A Brief History of CAFMA's Efforts to Resolve Ambulance Transport Issues

COMPILED
OCTOBER 2021

PREPARED BY
CAFMA Staff

A BRIEF HISTORY OF CAFMA'S EFFORTS TO RESOLVE AMBULANCE TRANSPORT ISSUES

CAFMA leadership first reached out to the Bureau of EMS, under the Arizona Department of Health Services (DHS), in **2015** regarding response time issues with American Medical Response (AMR), known in the Quad City area as Life Line Ambulance. CAFMA and Prescott Fire Department were frequently waiting with patients on the scene of medical incidents for extended periods of time, and so CAFMA remained in contact with DHS and AMR, hoping to resolve the issues.

With no resolution in sight, and watching as response times worsened, CAFMA leadership again reached out to DHS, who suggested in **2017** that CAFMA send the Bureau of EMS official ambulance response time complaints. CAFMA has since sent in **over 1,000 complaints**, most for response times over 20 minutes, and many for over 30 minutes. CAFMA has also filed **five (5) complaints relating to untoward outcomes** (**deaths**) that occurred during incidents with extended ambulance response times.

Exhibit A: *Email from DHS to CAFMA, received about two years after the five complaints were sent in by CAFMA Staff.*

Exhibit B: 2017 Daily Courier article: Orr, Scott. "Fire departments concerned with recent long ambulance response times." www.dcourier.com. May 24, 2017.

Letter from AMR to the CAFMA Board of Directors, June 5, 2017.

Emails, prior to the June 5, 2017 letter from AMR, that show that AMR was aware of ambulance response time issues.

In the six years since CAFMA began a dialogue with DHS, our population has grown and our call volume is up over 40%. CAFMA has expanded to meet the need. In contrast, AMR has **reduced** the number of staffed units in the system from a standard of 11, to three or four, on a good day. Using just simple numbers, the Quad Cities population estimate per the last census is 156,000. With three units in the system, there is only one ambulance per 52,000 of population.

After sending complaints as directed, CAFMA was then informed by DHS that AMR was operating within their Certificate of Necessity (**CON**: The agreement one must have with the State of Arizona in order to operate an ambulance transport service in the state. The CON outlines the jurisdiction and acceptable ambulance response times).

CON 62, AMR's CON that includes the Quad City area, consists of approximately 8,661 square miles. CAFMA would like **CON 62 to meet nationally recognized response time standards** of ambulance transport arriving on scene within 10 minutes to the 90th percentile of the time. Currently, AMR must respond in Prescott and Prescott Valley (cities as opposed to rural, important to keep in mind) 10 minutes, 80% of the time. AMR is not reaching that standard. Note: Only the holder of the CON (AMR) can change response times, no other agency can intervene. DHS requested that CAFMA stop sending complaints. Additionally, AMR is allowed to average their response times over the entirety of their 8,661 square mile CON. Their reports to the state are not audited for the accuracy of the

information provided.

In **2019**, CAFMA Fire Chief Freitag released the ***Ambulance White Paper*** (*Exhibit C*), detailing the history of the region's ambulance response issues, highlighting the fact that there is not a consistent auditing process for CONs, and requesting that the State of Arizona open the Article 9 Rules regarding CONs so that ambulance transport service providers holding CONs would have to adhere to nationally recognized response times. A committee was eventually formed to address these issues, but as of yet, nothing has been sent forward. Any changes will take at least two years.

CAFMA participated in an Article 9 Rules survey that same year, and the feedback was along the same lines as discussed above. Ambulance response times were so poor in 2019 that Sun City donated a Rescue Unit to CAFMA so that we might use it when there are no ambulances available and a patient is in critical need of transport.

2020 was witness to Priority Yavapai's application for a CON that will overlap AMR's CON 62. CAFMA is in full support of a Priority Yavapai CON, believing that another ambulance transport service will only serve to enhance transport services for our constituents. The CON has not yet been approved, as the application process can take upwards of 18 months.

CAFMA and the City of Prescott sought to intervene as interested parties in AMR's CON 62, hoping to update response times to the recognized national standards. The Assistant Attorney General for the State took the position that since neither Prescott Fire Department or CAFMA holds a CON, **neither agency should have a voice in ambulance response times**. The order states that the motion to intervene in CON 62 was rejected (*Exhibit D*).

Also in 2020, CAFMA's Board of Directors approved working with a CON Consultant in consideration of a CAFMA CON application. The Board will decide in October if CAFMA will move forward with the CON process.

From July 1, 2021 to September 28, 2021 AMR went Level Zero: No Ambulances Available 368 times as documented by the Prescott Regional Communications Center (PRCC, 9-1-1 Dispatch).

It appears that AMR is using Wickenburg and Williams as part of the Quad City system. Crews are waiting almost daily for ambulances to arrive from those cities, over an hour away. When AMR pulls units from Wickenburg, they then pull other units from Glendale to cover Wickenburg. This has resulted in Phoenix Fire Department ambulances having to provide back-up to Glendale. Due to this, AMR is reporting that they have ambulances in the system, when in fact, the units are coming from an hour to 1.5 hours away. Also of note, AMR appears to have reported ambulances in the system that are **not staffed**, so as to appear to have more available than are actually able to respond to emergencies.

In August 2021, at the request of Chief Light of Prescott Fire, DHS sent a representative to visit our PRCC (9-1-1 Dispatch). The day before DHS' arrival, there were four (4) staffed ambulances for the entire area. This has been the norm for months now. On the day DHS was in PRCC, there were eight (8) available ambulances (and AMR still went Level Zero: No ambulances available). The morning

after the visit, **only three (3) ambulances were available**. It would appear that someone informed AMR that DHS was sending a representative to observe PRCC.

Strongly believing that the patient is the number one priority, CAFMA was forced to run two Rescue apparatus more regularly, with two additional apparatus to be used when the system experiences collapse. These Rescues are not operating as ambulances; instead, they are Fire Authority apparatus to be used in accordance with Arizona State Statutes to transport patients when ambulances are not available or are experiencing extended response times.

Again, the region witnessed worsening ambulance response times. CAFMA leadership reached out to Mesa Fire and Medical Department and Northwest Fire District, both of whom loaned ambulances to CAFMA in order to be used as Rescues to supplement failing ambulance response services.

DHS is now sending CAFMA *Notices of Investigation* based on complaints filed by AMR that include the statement: "inappropriately transporting patients when it was **not medically necessary**" (*Exhibit E*). One of the transports deemed "not medically necessary" by AMR was an eight-month-old in cardiac arrest due to near drowning. CAFMA crews quickly took over treatment from a bystander and transported the infant to an awaiting helicopter for transport to a Valley hospital. The child survived because of proper care prior to our arrival, proper care by our crews, and rapid transport in a CAFMA Rescue. **Seconds count when someone is in cardiac arrest**.

DHS has repeatedly refused to investigate and make changes to the way AMR does business, but is requesting additional information from CAFMA for more than 15 "inappropriate and not medically necessary" transports. Of the 15, one was actually transported by AMR, one patient refused transport, and the **other 13 were deemed medically necessary by the YRMC physician who serves as CAFMA medical control**.

For their part, AMR has now requested CAFMA Rescues back them up outside of CAFMA jurisdiction on three (3) separate occasions for which they could not perform. Despite the critical nature of the situation, DHS has refused to provide CAFMA or Priority Ambulance temporary authority to operate an ambulance service in our area.

As of October 1, 2021, CAFMA will **staff two Rescues every day** during peak hours.

AMR/Lifeline is jeopardizing the health and well-being of those in our jurisdiction. While CAFMA has done everything in our power to effect change for many years; gone through the "right" channels, maintained open lines of communication, attacked it legislatively, deployed Rescues, and requested an emergency CON, DHS and the state legislature have failed to act. **We need your help**.

Visit www.cazfire.org to find more information, helpful telephone call and email talking point guides, and contact information for The Bureau of EMS, the Governor's Office, and our state representatives.

Please call, email, and 'be social'. Next time, it may be you or a loved one that hears,

"**Level Zero: No Ambulances Available.**"

EXHIBIT A

CENTRAL ARIZONA FIRE

From: Ithan Yanofsky <ithan.yanofsky@azdhs.gov>
Sent: Monday, July 26, 2021 5:01 PM
To: Doug Niemynski <DNiemynski@CAZfire.org>
Subject: Re: FW: update

Good afternoon Doug,

Hope this email finds you doing well.

Please find attached to this email the response to CA-18-10052, CA-19-1955, CA-19-1980, CA-19-1989 and CA-19-5652 which was issued to CAFMA on or about December 19, 2019.

Based on your email, all five of these instances were reexamined and no violation of rule or statute could be found. It appears that each patient experienced sudden, unexpected loss of heart function either before CAFMA and LLA arrived at the scene or shortly after. In two instances, orders were given to cease resuscitation efforts at the scene by medical direction and in two cases, resuscitation efforts were ceased at the emergency receiving facility. In three instances, CAFMA began patient care at the scene and continued patient care through transport to the emergency receiving facility. If the Bureau's understanding of these instances are incorrect, please let us know.

If you believe that there was a violation of Arizona Revised Statute, Arizona Administrative Code, regional protocol or that something could have been done to positively impact the patient care or outcomes, please do not hesitate to share your thoughts with us.

Ithan Yanofsky
Deputy Chief
Bureau of EMS and Trauma System
Arizona Department of Health Services
150 North 18th Avenue, Suite 540, Phoenix, AZ 85007
Direct [redacted]
Mobile [redacted]
Email ithan.yanofsky@azdhs.gov
Health and Wellness for all Arizonans

On Wed, Jul 21, 2021 at 5:15 PM Rachel Zenuk Garcia <rachel.garcia@azdhs.gov> wrote:

---------- Forwarded message ---------
From: **Doug Niemynski** <DNiemynski@cazfire.org>
Date: Wed, Jul 21, 2021 at 4:03 PM
Subject: FW: update
To: rachel.garcia@azdhs.gov <rachel.garcia@azdhs.gov>
CC: Scott Freitag <SFreitag@cazfire.org>

Good afternoon Rachel. Chief Freitag asked me to send you the information regarding any DHS investigation into the following untoward outcomes. I have included the email chain that I had with Hugh at the time. Please let me know if this helps or if you need additional information.

Respectfully,

Doug Niemynski
EMS Chief Central Arizona Fire and Medical
dniemynski@cazfire.org
Work: [redacted]
Cell: [redacted]

From: Doug Niemynski
Sent: Monday, November 18, 2019 1:18 PM
To: 'Hugh Fox' <hugh.fox@azdhs.gov>
Subject: RE: update

Specifically the following

CA-18-10052 on 8/31/2018

CA-19-1955 on 2/22/19

CA-19-1980 on 2/22/19

CA-19-1989 on 2/23/19

CA-19-5652 on 6/4/19

These were calls which had poor outcomes.

Thanks,

Doug

From: Hugh Fox <hugh.fox@azdhs.gov>
Sent: Monday, November 18, 2019 11:47 AM
To: Doug Niemynski <DNiemynski@CAZfire.org>
Subject: Re: update

Good morning, Doug.

I'm doing well. Hopefully you are too. We have received quite a few complaints from you. Can you please tell me which complaints you are referring to?

Thanks,

Hugh

Hugh Fox, D.Min., NREMT, NCPRSS
Enforcement/Compliance Section Chief
Bureau of Emergency Medical Services and Trauma System

Arizona Department of Health Services
150 North 18th Avenue, Suite 540
Phoenix, AZ 85007
Direct [redacted]
Fax 602-680-1052
Email hugh.fox@azdhs.gov

Health and Wellness for all Arizonans

On Mon, Nov 18, 2019 at 10:26 AM Doug Niemynski <DNiemynski@cazfire.org> wrote:

Hello Hugh. I hope you are doing well. I was wondering if you could provide any updates on the DHS investigations specifically involving the untoward outcomes that were filed in the spring? I have not received any correspondence from your staff regarding these issues. Were they handled and considered a private matter? I appreciate your work and look forward to hearing from you.

Respectfully,

Doug Niemynski
EMS Captain Central Arizona Fire and Medical
dniemynski@cazfire.org
Work: [redacted]
Cell: [redacted]

EXHIBIT B

CENTRAL ARIZONA FIRE

Searc

Fire departments concerned with recent long ambulance response times

But Life Line says nothing has changed

By Scott Orr

AZNewsguy

Originally Published: May 24, 2017 6 a.m.

Life Line Ambulance, the local company owned by Colorado-based American Medical Response (AMR), has been struggling to respond to emergencies in a timely fashion for the past several weeks, and, according to fire department sources, has had emergency response times upwards of 30 minutes.

Life Line is the only ambulance company serving the Quad cities area.

Starting in about mid-April, the company's response times have increased.

A Prescott Fire Department official, who spoke on condition on of anonymity, said, "I can tell you that I had not heard a conversation about long response times in the last few years, but I have heard it in the last few weeks.

"It's being discussed."

Central Arizona Fire and Medical Authority Chief Scott Freitag said his firefighters have responded to Med-3 calls — emergencies — and have had to wait a long time for an ambulance to take their patient to the hospital.

"I can tell you there was a time a couple of weeks back, we had one engine wait an hour-and-a-half for an ambulance," he said, "another waited 45 minutes, and another waited 20, all in the same day."

The condition is known as Code Red, and it refers to a situation in which there are no ambulances available to respond to emergency calls.

Glenn Kasprzyk, Chief Operating Officer for AMR's northern Arizona region, denied that anything had changed in terms of ambulance response times or numbers of "cars," as they're called, assigned to the area.

He said the company was meeting its state-mandated windows of 10 minutes or less 70 percent of the time and 15 minutes or less 90 percent of the time.

"There are times when the system gets busy, and the system gets taxed, and we're moving resources," he said.

"There's been absolutely no change in deployment for many years. The system in Prescott is pretty predictable, overall."

The view from inside

The Daily Courier spoke with a current Life Line Ambulance employee who said a driver of an ambulance, who was returning from a hospital transfer fell asleep as the ambulance approached Prescott Valley and ran off the roadway.

"(Life Line management) is trying to keep it really quiet, even from us," the anonymous employee said. "The ambulance was damaged, but I don't think there were any serious injuries."

Kasprzyk acknowledged the incident but said that neither reduced staffing nor extra work hours were the cause. "They (the ambulance crew) worked a 12-hour shift, and the reality is, if they work a 12-hour shift and they're driving in town or they go out of town — it was an unfortunate circumstance that occurred … but accidents happen."

He said no patients were on board at the time, and that the ambulance was re-locating from one station to another along Highway 69.

There is a lack of ambulances, the employee said, because, of the cars 10 in service on a typical day, and seven at night, a number of them are unavailable because they're tied up on inter-hospital transports to Flagstaff, Phoenix or Tucson.

At times, there are as few as two ambulances to answer emergency calls in the entire Quad cities area, the employee said, and as a result, "I have responded all the way from Prescott Valley out to Chino. That happens quite frequently. It's very frustrating."

"There's a lot of variability in the managing the system that we take into consideration to ensure the one side of the system isn't depleted and that the other side of the system is still getting service to move those patients," Kaspyrzk said, noting that the unpredictable nature of emergency medicine has always been a challenge.

The employee was not aware of any specific instances where a delayed response has caused a patient's condition to become worse from lack of speedy care.

The Emergency Medical Services Landscape

A privately owned ambulance service, like Life Line Ambulance, responds to 911 emergency calls, but does not make much money from them.

"Inter-facility transports, those that are pre-scheduled transports from a medical facility to another medical facility or from a medical facility to home, those are pre-approved by the insurance company," Freitag said. "So they're guaranteed to get paid for those.

“The 911 calls, there’s no guarantee what, if anything, you’re going to get paid,” he continued. “So the 911 calls tend to be more of a drain. You can break even on them, but it’s very difficult to do.”

The problem, Freitag said, is the number of hospital transports, say, from Yavapai Regional Medical Center to a Phoenix-area hospital, isn’t growing.

Meanwhile, the number of 911 calls is steadily increasing.

“You start reaching that tipping-point where you’re no longer generating the revenue,” he said. “For a private company, that’s an issue.”

Life Line owner AMR is up for sale by its parent company, Envision Healthcare, which, based on industry reports, appears to want to divest itself of EMS operations in favor of its much larger physician staffing division and to reduce debt.

“Is AMR changing something in its corporate business structure to make themselves look more sellable by decreasing costs and staffing since Envision put them on the block?” asked the Prescott Fire official. “I don’t know.”

Kasprzyk said that is not the case.

“There have been no changes to any operational aspects for Life Line Ambulance since Envision announced the sale of AMR. That is an absolutely inaccurate assertion.”

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Sometimes, 911 just isn't enough
Lifeline donates ambulance

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June 5, 2017

Central Arizona Fire and Medical Authority
8555 E. Yavapai Road
Prescott Valley, AZ 86314

Dear Chairperson Pettit and Members of the Board,

As a valued partner of Life Line Ambulance Service, we believe that ensuring you have accurate and transparent information regarding the EMS system is important. Thus, I am writing today to address the numerous statements reported recently in The Daily Courier on May 24 that include statements from Chief Scott Freitag and other anonymous sources. Based on our efforts to clarify these statements, we have learned that the sentiment shared in the article does not reflect the view of fire agency officials or a consensus of the surrounding areas.

As you know, Life Line has a history and a long-standing partnership with the District that includes a constant open and transparent dialogue with leadership from both parties. Outside of the norm of historical practices, no Life Line leadership or local operations received a call expressing concern or questioning any alleged changes in the system or concerns regarding Life Line future. To the contrary, we met with Chief Freitag in December, March and April and no concern or issues were raised regarding Life Line's performance, future or the functionality of the EMS system. Therefore, comments like those raised by Chief Freitag in the media are disconcerting as they are unproductive to the EMS system and only raise false insecurities by the public in their safety under the EMS system. Additionally, contrary to the allegations made in the news article, Life Line has not made any operational changes to the service delivery model within our entire 9000 sq. mile certificated service region.

To ensure a transparent relationship, following the article we requested information to support the statements so we can investigate these apparent anomalies or alleged issues. To date we have not yet received any information, even despite our efforts to follow up with the Chief and his staff.

Life Line is proud of our response time compliance and performance coupled with our continued dedication to our partnership. Our response time compliance is reported to and regulated by the Arizona Department of Health Services. Based on our broad knowledge and experience operating a rural ambulance service delivery model, we understand that periods of surge may occur and we are committed to working with the District to ensure that every citizen is provided the best service. Life Line and the District have a long history of working together, and we look forward to continuing to do so for the future.

I welcome the opportunity to address any concerns or questions and thank you again for your valued partnership.

Sincerely,

John Valentine
Regional Director, Life Line Service, Inc.

CC: Jeff Wasowicz
Dave Dobbs
Darlene Packard
Matt Zurcher
Scott Freitag, Fire Chief CAFMA
Glenn Kasprzyk, AMR Regional COO - Arizona

From: Kasprzyk, Glenn [mailto:Glenn.Kasprzyk@amr.net]
Sent: Tuesday, March 08, 2016 1:51 PM
To: Light,Dennis
Cc: Keilman, Scott; Scott Freitag; Valentine, John (Lake Havasu City)
Subject: RE: Service Level Exceptions

Chief,

Appreciate the opportunity to meet. I will have Scott Keilman review your concerns as outlined below. We will follow up with our findings once we have completed that process.

As to how we staff units, that is certainly an operational aspect that Life Line determines to ensure we have ALS level resources not only for the Quad-Cities region but our entire 9000 sq. mile service area. At times, as in the past, it may be necessary to staff supervisory level ALS providers on units to ensure the resource remains available for the system. Because of the nature and size of our service region, we make every attempt to not "brown out" units unless it is an absolute last resort.

I have included John Valentine on the email chain as well. As indicated at our meeting, he will be the Regional Director with direct oversight of the Life Line CON.

Again, once we have completed the review of your concerns we will follow up promptly. gk

From: Light,Dennis [mailto:dennis.light@prescott-az.gov]
Sent: Tuesday, March 08, 2016 8:42 AM
To: Kasprzyk, Glenn <Glenn.Kasprzyk@amr.net>
Cc: Keilman, Scott <Scott.Keilman@amr.net>; Scott Freitag <SFreitag@CAZfire.org>; Light,Dennis <dennis.light@prescott-az.gov>
Subject: Service Level Exceptions

Glenn,

Thanks for finding the time to meet with us yesterday to discuss some of the on-going issues and concerns and offering the continued support towards maintaining our regions system integrity with fire based EMS in conjunction with AMR and YRMC.

The following are what we have been able to track. We believe the picture in regards to staffing appears pretty clear . Keep in mind that our tracking depends on LLA/AMR notifying us of the BLS response, or our people contacting us and advising us of the BLS response. Also keep in mind that, in terms of system impact, closing S-10 is significant, as our joint training emphasizes the use of that unit in the role of "Transportation Group Supervisor" on any multi-patient event (Level 2-962, etc).

Feb. 17th-
16-2623 unknown time-Single ambulance in Quad city area responded from Heather Heights dispatched to call in Chino Valley. Upon calling for ETA unit had been changed and a unit returning from Williams was assigned. Net result was 47 minute response time. LLA crew indicated 2 rigs on IFT to Showlow and 1-2 on IFT to Phoenix when queried on scene. This was the only call in Prescott, PV, or CV occurring at the time.

Feb. 24th -
16-3013 at 0807 – 2201 was BLS
16-3039 at 1404 – 2201 was BLS
16-3043 at 1500 – 6101 was BLS

16-3050 at 1630 – 2201 was BLS
16-3055 at 1922 – 2201 was BLS

Feb. 25th-
16-3082-78yoM, Slid from bed to ground, Reporting party called LLA for assistance and was told the "don't come out for this and would charge her if they came out again and they needed to call 911." E-74 dispatched to handle.

Feb 26th –
16-3166 at 1156 – 2102 was BLS
16-3171 at 1252 – 2102 was BLS
16-3177 at 1356 – 2102 was BLS
16-3178 at 1435 – 2101 was BLS

Feb 27th –
16-3229 at 1205 – 1101 was BLS
16-3232 at 1450 – 1101 was BLS

Mar 3rd –
Morning- PFD engine notified on scene by LLA that 1201 is OOS- passed on to B1. (Call number and time withheld to protect LLA employee- available on request)
Early Afternoon- PFD engine notified by LLA unit on scene that 1201 is in service with S-10, and that S-10 is out of service- passed on to B1. (Call number and time withheld to protect LLA employee- available on request)

Mar 5th –
Mid Afternoon- PFD Engine notified by LLA unit on scene that 3 LLA units are staffed with either S-10 or LLA Operations Chiefs, placing S-10 out of service. Employee advises that LLA will no longer run BLS, but will either shut down unit or staff the unit with S-10 or LLA staff officers. (Call number and time withheld to protect LLA employee- available on request).

Mar 6th –
Early Morning- PFD Engine responds on call with S-10 as medic on LLA unit.

This information was trended and compiled from exception reports generated from our company officers and in some instances our partner fire agencies.

Sincerely,

Dennis B. Light
Fire Chief
CITY OF PRESCOTT ARIZONA
1700 Iron Springs Road | Prescott, AZ 86305
Ph: 928-777-1700 | Fax: 928-776-1890 | TDD: 928-445-6811
dennis.light@prescott-az.gov

Scott Freitag

From: Jeff Polacek
Sent: Sunday, June 18, 2017 7:48 AM
To: Scott Freitag; Doug Niemynski
Subject: Fwd: LLA W/ Delayed Response

FYI

Sent from my iPad

Begin forwarded message:

> **From:** Phillip Cox <pcox@CAZfire.org>
> **Date:** June 18, 2017 at 7:46:01 AM MST
> **To:** Jeff Polacek <JPolacek@CAZfire.org>
> **Subject: LLA W/ Delayed Response**
>
> Last night LLA was Code Red for sometime. B6 ran three calls that had no ambulances running at the time of call.
>
> Incident #17-10010 - E61, Time of Call 2321, LLA Response requested at 2345, LLA In Route 2341 from East Campus(diverted later to E62's call), new LLA In Route 2347 from the VA, On Scene time not captured, Transported 0015
> (E61's call started out as a Move Patient, they determined that it was a medical and requested LLA non emergency traffic at 2345, no ambulances available till 2347, they upgraded the request to an Emergency Response at 2348 do to the PT rapidly getting worse. The patient went into a rhythm that prompted his defibrillator to convert him the crew hung amiodarone converting his rhythm)
>
> Incident #17-10012 - E62, Time of Call 2339, LLA In Route 2341 from East Campus, Transport 0015
>
> Incident #17-10014 - E51, Time of Call 0022, LLA arrive 0035 (LLA Code Red at time of call but arrived only 3 minutes behind E51.
>
> I learned that right after the (possible) structure fire in Prescott they where Code Red through out the day and E51 stated that they had a call or two that LLA had supervisors on the rig and it appeared they where short of personnel through the day. It is my understanding that multiple calls at the time of the fire had delayed LLA responses in the try-city area.

Phillip C. Cox
Battalion Chief
Central Arizona Fire
8555 E. Yavapai Road
Prescott Valley, AZ. 86323
Office: (928) 772-7711

Scott Freitag

From: Jeff Polacek
Sent: Thursday, June 15, 2017 8:03 AM
To: Scott Freitag
Subject: FW: Lifeline Extended Response Time

FYI

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA
FIRE

From: Jaron Kirk
Sent: Thursday, June 15, 2017 7:17 AM
To: Damian Lys
Cc: Jeff Polacek
Subject: Lifeline Extended Response Time

Hey Capt,

Just wanted to send you an email to make you aware that we waited for an ambulance for 33 minutes yesterday on a call.

For documentation purposes:

Incident #: 17-9782

We arrived at scene at 1720, and the ambulance arrived on scene at 1753.
Thanks,

Jaron Kirk
Central Arizona Fire/Medical District
Engineer/ Paramedic
A-Shift St. 54

Doug Niemynski

From: Brody Fields
Sent: Monday, October 05, 2015 6:49 AM
To: Todd Abel; Doug Niemynski
Subject: Issue with LLA response delay

Yesterday we received a med 2 call to 860 Dougherty Street (#15-15761). The call came in at 21:47 and E51 arrived on scene at 21:54. E51 was informed LLA had no ambulances to respond to our call. E51 waited on scene with pt. till LLA went available from the hospital and arrived (22:21). From time of call to on scene (LLA) the pt waited 34 minutes. Our pt. was not critical but if a critical call had come up or our pt. needed rapid transport we would have been unable to provide that service. I understand this has been happening quite often after speaking with other Captains.
I wanted to make you aware of the situation.
Thanks,

Brody Fields
Captain
Central Yavapai Fire Dist.

Doug Niemynski

From: Jeff Polacek
Sent: Thursday, December 17, 2015 12:27 PM
To: Doug Niemynski
Subject: FW: Late Ambulance

FYI

From: Rick Olson
Sent: Monday, December 14, 2015 7:35 PM
To: Jeff Polacek
Subject: Late Ambulance

Today, on run # 15-019811 at 0822, E58 was dispatched to a residence for a male with severe abdominal pain. The dispatch included that LLA would have a delayed ETA since they were coming from the round about in Chino Valley. We arrived at 0831 and at about 5 minutes into the assessment, Alarm informed us that they were now coming from 4 points and that they were about 20 minutes out. The patient was told this information and he quickly elected to go in POV as his pain was too intense to wait. He had no priority symptoms. The ER was informed that he would be coming in POV.

Now, I have never had to do this, but I had considered that if his condition deteriorated, I would have made the decision to transport him in the Engine. We have to do what we have to do and the C.O.N. can get figured out later. I assure you that this would be a last ditch effort. I am sure that LLA had a really good reason for not having enough ambulances. It was kind of busy. Lastly, on our next cal that was about an hour later, the Ambulance crew told us that they were in a Code Red condition (no ambulances able to respond anywhere). That's it. Mongo

---

Doug Niemynski

From: Jeff Polacek
Sent: Wednesday, December 07, 2016 9:28 AM
To: Doug Niemynski
Subject: FW: LLA Delay

FYI

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA
FIRE

From: Rick Olson
Sent: Tuesday, December 06, 2016 3:50 PM
To: Jeff Polacek
Cc: Brad Davis
Subject: LLA Delay

Chief,

Today, we were dispatched to a Med 2 in P.V. The run# is 16-20331. Our dispatch time was 1344. We arrived on scene and assessed the patient. I noticed the amount of time that had passed and asked Alarm for an ETA check for LLA. This was at 1404. The reply was that they were coming from Dewey and would be 16 minutes out. Their arrival time was 1419. The math adds up to 33 minutes from our dispatch time until their arrival time. The patient was not critical, but we were forced to endure a very strong fragrance of heavy pet urine and left over cigarette smoke for a period of time that was pushing the boundaries of pleasantly acceptable. Please add this one to your list.

v/r
Mongo

Doug Niemynski

From: Jeff Polacek
Sent: Thursday, February 25, 2016 4:50 AM
To: Brad Davis; Cody Rose; Phillip Cox; Mat Mayhall; Cougan Carothers; Todd Abel; Doug Niemynski; Scott Freitag
Subject: Re: BLS Ambulances

Thanks for the information. I will keep this with the rest of my documentation. Please pass on to your guys that I need to know all issues with LLA. This one is important as well as all response times that are extended. Can you remind your crews to voice LLA on scene over the radio as well as documenting it in the EPCR. Proper documentation of their response times are important for us.
Thanks again.
Jeff

Sent from my iPad

On Feb 24, 2016, at 8:31 PM, Brad Davis <BDavis@CAZfire.org> wrote:

> Very interesting.
>
> Sent from Brad's work phone
>
> Begin forwarded message:
>
> **From:** Ross Prange <RPrange@CAZfire.org>
> **Date:** February 24, 2016 at 20:27:45 MST
> **To:** Brad Davis <BDavis@CAZfire.org>
> **Subject: BLS Ambulances**
>
> Chief Davis,
>
> E-59 responded on 2 EMS calls this afternoon. On both calls, we were informed that the ambulance was BLS. This has not happened for many years that I am aware of. When asked the LLA crew why they were not ALS, they stated that the paramedics are upset about their wages and refusing to work overtime.
>
> I am not sure if this will continue but thought you should know about it.
>
> Sincerely,
> Ross Prange

Doug Niemynski

From: Craig Stooks
Sent: Tuesday, March 22, 2016 5:32 PM
To: Doug Niemynski
Subject: FW: LLA on scene delay

Sent this to Polacek a week and half ago

From: Craig Stooks
Sent: Tuesday, March 08, 2016 3:09 PM
To: Jeff Polacek
Cc: Brad Davis
Subject: LLA on scene delay

We had a LLA rig take 20 mins to get to the scene today. We checked on scene at 1429 and they didn't get there till 1449. The LLA medic said that they were short ambulances today and had to come in from Prescott. There were no ambulances in PV. It hasn't been a busy day at all in PV or the City. Just FYI. Stooks

---

Doug Niemynski

From: Armando Valadez
Sent: Wednesday, June 08, 2016 8:14 PM
To: Doug Niemynski
Cc: Jeff Polacek
Subject: AMR ambos.

Doug;

Today at 1325, we had call #16-9412, which was med 2 call for back pain. While assessing the patient, S-10, Rick, arrived and informed us that AMR had no ambulances, all rigs were tied up on calls. Pt was stable, but had acute pain, possible from a fall a few days ago, we could not medicate due to not being able to transport safely. Finally a unit was able to respond from Prescott Valley, ETA 30 min.

Patient and family members decided to allow us to assist pt into a POV and they would drive him to the hospital. This what we did, patient could not walk or stand, had to be moved to a wheel chair and carried down a flight of stars to the street and patch made to hospital. Patient still stable, had no immediate medical needs. The atmosphere between E-51 crew, S-10 and family members was cordial.

I you have any questions don't hesitate to contact me

Armando Valadez

Doug Niemynski

From: Brody Fields
Sent: Thursday, June 23, 2016 6:22 PM
To: Todd Abel
Cc: Doug Niemynski; Jeff Polacek
Subject: Call# 16-10342

On 6-23 E51 responded to a ground level fall at 117 Cory avenue for a fall in the parking lot.
E51 dispatched 17:17:51
E51 on scene 17:25
LLA on scene 17:53
The pt. was on the hot ground and ready for transport at approx. 17:35. Our ambo was diverted to another call after originally responding from PV and then diverted back to our call. The Pt was on the hot ground for 36 minutes after dispatch which is my concern.
Thanks,

Brody Fields
Central Arizona Fire and Medical Authority

Doug Niemynski

From: Jeff Polacek
Sent: Wednesday, January 18, 2017 12:03 PM
To: Doug Niemynski
Subject: FW: LLA code red

FYI

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA FIRE

From: Jason Nolan
Sent: Friday, January 13, 2017 7:20 AM
To: Jeff Polacek
Cc: Cougan Carothers
Subject: LLA code red

Chief,

Just wanted to let you know that early this morning (1-13-17) we had to wait 35 minutes before LLA showed up to our scene. Although the patient was not a critical one, it appeared LLA was code red with only 3 other calls going on. The call number is 17-719 and it was around 2:15 in the morning. Let me know if you need any more info from me.

Thanks,

Jason Nolan
Central Arizona Fire & Medical
Captain Station 59 A-Shift
jnolan@cazfire.org

Doug Niemynski

From: Jeff Polacek
Sent: Thursday, January 26, 2017 1:49 PM
To: Doug Niemynski
Subject: FW: LLA Issue

FYI, Doug next time I am out in your area I will stop by and visit with you about this.

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA
FIRE

From: Cody Rose
Sent: Wednesday, January 25, 2017 9:42 AM
To: Jeff Polacek
Subject: LLA Issue

While working as B3 on Jan 18 we had an issue with LLA and responses.

B3, E54, and E53 were dispatched for a one vehicle rollover on Prescott Street in Humboldt at 2242. While responding dispatched notified B3 that LLA 1102 was responding. After dispatch completed additional and traffic was moved to channel 5, LLA 1102 came over the radio and stated that they were responding from Willow Creek Rd. in Prescott. I asked dispatch who our second ambulance was responding and dispatch came back and stated that LLA did not have any ambulances available at this time. Just prior to arriving on scene, dispatch informed me that LLA 6101 was second ambulance responding and coming from Mayer. When 1102 arrived on scene and it was determined that they were not going to be needed, I asked the CEP (Rendl) what was going on. He stated that 6101 was returning from a Phoenix transfer and was responding from Cordes. He said there were several other ambulances out of town on transfers to include 3101 enroute to Las Vegas. While our incident was still in progress there were at least 2 additional incidents, 1 in Prescott and 1 in Chino that came out. Both crews were informed by dispatch that LLA did not have any ambulances to respond. I'm not sure what the delay time was before ambulances came available, but it seemed to be extended. I know that when we released 1102 from our scene they were immediately dispatched to call in Chino. 6101 never did arrive on scene of our incident. They were canceled by B3 prior. It was not known where they were when they were canceled.

This seems to be occurring on a more frequent occasion as of recent.

Cody Rose

Doug Niemynski

From: Ben Roche
Sent: Thursday, January 26, 2017 8:12 PM
To: Doug Niemynski
Cc: Mat Mayhall
Subject: Incident #1523

Doug,

On 1/26/17 E63 was dispatched to N St Louis St, Paulden, AZ 86334. For a 51 y/o male with chest pressure and a history of cardiac. Upon dispatch E63 was notified that there was no LLA units available, then updated that LLA 2102 was responding from Watson Lake. E63 was on scene at 1920 and LLA 2102 was on scene at 1946. E63 waited on scene for 26 minutes for an ambulance to transport.

Ben Roché
Captain & Wildland Program Manager
Central Arizona Fire Medical
broche@cazfire.org

CENTRAL ARIZONA FIRE

8555 E Yavapai Rd
Prescott Valley AZ 86314
928-772-7711

"Protecting life and property through prevention and response"

Doug Niemynski

From: Jeff Polacek
Sent: Thursday, June 08, 2017 3:11 PM
To: Doug Niemynski
Subject: FW: Extended time for LLA to arrive on scene

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA
FIRE

From: Damian Lys
Sent: Tuesday, February 07, 2017 7:46 AM
To: Jeff Polacek
Subject: Extended time for LLA to arrive on scene

Hey chief you wanted to know in the past if LLA had an extended on scene time, we had one yesterday.
Patient with a possible broken knee in tremendous pain which was relieved with meds anyhow.
Our on- scene time-11:44:45
LLA-12:03:42

FYI

Damian Lys
A shift Captain
Station 54

Doug Niemynski

From: Jeff Polacek
Sent: Thursday, June 08, 2017 3:11 PM
To: Doug Niemynski
Subject: FW: LLA Delay

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

-----Original Message-----
From: Brad Davis
Sent: Thursday, April 20, 2017 4:52 PM
To: Jeff Polacek
Subject: FW: LLA Delay

Didn't know if this was passed on to you.
Thanks,
Brad

-----Original Message-----
From: Rob Duplessis
Sent: Thursday, April 06, 2017 9:59 PM
To: Todd Abel
Cc: Brad Davis
Subject: LLA Delay

Hey Chief,

We had a Med 2 call to Diamond Valley on Emerald Dr today and Lifeline didn't arrive on scene until 20 mins after we arrived on scene. I know this is one of many that happened today. Just thought I would let you know of ours.

Captain Rob Duplessis
Central Arizona Fire/Medical Authority
Station 50/B-Shift

Doug Niemynski

From: Jeff Polacek
Sent: Monday, April 17, 2017 8:45 AM
To: Doug Niemynski
Subject: FW: No ambulance available

FYI

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

-----Original Message-----
From: Phillip Cox
Sent: Thursday, April 13, 2017 9:16 PM
To: Jeff Polacek
Subject: No ambulance available

Tonight we got a wreck at 2 south and hwy 89 #5994 20:44hrs there where only two calls in the try city area on the MDT and no ambulances available. None came available before they determined the PT refused.

Sent from my iPhone

Doug Niemynski

From: Jeff Polacek
Sent: Wednesday, May 31, 2017 11:52 AM
To: Doug Niemynski
Subject: FW: Long LLA response

FYI

Jeff Polacek
Operations Chief
Central Arizona Fire and Medical
(928) 772-7711 Work

CENTRAL ARIZONA
FIRE

From: Todd Abel
Sent: Wednesday, May 31, 2017 11:46 AM
To: James Seets
Cc: Jeff Polacek
Subject: RE: Long LLA response

Thanks JW for the heads up I will make sure Chief Polacek is aware of this situation. Yes please keep passing on this type of information.

Todd

From: James Seets
Sent: Wednesday, May 31, 2017 9:21 AM
To: Todd Abel
Subject: Long LLA response

Chief
Just letting you know about a call we had last shift where we waited on scene for 50 minutes for LLA to arrive, the PT was not critical, but did bring up the question had it been a critical PT then what? Our thoughts were either fly them or put them in the engine and transport. Not sure of the legal issues with transporting in the engine. I talked to the LLA crew and they said they took the wrong road, had to turn around and come down the right road, they also told me they were in the area of Mendicino when the call came out, which was on Dog Ranch RD which is the very northern end of Antelope meadows/Coyote springs. I had talked to dispatch to make sure LLA knew to take Antelope meadows and not Coyote Springs. This could simply be miss communication between dispatchers, I did not contact LLA by radio nor did they contact us but I did talk to our dispatch several times over the radio and by phone to pass on routing information and to get an ETA . Chief Freitag has said in the review he wanted to know about these issues so I am passing it up the chain. In my experience this doesn't happen to often but 50 minutes is crazy!

EXHIBIT C

CENTRAL ARIZONA FIRE

2019

Ambulance Transport and Certificate of Necessity Concerns

CENTRAL ARIZONA FIRE

Fire Chief Scott Freitag

EMS Captain Doug Niemynski

Central Arizona Fire and Medical Authority

11/25/2019

Table of Contents

Problem Statement

The Central Arizona Fire and Medical Authority (CAFMA) has documented extended ambulance response times for nearly four years. We believe that these extended times have led to untoward outcomes for at least five patients in late 2018 and early 2019. We also believe that the extended response times are contributing to our lower reliability ratings at our core Prescott Valley Fire Stations.

Note: American Medical Response (AMR) operates in the Prescott Basin under the name Lifeline Ambulance; however, the company is recognized by its parent company name AMR. To avoid confusion, this document will utilize the name AMR to represent Lifeline Ambulance and its parent company.

Executive Summary

The Central Arizona Fire and Medical Authority (CAFMA) and its parent organizations, the Central Yavapai Fire District (CYFD) and the Chino Valley Fire District (CVFD), have been contending with extended response times for transport ambulance services. In five instances between late 2018 and spring 2019, we experienced five untoward patient outcomes. Additionally, we believe the extended response times are a contributing factor to low reliability ratings for our engine companies, specifically in the heart of Prescott Valley.

American Medical Response (AMR), a national company owned by a private equity firm, now owns and operates Lifeline Ambulance. Because of the sale, we no longer have a local community tie to the owners.

CAFMA staff has maintained frequent dialogue over the years with local AMR managers concerning the extended response times. To date, there have been no changes and response times have continued to increase. In 2018, staff expressed concern directly to Terry Mullins, Bureau of EMS Chief (a division of the Arizona Department of Health Services). His advice was that we should start filing complaints. CAFMA has been submitting 60-80 complaints a month for response times in excess of 20 minutes, some much longer. We have filed five complaints with the Bureau as a result of untoward outcomes on calls with extended response times. As of November 2019, none of our complaints have been addressed. A couple of these complaints have been outstanding for nine months and counting.

Throughout the first part of 2019, CAFMA worked regionally with Prescott Fire Department to attract a different private provider to the area. Our hope was to engage with a company that would be willing to provide necessary transport services while meeting recognized and realistic

response standards. Ultimately, Prescott decided to seek a contract with AMR rather than find a different provider for the area. The provider we were working to attract stated that without the City of Prescott they would not be able to respond to a Request for Proposal (RFP) for CAFMA's jurisdiction alone. We also reached out to two non-profit providers in central and northern Arizona. Both declined stating expansion into our area did not fit their business model.

CAFMA staff does not recommend seeking a contract for services with AMR as they have historically not followed existing contracts with fire service agencies, municipalities, or hospitals in Arizona or other areas of the country. They walked away from a nearly $1.2 million debt owed to the City of Scottsdale which resulted in a lawsuit. In short, contracts with AMR have not provided for improved services or response times. The State approves the contracts, but historically does not ensure adherence to the agreements.

We are now working at the state level to open the rules related to the Certificate of Necessity (CON) covered under Article 9. A CON is required to operate an ambulance transport service in the State of Arizona. The Bureau of EMS regulates CONs as part of DHS. The intent is to update the CON process and tighten response time requirements and oversight, as well as reporting requirements. As of this summary, there is no agreement from the state to open the CON rules for consideration of changes. A 1999 Auditor General's report, attached as Appendix A, stated in part that the CON process was antiquated, prevented competition, did not take into account patient care, and did not take into account community needs or growth. The report was also critical concerning the Bureau and DHS's delays in handling complaints, many of which had never been addressed. Nothing has changed in the 20 years since the report.

As of this writing, we have exhausted our efforts to attract another private or non-profit provider. We have worked with AMR to improve response times without success. AMR management has been less than forthright with CAFMA staff, and has denied that there are any issues with response times. According to many of the AMR crews, they are struggling to staff their units. This seems substantiated by their local and regional management's statements that they are unable to recruit necessary staffing.

The Bureau of EMS acknowledged that there is a significant difference between the raw data CAFMA provided and the reports that AMR provided relating to response times. AMR is required to self-report and has not, nor are they required to, provided any raw data. As a public entity, all of CAFMA's data is public. As of our last meeting, the Bureau had not audited AMR's data for comparison purposes, nor have they given any indication that they will audit AMR's reports.

State level associations have held meetings with AMR's CEO and upper-level managers who have refused to cooperate as well. Our agency, along with our regional partners, have worked directly with the Bureau of EMS to improve services without success. At this time, our final hope is to change the statewide standards. If that is unsuccessful, CAFMA officials will be left with few options – see Recommendations section.

Even if the standards are changed, it does not mean response times will improve. Firstly, there will be a potential delay of one to two years or longer to implement the new standards. Secondly, AMR already has difficulty staffing their units. It is highly probable that to meet new response standards they will need to add additional units and staffing. Adding units to meet the needs of our growing community will have a financial impact on their company, and will increase their need to recruit and retain employees.

Background

To operate an ambulance within the State of Arizona a company or governmental transport service must obtain a Certificate of Necessity (CON) from the Bureau of EMS, a division of the Department of Health Services (DHS). When a CON application is submitted to the Bureau, they send inquiries to surrounding CON holders asking if anyone has an objection. If another provider files an objection, the CON application is referred to an Administrative Law Judge (ALJ) for a hearing. The legal proceedings can be costly, e.g. $1 million or more in some cases.

Once the ALJ hands down a ruling, the CON is reviewed by the Director of DHS. If the ALJ ruled against the applicant, but the Director feels there is a need, he/she can overturn the ruling. If the ALJ approves the application, but the Director disagrees with the ruling, he/she can overturn the ruling. A 1999 Auditor General's Report found the CON process was outdated, limited competition, that response standards did not reflect need, and that it did not take into account the best interest of the community. The report also found that the renewal process, lack of oversight, and lack of a process to update response standards was a detriment to the citizens of Arizona. Despite the report, nothing has changed in the last 20 years. Arizona is one of only three states that still utilizes a CON process. Kentucky utilized a CON process until February 2019 when it was challenged in court based on the same principles as the findings in the Arizona Auditor General's 1999 report, attached here as Appendix A.

The 1999 report was also critical of the Bureau's lack of follow-up on complaints submitted to the agency. According to the report, some complaints had been sitting for over a year and had not been addressed. CAFMA has submitted a number of complaints to the Bureau including complaints concerning calls with untoward outcomes. A couple of our complaints are nine months old as of November 2019 and have yet to be addressed.

When seeking a CON, especially one that may overlap another agency, the Bureau of EMS weighs the potential financial impact to the current provider. If in their opinion the impact would be too great, a CON may not be approved. They weigh their determination in part on the Ambulance Revenue and Cost Report (ARCR). According to transport providers in the state, as well as members of the Arizona Ambulance Association, the specific criteria for how to complete the ARCR is vague and open to interpretation. This means reports filed with the state can be inconsistent in regards to how revenues and expenditures are calculated and reported. The Bureau of EMS accepts the ARCRs as submitted and rarely, if ever, audits the reports for consistency and accuracy.

The Bureau holds governmental entities to the same reporting system as private entities despite each being governed by different financial accounting systems as defined by the federal government. The ARCRs need to be reformed to include reporting consistent with governmental accounting standards for governmental agencies. Additionally, the ARCRs need to contain a clearly articulated standardized reporting method that includes clear expectations as well as examples of how they expect the revenues to be calculated. As it stands, one company can utilize a method of reporting that shows a lower profit margin than they actually realize year-over-year, while another reports actual profit and loss. These issues can and should be addressed through the Article 9 rules process.

Lifeline Ambulance was founded in 1956. Prior to their purchase by American Medical Response (AMR) in 2013, Lifeline was owned and operated by Cheryl Smith, a local businessperson. AMR is a national company that has changed ownership at least three times, and is now owned by a private hedge fund. They operate under Certificate of Necessity (CON) 62 that includes our area. CON 62 encompasses nearly 9,000 square miles, including portions of several counties.

Response time standards outlined in an ambulance transport provider's CON are established when the CON is issued and they are rarely, if ever, updated. CON 62's response times have not been updated since 1985 based on the information available to us. For comparison purposes, the census data for 1980-1990 for the population of Yavapai County was estimated at 81,499. In 2018, the census estimate for Yavapai County was 231,993 with a majority of the populous living in the Prescott Basin. CAFMA's estimated population-based numbers provided by the agency's GIS/Statistician is approximately 100,000. During the same time frame CAFMA's (CYFD and CVFD combined) calls for service are estimated to have increased by 1000%.

The numbers illustrate significant growth in our area, yet the CON requirements for response times remain unchanged thereby not reflecting our community as it is today. The Bureau of EMS and AMR added the City of Williams to CON 62 at some point in the last 5-8 years. The City of Williams is afforded better response time standards than the urban/suburban areas within CAFMA's jurisdiction.

Response times were an issue when Lifeline Ambulance was owned by Ms. Smith, however, because she was a local businessperson fire department staff and local officials could approach her directly to discuss concerns. Since AMR purchased Lifeline in 2013, response times have steadily increased. We have repeatedly expressed CAFMA's concerns to AMR's local operations manager to no avail. It is not that the local manager does not recognize the issues. Rather, the local manager reports to people whom in turn report to corporate level officers who control the resources the local operation receives. Additionally, AMR has difficulty recruiting and retaining personnel. Some are hired by CAFMA, while others leave for a variety reasons, e.g. wages and working conditions. AMR has requested on numerous occasions that CAFMA not hire their personnel. This is not something that is within our purview, i.e. we cannot purposely exclude people from the hiring process because they work for AMR and AMR does not want to lose them.

In 2018, the *Daily Courier* wrote an article about extended response time concerns in the Prescott Basin. Lifeline employees were the catalyst for the story, however, CAFMA Chief Scott Freitag was the only one identified by name in the article. Within days of publication, the AMR Director of Operations in Arizona, John Valentine, contacted Chief Freitag. The conversation did not go well, and ended with Mr. Valentine threatening to write a letter to CAFMA's Board of Directors complaining about Chief Freitag. Mr. Valentine sent a letter to the CAFMA board leveling a series of allegations. The board determined all allegations to be without merit based on CAFMA staff documentation as well as statements from Prescott Fire Chief Dennis Light.

After the conversation with Mr. Valentine, Chief Freitag and EMS Captain Doug Niemynski had a meeting with Mr. Terry Mullins, Bureau Chief of EMS. Mr. Mullins recommended that we start documenting the extended response times via formal complaints to his office. Chief Freitag and Captain Niemynski initially made the decision that complaints would be filed for any response time greater than 30 minutes. In early 2019, the time was changed to reflect any response time over 20 minutes, which they felt more accurately depicted recognized standards as well as their concerns. Depending on the area, Prescott Valley for example, a 20-minute response time is over double any recognized standard. During the intervening time, CAFMA staff, specifically Captain Niemynski and Assistant Chief of Operations Jeff Polacek, continued to speak with AMR's local operations manager. Based on nationally recognized standards a reasonable response time within an area like Prescott Valley is under 10 minutes to the 90^{th} percentile. Because CON 62 allows a response time for a transport ambulance between 0 and 75 minutes, our complaints filed with DHS are being noted, but not addressed.

Average response time numbers for reporting purposes are not calculated based on individual geographic areas, e.g. Prescott Valley or Chino Valley. Rather, they are based on the entirety of the CON. In the case of CON 62, response times are averaged for a nearly 9,000 square mile

area. To that end, a transport service's numbers can be extended in one community, but better in another, thereby technically meeting their response time standard. A more standardized way to assign and measure response times is based on geographic boundaries, and standard definitions based on populations, e.g. urban, suburban, rural, and frontier. For example, Prescott Valley would be geographically carved out by their municipal boundaries, defined under one of the aforementioned categories, and a response time standard assigned. It is possible for one community to fall into more than one category, e.g. urban and suburban, or suburban and rural. In those cases, areas are defined within the community's geographic boundaries and response times are assigned accordingly.

On June 23, 2017, CAFMA crews were on scene with a patient in Prescott Valley at approximately 0200. The Lifeline crew arrived within eight (8) minutes; however, the CAFMA engine had been advised Lifeline was in Code Red status, i.e. no ambulances available. The crew of the ambulance did not exit their vehicle so a CAFMA company officer went to the unit and asked if they were going to take over patient care and transport. The ambulance crew advised they were leaving for a higher priority call and proceeded to leave the scene. Given that there were no ambulances in the area, and Highway 69 was partially shut down for construction, the Engine crew transported the non-critical patient to the hospital in their vehicle.

A complaint was filed by CAFMA with the Bureau of EMS because the ambulance was on the scene in view of the patient, but then left the scene without interacting with the patient. The Bureau dismissed the complaint stating that it is within the purview of the company to redirect ambulances not already on scene to higher priority calls. While we recognize and practice the same, the fact was that the ambulance had arrived on scene; however, they had not communicated over the radio to their dispatch that they had arrived. We recognize that the patient was still under the care of one of CAFMA's paramedics, but feel that the ambulance leaving the scene at that point was inappropriate. Subsequently, AMR filed a complaint against CAFMA for transporting the patient that they, AMR, left on the scene. That complaint was dismissed.

On August 31, 2018, a CAFMA crew was working a patient in cardiac arrest in suburban Prescott Valley. The ambulance response time was 17 minutes thereby delaying transport to a definitive care facility, as well as limiting the resources needed on scene to work this type of call. The patient was initially responsive and did not go into cardiac arrest until just before the ambulance arrived on scene. Given the call was only five (5) minutes from the hospital, an argument can be made that earlier access to definitive care may have afforded the patient a better chance of survival. Unfortunately, the patient did not survive. In this case, the patient was too critical to be transported in the fire engine by the CAFMA crew.

In early 2019, four CAFMA patients had untoward outcomes that we believe were due, at least in part, to extended response times for ambulance care and transport. On February 22, 2019, a CAFMA crew worked on a patient in cardiac arrest in a densely populated part of Chino Valley. The crew provided advanced life support care for 20 minutes before terminating resuscitative efforts. No ambulance ever arrived on scene. Later that same evening, the grandson of the patient from the morning took an overdose of his grandmother's medications. The same CAFMA crew responded and performed advanced life support care for 19 minutes on the scene before an ambulance arrived to assist and transport. The patient did not survive. This delay meant the CAFMA crew did not have access to all of the human resources needed to run this type of call, and there was a significant delay in getting the patient to a definitive care facility.

On February 22, 2019, a CAFMA crew in rural Dewey-Humboldt, Arizona worked a cardiac arrest patient on-scene for 21 minutes before terminating resuscitative efforts. No ambulance arrived on scene. Same as before, limited personnel to work the arrest, and no opportunity for transport to definitive care.

On June 4, 2019, a CAFMA crew worked a cardiac arrest for 22 minutes on scene before an ambulance crew arrived. The patient was transported, but did not survive.

It is not for us as emergency responders to decide if any of these patients were viable. Our directive as emergency medical providers is to provide advanced life support in combination with rapid transport to a definitive care facility. If the ambulance is delayed, or never arrives on scene, rapid transport to a definitive care facility is not possible. Additionally, it takes a number of people to adequately execute resuscitative efforts in a cardiac arrest situation. A delayed response by the ambulance means that we are working with a crew of three instead of five thereby significantly reducing the number of people we have on hand to perform critical tasks.

Complaints were filed through the Bureau of EMS following each of the above instances.

Note: As of November 2019, there has been no update from the Bureau regarding the status of the complaints. Captain Niemynski has inquired, however the Bureau has not been able to provide an update.

In early 2019, Chief Freitag made personal phone calls to the Bureau speaking with Ithan Yanovsky, the Deputy Bureau Chief, about CAFMA's concerns. Some of these calls overlapped a February stakeholders meeting. Mr. Yanovsky assured the Chief that while the private company was operating within their CON standard, the Bureau recognized that some CON requirements, i.e. long response times, were not appropriate in more densely populated areas. He said that while their response times may technically fit within the standard outlined in CON 62, extended response times could still be addressed. For example, a 45-minute response time may be acceptable according to the CON, but the Bureau would not deem that acceptable for a

response within Prescott Valley given the community's population and density. Despite being provided this explanation, the Bureau has not addressed any of our concerns and states that *AMR is meeting their CON requirements*.

In February of 2019 Chief Freitag coordinated a meeting of key stakeholders from the City of Prescott, Town of Chino Valley, Town of Prescott Valley, Town of Dewey-Humboldt, Yavapai County, and concerned citizens. The meeting took place on February 25, 2019. Per the feedback from stakeholders in attendance, a meeting was scheduled with the Bureau of EMS. CAFMA requested a meeting with Dr. Cara Christ, Director of the Department of Health Services (DHS), however our request was denied and two deputy directors attended in her place.

Meeting attendees included:

- Town of Prescott Valley Mayor Kel Palguta
- Town of Chino Valley Mayor Darryl Croft
- Town of Dewey-Humboldt Mayor Terry Nolan
- City of Prescott Mayor Greg Mengarelli
- County Supervisor Jack Smith
- CAFMA Board Chair Julie Pettit
- City of Prescott Attorney John Paladini
- CAFMA Attorney Nick Cornelius
- CAFMA Fire Chief Scott Freitag
- CAFMA EMS Captain Doug Niemynski
- City of Prescott Fire Chief Dennis Light
- City of Prescott Division Chief Cory Moser

We met with the Bureau of EMS and DHS representatives on April 4, 2019. The intent was to present data and request improved response time standards based on increased population and call volume. The elected officials and attorneys expressed their concerns regarding extended response times and poor service. The Fire Chiefs and their staff representatives served as the subject matter experts clarifying the concerns, and providing data along with specific incident examples. Based on the concerns articulated in the meeting, the stakeholders group asked how we might act as interveners in the renewal process for CON 62. We were advised that there was no way to intervene and they described the process as more administrative in nature.

We left the meeting with little other than a commitment to look into our concerns. Bureau Chief Mullins stated they had a meeting already scheduled with AMR based on the issues we presented.

Subsequent to the April meeting, AMR officials had a meeting with the Town Manager and Mayor of Prescott Valley. During the meeting, they told the Town that there were over 300 instances in which an ambulance had waited on scene in Prescott Valley for a CAFMA engine to arrive in excess of 15 minutes. They indicated a date range in 2018. CAFMA EMS Captain Doug Niemynski pulled the raw data for all of 2018 and ran an analysis. He found 147 instances out of 7,000 calls in which CAFMA's response time was equal to or greater than 15 minutes for Code 3 responses in CAFMA's ***entire*** jurisdiction, not just Prescott Valley. A majority of those were in the more rural sections of our coverage area. As we do not have access to AMR's data there is no way for us to know when their ambulance arrived or even which incident numbers apply. It is possible that AMR received private calls via a seven-digit number directly to their dispatch center in Glendale which bypasses the 911 system. They do respond to calls without notifying CAFMA and then call for help after they arrive, which would mean they would be on the scene awaiting our arrival. However, in these circumstances it would be improbable that our response time once notified would exceed 15 minutes.

We provided our data to the Town reflecting that what AMR had claimed was not probable. We challenged AMR about the claim at an April meeting with DHS. ***They were unable to provide any data supporting their claims***. Instead, they argued we were staying too long on scene after their ambulance arrived. Subsequently, EMS Captain Niemynski and Operations Chief Jeff Polacek evaluated the data and addressed those crews spending more time on the scene than reasonable.

DHS reached out to our group and scheduled another meeting for May 20, 2019 between the Bureau, the Deputy Directors, our stakeholders group, and AMR. Bureau Chief Terry Mullins prepared a presentation to review with the attendees. He showed a slide that included CAFMA's response data related to AMR along with data provided by AMR. There were clear discrepancies between the two sets, which Mr. Mullins acknowledged, but did not address. All response times for CAFMA as a public agency are a matter of public record. AMR is required to self-report, but is not required to provide raw data, and none of their data is public. The Bureau has the authority to audit AMR's response data, however to our knowledge has not performed an audit. Prescott had not submitted data to the Bureau so a good comparison between the City of Prescott FD and AMR was not available.

Mr. Mullins also showed AMR's Ambulance Revenue and Cost Report (ARCR). All EMS transport agencies in the State of Arizona are required to submit an annual ARCR. There are inconsistencies from agency to agency in the way the ARCR revenues and expenses are calculated and reported, which can create discrepancies between reported profit and loss vs. actual profit and loss.

For example, if AMR were to utilize the same reporting methodology as Maricopa Ambulance, their report for CON 62 would show profit in excess of 20% according to a report provided by a third party. However, using AMR's method of reporting they show only a 6% - 7% profit margin at the end of the year. This example illustrates the need for a more clearly defined reporting methodology to ensure an increased level of consistency and transparency. These reports can be a factor when the ALJ or DHS considers the financial impact to a current provider's bottom line, should they approve an overlapping CON. Because of the inconsistencies, we cannot say who is correct or incorrect in their reporting.

In the May meeting, DHS clarified their view regarding CON changes during review and renewal. However, they were unable to provide a path for the stakeholders group to act as interveners in the process. Based on the meeting, it did not appear DHS intended to request that AMR consider altering the response standards in CON 62 during the renewal process.

At the end of the meeting, DHS recommended that we meet with AMR again as they felt AMR was a "good company" and that we should work with them, e.g. obtain a contractual agreement. AMR has had contractual agreements across the country and throughout the State of Arizona for many years. Based on our research, and input expressly from Arizona cities and fire service agencies, the company has had some difficulties adhering to their agreements, specifically in relation to response time requirements. The company, for the most part, has paid fines associated with failure to perform. However, AMR stopped paying ride-in fees required under their contract with the City of Scottsdale. This was subsequent to the City issuing a Request for Proposal (RFP) seeking an alternate transport provider. The subsequent lawsuit was regarding approximately $1.2 million owed to Scottsdale. The City and AMR did reach a settlement for some portion of the monies owed. Scottsdale now has a contract with Maricopa Ambulance for transport services.

Due to poor response times and coverage issues, the City of Goodyear, City of Glendale, and the City of Scottsdale each sought alternate transport providers. The City of Mesa, Lake Havasu City, and City of Casa Grande are also having issues with response times from AMR. Mesa is still deciding on a direction, while in October 2019 the City of Casa Grande gave direction for the fire department to seek a CON. Lake Havasu is still in the process of determining an appropriate direction. It is important to understand AMR's past, as well as current, practices regarding their contractual relationships and their issues with response times, as they appear consistent throughout the State of Arizona and across the country. In short, the contracts have not helped improve response times in any way, and the concerns we have about response times are not unique to our area.

During this time, Chiefs Light and Freitag worked with an alternate private provider in an attempt to attract them to the Prescott Basin. No other CONs currently exist in the area, which

means at present no other options for transport exist. To that end, any potential private provider would have to traverse the CON process as outlined in the opening of the Background section of this document. This means they would likely be subject to a court process with associated costs in excess of $1 million. Private providers have to weigh the return on investment (ROI) when considering Arizona's CON process.

Subsequent to the April meeting, Prescott's elected officials gave Chief Light direction to seek a contract with AMR. As of the date of this document, November of 2019, they have not been able to finalize a contract. As a result of the City of Prescott essentially backing away from a regional approach to seeking a private provider, CAFMA was left to seek an alternate provider to cover just our jurisdiction. The private provider in question advised that the business model for a private company only works if the City of Prescott and CAFMA are included together. Without Prescott, they did not feel they would realize the return on investment (ROI) required for a successful operation. Other private and not-for-profit providers have also declined to consider expanding into the Prescott Basin stating that expansion into our area does not fit their business plan.

AMR did send Chief Freitag a draft copy of a contract which, in short, stated that they would follow their CON requirements. A copy of the contract between AMR and the City of Mesa was acquired as an additional template. However, the City of Mesa and their fire department does not recommend seeking a contract with AMR due to the issues they have faced with them as a transport provider. Mesa has experienced the same extended response times as our area to include at least one untoward outcome. AMR describes Mesa's concerns as a "semantics" issue. The City of Mesa, as well as Goodyear, Glendale, City of Casa Grande, Lake Havasu City, and Scottsdale disagree with AMR's description.

Understanding that we would not realize any changes through a contractual relationship, that working directly with AMR to seek improved coverage and services has not worked, and that the Bureau of EMS as a regulatory agency is working under an antiquated system, CAFMA staff decided to take a different approach.

As described earlier, a 1999 Auditor General's Report (attached as Appendix A) described the CON process as antiquated, a blockade to competition, inconsiderate of patient care, having a renewal process that lacked review, and not considering area growth as it relates to response time requirements. The report also pointed out that the Bureau of EMS was not properly dealing with or responding to complaints. CAFMA has experienced the same with complaints we have filed, as mentioned previously.

Chief Freitag has been working with Senate President Fann as well as state associations in requesting a rules change process for Article 9. The proposed changes would require DHS to

review and update CON's every 3-5 years to include updating response time standards based on population, area growth, and call volume. Changes sought would include a requirement to divide CON's into geographic areas. For example, CON 62 would segregate Prescott Valley, Chino Valley, and the City of Prescott by geographic boundaries. The areas would be defined based on nationally recognized definitions, e.g. urban, suburban, rural, and frontier. Response times would then be assigned accordingly. At renewal, the areas would be re-evaluated and updated as necessary based on growth, population, and call volume.

These standards do not consider profit; rather they focus on patient care. For example, if meeting the response requirements necessitates four ambulances instead of three, then a fourth ambulance would need to be added to the system. Despite the additional costs, other private not-for-profit transport providers in the State of Arizona already add additional units based on these standards.

The Bureau of EMS sent out a statewide survey on or about September 4, 2019, asking emergency services providers if they felt change is needed regarding ambulance CON response times. The survey closed October 4, 2019, and results were released on October 24, 2019. Respondents overwhelmingly recommended that Article 9 be opened for rule changes in line with what is outlined above. The Bureau has requested additional input from across the state due no later than November 18, 2019. They will then seek approval from the Governor's office to open Article 9 for rule changes.

Another area of concern was identified by the Bureau of EMS when some of the private ambulance transport companies in Arizona began to fail some years ago. They acknowledged that having only one private service provider in an area can create a problem should said provider have financial difficulty at any point, or should they decide not to service an area. While many other densely populated areas in the state now have overlapping CON's for service, the Prescott Basin remains with only one option and zero backup, i.e. no redundancy, in the system.

As of this writing, CAFMA continues to file complaints with the Bureau of EMS on a monthly basis and remains active in promoting change at the state level. The agency has obtained two retired ambulances via donation from other fire service agencies that will be used as Rescues. This is a short-term stopgap measure to better care for our constituents in times when an ambulance is not available, or when response times extend beyond a reasonable period as determined by CAFMA paramedics on scene. Utilizing the Rescues is not a solution, but will ensure some level of improved service in the short-term.

Recommendations

Without changes in Article 9 as they relate to response time criteria, geographical designation, renewal, oversight, regulatory authority, etc., our area will remain without competition, without coverage, and with extended response times. As stated earlier, without a regional Request for Proposal (RFP), i.e. Prescott and CAFMA together, another private provider will not take the steps necessary to obtain approval for operations in our area. If there are changes to Article 9 we will at least have a stricter set of standards for response times, and potentially more regulatory authority for the Bureau of EMS to hold transport companies accountable for the services they provide. However, there are no guarantees as to what the changes will be, nor do we know if the changes will have a significant impact regarding the challenges we face in our area. Based on the background and our efforts to date, the staff has four recommendations that we would submit for board consideration:

Option One: Do nothing. Accept the extended response times, accept that we will have an occasional untoward outcome, accept that our reliability ratings will be impacted, and continue business as "normal." A reliability rating is the percentage of time that a fire engine is available to respond for an emergency within its first due area.

Option Two: Do not staff, but utilize Rescues to fill in when AMR has an extended response time. This option is not without its challenges. It is a good fail-safe; however, we cannot charge for services provided and we cannot afford to staff them regularly, which means potentially taking an additional engine out of service when needed. We are currently using retired ambulances donated to CAFMA as Rescues. This serves as a good stopgap measure, but is not a long-term solution.

Option Three: Purchase and staff rescues. This option would provide a reliable means of transportation when needed. The units may also be used for low acuity calls when not utilized for transport. Rescues could be staffed with civilian paramedics and EMTs. We cannot charge for any services under this option, and transports would be statutorily limited, i.e. we can only transport if the CON holder has an extended response time or is in Code Red Status (no units available).

Option Four: If the above are not viable options to the board and community, CAFMA could consider an overlapping CON for 911 responses only. This would dedicate additional resources for emergency response, supplement private resources, and ensure a closest unit response system within our jurisdictional boundaries. Unlike private for-profit providers, fire-based EMS systems are not concerned with profit margin, which means service expands based on call volume, response time analysis, and critical tasking. The Bureau of EMS and other state level

officials, including elected officials, have inquired as to why CAFMA has not submitted a CON application.

Option four is not without its political and financial challenges. Politically, some believe that a fire department running transport ambulances is tantamount to public vs. private. This is not the case. Ultimately, we should view it as public and private working together to ensure appropriate response times are met based on recognized standards, that patient care is the priority, and that there are appropriate response resources in our area. It balances the system in the best interests of those we serve. The second challenge is financial, which falls under the political category as well.

There are two ways to establish fire-based EMS in Arizona. One way is to run it as we do the fire response side. This means that the purchase of equipment and salaries of employees come from the general fund. Revenue realized through ambulance transport is routed back into the general fund as revenue and is used offset, or cover expenses. This is not a tax increase as the ambulance revenues cover ambulance operations. Many fire departments with transport services utilize this method. As an example, the Peoria Fire Department has generated revenue enough through their transports to add additional personnel and units to their system. Ambulance revenue in the City of Peoria is accounted for in the City's general fund.

The alternative is to establish an enterprise fund. An enterprise fund is required to generate its own funding once it is operational. Generally, an enterprise fund is established with a short-term infusion of monies from the parent agency that is paid back through the fund over a prescribed period of time. For example, the City of Tempe provided the monies to establish their ambulance services within the fire department. The monies generated from transports exceeded expectations and paid the initial funds back earlier than anticipated. Tempe Fire Department uses monies generated by the enterprise fund to add additional units and crews. This does add an additional layer and level of complexity.

The examples above utilize civilian paramedics and EMTs to staff their ambulances. To that end, they are not compensated at the same level as firefighter/paramedics or firefighter/EMTs. Additionally, because they are non-sworn the employees are in the ASRS retirement system rather than PSPRS.

Conclusion

The Prescott Basin, and specifically CAFMA's area, continues to experience rapid and significant growth. More hotels, apartment complexes, senior living facilities, master-planned communities, etc., are all on the drawing table. In addition, Banner Health is building a facility in Prescott and there is potentially another large hospital system looking at the area. In short,

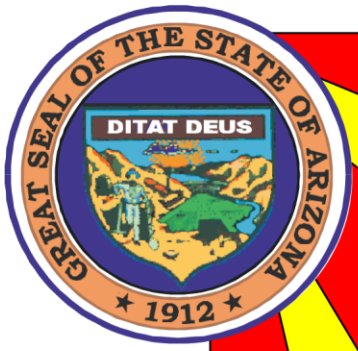
we are growing. The growth increases opportunities for our emergency services system, but also increases the burden on current resources.

Our current transport provider is not keeping up with demand for services in our area, and we are unable to attract a second private for-profit or not-for-profit provider. Systems and rules within the Bureau of EMS have not kept up with growth in our area, or across the state. While changes in the rules related to ambulance transport may be forthcoming, they are still likely one to two years out. Additionally, we do not know what recommendations will actually find their way into the updated rules.

CAFMA has identified a problem with transport services for our residents, a problem that has only grown worse over the last several years. We have worked for the last four years in earnest to affect change within the existing systems without success. Based on projected growth, we see the problem degrading further with time which is a detriment to our citizens as well as our agency.

As staff, we have provided this overview as well as recommendations for the board to consider. Hopefully it provides what you need to make the best decision for our community and agency as we look to the future.

Appendix A



State of Arizona Office of the Auditor General

PERFORMANCE AUDIT

DEPARTMENT OF HEALTH SERVICES, BUREAU OF EMERGENCY MEDICAL SERVICES

Report to the Arizona Legislature
By Douglas R. Norton
Auditor General

April 1999
Report No. 99-6

DOUGLAS R. NORTON, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

DEBRA K. DAVENPORT, CPA
DEPUTY AUDITOR GENERAL

April 19, 1999

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Dr. James Allen, Director
Department of Health Services

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Department of Health Services, Bureau of Emergency Medical Services. This report is in response to a May 27, 1997, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§412951 through 41-2957. This is the third in a series of reports to be issued on the Department of Health Services.

This report addresses why the State needs to consider changing its current statutory approach to regulating ambulance services, how the Bureau can improve its handling of complaints against various certificate holders, including emergency medical technicians, and how the Department handled the Bureau's former Medical Director's potential conflict of interest. First, Arizona's statutory Certificate of Necessity (CON) system provides more regulation than is necessary for overseeing ambulance service, does not meet its goals, and limits competition. We recommend that the Legislature consider directing the Bureau to form a study group to advise the Legislature on developing a new system for helping to ensure quality service, while increasing the potential for competition within the industry. Second, the Bureau has taken steps since August 1998 to ensure that complaints against certificate holders are resolved more quickly. However, it still needs to improve complaint handling by providing adequate staff training, expediting some complaint resolutions, adequately tracking complaint files, and adopting an appropriate computer-tracking system. Finally, the report also provides information about how the Department handled the Bureau's former Medical Director's potential conflict of interest.

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As outlined in its response, the Department notes that the decision to review the need for the CON system rests with the Legislature. The Department agrees with, and has agreed to implement, all recommendations addressed to it.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on April 20, 1999.

Sincerely,

Douglas R. Norton
Auditor General

Enclosure

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Department of Health Services, Bureau of Emergency Medical Services, pursuant to a May 27, 1997, resolution of the Joint Legislative Audit Committee. The audit was conducted under the authority vested in the Auditor General by A.R.S. §§41-2951 through 41-2957. This is the third in a series of six audits relating to the Department of Health Services.

The Bureau of Emergency Medical Services (Bureau) is responsible for protecting the health and safety of people requiring emergency medical services. With 34 full-time equivalent positions located in one administrative and four regional offices, the Bureau certifies emergency medical technicians, regulates ambulance service through the statutory Certificate of Necessity (CON), and handles complaints against individuals and ambulance companies. The Bureau also oversees statewide emergency medical services by administering a computerized database of trauma cases and supporting three advisory boards and four regional councils.

The Certificate of Necessity Is An Unnecessary Form of Regulation (See pages 5 through 10)

This audit found that the statutory Certificate of Necessity (CON) provides more regulation than is necessary for overseeing ambulance service and limits competition. Arizona's current system of regulation dates from 1982 and is generally intended to ensure ambulance coverage throughout the State and to provide assurance of quality services. It statutorily requires that companies or local governments obtain a Certificate of Necessity to operate an ambulance service in each geographic area they intend to serve. Arizona is one of only seven states using a CON system for ambulance regulation.

The CON system does not guarantee that all areas of the State have adequate ambulance coverage or that CON holders provide quality service sufficient to meet basic safety requirements. Some locations in the State are not in any provider's service area. Under the CON system, the Bureau has no authority to compel providers to provide service to these locations. Examples include Highway 89 from Flagstaff to Page and Highway 93 from Wickenburg to Wikieup. As a result, unregulated rescue services and costly air ambulances are often used in place of ambulances in those and other areas that have inadequate coverage. Even within CON service areas, the system is ineffective for ensuring quality. The Bureau does not systematically monitor key quality indicators, including ambulance response times. Furthermore, quality can be monitored without a CON system. Arizona has several regulations for controlling the quality of ambulance services that are separate from the CON system.

The Certificate of Necessity system limits competition by creating a barrier to those individuals or companies wishing to enter the ambulance service market. In addition to demonstrating their own qualifications, CON applicants can be required to demonstrate that the existing ambulance service provider does not meet the provisions of its CON. If existing CON holders are meeting the response

times specified on their certificates and responding to all calls, the Department may decide there is no need for new service, even if applicants can demonstrate faster response times or other service improvements. The CON system also prevents local governments from finding ambulance service that might better and more affordably meet their communities' needs, including possibly providing services through their own fire departments.

The Legislature could consider directing the Bureau to form a study group to advise it on the need to reevaluate the CON system in light of its limitations in meeting state regulatory goals and its adverse impact on competition. Other forms of regulation used by other states might be effective without the problems that accompany the CON system. For example, the Department could license and regulate the quality of ambulance service without limiting the number of providers, or the Department could establish minimum service standards and allow local governments to determine appropriate levels of service.

If the CON is continued, quality and coverage oversight should be improved. The Bureau could more thoroughly use CON regulatory mechanisms to monitor quality, update and improve response time measures and accountability, and create easily accessible documentation of provider information.

The Bureau Does Not Adequately Handle Complaints (See pages 11 through 17)

Although the Bureau's current complaint-handling process has improved since the Office of the Auditor General's last report in 1988 (see Auditor General Report No. 88-12), the Bureau still needs to improve its handling of complaints against emergency medical technicians, paramedics, ambulance companies, and related entities. Under A.R.S. §36-2204, the Bureau is responsible for investigating and resolving complaints of substandard patient care and unprofessional conduct against emergency medical technicians; and complaints regarding fees, response times, and territorial infringement against ambulance companies. The Department's Office of Special Investigations formally investigates all complaints against emergency medical technicians or paramedics, complaints involving patient care allegations, and appealed informal complaints. Other complaints are handled informally by Bureau staff.

Since August 1998, the Bureau has taken steps to ensure that final resolution decisions are made in a more timely manner. However, Auditor General staff found that 22 complaints from the period prior to August 1998 remained open for more than two-and-a-half years, awaiting a final decision after the investigations had been completed in a timely manner.

The delay compromised the Bureau's ability to resolve complaints and, in some cases, impose appropriate discipline.

Other problems are related to the Bureau's procedures for handling complaints, both informally and formally. Informal complaints are hampered by a lack of monitoring and a lack of complaint investigation training on the part of Bureau staff, who handle all such complaints. Formal complaints continue to be

hampered by slow processing, poor tracking of files, an inadequate database, and inadequate notification provided to complainants about the status of their cases.

The Bureau has recognized some of these complaint-handling problems and has begun to make improvements. It plans to implement a new case management plan, which includes policies and procedures for complaint handling. The Bureau has also recognized the need for an improved complaint tracking system for these complaints and is taking steps to address some of the problems. Further changes, however, are still required to correct problems. These changes include better tracking and management of complaints that are handled informally, training for personnel who investigate such complaints, and better communications with complainants.

Other Pertinent Information (See pages 19 through 20)

The Bureau's former medical director faced a potential conflict of interest because her spouse works for the State's largest for-profit ambulance service provider. The Bureau sought legal direction on the matter and subsequently wrote, but did not consistently follow, an internal policy directing the former medical director to refrain from reviewing any complaints against the spouse's employer or any of its competitors, including complaints against individual employees of such companies. The former medical director participated or made decisions in several complaint cases, although the audit staff found no inappropriately resolved complaints. To avoid this situation in the future, the Department of Health Services reports that it now closely scrutinizes potential conflicts of interest prior to hiring Bureau managers. Auditor General staff reviewed the Statements of Independence of the Bureau's new Chief and Medical Director and found that both should be able to impartially perform their duties.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Department of Health Services, Bureau of Emergency Medical Services, pursuant to a May 27, 1997, resolution of the Joint Legislative Audit Committee. The audit was conducted under the authority vested in the Auditor General by A.R.S. §§41-2951 through 41-2957. This is the third in a series of six audits relating to the Department of Health Services.

Bureau of Emergency Medical Services' Responsibilities

The Bureau of Emergency Medical Services plans and coordinates the State's emergency medical care system. Federal estimates indicate that the average American will need ambulance service at least twice in his or her lifetime. The Bureau's mission is to protect the health and safety of people requiring emergency medical services through certification, licensure, and promotion of Arizona's emergency medical service systems.

The Bureau has three main areas of responsibility: ■ **Emergency Personnel—**The Bureau certifies emergency medical technicians and technician training programs, handles complaints against emergency medical technicians (EMTs), and disciplines violators. There are currently 9,044 certified basic and intermediate emergency medical technicians and 2,360 certified paramedics in Arizona. ■ **Ambulance Services—**The Bureau regulates ambulance service by setting ambulance service rates and issuing Certificates of Necessity to ambulance providers. These Certificates establish providers' geographic service areas and required response times. The Bureau also inspects all air and ground ambulances, investigates complaints against ambulance providers, disciplines violators, and certifies hospitals that provide medical direction to ambulance providers and receive emergency patients. Currently, 74 ambulance service providers hold 83 Certificates of Necessity and operate approximately 533 ambulances in Arizona. ■ **Statewide Oversight—**The Bureau provides statewide oversight of emergency medical services through several means. It maintains the State Trauma Registry, a computerized database of the incidence of, causes, severity, outcomes, and operation of trauma system cases. In addition, it provides administrative support to several advisory committees including the State Trauma Advisory Board, the State Emergency Medical Services Council, the Medical Direction Commission, and four regional councils. These seven bodies guide the Bureau in developing policy and programs. The Bureau also administers a grants program for emergency medical service providers to purchase supplies and capital equipment.

Bureau of Emergency Medical Services Organization and Staffing

The Bureau of Emergency Medical Services is a unit within the Department of Health Services, Public Health Division. It has a total of 34 full-time equivalent employees (FTE). Fourteen FTEs staff a Phoenix-based administrative office that regulates ambulance services statewide and oversees a reorganized

structure of four regional offices.[1] The regional offices are responsible for certification, ambulance inspection, grant making, informal complaint handling, and some hospital oversight. The Central Region office is in Phoenix and has a staff of 8. The Southeastern Region office, in Tucson, has 5 FTEs. The Northern Region office is in Flagstaff and has 4 FTEs. The Western Region office is housed in Phoenix and is staffed by 3 FTEs. The Department of Health Services supports the Bureau, particularly through the Office of Special Investigations, which investigates formal complaints against emergency medical technicians and ambulance providers.

Budget

The Bureau is financially supported by a portion of a surcharge on fines charged for criminal offenses and traffic violations and by 0.3 percent of the Telecommunications Services Excise Tax. Expenditure of these monies requires legislative authorization. Table 1 (see page 3) illustrates the Bureau's actual and estimated revenues and expenditures for fiscal years 1997-1999.

Audit Scope and Methodology

Audit work was conducted to determine whether the Bureau effectively regulates ambulance services through the Certificate of Necessity program, and whether the Bureau adequately tracks, investigates, and resolves complaints. The audit presents findings and recommendations in two areas:

Table 1

Department of Health Services
Bureau of Emergency Medical Services
Statement of Revenues, Expenditures, and Changes in Fund Balance
Years Ended or Ending June 30, 1997, 1998, and 1999 (Unaudited)

	1997 (Actual)	1998 (Actual)	1999 (Estimated)
Revenues:			
Fines and forfeits [1]	$3,312,692	$3,618,552	$3,908,000

[1] Previously, the Bureau had separate sections handling emergency personnel certification, the Certificate of Necessity program, and the statewide trauma system. The sections operated primarily from the Phoenix office. The Tucson and Flagstaff offices employed ambulance inspectors and administrative staff. The Flagstaff office also monitored hospitals who oversee emergency medical personnel.

Use taxes [2]	1,584,624	1,815,626	2,035,000
Total revenues Expenditures:	4,897,316	5,434,178	5,943,000
Personal services	797,110	823,735	1,015,300
Employee related	186,391	191,227	231,900
Professional and outside services	110,621	326,912	241,200
Travel, in-state	46,609	50,232	51,500
Travel, out-of-state	4,701	6,180	5,600
Aid to organizations [3]	1,874,012	2,020,204	2,028,300
Other operating	495,751	434,758	481,500
Capital outlay	392,588	199,364	166,100
Total expenditures	3,907,783	4,052,612	4,221,400
Excess of revenues over expenditures	989,533	1,381,566	1,721,600
Fund balance, beginning of year	1,844,095	2,833,628	4,215,194
Fund balance, end of year [4]	$2,833,628	$4,215,194	$5,936,794

[2] The Department receives 0.3 percent of Telecommunication Services Excise Tax revenue to fund the University of Arizona Poison Control Center and poison control services in Maricopa County. This revenue is passed through to other entities and is included in "Aid to organizations."

[3] Includes amounts passed through to other entities for poison control and grants awarded to emergency medical service providers for ambulance purchases and services, emergency receiving facilities, and rescue services.

[4] The Department must receive legislative authorization to spend the Bureau's fund balance.

Source: The Uniform Statewide Accounting System *Revenues and Expenditures by Fund, Program, Organization, and Object* and *Trial Balance by Fund* for the years ended June 30, 1997 and 1998; the *State of Arizona Appropriations Report* for the years ended or ending June 30, 1997, 1998, and 1999; and Division-estimated revenues and expenditures for the year ending June 30, 1999.

[1] The Department receives a portion of fines charged for criminal offenses and traffic violations to fund various statewide emergency medical services, including Bureau operations.

- The need for the Bureau to address problems in its regulatory approach to ambulance service provision; and
- The need for the Bureau to improve its complaint-handling process.

Major audit methods included:
- An analysis of the electronic complaint database containing information on the 360 formal complaints filed between fiscal years 1993 and 1998;[5]
- An in-depth telephone survey of the emergency medical services agencies of 14 states that are geographically and demographically similar to Arizona or were identified by emergency medical services experts;[6]
- A survey of the remaining 35 states regarding whether or not they have a Certificate of Necessity system;
- A review of relevant Arizona statutes; other states' emergency medical services agency literature, statutes, and rules; recent legal rulings on ambulance service; and current literature on ambulance and public utility regulation and deregulation;
- An analysis of all 15 initial Certificate of Necessity applications filed between 1994-1998; and

- Interviews with emergency medical services experts, legislative staff, a Governor's Office representative, five professional association representatives, Department of Public Safety representatives, five current Certificate of Necessity holders, a rescue service provider, and three emergency medical service providers who do not have a Certificate of Necessity, but are interested in obtaining one. Industry representatives came from rural, urban, and suburban areas.

This audit was conducted in accordance with government auditing standards.

[5] Database was verified through a statistical sample of 70 complaint files.

[6] California, Colorado, Connecticut, Florida, Illinois, Kansas, Missouri, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

The Auditor General and staff express appreciation to the Department of Health Services Director and the Bureau of Emergency Medical Services' Chief, Medical Director, and staff for their cooperation and assistance throughout the audit.

FINDING I THE CERTIFICATE OF NECESSITY

IS AN UNNECESSARY FORM OF REGULATION

Arizona's Certificate of Necessity (CON) system provides more regulation than is necessary for overseeing ambulance service. CON systems are intended to ensure ambulance coverage throughout the State and to provide quality assurance. Arizona's CON system does not guarantee either of these outcomes, and further, limits competition in the provision of ambulance services. By limiting the ability of new ambulance services to enter a particular geographic area, the CON system may also prevent the introduction of service improvements that would better meet a community's needs. The system should be reevaluated, and other forms of regulation should be considered.

The Certificate of Necessity System

Arizona's current system for regulating ambulance services dates from 1982, when voters approved a Constitutional amendment to reinstate ambulance regulation. The resulting amendment provides for the Legislature's regulatory authority over ambulances in "all matters relating to service provided, routes served, response times and charges."[7] To fulfill this authority, the Legislature enacted statutes establishing the CON system. Only seven states, including Arizona, now use a CON system for ambulance regulation.

Under A.R.S. §36-2233, companies or local governments must apply to the Bureau for a Certificate of Necessity to operate an ambulance service in each geographic area they intend to serve. Applicants must meet criteria demonstrating that they are qualified to offer service. The Department must also find public need for the service, based on demand and the effect upon any existing providers in the geographic area. The application is heard before an administrative law judge if it is an initial application, the Bureau intends to oppose the application, or somebody requests a hearing. The judge makes a recommendation to the Department of Health Services Director, who has ultimate approval authority. If the Director approves the application, the Bureau issues a Certificate of Necessity that delineates locations of the central and sub-operation ambulance stations, the types of service to be provided, average response times, and the geographic area to be covered.

[7] Constitution of the State of Arizona, Article XXVII, *Regulation of Public Health, Safety and Welfare*.

Current Approach Does Not Meet Goals and Is Unnecessary

The CON system as established in statute does not fulfill its intended goals and is not necessary for the fulfillment of these goals. First, the CON system does not ensure all areas of the State are covered by a ground ambulance service. Specifically, it does not oblige ambulance services to cover remote or unprofitable areas outside the area delineated in their CON. In areas with insufficient coverage, unregulated services sometimes substitute for ambulance providers. Second, because the Bureau does not effectively monitor and enforce the quality requirements that are contained within the CON, the current CON system does not adequately ensure quality ambulance service to the public. Additionally, the CON system is unnecessary for meeting such regulatory goals as quality assurance and fee regulation.

CONs do not guarantee coverage— The CON statutes do not provide the Bureau the authority to compel providers to cover remote or unprofitable areas or to improve response times to these regions. Bureau officials indicated that some sections of the State are not included in any provider's CON service area or lack adequate coverage. If the area is uncovered, a CON holder in an adjacent region normally provides service. In these situations, the provider is not required to meet response time standards because these regions are not within its CON. Uncovered and underserved areas include some stretches of state highways, such as Interstate 89 from Flagstaff to Page, and Highway 93 from Wickenburg to Wikieup.

Additionally, the Bureau's method of storing CON information does not ensure that agencies handling emergencies know which service is located closest to the emergency or can respond in the shortest time. Although each CON contains important information about the provider's base of operation, service area, and response times, the Bureau does not delineate this information on a map or other standardized format. As a result, this information cannot be easily shared with other agencies. For example, the Department of Public Safety (DPS) often has the responsibility of placing a call for an ambulance after highway accidents. Because the Bureau does not maintain CON information in a readily accessible format, DPS develops and maintains its own ambulance provider lists and does not cross-reference its lists with information from the Bureau. Providing standardized information could help DPS and other local and state agencies ensure that the ambulance services called are CON holders, and the fastest and closest service to the accident.

Unregulated services and costly air ambulances fill deficiencies— Rescue services and air ambulances are often used in place of ambulances for areas that have inadequate ambulance coverage. While rescue services may represent the only feasible alternative for emergency transport in undercovered areas, the State does not regulate these providers. Under A.R.S. §36-2217(A)(4), rescue vehicles are exempt from CON regulations because they "are primarily used to provide on scene stabilization." However, in uncovered or undercovered areas, where immediate ambulance transport is not possible, rescue services can either transport patients to rendezvous with the nearest ambulance or directly to a hospital.

Moreover, because rescue services are exempt from regulation, they can use this exemption as a way to provide unlicensed ambulance transport and avoid the CON application process. Because they are unregulated, the Bureau cannot directly monitor rescue service quality. Similarly, air ambulances have helped alleviate some of the difficulty covering remote areas, particularly if it is evident that ground transport will result in especially lengthy response times. However, air ambulances are more expensive than ground transports and are unnecessary for some types of inter-facility transports in which the patient is stabilized.

CONs ineffective for ensuring quality— In addition to not guaranteeing ground ambulance coverage, the CON system does not meet its goal of providing an effective method for ensuring quality service. Although providers' certificates contain required response times for their service areas, and although ambulance providers must record this information and submit it to the Bureau, there is no standardized definition of "response times" in Bureau statutes or rules. As a result, CON holders may be calculating response times differently. Further, the Bureau does not consistently conduct analysis of this data. Currently, the Bureau conducts a review of dispatch logs only if complaints have been made against the provider. Moreover, required response times reflected on the CONs are estimates the providers calculate at the time they submit their initial application. Consequently, response times may be out-of-date because they do not reflect population growth or other changes in an area's demographics.

Other quality indicators, such as patient outcomes, are not incorporated in CONs or reviewed in the CON application and renewal processes. In fact, although CON holders are required to renew their certificates every three years, the Bureau does not conduct performance reviews and rarely denies a request for renewal.

CONs unnecessary for ensuring quality and regulating fees— Ambulance service quality and charges could be regulated without the CON system. Many emergency medical service agencies, in states without a CON system, monitor response times and suspend provider services. Furthermore, the Bureau has quality control regulations that do not depend on the CON system. For example, it has regulations regarding how hospitals oversee emergency medical personnel, ambulance design requirements, inspections of EMT/paramedic certifications, and vehicle inspections. Additionally, the fees ambulance providers charge can be regulated without the CON system. Currently, the Bureau sets ambulance provider fees based on the CON service area. However, this is not required by statutes or rules.

CON System

Limits Competition

While the CON system does not meet its intended goals, it also limits competition in the ambulance industry. The Certificate of Necessity system creates a barrier to other service providers wishing to enter the market, and the application process upon which it is based is perceived as favoring current CON holders. Moreover, because the Bureau administers the CON at the statewide level, local governments are denied a role in choosing ambulance service.

***CON system creates a barrier to entering the market*—** Companies and local governments that wish to provide ambulance services in Arizona face substantial barriers. In addition to demonstrating their own qualifications for providing services, applicants can be required to demonstrate that the existing ambulance service provider does not meet the provisions of its Certificate. After the applicant submits all required information, the Department of Health Services establishes a public hearing date and notifies all existing ambulance services in the proposed service area. If existing services or other interested parties file an intervention, the applicant may need to demonstrate at the hearing that the current CON holder is not adequately meeting demands for service in the area.

Because the Bureau can require the applicant to demonstrate that current ambulance services are not meeting public need, the system tends to work in favor of existing CON holders. If existing CON holders are meeting the response times specified on their certificates, and responding to all calls, the Department Director may decide there is no need for new service, even if applicants can demonstrate faster response times or other service improvements. For example, Yuma's fire department applied to the Bureau for a CON. After a long and controversial process, the fire department eventually withdrew its application, citing as reasons the existing provider's opposition, the lengthy and legally expensive application process, and overall lack of support from the Bureau. Several other city fire departments are also interested in applying for a CON but are reluctant to do so, because they expect to face strong opposition from the current CON holders in their areas.

In addition to limitations imposed by the CON system, competition within the ambulance industry may decrease even further because of industry changes. Specifically, the State's two largest private ambulance providers have merged. This merger will significantly concentrate the number of providers owned by one company. Currently, the merged company holds CONs for Maricopa, Pima, and Yuma Counties as well as for other areas of the State, and controls approximately 41 percent of the State's registered ground ambulances. Combined with the CON system, these industry changes could make it even more difficult for new providers to enter the market.

***Denies local governments a role*—** At the local (county or municipal) level, limiting competition through the CON system denies local governments a role in selecting ambulance providers. Local governments may be in a better position to find ambulance services that are suitable to their communities' needs, including the possibility of providing services through their own fire departments.

CON System Should Be Reevaluated

Given that the CON system does not meet its goals, but limits competition, other methods of protecting public health and safety should be considered. Specifically, the Legislature should consider whether other types of statewide or local ambulance regulation might be more effective. Regardless of whether the Legislature maintains or eliminates the CON system, the Bureau could improve efforts to ensure quality.

Legislative guidelines for regulation suggest that state governments consider whether the "benefits to the public outweigh" the effects of reduced availability of services. These guidelines also recommend

that governments provide minimum levels of regulation to meet public need. The Legislature could consider these factors when deciding the future of the CON system.[8]

The Legislature should consider other forms of regulation— A 50-state survey revealed that only 7 states, including Arizona, use the CON system. It is more common for states to license ambulance providers. Additionally, some states supplement statewide regulation with local regulation, allowing the county or municipality to determine the amount of service that is appropriate for their area. These regulatory approaches allow for more competition and/or local control. For example: ■ **Strictly licensure—** Providers are licensed by the state to offer ambulance service. The state does not limit competition by controlling the number of ambulance providers. Quality of services is still regulated by the state or local EMS agencies through inspections of EMT/paramedic certifications, inspections of ambulances, collection and monitoring of response time data, and other quality controls. States that use a similar model include Illinois, Kansas, Montana, and Texas. ■ **Licensure combined with local control—** The state licenses the ambulance service. Counties determine appropriate levels of service and issue request for proposals to establish exclusive operating areas for providers through a competitive process. Quality control measures are contained within state regulations and local plans or they are contained entirely in the local plans, but are based on state guidelines. Alternatively, regional councils can administer local plans. States that use a similar model include California, Colorado, Oregon, and Washington.

Arizona's Bureau of Emergency Medical Services has already implemented steps that enhance the duties of regional offices. If the Legislature were to remove the CON system, this regionalization effort could be used as the first step toward increasing the regulatory authority of local agencies over ambulance services.

Given the variety of regulatory approaches available, the Legislature may want to direct the Bureau to form a study group to advise it on the future of Arizona's ambulance regulatory system. Any study group should be composed of a wide variety of stakeholders, including regulators and governmental ambulance and rescue service providers, as well as representatives of the for-profit ambulance industry.

If the CON is continued, quality and coverage oversight could be improved— Regardless of whether the Legislature continues the CON system, the Bureau should improve its efforts to monitor quality by: ■ More thoroughly using the regulatory mechanisms that are part of the CON, such as the power to revoke or suspend a CON or deny a CON renewal, to monitor quality. ■ Updating and improving response time measures, and holding providers accountable for these response times. The Bureau may also develop and systematically monitor other quality measures. ■ Creating easily accessible documentation that lists or maps information contained in the CON about provider service

[8] Shimberg, Benjamin and Doug Roederer. *Questions a Legislator Should Ask*. The Council on Licensure, Enforcement, and Regulation/Council of State Governments. Lexington KY, 1994.

areas and response times. Other emergency agencies can use this information to verify that they dispatch the appropriate and/or nearest ambulance service.

Recommendations

1. The Legislature should consider directing the Bureau to form a study group to evaluate possible changes in the manner in which Arizona regulates ambulance services. This group should study various options, including the following:

    a. Licensing providers to ensure quality, without limiting competition by controlling the number of providers; or

    b. Licensing providers and allowing local governments to establish operating areas through a competitive process.

2. Whether or not the CON system is continued, the Bureau should use its regulatory authority to enforce quality controls such as response times.

3. The Bureau should assemble the information it has regarding providers and their service areas into easily accessible lists or maps so that this information can be used by other agencies.

FINDING II

THE BUREAU DOES NOT ADEQUATELY HANDLE COMPLAINTS

The Bureau's system for investigating and resolving complaints against EMTs, paramedics, ambulance companies, and related entities needs further improvements. Since August 1998, the Bureau has taken steps to ensure final resolution decisions are made in a more timely manner. However, the Bureau continues to have systematic problems in how it handles informal and formal complaints, including a lack of appropriate staff training, long delays, inadequate file tracking, and an inappropriate computer tracking system. The Bureau recognizes many of these problems and is beginning to make further improvements in some areas.

Current Complaint-

Handling Process

Under A.R.S. §36-2204 and §36-2245, the Bureau is responsible for investigating and resolving complaints against EMTs, paramedics, ambulance companies, emergency personnel training programs, and hospitals that oversee the work performed by EMTs and paramedics. Complaints against individuals include such matters as substandard patient care and unprofessional conduct, while complaints against ambulance companies include billing disputes, response times, and territorial infringement.

The Bureau's complaint-handling process differs according to the nature of the complaint. Bureau staff informally handle some complaints, including non-patient care complaints against ambulance companies, hospitals that oversee emergency medical personnel, and training programs. The Bureau does not maintain a log or written reports regarding complaints handled informally. In contrast, all complaints against EMTs or paramedics, complaints involving patient care allegations, and appealed informal complaints are handled formally, under the following steps: ■ Bureau staff refer the complaint to the Department of Health Services' Office of Special Investigations. ■ The Office of Special Investigations logs the complaint and investigation information into its Complaint Tracking System database. ■ The Office of Special Investigations conducts interviews and other investigative activities and prepares a report containing all pertinent information.

■ The complaint and investigative report are submitted to the Bureau's Medical Director or Bureau Chief for a hearing, if necessary, and resolution.

The Bureau has a wide range of options for formal complaint resolution, including no action, censure, civil penalties, probation, requiring additional training, and suspending or revoking licenses.

***Some improvement since 1988 audit report*—** Although problems remain, the Bureau's current complaint-handling process includes some improvements since the Office of the Auditor General's last report in 1988 (Auditor General Report No. 88-12). That report noted severe problems, including the lack of any system for tracking complaints and the failure to investigate or take action on even serious patient care complaints. The current audit found that although timeliness remains a problem and other improvements are still needed, progress has resulted from the Bureau's current practice of referring certain types of complaints to the Office of Special Investigations, and the Office's consistent, formal approach to complaint tracking, investigation, and reporting. Furthermore, in contrast to the 1988 findings showing that few actions were taken, the Bureau took action to revoke, suspend, or otherwise decertify 26 licensees between fiscal years 1993 and 1998. Likewise, it placed 18 licensees on probation during the same period.

Final Resolution Decisions

Delayed in the Past

Although since August 1998 the Bureau has taken steps to ensure final resolutions are not unnecessarily delayed, previous delays compromised the Bureau's ability to resolve complaints and in some cases impose appropriate discipline.

The Bureau was slow to make final resolution decisions on a significant number of complaints prior to August 1998. For example, Auditor General staff found 22 complaints that were open for more than two-and-one-half years, and in which the complaint investigations were completed in a timely manner. However, the files were held awaiting a final decision for an average of more than two years. These cases were finally closed when a new interim Bureau Chief reviewed the case backlog and took action.

These delays negatively impacted the Bureau's handling of complaints. For example, the Bureau did not resolve 8 complaints that included a total of 21 separate allegations. These allegations included failure to dispatch ambulances closest to the scene, and that substandard care resulted in patient deaths. By the time the cases were discovered, up to four years had elapsed since the investigations were completed. The interim Bureau Chief closed the complaints without taking punitive action. In at least one of the cases, this lack of action was directly attributed to "the considerable period of time that has passed."

Other Complaint-Handling

Problems Still Exist

The Bureau's handling of complaints continues to be hampered by other factors. Informal complaints are hampered by the lack of monitoring and by the lack of training for staff who handle these complaints. Formal complaints are hampered by long delays, inadequate file tracking, an inadequate computer system, and insufficient communication with complainants.

Informal complaints not tracked and most staff not trained— The Bureau's handling of informal complaints has been hampered by a lack of tracking. The Bureau does not note the complaint or resolution in a centralized database or log. As a result, management cannot determine whether these complaints are resolved in a timely manner and cannot monitor the quality of investigations or ensure that problematic providers are easily identified. While informal resolution is appropriate for some complaints, and in fact is required by statute A.R.S. §36-2245(E) for complaints involving ambulance company rates and charges, the Bureau's failure to track such complaints prevents it from ensuring that such complaints are handled appropriately or from discerning repeated problems or industry-wide trends.

Lack of tracking is also a problem because the Bureau cannot assess its compliance with timeliness standards established in statutes for some of these complaints. A.R.S. §36-2245 contains specific processing deadlines for complaints against ambulance companies. For example, the Bureau must respond to a complainant within 15 days after receiving a written complaint, determine if the complaint

has merit within 45 days of receiving ambulance company records, and notify all parties within 5 days if a complaint is resolved. However, when informal complaints are investigated and resolved by Bureau staff, they are not entered into the Bureau's complaint tracking system or tracked otherwise, so that the Bureau's compliance with the statutory deadlines cannot be monitored.

A second problem is that informally handled complaints may not receive the same level of investigative expertise as formal complaints. Bureau staff who handle informal complaints have not received formal training in complaint investigation. As a result, they may not be optimally knowledgeable about interviewing complainants, identifying potential evidence, and drawing legally defensible conclusions. In contrast, formal complaints are investigated by the DHS Office of Special Investigations, whose certified investigator has received nationally recognized training in investigating complaints.[9]

Formal system also contains problems— The Bureau also continues to have problems handling formal complaints. Specifically, formal complaint-handling problems include: ■ **Slow complaint handling—** While the Bureau has made progress since the 1988 Auditor General's report, this audit found that many complaints were still not resolved in a timely manner. The Bureau has not established target time frames for complaint resolution, but like other medical regulatory boards in Arizona, it should be able to resolve complaints within 180 days. However, the Bureau does not meet this standard. The analysis covered complaints received during fiscal years 1992-93 through 1997-98. During the six-year period reviewed, the Office of Special Investigations investigated 152 complaints against ambulance companies and 135 other complaints, and conducted 73 recertification background checks.[10] As shown in Table 2 (see page 15), about 40 percent of all complaints required more than 180 days to resolve. Additionally, although Bureau officials regard patient care complaints as the most important, 33 complaints required more than 180 days to complete. Four of these complaints took more than 720 days, or almost two years, to complete. ■ **Complaint file custody not adequately tracked—** Once the Office of Special Investigations returns complaint files to the Bureau, the locations of the files are not adequately tracked. For example, during the course of the audit, Bureau staff were initially unable to provide six complaint files to auditors because the files were in the custody of different staff than those originally thought to have them. Some of these complaints included serious allegations, including patient care problems and impersonation of an EMT. Although all files were eventually located and provided to audit staff, even a temporary loss can cause problems.

Complaint files need to be consistently tracked and their location known. They serve as the sole repository for investigation reports, interview results, and supporting documentation, so loss of a file can seriously compromise the Bureau's ability to appropriately resolve complaints in a timely manner. Despite the importance of complaint files, the Bureau still lacks practices to track them. It does not have a formal process for transferring custody of files among Bureau staff, and its tracking system does not

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[9] The Council on Licensure, Enforcement, and Regulation (CLEAR) provides investigators/inspectors training specifically for licensing and regulatory boards. CLEAR's National Certified Investigator/Inspector Training curriculum offers training in interviewing techniques, evidence development, administrative law, and report writing.

[10] Background checks are initiated when the Bureau receives information suggesting it may not be appropriate to renew an individual's certification. According to Bureau staff, these allegations typically come from coworkers who believe the individual to be incompetent or unreliable.

flag complaints when they reach an excessive age to alert staff that files may be misplaced or languishing in the process. ■ **Computer tracking system inadequate—** The computerized complaint tracking system database used for tracking the Bureau's formal complaints is inadequate for the Bureau's needs. This complaint tracking system was developed for use by another DHS division and has not been modified to fit the requirements of the Bureau's complaints.

Some critical fields are either missing or do not apply to Bureau complaints.For example, the complaint tracking system does not track statutory processing deadlines for complaints against ambulance companies.

The complaint tracking system also makes it difficult to monitor different types of investigations. It does not distinguish among the different types of investigations (initial certification and recertification background investigations, complaints against EMTs and paramedics, and complaints against ambulance companies). Therefore, users cannot easily query it for basic certification, recertification, or complaint-handling trends or statistics.

Table 2

Department of Health Services
Bureau of Emergency Medical Services
Days Needed to Resolve Complaints
Years Ended June 30, 1993 through 1998

Days to Resolve [1]	Type of Complaint			Total Complaints	Percentage of Resolutions by Number of Days
	Recertification	Ambulance	All Other		
0-180	52	93	70	215	60%
181-360	16	19	31	66	18
361-720	5	19	27	51	14
Over 720 Total	0	21	7	28	8
	73	152	135	360	100%

[1] Resolution calculated from the date the complaint is received to its closure.

Source: Auditor General staff analysis of Department of Health Services, Bureau of Emergency Medical Services' Complaint Tracking System data for years ended June 30, 1993 through 1998.

Complainants dissatisfied with process— The Bureau's complaint-handling process and untimely complaint resolution has caused complainant dissatisfaction, according to complainant letters and interviews. For example, one complainant wrote a letter to DHS investigators stating the following about the amount of time needed to address the complaint:

"It appears…you did little actual investigation into the incident despite the extensive time you took….I would have presumed that, given the amount of time you had to conduct your investigation it would have been more thorough. I am disappointed and believe that if this simple matter took this long (and produced this little) then someone needs to take a closer look at this agency."

Further, although the Bureau complies with A.R.S. §36-2245, which requires it to notify complainants that their written complaints have been received and are being investigated, it does not adequately keep consumers informed throughout the complaint process. In some cases, complainants do not receive any further information until the Bureau notifies them that their complaint has been closed.

Bureau Beginning to Make Some Improvements

The Bureau has recognized some of these complaint-handling problems and is beginning to make improvements, although additional work is needed. The Bureau plans to implement a new case management plan, which includes policies and procedures for complaint handling. Further, the Bureau and the Office of Special Investigations have recognized the need for an improved complaint-tracking system and are taking steps to resolve some of these problems. However, additional changes are required to correct problems.

Bureau plans to implement new case management plan for formal complaints— In order to address problems with complaint handling, the Bureau is currently drafting a new case management plan. This plan covers all aspects of complaint handling, including receiving and processing complaints, complaint tracking, and file location. As part of this new approach, the Bureau has hired an ombudsman. This position's duties will include receiving, routing, and tracking complaints from receipt to resolution. Bureau management believes this position will help the Bureau route complaints to the appropriate investigator or staff person, track complaint progress, and ensure complaints are resolved in a timely manner. The plan also establishes a standard of 180 days to resolve complaints.

Need for improved complaint-tracking system identified— Both the Bureau and the DHS Office of Special Investigations recognize the need for an improved complaint-tracking system. For example, an improved system could capture processing deadlines mandated by A.R.S. §36-2245 for informal complaints against ambulance companies, "flag" complaints that are not progressing, and allow staff to easily obtain critical information and trends through data queries.

The Office of Special Investigations is currently considering its needs and investigating both commercially available software and complaint-tracking systems used by other Arizona investigative agencies. Until a new computerized tracking system is identified and purchased, the Bureau and Office of Special Investigations are conducting bi-weekly meetings to manually track complaints and ensure they are resolved in a timely manner.

Although the Bureau's plans to improve complaint handling represent an improvement, DHS should make it a priority to follow through on these plans, and monitor the effect of these changes. Also, in

addition to the improvements covered by the plan, the Bureau should require that informal complaints be entered into the complaint tracking system for monitoring purposes and address staff training needs.

Recommendations

1. The Bureau should continue to develop and eventually adopt its case management plan, including the standard of resolving complaints within 180 days.

2. The Bureau should continue efforts to identify and eventually obtain the type of complaint-tracking database needed and available. Specifically, this database should include key fields to handle complaints unique to the emergency medical service industry, track statutory time frame processing requirements, identify the current location of complaint files, and differentiate between types of investigations.

3. The Bureau should develop a mechanism to note information on informally handled complaints. At a minimum, this information should be used to ensure that the Bureau meets statutory processing deadlines for ambulance company complaints, handles informal complaints appropriately, and identifies industry-wide problems.

4. The Bureau should provide investigative training for staff who handle informal complaints.

5. The Bureau should develop procedures for transferring and tracking complaint files, to ensure that their location is always known and the cases do not languish.

6. The Bureau should provide complainants an explanation of the complaint-handling process and periodically update the status of their complaints.

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OTHER PERTINENT INFORMATION

During the audit questions arose as to whether the Bureau's former Medical Director had a potential conflict of interest and, if so, whether it affected the Bureau's handling of regulatory matters.

Questions were raised regarding whether the former Medical Director had a potential conflict of interest as a result of her husband's employment with an ambulance company. Because statutes require the Medical Director to be an active emergency physician, all Bureau Medical Directors face conflict situations when their decisions would affect the hospitals they work in, and as a result they must recuse themselves from such decisions. The official in question had a wider range of potential conflicts, since her husband's company and its competitors provide much of the ambulance service in the State. Although the Bureau did not consistently follow its own policies regarding this official's participation in decisions, the Auditor General staff's review of available files revealed no inappropriately resolved complaints.

Former Medical Director faced potential conflict of interest— Industry representatives, Department personnel, and legislative staff raised questions during the audit regarding whether the Bureau's former Medical Director had a potential conflict of interest. The official in question served from November 1, 1993, until her resignation effective October 30, 1998. Questions arose because beginning in 1994, her spouse worked for the State's largest forprofit ambulance service provider.

Under state statutes and Bureau procedures, the Medical Director is responsible for many aspects of regulating the emergency services industry, such as reviewing complaints against ambulance companies, emergency medical technicians, and paramedics. Additionally, the Medical Director consults on virtually every aspect of the Bureau's activities. These responsibilities placed the former Medical Director in the position of making decisions that could potentially impact or be impacted by her spouse's employer.

Bureau did not consistently follow its policy— In response to this potential conflict, the Bureau obtained legal advice in 1995. The Bureau's Attorney General representative advised that the former Medical Director did not have a legal conflict of interest because her husband did not hold a financial interest in his employer's company. However, the attorney recommended exercising caution because there could be an appearance of conflict of interest, which could expose her to scrutiny and criticism. As a result, the Bureau wrote an internal policy directing the former Medical Director to refrain from reviewing any complaints against her husband's employer or any of its competitors, including complaints against individual employees of such companies. According to the policy, "None of these items should be routed to" the former medical director, and she should review copies of public records on matters covered by the policy only after the record became public.

The Bureau did not consistently follow its own policy for handling the potential conflict of interest. First, the Bureau continued to route some complaints to the former Medical Director that involved companies or employees affected by the policy. For example, she resolved some complaints against individual emergency medical technicians and paramedics employed by the affected companies. According to the former Medical Director, the Attorney General representative verbally approved her participation in each of these cases (current and former attorneys recall these conversations). In addition, in all such cases reviewed by Auditor General staff, another Bureau or Department official also reviewed the case and came to the same conclusion as the former Medical Director. However, according to the policy, these cases should not have been submitted to the former Medical Director at all. Second, although the policy required the Bureau to compile a list of affected ambulance companies every quarter, the Bureau compiled only two such lists. According to the former Medical Director, the list would not have changed so there was no need to follow the policy and create new lists.

Department reports attempts to avoid similar situations— To avoid this situation in the future, the Department of Health Services reports that it now closely scrutinizes potential conflicts of interest prior to hiring Bureau managers. For example, both the Bureau's new Medical Director and Bureau Chief's potential conflicts of interest were reportedly reviewed prior to their hiring. Additionally, Auditor General staff reviewed their conflict-of-interest statements. The new Bureau Chief relocated to Arizona and, therefore, has no potential conflicts. The new Medical Director has only a limited potential conflict because he is a licensed, practicing emergency medicine physician. This is consistent with statutory requirements placed on the part-time, Medical Director's position. As a result, both Bureau managers should be able to impartially perform their duties.

Agency Response

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JANE DEE HULL, GOVERNOR
JAMES R. ALLEN, MD, MPH, DIRECTOR

Mr. Douglas R. Norton, CPA
Auditor General
Office of the Auditor General
2910 North 44th St., Suite 410

Phoenix, AZ 85004 Dear Mr.

Norton:

Thank you for the opportunity to review the report of the Performance Audit, conducted as part of the Sunset Review set forth in A.R.S. §41-2951 through 41-2957, of the Arizona Department of Health Services (ADHS), Bureau of Emergency Medical Services.

The findings and recommendations contained in your report have been carefully reviewed by the staff of ADHS, and in accordance with the instructions contained in your letter of April 2, 1999, the enclosed response is provided.

ADHS greatly appreciates the hard work and professionalism shown by your staff during the conduct of their audit. We also appreciate the insights provided by your staff during the audit process and through the audit's findings and recommendations. From the knowledge gained as a result of your efforts, we will be able to significantly improve the work processes that relate to the certification and regulation of emergency medical services. As a result, we will be able to better serve both the regulated community and consumers of emergency medical services within the State of Arizona. Sincerely,

James R. Allen, M.D., M.P.H. Director

JRA:SPH:df

Enclosure

ADHS Response to the Performance Audit on the
Bureau of Emergency Medical Services

Overview:

The Arizona Department of Health Services (ADHS) agrees in general with the recommendations and conclusions of the audit team.

We feel it is important to point out that Finding I relates to a legislatively mandated activity. We recognize there are other ways used in other states to regulate ambulance services; the CON process has been prescribed by state lawmakers as the method for use in Arizona.

With respect to Finding II, ADHS management had recognized the need for improvement, and had undertaken major steps toward overall improvement as well as developing specific strategies for the issues identified within the report. Already, significant changes had been made in the leadership, structure and operations of the Bureau:

$ The Bureau has been changed from a centralized organization of specialists to a regionalized organization of generalists. This change allows for improved relations and communication with our regulated clients.

$ A new Medical Director, Bureau Chief, and Paralegal Investigator have been hired.

These changes should be seen as a major and ongoing commitment on the part of ADHS to address the findings cited in the report and to improve upon the Bureau=s ability to serve and protect the public.

Finding I - A The Certificate of Necessity is an Unnecessary Form of Regulation@

(A) Current Approach Does Not Meet Goals and Is Unnecessary

This section of the report comments upon the existing Certificate of Necessity approach to approving ambulance operations. Specifically:

CONs do not guarantee coverage - The report finds that some areas of the state are not covered, and that ADHS cannot compel providers to offer service in remote or unprofitable areas. While we are aware this is true, we do not know of a system that is able to accomplish this. In any system there are some areas that simply cannot support ambulance services. These reasons may be economic in part, but it is also difficult to attract and retain qualified personnel for an ambulance service with a paucity of calls. In order to address some of the problems faced by certain areas within Arizona, ADHS is supporting legislation to allocate funding for the improvement of rural emergency medical services.

This section also raises a concern about whether ADHS has assured that the Department of Public Safety (DPS) has correct and current information on the location and capabilities of ambulance providers. While we can provide DPS with such information, ambulance dispatching is conducted under the color of local authority, not through DPS.

Unregulated services and costly air ambulances fill the gap - The report finds that rescue and air services are often used in place of ambulances for areas that have inadequate ambulance coverage. ADHS shares the concern of the auditors that rescue vehicles occasionally and perhaps improperly cross the line into the

provision of ambulance service. While this may be symptomatic of unmet need, there are also local political issues at play. ADHS will consider approaches to integrate rescue services and personnel into the emergency medical services system.

Upon completion of the new ground ambulance rules, the Bureau will begin working on drafting new regulations for air ambulance services. Opportunities exist within that context for developing air ambulance utilization criteria.

CONs ineffective for ensuring quality - The observation is made that the CON system does not meet its goal of assuring quality services because the Bureau does not routinely conduct analyses of response time data. We recognize opportunities exist to improve upon this. Response time is not uniformly calculated nor reported. It is important to note the Bureau is taking measures now, in concert with the EMS community, to establish a regulatory definition of Aresponse time.@ A second critical step is the establishment of electronic reporting of this data to facilitate its analysis. We are considering all options in regard to electronic reporting.

It is also important to recognize that response time alone is an inadequate expression of quality. The total amount of time between the event and the administration of definitive care at a hospital may be meaningful to patient outcome, but the ambulance response time is a single parameter within this timeframe (See table 1. below.) ADHS is committed to finding more effective and reliable ways to evaluate quality.

System Reaction Time	**Total Run Time**	**Care Time**

Access Time	Processing Time	Response Time	Scene Time	Transport Time	Definitive Care

Table 1.

Time

Access Time is the amount of time between the event and the call for help.
Processing Time is the amount of time between the call for help and when the ambulance is dispatched.
Response Time is the amount of time between when the ambulance is dispatched and when the ambulance arrives on the scene.
Scene Time is the amount of time between when the ambulance arrives on the scene and when the ambulance departs the scene.
Transport Time is the amount of time between when the ambulance departs the scene and when the ambulance arrives at its destination.
Definitive Care Time is the amount of time between when the ambulance arrives at the facility, and definitive care is rendered.

CONs unnecessary for ensuring quality and regulating fees - The report finds that ambulance service quality and charges could be regulated without the CON system. Certainly other methods for evaluating service quality

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or establishing rates could be used with or instead of the CON process. The regulation of fees has been coupled with the CON process because the CON describes a population base within a distinct geographic area. This facilitates the ability to accurately project costs and revenues and to determine appropriate rate structures.

(B) CON System Limits Competition

This section of the report comments upon the effect of CON on the market. Specifically:

CON System creates a barrier to entering the market - The observation is made that CON makes it difficult for new services to enter the market and discourages competition. The CON process is built, in part, on the premise that entities will be willing to provide services in otherwise economically unattractive areas, if they are guaranteed that there will be limited or no competition in the particular market as a result of (1) limitations in the awarding of CONs and (2) service restrictions on those entities not awarded a CON (for the particular area) who would otherwise have been competitors. The concept is that Aguaranteed@ market control over a service area can create sufficient economic incentive for a private entity to be willing to furnish services. Obviously, the incentive would be even stronger if Amarket control@ involved the independent setting of fees by the CON holder as opposed to the rate regulation done by the Bureau (and, in effect, by third party payors).

Denies local governments a role - The report states the CON process denies local governments a role in selecting ambulance providers, when they may be in a better position to determine their community=s needs. Local governments can choose to pursue a CON, but the decision-making authority rests exclusively with the state in the CON model for the ostensible reason that the state is in the best position to assure the complete integration of the provider community into a statewide EMS system.

(C) CON System Should Be Reevaluated

This section of the report suggests a more effective means of regulation should be considered. Specifically:

The Legislature should consider other forms of regulation - Should the legislature choose to pursue this we will assist in any way possible.

If the CON is continued, quality and coverage oversight could be improved - The report finds that quality could be improved through increased use of the authority to revoke or suspend, holding providers accountable to response time, and creating documentation that lists or maps information about provider service areas and response times. We agree that quality should be continually improved, but as previously mentioned, response time is only one aspect of that. ADHS is considering all options in developing improved quality and outcome monitoring.

Finding I Recommendations

1. AThe Legislature should consider directing the Bureau to form a study group to evaluate possible changes in the manner in which Arizona regulates ambulance services. This group should consider various options, including the following:

    a. Licensing providers to ensure quality, without limiting competition by controlling thenumber of providers; or
    b. Licensing providers and allowing local governments to establish operating areas through a competitive process.@

The finding of the Auditor General is agreed to, and the audit recommendations will be implemented pending approval from the Governor and/or the Legislature before proceeding.

2. AWhether or not the CON system is continued, the Bureau should use its regulatory authority to enforce quality controls such as response times.@

The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

3. AThe Bureau should assemble the information it has regarding providers and their service areas into easily accessible lists or maps so that this information can be used by other agencies.@

The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

Finding II - A The Bureau Does Not Adequately Handle Complaints@

(A) Final Resolution Decisions Delayed In the Past

This section of the report comments upon the Bureau=s ability to resolve complaints and in some cases impose appropriate discipline. Specifically, the observation is made that some complaints were open for an extended period of time even though the investigations had been concluded. The report also mentions that the majority of cases have been handled promptly, and that the Bureau has made significant improvements since the last audit.

The new Bureau Chief is certified by the Council on Licensure, Enforcement and Regulation as an investigator. The new Bureau Chief=s background and certification will prove valuable as the Bureau seeks to improve its training and investigative procedures. In addition, a Paralegal Investigator has now been hired by the Bureau to manage and track complaint investigations.

(B) Other Complaint-Handling Problems Still Exist

This section of the report finds the Bureau to be hampered by other problems. Specifically:

Informal complaints not tracked and most staff not trained - The auditors observe that lack of an effective tracking methodology may prevent it from ensuring complaints are handled appropriately or discovering industry-wide trends. A further observation is made that the staff handling informal complaints have no formal investigative training. A new complaint-tracking procedure is under development, planning for a computer-based complaint tracking program is under way, and the new Paralegal Investigator works directly with the Bureau Chief and the Medical Director in conducting investigations.

Formal system also contains problems - Four observations are made: slow complaint handling, complaint files custody inadequately tracked, inadequate computer tracking system, and complainants are dissatisfied with the process.

The report finds that the majority of complaints were handled in a timely fashion. Up to 22% of the investigations may have taken more than one year to complete, and 8% took considerably longer. It must be recognized that while ADHS agrees improvement is needed, some cases are extremely complicated,

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necessitating interagency coordination, interviews with uncooperative or hard to locate witnesses, or a need to await the outcome of related legal proceedings. In some instances, because of pending legal action or other considerations, a rapidly concluded investigation does not guarantee timely resolution and *closure* of a case.

The report indicated six complaint files were initially difficult to locate. On November 19th, a request was made that these six files be located by November 25th. The location of these files was determined and made known to the audit team on November 20th.

The report finds that the current computer complaint-tracking system makes it difficult to monitor different types of complaints, and does not track statutory deadlines. We are aware of this and are actively engaged in replacing this system.

Complainants have expressed dissatisfaction with complaint-handling, and are not informed throughout the complaint process. The new case-management system will address this need.

We expect that the new Paralegal Investigator will significantly reduce the workload of investigations being handled by OSI, and the development of appropriate software will significantly improve operations.

(C) Bureau Beginning to Make Some Improvements

This section of the report recognizes some of the Bureau=s efforts to improve. Specifically, the development of the new case management plan, the semimonthly status meetings, the addition of the

Paralegal Investigator (ombudsman) and the identification of the need for improved computerized complaint tracking are recognized.

Finding II Recommendations

1. AThe Bureau should continue to develop and eventually adopt its case management plan, including the standard of resolving complaints within 180 days.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

2. AThe Bureau should continue efforts to identify and eventually obtain the type of complainttracking database needed and available. Specifically, this database should include key fields to handle complaints unique to the emergency medical service industry, track statutory timeframe processing requirements, identify the current location of complaint files, and differentiate between types of investigations.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

3. AThe Bureau should develop a mechanism to note information on informally handled complaints. At a minimum, this information should be used to ensure that the Bureau meets statutory processing deadlines for ambulance company complaints, handles informal complaints appropriately, and identifies industry-wide problems.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

4. AThe Bureau should provide investigative training for staff who handle informal complaints.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

5. AThe Bureau should develop procedures for transferring and tracking complaint files, to ensure their location is always known and the cases do not languish.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

6. AThe Bureau should provide complainants an explanation of the complaint-handling process and periodically update the status of their complaints.@

   The finding of the Auditor General is agreed to, and the audit recommendations will be implemented.

A**Other Pertinent Information@**

This section of the report contains no findings, but comments upon an alleged conflict of interest on the part of the past Medical Director of the Bureau. It is observed that the previous Medical Director was placed by her work responsibilities in the position of making decisions that could potentially impact or be impacted by her spouse=s employer.

ADHS is pleased that the Auditor General recognizes the fact that no actual conflict ever arose as a result of the former Medical Director=s ties with the provider community. The facts demonstrate that in practice, the Bureau adopted a self-policing approach to the problem.

EXHIBIT D

CENTRAL ARIZONA FIRE

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of: Life Line Ambulance Service, Inc., Applicant	Case No.: 2021-EMS-0016-DHS **ADHS/BEMSTS' RESPONSE AND OBJECTION TO THE MOTIONS TO INTERVENE BY CITY OF PRESCOTT AND CAFMA** (Assigned to the Hon. Jenna Clark)

The Arizona Department of Health Services, Bureau of Emergency Medical Services and Trauma System ("the Bureau" or "BEMSTS"), hereby responds to the Motions to Intervene filed by the City of Prescott ("City") and joined in by Central Arizona Fire and Medical Authority ("CAFMA"). As explained during oral argument at the Pre-Hearing Conference, the Bureau opposes the Motions to Intervene.

A short summary of the regulatory background involving ground ambulance services is set forth below, including a narrative summary of what happens when a 911 call is made for medical assistance in the City and the CAFMA region. The last section of the Response reiterates, in summary fashion, the Bureau's objections to the Motions to Intervene.

REGULATORY BACKGROUND

A. Ambulance Regulation in Arizona.

Ambulance services are so critical to public health that the people of this state amended the Arizona Constitution and authorized the Legislature to provide for the regulation of ambulances and ambulance services in this state. The Arizona Constitution now provides in Article 27: "Regulation of Health, Safety and Welfare: The legislature may provide for the regulation of ambulance and ambulance services in this state in all matters relating to services provided, routes served, response times and charges." Ariz. Const., Art. 27 § 1. The Legislature, through enactment of the Certificate of Necessity ("C.O.N.") statutes, mandated a fully regulated ambulance industry under the Arizona Department of Health Services ("Department"). *See* A.R.S. §§ 36-2232 through -2246. In addition to this statutory framework, the Department adopted rules to regulate ambulances and ambulance services, which are located in A.A.C. R9-25-901 through -1110.

Any entity that wants to operate an ambulance service in Arizona may do so only after being granted a C.O.N. by the Director. A.R.S. § 36-2233. Also, any proposed changes or amendments to existing C.O.N.s must also be approved by the Director. A.R.S. §§ 36-2232, -2234. Life Line Ambulance Service, Inc.'s ("Life Line") application to amend its C.O.N. response times triggered the Department's regulatory process set up by the Legislature and the Department. A.R.S. §§ 36-2233, -2234; A.A.C. R9-25-905.

B. <u>The Process Involved in a 911 Call for Emergency Medical Assistance and an Ambulance Transport</u>

Typically, when a member of the public initiates a call for a medical emergency, that call is received by the 911 dispatch system in the area and a decision is made to dispatch the area's local first responder service. Thereafter, depending on the nature of the medical emergency, a ground ambulance may also be dispatched to the scene. In most parts of Arizona, the first responder is the local fire department or fire service in the area and will likely arrive first on scene to evaluate the patient and initiate care and treatment. In this scenario, the City's Fire Department would be the responding first

responder, as would CAFMA, depending on the location of the patient or incident that generated the 911 call.

The term 'first responder' recognizes the role of the first responder in any local emergency medical situation. After being dispatched, the first responder arrives on the scene first (in most situations) and initiates emergency medical care at the scene. The role of the Department-regulated ground ambulance service is to arrive on scene after the first responder has arrived and has already initiated patient care and treatment. If the patient needs to be transported to a medical facility for further care, a ground ambulance will transport that patient to the most appropriate medical facility.

THE BUREAU'S RESPONSE TO THE MOTIONS TO INTERVENE

First, the Motions to Intervene were untimely filed pursuant to A.A.C. R2-19-106; that rule requires the filing of any Motion not later than 15 days before a scheduled hearing. There is no dispute that the Motions were filed well after that deadline; the only real issue is whether the ALJ finds good cause to allow the late filings.

Second, both the City and CAFMA argue that they should be allowed to intervene because they received notice of the proposed application under A.R.S. § 36-2234(B)(3). That statute doesn't support their argument. A.R.S. § 36-2234(A) requires the Department to set a public hearing on any proposed action relating to a change in response times. A.R.S. § 36-2234(B)(2) *requires* the Director to provide notice of the proposed action to any regulated ambulance service in the affected region; A.R.S. § 36-2234(B)(3) states that the Director *may* notice other persons who may be interested in the hearing. It is clear that the statute doesn't authorize intervention for either group; these provisions simply deal with giving notice of a public hearing. Receiving notice of an upcoming public hearing does not grant 'party' status to a notice recipient. A person or entity receiving notice under A.R.S. §§ 36-2234(B)(2) or (B)(3) must establish a separate, legal interest justifying intervention as a party.

Third, the Department has never interpreted A.R.S. § 36-2234(B)(3) to support intervention by persons or entities who are not regulated ambulance services. Even for

regulated ambulance services, the Department doesn't support intervention unless the affected ambulance service can demonstrate that its legal operating rights may be affected by a proposed action that has been set for hearing. Here, the City and CAFMA can claim no such legal right.

Fourth, the City and CAFMA have no basis to claim a right to intervene under Rule 24, Arizona Rules of Civil Procedure, as there is no statute that unconditionally or conditionally provides such a right. In addition, since they do not have a legal right to regulate ambulance services, their respective legal interests are not implicated by this hearing.

Fifth, both the City and CAFMA claim that they need to intervene in this ambulance hearing to protect their communities who rely on ambulance services. The Legislature has made it clear that the Director and the Department have that duty to protect the public in matters involving ambulance services and response times. *See*, A.R.S. § 36-2232(A)(2)["Regulate operating and response times of ambulance to meet the needs of the public and to ensure adequate service."] As part of that duty, Bureau and Department personnel hosted and facilitated several meetings over the past year with City officials, CAFMA, and Life Line Ambulance, to better understand the ambulance service concerns in this region and to assist in a solution. The Bureau believes that the proposed changes in response times now sought by Applicant Life Line Ambulance are proof of the success of that process and speak to the Department's role in ensuring appropriate ambulance services are available for all members of the public.

Finally, while the City and CAFMA continue to file complaints about the alleged response time failures of Life Line's ambulance service (as discussed by CAFMA during the argument), they don't seem to understand how response times are regulated. Response times for ambulances services are only measured for ambulance responses to Code 3 calls, where the condition of the patient justifies a dispatch of an ambulance that will drive to the scene with lights and sirens. That makes regulatory

sense, as Code 3 calls signify that an ambulance is needed on scene as quick as possible. However, a significant portion of the complaints made against Life Line relate to calls dispatched as Code 2 to Life Line, where lights and sirens are not requested. In those situations, the ambulance will proceed to the scene as part of the regular flow of traffic. Code 2 calls are not measured for response times because the dispatch authority has determined that a quicker, lights and sirens response is unnecessary, thereby justifying a longer ambulance response time to the scene.

Additionally, response times are not measured on an individual call basis; by regulation, response times are measured as a percentage of actual Code 3 responses to the applicable response time standards set on the C.O.N., over a 12-month time period. *See*, A.A.C. R9-25-901(36). A significant number of response time complaints submitted by the City and CAFMA are examples of an individual ambulance response that did not meet a particular time identified by the complainant. So, if the Bureau receives a complaint that a particular ambulance response time exceeded the minutes set forth on the Life Line C.O.N., that complaint does not demonstrate that Life Line was out of compliance with its response time requirements.

CONCLUSION

For the foregoing reasons, the Bureau believes the Motions to Intervene filed by the City and CAFMA should be denied.

DATED this 23rd day of September, 2020.

MARK BRNOVICH
Attorney General

/s/ Kevin D. Ray
Kevin D. Ray
Sophia Horn
Assistant Attorneys General
Attorneys for BEMSTS

CERTIFICATE OF SERVICE

FILED this 23rd day of September, 2020, with:

Jenna Clark, Administrative Law Judge
Office of Administrative Hearings
1400 W. Washington, Suite 101
Phoenix, AZ 85007

COPY of the foregoing was delivered through
OAH's electronic system
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EXHIBIT E

CENTRAL ARIZONA FIRE

ARIZONA DEPARTMENT
OF HEALTH SERVICES
PREPAREDNESS

NOTICE OF INVESTIGATION
EMS-21-0437

September 22, 2021

Law Office of Nicolas J. Cornelius, PLLC
5090 North 40th Street, Suite 200
Phoenix, AZ 85018

Dear Mr. Cornelius,

The purpose of this letter is to inform you that the Arizona Department of Health Services ("Department") Bureau of Emergency Medical Services and Trauma System ("Bureau") has received written complaints against Central Arizona Fire & Medical Authority ("CAFMA"). Therefore, we have initiated an investigation for the purpose of gathering additional information.

This investigation is conducted pursuant to Arizona Revised Statute (A.R.S.) § 36-2245 and is based on written complaints.

The Bureau is the State program charged by the Legislature with the regulation of ambulance services within the state or the operating of an ambulance in the state which does not comply with the provisions of Arizona Revised Statute. Part of that regulatory responsibility is to investigate when a written complaint is received alleging a violation of relevant Arizona State laws. An investigation is a thorough assessment of available information by Bureau staff to identify whether or not there is evidence that an infraction occurred. Investigations such as this can take approximately 120 days to complete but may take less or more depending upon the complexity of the case, the availability of records, and scheduling.

The complaint alleges that on the dates and locations listed below CAFMA inappropriately transported a patient when it was not medically necessary.

August 20, 2021 Chino Valley - 8 month old infant - Cardiac/Respiratory Arrest
August 22, 2021 Yavapai County - Traffic Accident
August 23, 2021 Chino Valley - Allergic Reaction – difficulty breathing, rash all over & face swollen

August 24, 2021 Chino Valley - Stroke – right side weakness, facial droop
August 24, 2021 Chino Valley - Walk-in possible heart attack
August 24, 2021 Chino Valley - Fall – possible broken hip – can't move left leg
August 24, 2021 Prescott Valley - punched in the face / no bleeding
August 31, 2021 Prescott Valley - Traffic Accident – Blue BMW into back wall of Kohls
September 3, 2021 Chino Valley - Convulsions/Seizures
September 4, 2021 Prescott Valley - Gunshot Wound
September 4, 2021 Prescott Valley - Breathing Problems
September 4, 2021 Prescott Valley - Jumped into pool and hit head
September 5, 2021 Chino Valley - Heart Problems
September 5, 2021 Prescott Valley - fell on face – not responding – breathing
September 7, 2021 Chino Valley - Stroke

In order for you to best respond to this Notice of Investigation, the Bureau provides the following citations from Arizona Revised Statutes and Arizona Administrative Code that are relevant to the investigation:

Arizona Revised Statutes:

- A.R.S. §36-2245(A): The department may conduct an investigation into the operation of ambulances and ambulance services.

- A.R.S. § 36-2233(A): Any person wishing to operate an ambulance service in this state shall apply to the department on a form prescribed by the director for a certificate of necessity.

- A.R.S. § 36-2212(A): A person shall not operate an ambulance in this state unless the ambulance has a certificate of registration and complies with this article and the rules, standards and criteria adopted pursuant to this article.

- A.R.S. § 36-2201(5): "Ambulance" means any publicly or privately owned surface, water or air vehicle, including a helicopter, that contains a stretcher and necessary medical equipment and supplies pursuant to section 36-2202 and that is especially designed and constructed or modified and equipped to be used, maintained or operated primarily for the transportation of individuals who are sick, injured or wounded or who require medical monitoring or aid. Ambulance does not include a surface vehicle that is owned and operated by a private sole proprietor, partnership, private corporation or municipal corporation for the emergency transportation and in-transit care of its employees or a vehicle that is operated to accommodate an incapacitated or disabled person who does not require medical monitoring, care or treatment during transport and that is not advertised as having medical equipment and supplies or ambulance attendants.

- A.R.S. § 36-2216(A)(B): Prohibited acts: It is unlawful for any person to operate an ambulance in this state which does not comply with the provisions of this article or the rules adopted by the director under this article. A person who violates subsection A is guilty of a class 1 misdemeanor.

Please provide your assigned investigator with the following information and/or documents within 15 days of receipt of this notice:

1. A detailed written narrative response explaining all details and circumstances leading to transporting these patients.
2. A copy of the Patient Care Report for each patient.

You may mail the requested information and/or documents to the address below, or you can email them to your assigned investigator Brent Caswell at brent.caswell@azdhs.gov.

Arizona Department of Health Services – BEMSTS
Attention: Brent Caswell
150 N. 18th Ave Suite 540
Phoenix, AZ 85007

If you have any questions or require assistance, please feel free to contact your assigned investigator, Brent Caswell at 602-364-3180 or via email at brent.caswell@azdhs.gov.

Sincerely,

Marlee McCormick

Marlee McCormick, MPA
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Bureau of Emergency Medical Services and Trauma System