

69th Annual Convention Wrap-Up



Recap of 2017 Legislation Affecting CAA



CAA Vision

Assure delivery of excellent pre-hospital care to the people of California by promoting recognized industry best practices.

CAA Mission

Serve as the voice and resource on behalf of emergency and non-emergency ambulance services to promote effective and fiscally responsible EMS systems and standards.

CAA Leadership

BOARD OF DIRECTORS

President | Alan McNany

Vice-President | Todd Valeri

Secretary/Treasurer | Edward Guzman

Immediate Past President | Eb Muncy

Director | Steve Grau | Jimmy McNeal, III | Jimmy Pierson

Sergeant-at-Arms | Josette Engman

Member At Large | Carol Meyer

STAFF

Executive Director | Ross Elliott | relliott@the-caa.org

Administrative Director | Kim Oreno | koreno@the-caa.org

Legislative Advocate | Chris Micheli | cmicheli@apreamicheli.com

Accountant | Tricia Schrum, CPA | tricia@camgmt.com

Meeting Planner | Jennifer Blevins | jennifer@camgmt.com



California Ambulance Association

2520 Venture Oaks Way, Suite 150
Sacramento, CA 95833
(877) 276-1410 (toll free)
(916) 924-7323 (fax)
www.the-caa.org



Table of Contents

- 1 | **President's Message** | *Alan McNany*
- 2 | **Executive Director's Report** | *Ross Elliott*
- 4 | **Legislative Update** | *Chris Micheli, Esq.*
- 6 | **69TH Annual Convention & Reimbursement Conference Wrap-up** | *Ross Elliott*
- 10 | **Recap of 2017 Legislative Session: Bills of Interest to California's Ambulance Companies** | *Chris Micheli, Esq.*
- 14 | **Complacency Kills** | *Cindy Elbert*
- 16 | **Overview of the Rulemaking Process** | *Chris Micheli, Esq.*

Editorial Information

The views and opinions in the articles herein are not to be taken as official expressions of the publishers unless so stated. The publishers do not warrant, either expressly or by implication, the factual accuracy of the articles herein, nor do they so warrant any views or opinions offered by the authors of said articles. Manuscripts and queries should be directed to Editor, the *Siren* at the address listed below.

© Copyright 2017 California Ambulance Association. No material can be reproduced without the express written consent of the publisher.

Circulation among California's private ambulance providers, elected officials and EMSA administrators.

President's Message



Alan McNany | *President*

As the incoming President of the CAA, I would first like to thank the CAA members for their trust and support in me. I have been involved with the CAA for over 13 years and have grown as an individual just by networking with my fellow colleagues.

I would like to welcome Steve Grau and Jimmy McNeal to the CAA Board of Directors. The CAA Board of Directors and Committee Chairs held our annual strategic planning session for 2018 last month in Sacramento. It was very successful, and many great concepts were generated from the meeting. Some suggestions have already been implemented, like the Online Forum for members to exchange ideas, best practices, identify common concerns and solutions to improve outcomes. The SB 523, Medi-Cal quality assurance fee workshop held in San Francisco was very well attended.

The CAA sponsored bills that were introduced in 2017; **AB 697** (*Fong*) Toll exemption, **AB 817** (*Flora*) Rest and recovery periods and **AB 1650** (*Maienschein*) Community Paramedicine. These bills were all turned into 2-year bills. The CAA will continue this coming legislative session to get these bills passed.

This is the year that all CAA members need to get involved with their local legislators. We need to be heard! The annual CAA Stars of Life Celebration and Legislative Day are approaching, and I look forward to seeing everyone there in Sacramento on April 30, 2018. 🌟



Executive Director's Report



Ross Elliott | Executive Director

Almost There ... Increase in Medi-Cal Reimbursement May Be on the Horizon

SB 523 (Hernandez), a bill that will conceivably improve Medi-Cal reimbursement rates for emergency ambulance service, was approved by the legislature and signed into law by Governor Brown on October 13, 2017.

The *911 Ambulance Provider's Medi-Cal Alliance* was instrumental in creating, advancing, and gaining approval of SB 523. Last year's SB 1300, which was the first run at this concept gained legislative approval in 2016 but was ultimately vetoed by the Governor. The *Alliance* consists of: Hall Ambulance Service, American Ambulance, Care Ambulance, Paramedics Plus, McCormick Ambulance, and American Medical Response. They have invested a great deal of time, sweat, and hundreds of thousands of dollars in attorneys' and consultants' fees to achieve their goal. All of these companies are members of the CAA, except AMR.

This new law will impose a tax on emergency ambulance service (based on revenue associated with 3 specific billing codes) which in-turn should vastly improve Medi-Cal reimbursement rates for emergency ambulance service. The new reimbursement rate is not yet precisely known; the amount will be based on a number of factors from data that is just now being collected from ambulance providers. However, it is estimated that the new Medi-Cal base rate, for the specific billing codes, will exceed \$300.

We are closer than we have ever been in the past 20-plus years in seeing an increase in Medi-Cal rates, but we are not there yet.

Although California has passed this new law and is in the process of implementation, federal approval is still required. The state must prepare an amendment to its Medicaid plan and seek CMS approval. If all goes well, the state expects to receive approval in the Spring of 2018. If CMS does not approve the state's plan, the tax cannot be collected and the reimbursement rate will remain unchanged.

The new law will result in winners and losers. If an ambulance provider has a 14% or 15% Medi-Cal transport volume, or higher, in its payer mix then it is likely to benefit from this law. However, if the Medi-Cal payer mix is lower, then the provider will likely pay more in the tax than will be realized from the higher reimbursement rate. Again, the precise numbers and break-even point are only estimates at this point.

The passage of SB 523 creates an administrative burden for each provider of emergency ambulance service. Compliance with the data reporting mandate is not easily accomplished; in many cases costly special customized computer programming is required to produce the reports. There are probably other financial consequences

Continued on page 3

Executive Director's *Report*


Continued from page 2

and impacts in creating these reports, too. Further, payment of the tax on revenue from emergency ambulance services will be a heavy burden on most if not all providers. But, approval of SB 523 represents a significant improvement in Medi-Cal reimbursement rates; a change that many have been waiting for decades to see. Ultimately, the new law may be a benefit to the entire industry as it might pave the way for future potential increases in other Medi-Cal ambulance services.

Now that SB 523 is law, implementation will be carried out by the Department of Health Care Services (DHCS). This is new to them and new to the ambulance industry. DHCS has created a website as a source of information for the ambulance industry. Many questions remain unanswered. This has been particularly stressful in light of the November 15 data reporting deadline.

To address CAA member concerns about this new law and its implementation, the CAA has created a new committee – the *SB 523 Implementation Ad Hoc Committee*, which is chaired by Steve Grau. The *Committee* will serve as a source of information for our members.

A one-day workshop on EMS Economics (Dec 7 in San Francisco) was held and included the latest information about SB 523 implementation. The new *Committee* will continue to share insights/information via Member Alert e-mails and through the CAA's website, via discussion forum. The discussion forum will facilitate the community of providers in working together to help one another ease the burden of complying with this new law. Beyond compliance with today's law, perhaps the dialogue will lead to collaboration on future endeavors, which could include increases in Medi-Cal rates for non-emergency and CCT services. *



**CINDY ELBERT
INSURANCE
SERVICES**

**INSURANCE PROGRAMS
FOR AMBULANCE SERVICES**

- Professional, General, Auto Liability
- Workers Compensation
- Best Service, Coverage & Prices Available and much more!

More than 27 years of "making sure you're totally covered" experience.

888.681.1020
www.ambulanceinsurance.com



Chris Micheli | Legislative Advocate

Bills Facing the Ambulance Industry When the Legislation Reconvenes

Even though the 2017 Legislative Session recently concluded, the California ambulance industry needs to be aware of “2-year bills” that will be considered when the Legislature reconvenes on January 3, 2018. There are nearly 1,000 of these two-year bills that are technically alive, at least until the constitutional deadline of January 31, 2017 to clear their house of origin. Only a small number of those measures are expected to move forward.

With another 2,500 bills likely to be introduced by the late February 2018 deadline for bill introductions for the 2018 Session, California businesses will once again have to engage at the State Capitol to support or oppose legislation that may promote or hurt the state’s business climate. Considering those remaining 2-year bills, the following is a summary of some of the problematic bills that the business community may face when the Legislature reconvenes.

Assembly Bills

AB 5 (Gonzalez Fletcher) – This bill would create the Opportunity to Work Act and would require an employer with 10 or more employees to offer additional hours of work to an existing nonexempt employee before hiring an additional employee or subcontractor, would require an employer to post a notice of employee

rights, and would require the employer to maintain certain documentation. It is pending in the Assembly Appropriations Committee.

AB 1250 (Jones-Sawyer) – This bill would establish specific standards for the use of personal services contracts by counties. The bill would allow a county or county agency to contract for personal services currently or customarily performed by employees when specified conditions are met. It is pending in the Senate Rules Committee.

AB 1565 (Thurmond) – This bill would exempt from overtime compensation an executive, administrative, or professional employee if the employee earns a monthly salary equivalent to either \$3,956 or an amount no less than twice the state minimum wage for full-time employment, whichever amount is higher. It is pending on the Senate Floor.

Senate Bills

SB 562 (Lara) – This bill, the Healthy California Act, would create the Healthy California program to provide comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all residents of the state. The bill, among

Continued on page 5

Legislative Update

Continued from page 4

other things, would provide that the program covers a wide range of medical benefits and other services and would incorporate the health care benefits and standards of other existing federal and state provisions. The bill would state the intent of the Legislature to enact legislation that would develop a revenue plan, taking into consideration anticipated federal revenue available for the Healthy California program. It is pending in the Assembly Rules Committee.

SB 567 (Lara) – This bill would, for charitable remainder annuity trusts formed on or after January 1, 2018, require that the charitable remainder interest must be at least 40% of the initial fair market value of all the property placed in trust. This bill would revise this provision about decedents who died on or after January 1, 2018, to provide that no adjustment shall be allowed where the person who acquires the property has an adjusted gross income or net income over specified amounts. This bill, for taxable years beginning January 1, 2018, would eliminate those deductions for compensation payable to the chief executive officer for based on commission or on meeting certain performance goals under the Corporation Tax Law, thereby

no longer conforming to federal income tax law. It is pending on the Senate Floor.

SB 726 (Wiener) – This bill would propose to the voters a repeal of the initiative measure prohibiting the imposition of a tax on or because of any transfer occurring because of death and would impose estate, gift, and generation-skipping transfer taxes, in modified conformity with federal law, on and after January 1, 2019, upon estates valued at over \$5,490,000, as may be adjusted. It

is pending in the Senate Governance & Finance Committee.

SB 772 (Leyva) – This bill would exempt any occupational safety and health standard and order from the standardized regulatory impact analysis requirement. It is pending on the Assembly Floor. *

Chris Micheli is an attorney and legislative advocate for the Sacramento governmental relations firm of Aprea & Micheli, Inc.



“Get ready! The next wave of legislation is rolling in.”

The California Ambulance Association is now welcoming non-members to subscribe to the *Siren* magazine. Published quarterly, the *Siren* is a comprehensive source of information on issues that are important to the ambulance industry. Contents include feature articles, association educational and networking events, legislative updates and analysis, member news and much more.



Subscribe to the Siren

The official magazine of the California Ambulance Association

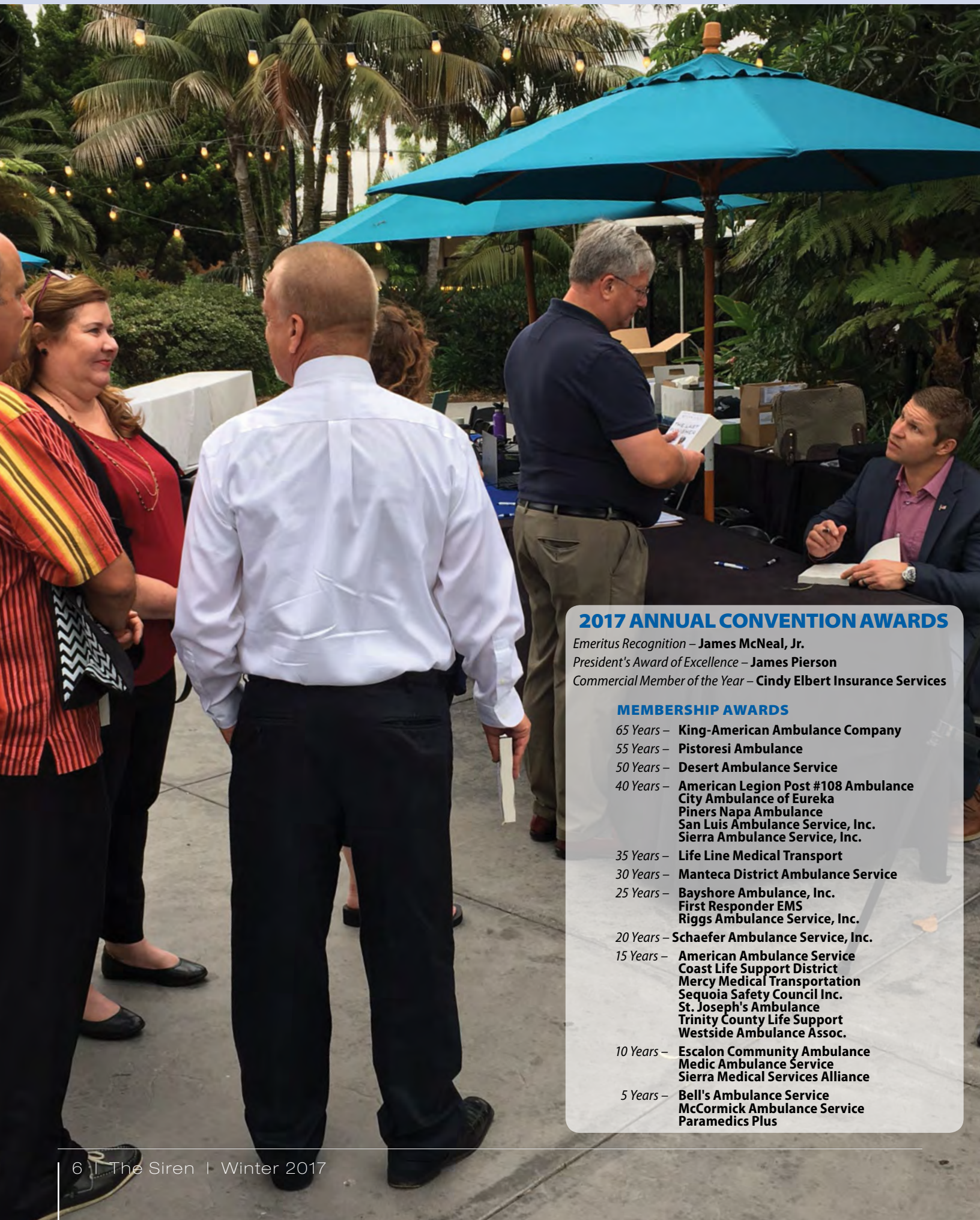
CAA members receive the *Siren* as a member benefit.

1 year: \$90*

2 years: \$150*

Call (877) 276-1410 to subscribe.

*California residents, add 8.5% sales tax



2017 ANNUAL CONVENTION AWARDS

Emeritus Recognition – **James McNeal, Jr.**

President's Award of Excellence – **James Pierson**

Commercial Member of the Year – **Cindy Elbert Insurance Services**

MEMBERSHIP AWARDS

65 Years – **King-American Ambulance Company**

55 Years – **Pistoresi Ambulance**

50 Years – **Desert Ambulance Service**

40 Years – **American Legion Post #108 Ambulance**

City Ambulance of Eureka

Piners Napa Ambulance

San Luis Ambulance Service, Inc.

Sierra Ambulance Service, Inc.

35 Years – **Life Line Medical Transport**

30 Years – **Manteca District Ambulance Service**

25 Years – **Bayshore Ambulance, Inc.**

First Responder EMS

Riggs Ambulance Service, Inc.

20 Years – **Schaefer Ambulance Service, Inc.**

15 Years – **American Ambulance Service**

Coast Life Support District

Mercy Medical Transportation

Sequoia Safety Council Inc.

St. Joseph's Ambulance

Trinity County Life Support

Westside Ambulance Assoc.

10 Years – **Escalon Community Ambulance**

Medic Ambulance Service

Sierra Medical Services Alliance

5 Years – **Bell's Ambulance Service**

McCormick Ambulance Service

Paramedics Plus



69TH Annual Convention & Reimbursement Conference



Re-cap and Highlights

Ross Elliott | CAA Executive Director



Bungalow View

Attendance at the 69th Annual Convention and Reimbursement Conference topped out at about 180 people, with a total of 83 companies, government agencies, and other entities represented.

This year's conference was held at the beautiful Paradise Point Resort & Spa, an island in San Diego's Mission Bay. This 40-acre island featured conference facilities, restaurants, many other on-site amenities, and bungalow-style rooms with some amazing views.

Kick-off festivities included the Raymond Lim/Jim McNeal Memorial Golf Tournament on September 19 at the Riverwalk Golf Club. This event was followed by the Night Out with the Padres; a major league baseball game with the San Diego Padres vs. the Arizona Diamondbacks. Seating at the baseball game was on the T-Mobile Homerun Deck; an area just beyond the right field fence, where conference attendees got the opportunity to mingle with colleagues while dodging incoming baseballs throughout the evening.

The conference format included three tracks: Executive, Operations, and Reimbursement, which allowed attendees to select the topics of most value to them. Day 1 started with the key note address given by Kevin Lacz, author, film star, and former Navy SEAL. His story of perseverance and overcoming the odds was truly inspirational and set a positive tone for the conference.

Continued on page 8



Feature Article

Continued from page 7

Speakers from across the nation, representing the best and brightest in EMS, presented important and valuable information over the next two days.



Asbel Montes



Scott Moore



Doug Wolfberg

Matt Zavadsky, Chief Strategic Integration Officer for MedStar Mobile Healthcare was the keynote speaker for Day 2. Zavadsky has been instrumental in advancing the concept of Mobile Healthcare (Community Paramedicine) across the nation. He shared his knowledge and experience with the attendees and gave genuine pearls of wisdom that will directly help to advance community paramedic services in California.

Several of the break-out sessions in the Operations Track featured the work/products of the CAA's newly formed Data, Operations, and Quality Committee. The Committee is chaired by Steve Melander of American Ambulance. Attendees found the hands-on information from these sessions to be extremely valuable with tips and insights that can be implemented upon arriving back to work.

The Chairman's reception was a special event this year which included the presentation of several awards. Outgoing CAA president Eb Muncy, Desert Ambulance formally handed over the gavel to incoming president Alan McNany, American Legion Ambulance Post 108.

Some of the awards presented during the reception included the recognition and celebration of the length of membership in the CAA. These awards were the brainchild of Harvey Hall, Hall Ambulance Service and he sponsored all of these awards at this year's conference. Josette Engman received an award on behalf of King-American Ambulance for over 65 years as member of the CAA – see magazine cover. A complete listing of all awards presented during the reception can be found in the inset/box.



Alan McNany



Jimmy Pierson, Eb Muncy, and Kim Oreno presenting awards.

Attendee evaluations indicated that the 69th Annual Convention and Reimbursement Conference was a success. The event continues to provide members with vital and useful information that improves business and improves the quality of service. ❄️



A perk of this year's conference: a hotel room key containing logos of the top sponsors



DEBT COLLECTION SERVICES FOR THE AMBULANCE INDUSTRY

- Competitive rates and no up-front costs
- Free pre-collection letters
- Professional, HIPAA compliant collectors
- Interactive client web portal

800-564-6440 • www.CBAcredit.com



Recap of 2017 Legislative Session: Bills of Interest to California's Ambulance Companies

Chris Micheli | CAA Legislative Advocate

Early Saturday morning, September 16, the California Legislature adjourned for the 2017 calendar year, marking the end of the first year of the 2017-2018 Regular Legislative Session. Governor Brown now has until October 15 to act on all bills passed by the Legislature on or before September 15. The Legislature will reconvene on January 3, 2018 to begin the second year of the 2017-2018 Regular Session.

The Senate and Assembly leaders called it the most productive session in decades. During most years, the Governor receives just over 1000 bills and Governor Brown usually signs about 85% of them on average. This year, he received 977 bills and signed 88% of them.

Some of the highlights of the 2017 Session include the transportation funding program including significant tax increases, extension until 2030 of California's cap-and-trade program, the expenditure of \$1.5 billion in greenhouse gas funding, the affordable housing package, including a \$3 billion bond measure and \$200-300 million in additional fee revenues, the sanctuary state measure, a \$4 billion bond on parks and water, and numerous other measures.

CAA tracked 77 measures during this first year of Session and took positions on 27 measures (including 4 where we changed our position from oppose to neutral due to amendments), with most of those actively lobbied during the year. The following are some of the key bills that the CAA worked on this year:

AB 5 (Gonzalez Fletcher) Employers: Opportunity to Work Act. The bill would

require an employer with 10 or more employees to offer additional hours of work to an existing nonexempt employee before hiring an additional employee or subcontractor, except as specified, would require an employer to post a notice of employee rights, as specified, and would require the employer to maintain specified information. **CAA Position: Oppose; Status: 2-year bill**

AB 43 (Thurmond) Taxation: prison contracts: goods and services. This bill, for the privilege of contracting with a state prison, the Department of Corrections and Rehabilitation, or the Department of General Services to provide a state prison with goods, services, or both, would impose a tax on vendors, as defined, at the rate equal to 10% of the final contract price, as defined, for contracts entered into on or after January 1, 2018. **CAA Position: Oppose, unless amended; Status: 2-year bill**

AB 168 (Eggman) Employers: salary information. This bill would prohibit an employer from relying on the salary history information of an applicant for employment as a factor in determining whether to offer an applicant employment or what salary to offer an applicant. The bill also would prohibit an employer from seeking salary history information about an applicant for employment and would require an employer, upon reasonable request, to provide the pay scale for a position to an applicant for employment. **CAA Position: Oppose; Status: Signed by the Governor**

AB 263 (Rodriguez) This bill would require an employer that provides emergency medical services as part of an emergency medical services system or plan to authorize and permit its employees engaged in prehospital emergency services to take prescribed rest periods, including specifying grounds for interruption of a rest period and compensation for an interrupted rest period. The bill also would require the employer to provide these employees with prescribed meal periods, including specifying grounds for interruption of a meal period and compensation for an interrupted meal period. The bill would authorize an employer to require during rest and meal periods that employees monitor pagers, radios, station alert boxes, intercoms, cellular telephones, or other communication methods to provide for the public health and welfare. **CAA Position: Oppose, unless amended; Status: 2-year bill**

AB 281 (Salas) Labor Code Private Attorneys General Act of 2004: right to cure. This bill would extend the period in which the employer may cure the violation from 33 to 65 calendar days. **CAA Position: Support; Status: 2-year bill**

AB 387 (Thurmond) Minimum wage: health professionals: interns. This bill would expand the definition of "employer" for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or

Continued on page 11

Feature Article

Continued from page 10

working conditions of a person engaged in a period of supervised work experience longer than 100 hours to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined. **CAA Position: Oppose; Status: 2-year bill**

AB 450 (Chiu) Employment regulation: immigration worksite enforcement actions. This bill would impose various requirements on public and private employers about federal immigration agency immigration worksite enforcement actions. Except as otherwise required by federal law, the bill would prohibit an employer or other person acting on the employer's behalf from providing voluntary consent to an immigration enforcement agent to enter nonpublic areas of a place of labor unless the agent provides a judicial warrant, except as specified. Except as required by federal law, the bill would prohibit an employer or other person acting on the employer's behalf from providing voluntary consent to an immigration enforcement agent to access, review, or obtain the employer's employee records without a subpoena or court order, subject to a specified exception. The bill would grant the Labor Commissioner or the Attorney General the exclusive authority to enforce these provisions and would require that any penalty recovered be deposited in the Labor Enforcement and Compliance Fund. The bill would prescribe penalties for failure to satisfy the prohibitions described above of \$2,000 up to \$5,000 for a first violation and \$5,000 up to \$10,000 for each subsequent violation, as defined. The bill would specify circumstances for which penalties do not apply. **CAA Position: Neutral (due to amendments); Status: Signed by the Governor**

AB 697 (Fong) Tolls: exemption for privately owned emergency ambulances. This bill would generally modify the exemption to apply to the use of a toll facility, as defined, and would expand the exemption, dispute resolution procedures, and agreement provisions to include a privately-owned emergency ambulance licensed by the

Department of the California Highway Patrol. **CAA Position: Support/Sponsor; Status: 2-year bill**

AB 817 (Flora) Compensation: rest or recovery periods. This bill would permit an employer providing emergency medical services to the public to require employees to monitor and respond to pagers, radios, station alert boxes, intercoms, cell phones, or other communication methods during rest or recovery periods without penalty, to provide for the public health and welfare. The bill would require mandated rest or recovery periods interrupted for emergency response purposes to be rescheduled. The bill would state that it is declaratory of existing law. **CAA Position: Support/Sponsor; Status: 2-year bill**

AB 820 (Gipson) Emergency Medical Services Authority: task force: transportation alternatives. This bill would authorize the authority to establish a task force, as provided, to develop a report evaluating alternative destinations to a general acute care hospital for first responders to transport a patient who may be a danger to himself, herself, or others or gravely disabled because of a mental health disorder. The bill would require the report to be published on the authority's Internet Web site. **CAA Position: Support; Status: 2-year bill**

AB 1008 (McCarty) Employment discrimination: conviction history. This bill would repeal the prohibition on a state or local agency from asking an applicant for employment to disclose information regarding a criminal conviction, as described above. The bill would, instead, provide it is an unlawful employment practice under FEHA for an employer with 5 or more employees to include on any application for employment any question that seeks the disclosure of an applicant's conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history

background check, to consider, distribute, or disseminate information related to specified prior arrests, diversions, and convictions. **CAA Position: Neutral (due to amendments); Status: Signed by the Governor**

AB 1116 (Grayson) Peer Support and Crisis Referral Services Act. This bill would create the Peer Support and Crisis Referral Services Act. The bill would, for purposes of the act, define a "peer support team" as a local critical incident response team composed of individuals from emergency services professions, emergency medical services, hospital staff, clergy, and educators who have completed a peer support training course developed by the Office of Emergency Services, the California Firefighter Joint Apprenticeship Committee, or the Commission on Correctional Peace Officer Standards and Training, as specified. The bill would provide that a communication made by emergency service personnel to a peer support team member while the emergency service personnel receives peer support services, as defined, is confidential and shall not be disclosed in a civil or administrative proceeding, except as specified. The bill would also provide that, except for an action for medical malpractice, a peer support team or a peer support team member providing peer support services is not liable for damages, as specified, relating to the team's or team member's act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct. **CAA Position: Support; Status: 2-year bill**

AB 1209 (Gonzalez Fletcher) Employers: gender pay differentials. This bill would require, on and after July 1, 2019, and biennially thereafter, that an employer that is required to file a statement of information with the Secretary of State and that has 500 or more employees in California to collect specified information on gender

Continued on page 12

Feature Article

Continued from page 11

wage differentials. The bill would require the employer to submit the information to the Secretary of State as specified, by July 1, 2020, and biennially thereafter. The bill would require the Secretary of State to publish the information described above on an Internet Web site available to the public upon receiving necessary funding and establishing adequate mechanisms and procedures. **CAA Position: Oppose; Status: Vetoed by the Governor**

AB 1250 (Jones-Sawyer) Counties: contracts for personal services. This bill would establish specific standards for the use of personal services contracts by counties. The bill would allow a county or county agency to contract for personal services currently or customarily performed by employees, as applicable, when specified conditions are met. Among other things, the bill would require the county to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county and to show that the contract does not cause the displacement of county workers. The bill would exempt certain types of contracts from its provisions, and would exempt a city and county from its provisions. By placing new duties on local government agencies, the bill would impose a state-mandated local program. **CAA Position: Oppose; Status: 2-year bill**

AB 1410 (Wood) Penalty assessments: emergency services and children's health care coverage funding. This bill would rename the Emergency Medical Air Transportation Act Fund as the Emergency Medical Air Transportation and Children's Coverage Fund and would authorize the department to use money from the fund, upon appropriation by the Legislature, to fund children's health care coverage in addition to the purposes described above. This bill would extend the dates of the Emergency Medical Air Transportation Act, so that the assessment of the penalties will terminate commencing January 1, 2020, and any moneys unexpended and unencumbered in the Emergency Medical Air Transportation

and Children's Coverage Fund on June 30, 2021, would be transferred to the General Fund. The bill would extend the effective date of the Emergency Medical Air Transportation Act until January 1, 2022. **CAA Position: Watch; Status: Signed by the Governor**

AB 1565 (Thurmond) Work hours: overtime compensation: executive, administrative, or professional employees. This bill would exempt from overtime compensation an executive, administrative, or professional employee, if the employee earns a monthly salary equivalent to either \$3,956 or an amount no less than twice the state minimum wage for full-time employment, as defined, whichever amount is higher. **CAA Position: Oppose; Status: 2-year bill**

AB 1650 (Maienschein) Emergency medical services: community paramedicine. This bill would, until January 1, 2022, create the Community Paramedic Program in the authority. The bill would authorize the authority to authorize a local EMS agency that opts to participate in the program to provide specified services, such as case management services and linkage to nonemergency services for frequent EMS system users, through a local community paramedic program. The bill would require the authority, in consultation with the Office of Statewide Health Planning and Development, to develop criteria to qualify services for participation in the program, develop an application and application process for local EMS agencies seeking to participate in the program, and to review and approve applications for participation in the program as a component of the local EMS agency's EMS plan. **CAA Position: Support/Sponsor; Status: 2-year bill**

SB 33 (Dodd) Arbitration agreements. This bill would add to these determinations instances in which a state or federally chartered depository institution is seeking to apply a written agreement to arbitrate, contained in a contract consented to by

a respondent consumer, to a purported contractual relationship with that consumer that was created by the petitioner fraudulently without the consumer's consent and by unlawfully using the consumer's personal identifying information, as defined. **CAA Position: Neutral (due to amendments); Status: Signed by the Governor**

SB 63 (Jackson) Unlawful employment practice: parental leave. This bill would prohibit an employer, as defined, from refusing to allow an employee with more than 12 months of service with the employer, who has at least 1,250 hours of service with the employer during the previous 12-month period, and who works at a worksite in which the employer employs at least 20 employees within 75 miles, to take up to 12 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. The bill would also prohibit an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes this leave. **CAA Position: Oppose; Status: Signed by the Governor**

SB 306 (Hertzberg) Retaliation actions: complaints: administrative review. This bill would authorize the division to commence an investigation of an employer, with or without a complaint being filed, when specified retaliation or discrimination is suspected during a wage claim or other specified investigation being conducted by the Labor Commissioner. The bill would also authorize the commissioner, upon finding reasonable cause to believe that any person has engaged in or is engaging in a violation, to petition a superior court for prescribed injunctive relief. **CAA Position: Oppose; Status: Signed by the Governor**

SB 432 (Pan) Emergency medical services. This bill would require the health facility infection control officer to give that notice immediately to a designated officer,

Continued on page 13

Feature Article

Continued from page 12

as defined, upon determining, among other things, that the person to whom the prehospital emergency medical care personnel provided emergency medical or rescue services is diagnosed as being afflicted with a reportable communicable disease or condition, as specified, and to give notice to the county health officer with the name and telephone number of the prehospital emergency medical care personnel. The bill would then require the designated officer to notify the prehospital emergency medical care personnel of the exposure immediately or as otherwise specified. **CAA Position: Watch; Status: Signed by the Governor**

SB 443 (Hernandez) Pharmacy: emergency medical services automated drug delivery system. This bill would authorize a pharmacy or licensed wholesaler that is also an emergency medical services provider agency to restock dangerous drugs or dangerous devices into an emergency medical services automated drug delivery system, as defined, that is licensed by the board if specified conditions are met, including that the emergency medical services provider agency obtain a license from the board to operate the system, and requires dangerous drugs and dangerous devices stored or maintained in an emergency medical services automated drug delivery system to be used for the sole purpose of restocking a secured emergency pharmaceutical supplies container. **CAA Position: Watch; Status: Signed by the Governor**

SB 523 (Hernandez) Medi-Cal: emergency medical transport providers: quality assurance fee. This bill, commencing July 1, 2018, and subject to federal approval and the availability of federal financial participation, would impose a quality assurance fee for each emergency medical transport provided by an emergency medical transport provider, as defined, subject to the quality assurance fee in accordance with a prescribed methodology. The bill would authorize the Director of Health Care Services to exempt categories of emergency medical transport

providers from the quality assurance fee if necessary to obtain federal approval. The bill would require the Director of Health Care Services to deposit the collected quality assurance fee into the Medi-Cal Emergency Medical Transport Fund, which the bill would create in the State Treasury, to be continuously appropriated, thereby making an appropriation, to the department to be used exclusively in a specified order of priority to enhance federal financial participation for ambulance services under the Medi-Cal program, and to provide additional reimbursement to, and to support quality improvement efforts of, emergency medical transport providers, to pay for state administrative costs, and to provide funding for health care coverage for Californians. The bill would require each emergency medical transport provider to report to the department data on the number of actual emergency medical transports by payer type and on gross receipts, as defined, in accordance with a specified timeline in a manner and form prescribed by the department. The bill would authorize the department to establish an Internet Web site for the submission of these data reports. **CAA Position: Support; Status: Signed by the Governor**

SB 524 (Vidak) Employment: violations: good faith defense. This bill would permit a person to raise as an affirmative defense that, at the time of an alleged violation of statute or regulation in a judicial or administrative proceeding, the person was acting in good faith, had sought, relied upon, and conformed with a published opinion letter or enforcement policy of the division, and had provided true and correct information to the division in seeking the opinion letter or enforcement policy. The bill would require any person who asserts the affirmative defense to post a bond as prescribed. **CAA Position: Support; Status: 2-year bill**

SB 538 (Monning) Hospital contracts. This bill, the Health Care Market Fairness Act of 2017, would prohibit contracts

between hospitals and contracting agents, health care service plans, or health insurers from containing certain provisions, including, but not limited to, setting payment rates or other terms for nonparticipating affiliates of the hospital, requiring the contracting agent, plan, or insurer to keep the contract's payment rates confidential from any payor, as defined, that is or may become financially responsible for the payment, and requiring the contracting agent, plan, or insurer to submit to arbitration, or any other alternative dispute resolution program, any claims or causes of action that arise under state or federal antitrust laws after those claims or causes of action arise, except as provided. The bill would make any prohibited contract provision void and unenforceable. **CAA Position: Oppose; Status: 2-year bill**

SB 562 (Lara) The Healthy California Act. This bill, the Healthy California Act, would create the Healthy California program to provide comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all residents of the state. The bill, among other things, would provide that the program covers a wide range of medical benefits and other services and would incorporate the health care benefits and standards of other existing federal and state provisions, including, but not limited to, the state's Children's Health Insurance Program (CHIP), Medi-Cal, ancillary health care or social services covered by regional centers for persons with developmental disabilities, Knox-Keene, and the federal Medicare program. The bill would require the board to seek all necessary waivers, approvals, and agreements to allow various existing federal health care payments to be paid to the Healthy California program, which would then assume responsibility for all benefits and services previously paid for with those funds. **CAA Position: Watch; Status: 2-year bill**

The 2018 Legislative Session begins on January 3. Keep an eye out for updates on the new bills coming in January and February.... ✨



Complacency Kills

Cindy Elbert | Cindy Elbert Insurance Services, Inc.

There are some of us who say they work in Emergency Medical Services. They don't like to think of themselves as merely "Ambulance Drivers" working in Medical Transportation. Others say that they provide Advanced Life Support. They perceive that Basic Life Support is provided by less skilled individuals with less sophisticated certifications. Then we have the Wheelchair/Paratransit personnel who have no plans to perform any clinical interventions. What's wrong with this artificial hierarchy?

Independently of the levels of clinical services provided, clients/patients must be moved without injury. We must murder the concepts of "Granny Calls" and "Routine Transfers." No, this article is not about driving. It's about patient handling: loading and unloading patients, moving them on stretchers and wheelchairs. Some of you might be thinking "this is a no brainer." You are correct. It is apparent that many people load, unload and move patients without using their brains. Why? They have become complacent.

Those who are complacent are by definition self-satisfied or unconcerned. A great definition of complacency is "self-

satisfaction accompanied by unawareness of actual dangers or deficiencies." When somebody is acutely ill or injured or we are in an obviously hazardous environment, we use situational to perceive and mitigate dangers to ourselves and patients. The failure to use this level of awareness on less dramatic transports is commonplace. This has resulted in some common errors:

- We weren't paying attention; hit a rough patch and the stretcher tipped-over. The patient stayed on the cot, but hit her head on the curb.
- The pavement was slick. I slipped and let go of the stretcher.
- My partner looked away and didn't see that the cot didn't connect to the bracket.
- I forgot to secure the rear of the wheelchair and it tipped over.
- My partner raised his side faster than I did. The stretcher tilted and the patient almost slipped out.
- I don't like to use the shoulder straps on the cot. It's too much trouble.

- There was a crack in the pavement I didn't see. It's not my fault the stretcher tipped over.

Any of these sound familiar? It's not surprising that nationally clients/patients are injured by drops and other handling mishaps in huge numbers. Should we be concerned that when we transport people non-urgently for interventions or assessment of chronic conditions, we too frequently hurt them? Clients become patients. Non-acute patients become emergency cases.

How many times do you transport a non-emergency patient without evaluating them? Why evaluate them when you are not going to do anything? You evaluate the patient and the environment to determine what you need to do to transport them safely. You make a plan. Branch Rickey said, "Where risk arises, it is simply the residue of bad planning."

No, this does not need to be a complex process with protocols, algorithms and multiple layers of administration. Just take the time to think about a few things.

Continued on page 15

Feature Article

Continued from page 14

- Know your patient/client. Does his/her mind and body work? How do I protect him/her?
- Know your terrain. What do I need to do to get from where I am to where I need to be safely?
- Decide if you have the right resources in terms of equipment and people to move the patient/client safely.
- Formulate a plan. Communicate it with your team and the patient/client.
- Constantly be alert to what is going on with your patient/client and in the environment.
- Communicate with your team and the patient/client as needed.

Do this on every transport. Pasteur said, "When it comes to observation, chance favors only the prepared mind." ✱



CAA Membership is a Business Essential

The business environment, the healthcare sector and the EMS industry are evolving at an ever-increasing pace. At the CAA we are dedicated to providing members with the essential tools, information, resources, and solutions to help your organization grow and prosper. And, the CAA's collective efforts on statewide legislative and regulatory issues are not possible without strong membership support and engagement.

Take your place in California's statewide ambulance leadership

Membership not only saves you money on CAA events and resources, but also keeps you up to date on trends, innovations, and regulatory changes through:

- Leadership on statewide legislative and regulatory issues
- Targeted conferences & educational programs
- Member-only updates and alerts
- Member-only discounts & access to expert resources
- Opportunities to exchange ideas with your colleagues statewide



Join the California Ambulance Association

Go to www.the-caa.org/membership for a membership application.

Overview of the Rulemaking Process

Chris Micheli | CAA Legislative Advocate

California has over 200 State agencies, departments, boards, and commissions that make public policy through their authority to adopt regulations. A list of State agencies that have adopted regulations can be found on the website of California's Office of Administrative Law (OAL). OAL's website also provides direct access to the California Code of Regulations (CCR), which is organized under various subject matter titles, of which there are 28 titles.

California's Administrative Procedure Act (APA) contains required procedures for rule-making and administrative hearings conducted by all of these agencies and departments. The APA is found at Chapter 3.5, 4 and 5 commencing with Section 11340 of Part 1 of Division 3 of Title 2 of the

Government Code. In addition, there are regulations governing the APA found at CCR Title 1, Sections 1-120. The OAL's website includes checklists used by OAL to review regulations, as well as their publications including *California Rulemaking Law under the Administrative Procedure Act*.

Generally speaking, the authority of State agencies and departments to adopt policy (i.e., rulemaking) is defined and restricted by the authorizing statute. Statutes usually prescribe each agency's authority to adopt policy; and, it is an established principle of administrative law that an agency cannot exceed its legally-prescribed authority to regulate. On the other hand, many statutes confer broad powers to some state agencies regarding matters that directly affect the general public.

There are opportunities for interested parties to be informed, observe and participate in rulemaking activities of State agencies and departments. In particular, interested parties have significant access to the rulemaking activities of state agencies by virtue of the APA. For example, every state agency is required to annually adopt a "rulemaking calendar" that is published on their website. Moreover, agencies establish interested parties mailing lists for notices of rulemaking activities by that agency or department.

California law requires every State agency to satisfy the basic minimum procedural requirements established by the APA for the adoption, amendment or repeal of a regulation, unless the agency is expressly exempted by statute. According to the OAL, "California courts have long recognized that under the Constitution the Legislature may by statute delegate quasi-legislative powers to a state agency in the executive branch, so long as adequate standards are provided to guide the agency."

The agency develops four required documents during the preliminary activity stage which are needed to initiate the formal rulemaking process: the express terms of the proposed regulation (i.e., the proposed text), the initial statement of reasons, the fiscal impact statement, and the notice of proposed rulemaking. These documents are initially filed with the OAL and then published by the agency.

Next begins the 45-day opportunity to submit written, faxed or e-mail comments on all or any part of a proposed rulemaking



Continued on page 17

Feature Article

Continued from page 16

when the notice of proposed rulemaking is published in the California Regulatory Notice Register. The notice of proposed rulemaking is also mailed to interested parties and is posted on the rulemaking agency's website.

According to the OAL, "a regulation must be easily understandable, have a rationale, and be the least burdensome, effective alternative. A regulation cannot alter, amend, enlarge, or restrict a statute, or be inconsistent or in conflict with a statute."

Under the APA, an agency has an option as to whether it wishes to hold a public hearing on a proposed rulemaking. However, if an agency does not schedule a public hearing, and any interested person submits a written request for one within 15 days prior to the close of the written comment period, then the agency must hold a public hearing. Because of this requirement, an agency usually schedules a public hearing at the outset.

The APA requires a rulemaking agency to consider all relevant information presented to it during the comment period before adopting, amending or repealing the regulation. After the initial public comment period, the agency will often decide to change its initial proposal either in response to public comments or on its own.

Before a rulemaking agency adopts regulatory changes, it must mail a notice of opportunity to comment on those proposed changes along with a copy of the text of the proposed changes to each person who has submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modification. The agency must also post the notice on its website.

A rulemaking agency must summarize and respond on the record to timely filed comments. The summary and response to comments demonstrate that the agency has considered all relevant material presented to it before adopting, amending or repealing a regulation. An agency may respond to a

comment in one of two ways. According to the OAL, "the agency must either (1) explain how it has amended the proposal to accommodate the comment or (2) explain the reasons for making no change to the proposal. An agency's summary and response to comments are included as part of the final statement of reasons."

Thereafter, the agency must transmit its rulemaking file to OAL for review within a year from the date that the notice of proposed rulemaking action was published in the CRNR. OAL then has 30 working days in which to review the rulemaking record to determine whether it demonstrates that the rulemaking agency satisfied the procedural requirements of the APA.

Specifically, the OAL reviews the rulemaking file for compliance with the six standards of review: Authority, Reference, Consistency, Clarity, Nonduplication, and Necessity. OAL may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulations.

California's rulemaking process is set forth in the APA and accompanying regulations

promulgated by the OAL. There are numerous instances along the way that interested parties can participate in the rulemaking process including pre- and post-formal activities. For example, parties can meet with state agency staff prior to a regulatory project commencing to provide input before the agency staff begins drafting any regulatory changes. Many agencies and departments utilize an "interested parties process" to review draft rulemaking projects prior to commencement of the formal OAL process.

Even after the agency or department has completed the rulemaking process, there are opportunities to be involved such as with the OAL review, appeal to the Governor's Office, or even challenging the rulemaking in court. As such, the rulemaking process is relatively transparent in California and affords consideration of the comments of interested parties. ✱

Chris Micheli is an attorney and lobbyist with the Sacramento governmental relations firm of Aprea & Micheli, Inc.





2520 VENTURE OAKS WAY, SUITE 150
SACRAMENTO, CA 95833 • www.the-caa.org
877.276.1410 (toll free) • 916.924.7323 (fax)

FIRST CLASS
U.S. POSTAGE
PAID
PERMIT #1620
SACRAMENTO, CA

CAA Committees

Annual Conference Committee – Chair Jimmy Pierson, Medic Ambulance Service, Inc.

CAAPAC Committee – Chair Todd Valeri, American Ambulance

Data, Operations, and Quality (DOQ) Committee – Chair Steve Melander, American Ambulance

Education Committee – Chair Jimmy McNeal, Schaefer Ambulance Service, Inc.

Membership Development & Services Committee – Chair Edward Guzman, Sierra Ambulance Service

Payer Issues Committee – Chair Donna Hankins, American Ambulance

Legislative & Agency Relations Committee – Chair Carol Meyer, McCormick Ambulance Service

Nominating Committee – Chair Frank Kelton, San Luis Ambulance Service

California EMS Commission – CAA's Representative Jaison Chand, City Ambulance of Eureka, Inc.

SB 523 Implementation Ad Hoc Committee – Chair Steve Grau, Royal Ambulance, Inc.

Add value to your membership by getting involved in a committee! Notices of committee meetings are now posted on the CAA's website at www.the-caa.org/mem_committees.asp and in the Weekly News and Information Bulletin. The work performed by the committees is of vital importance, and adding your voice/participation makes the CAA stronger and more effective.

