapy;
24 (6) utilization of equipment for the purposes of acquiring an EKG
25 rhythm strip;
26 (7) control of bleeding;
27 (8) extremity splinting;
28 (9) spinal immobilization;
29 (10) nebulizer therapy;
30 ~~(11) intramuscular injections with auto-injector;~~
31 (12) administration of medications as approved by the board by
32 appropriate routes;
33 (13) recognize and comply with advanced directives;

Insert as new (7) and renumber accordingly: "acquisition of serial EKG rhythm strips if the primary care provider during transportation is a physician, physician assistant, advanced practice registered nurse, professional nurse, advanced emergency medical technician or paramedic;"

---

Proposed amendment #2 (would require adding K.S.A. 65-16,127 to this bill with the following change in subsection (e)):

(d) A pharmacist furnishing an emergency opioid antagonist pursuant to this section may not permit the person to whom the emergency opioid antagonist is furnished to waive any consultation required by this section or any rules and regulations adopted thereunder.

(e) Any first responder, scientist or technician operating under a first responder agency or school nurse is authorized to possess, store and administer emergency opioid antagonists as clinically indicated, provided that all personnel with access to emergency opioid antagonists are trained, at a minimum, on the following:

(1) Techniques to recognize signs of an opioid overdose;

(2) standards and procedures to store and administer an emergency opioid antagonist;

(3) emergency follow-up procedures, including the requirement to summon emergency ambulance services either immediately before or immediately after administering an emergency opioid antagonist to a patient; and

(4) inventory requirements and reporting any administration of an emergency opioid antagonist to a healthcare provider.

(f) (1) Any first responder agency electing to provide an emergency opioid antagonist to its employees or volunteers for the purpose of administering the emergency opioid antagonist shall procure the services of a physician to serve as physician medical director for the first responder agency's emergency opioid antagonist program.

Insert "**, distribute**" to read "…authorized to possess, store, distribute and administer emergency opioid antagonists as clinically indicated…" and "…to store, distribute and administer an emergency opioid antagonist"

## Agenda Item: Kansas Revolving Assistance Fund (KRAF) Grant Awards

## BACKGROUND

The EMS Revolving Grant Fund, known as KRAF, is a state funded grant program designed to provide financial assistance based upon demonstrated financial need to Kansas EMS agencies and organizations. The funding is provided through a percentage disbursed from remitted fines, penalties, and forfeitures associated with K.S.A. 74-7336, and was established by the passage of 2007 SB 8. The primary goal of this program is to financially assist EMS agencies and organizations to purchase EMS equipment and assist in regional education and training. Funding is granted based on the documented need of the specific item being requested.

Distribution of the funding has historically been a two-fold process: Direct distribution and Individual distribution. Direct distribution goes directly to each of the six (6) EMS Regional Councils to maintain an overall Regional preparation and education in EMS, homeland security, and education and training opportunities that benefit that geographical area. Individual distribution is to a service and prioritized based upon information submitted during the application process. The requested information on the application is designed to demonstrate the current capacity, to demonstrate the need, and to identify the benefits to the community for receiving the disbursement. The grant application period opens each year on approximately December 1st and runs through the 1st of January.

Each year, the Board convenes a committee of regional representatives to assist in the prioritization of grants. That committee is named the Assistance Review Committee (ARC). Each of the six regions has representation upon this committee as well as the Board.

We have continued to see a decreased amount remitted into this fund each fiscal year. In 2009, the fund received $536,961 from a 2.5% disbursement of the $21.478M remitted. This year was especially concerning as the cyber attack upon the judicial system further complicated matters lowering our estimated available funds to approximately $280,000 (nearly $90K less than last year's estimate).

## DISCUSSION

Grant requests for the 2024 award were considerably down in both quantity and the total amount requested. This year, 31 requests were made for a total funding amount of $835K. This is down 17 requests from the 2023 grant process and approx. $465K less.

On March 19, 2024, the committee of regional representatives met in Salina and virtually to assist in prioritizing the grant requests and to develop the attached recommendation. The Region 4 representative was unable to attend due to illness and the Region 5 representative was unable to attend due to a scheduling conflict. Joe House represented the Board and did act in the role as the Region 5 representative due to knowing of the scheduling conflict prior to the meeting. The committee's recommendation is to fund 15 of the 31 requests in addition to the direct regional distribution.

11 of the 15 applications (73%) recommended for approval are from services located in areas with a population density of Frontier, Rural, or Densely Settled – Rural.

The ARC is requesting a significant carryover amount to the 2025 KRAF grant – in excess of approx. $100K. Their recommendation did not come easy and they recognized the challenges carrying over such a large amount would incur. However, they also did not feel it appropriate to deviate from prior practices – such as not funding equipment for community projects, for backup ambulances, for limited

applicability situations, for disposable equipment, for maintenance of existing equipment, or for not making a local match amount – even though funding may have been available this year.

Further discussion by the ARC yielded an addition as well as reminders they feel should be pursued and communicated in the Grant Process beginning with the 2025 process.

**Addition** – Require a local match of no less than 15% for all items where a minimum local match amount is not identified. If a service is unable to provide a match of at least 15%, supplemental documentation needs to be submitted to Board staff identifying the hardship to providing at least 15%.

**Clarification/Reminders –**

- Requests are prioritized through category of equipment being requested and then by local match percentage (sorted from high to low).
- Grant requestors may request funding for a Power Cot or for a Power Loading system, but will not receive a committee recommendation for funding both, when both are requested.
- Disposable items, service contracts, and/or maintenance costs are the financial responsibility of the grant recipient.
- Infusion pumps are primarily for the benefit of the hospital transferring a patient and grant requests for infusion pumps are de-prioritized.
- Grant requestors should be contacting their ARC representative for the region to give their representative as much information as possible to understand the request, how it will be applied, and to answer any potential questions other representatives may ask.

A reminder separate from the ARC – Direct Regional Distribution has historically been included in the KRAF recommendation. This results in each region, annually, receiving $5,625 and is recommended to continue for the 2024 grant disbursement.

Beginning in FY2025 and the 2025 grant cycle, regions will be required to request the funding for a specific regional project activity if they desire to receive the direct regional disbursement. This is due to language added to the KBEMS Budget and because of ongoing requests from the Legislature for details upon how this funding is being utilized and any associated performance measures to show its benefit.

At the end of FY2023, the following ending balances were reported for KRAF funds – Region 1 - $46,660; Region 2 - $33,006; Region 3 - $16,860; Region 4 - $6,198; Region 5 - $11,875; and Region 6 - $32,872.

The Board supports each region with a total of $25,000 annually ($19,375 from our operating fund and $5,625 from KRAF funding).

## FINANCING

Funding for KRAF comes from a 2.23% disbursement of fines, penalties, and forfeitures remitted to the district court. We continue to see a slight return towards pre-pandemic estimated amounts, but have yet to return. This year's anticipated balance includes an approximate $19,000 roll over from FY2023 and funds will continue to come in through June 2024. There is also an expected reduced disbursement due to the significant disruption of the state's judicial system secondary to the cyber attack experienced in the 3rd and 4th quarters of 2023. The expenditures for the KRAF grant are included in the Board's approved budget and expenditures. KRAF is a no limit appropriation fund meaning that any funds not expended in the current fiscal year can be rolled over into future fiscal years. We are estimating our available balance to disburse for FY2024 awards at approx. $280,000.

## ALTERNATIVES

The Board has the following alternatives concerning the matter at hand. The Board may:

1. Approve awarding the grants for the KRAF expenditures as provided.
2. Modify the recommendation and award the grants as modified.
3. Not award the grants for the KRAF expenditures.
4. Table the item.

## RECOMMENDATION

To award the grants for the KRAF expenditures as follows:

- For the 15 applications as recommended for approval by the ARC ($173,607.30);
- Direct regional distribution in the amount of $5,625 to each of the 6 EMS regions ($33,750); and
- Roll over any remaining balance to the FY2025 grant cycle.

To make the addition for the minimum local match of 15% unless another minimum local match percentage has been set and to provide the reminders as listed beginning with the 2025 KRAF grant process.

## POSSIBLE MOTION

To award the grant requests for the 2024 KRAF expenditures as presented and to effect the ARC recommendations as presented beginning with the 2025 KRAF grant process.

Enclosures:

1. 2024 KRAF Analysis
2. KRAF Board Summary-2024

# 2024 KRAF ANALYSIS

**Complete Applications:**

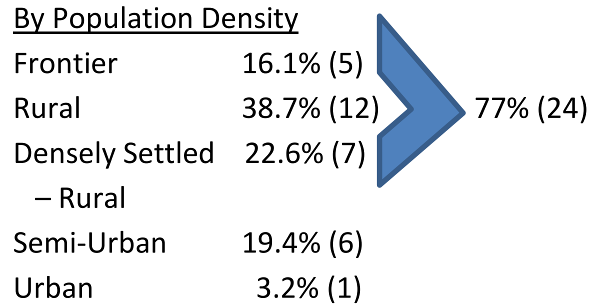
Total Number Received: 31 eligible applications

Funding Requested: $835,085.14

**ELIGIBLE REQUEST CATEGORIZATION:**

| By Region | |
|---|---|
| Region 1 | 12.9% (4) |
| Region 2 | 3.2% (1) |
| Region 3 | 35.5% (11) |
| Region 4 | 12.9% (4) |
| Region 5 | 16.1% (5) |
| Region 6 | 19.4% (6) |

| By Population Density | |
|---|---|
| Frontier | 16.1% (5) |
| Rural | 38.7% (12) |
| Densely Settled – Rural | 22.6% (7) |
| Semi-Urban | 19.4% (6) |
| Urban | 3.2% (1) |




**Awarded Applications:**

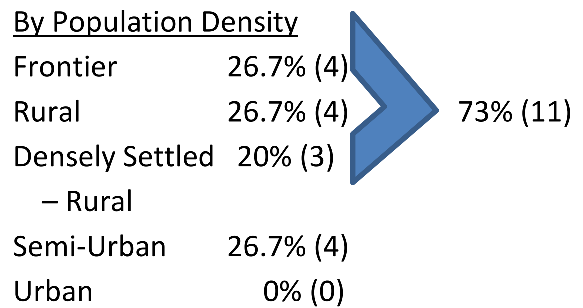
Total Awarded: 15 applications

Total Funding: $319,526.86
State Funds: $173,607.30
Local Funds: $145,919.56

**AWARDED REQUEST CATEGORIZATION:**

| By Region | |
|---|---|
| Region 1 | 26.7% (4) |
| Region 2 | 0% (0) |
| Region 3 | 46.6% (7) |
| Region 4 | 6.7% (1) |
| Region 5 | 0% (0) |
| Region 6 | 20% (3) |

| By Population Density | |
|---|---|
| Frontier | 26.7% (4) |
| Rural | 26.7% (4) |
| Densely Settled – Rural | 20% (3) |
| Semi-Urban | 26.7% (4) |
| Urban | 0% (0) |



# 2024 KRAF Grant Award Recommendations

| # | Items Awarded | State funded Amount Awarded |
|---|---|---|
| 3 | Monitor/defibrillator | $ 36,527.16 |
| 1 | Vital Signs Monitor | $ 2,558.62 |
| 4 | Stair Chair | $ 43,649.86 |
| 1 | Vacuum Splint set | $ 1,739.98 |
| 6 | CPR Device | $ 72,577.38 |
| 4 | Cot mounting system for monitor | $ 9,421.50 |
| 2 | RAD-57 | $ 7,132.80 |
| 21 | | $ 173,607.30 |

**Local funding ranged from 0% to 75% and breaks out as follows:**

| # | % Local Funds | Local Funding Match |
|---|---|---|
| 2 | 75% | 51,145.75 |
| 2 | 60% | 27,287.90 |
| 1 | 55% | 23,807.14 |
| 1 | 50% | 10,933.37 |
| 1 | 30% | 5,267.13 |
| 9 | 25% | 23,544.22 |
| 3 | 20% | 2,422.85 |
| 1 | 10% | 1,511.20 |
| 1 | 0% | - |
| 21 | | 145,919.56 |

Match % above is what was offered. Additional local match funding is included if the minimum local match wasn't met.