

Medi-Cal Payment System to Recognize Paramedic-level Care



*Stockton Court Decision
Clarifies "201" Issues*

**The Impact of
Healthcare Reform
on the Ambulance
Industry**





Member/EMS News

Harvey L. Hall Receives John Brock Award for Commitment to Community



Harvey L. Hall accepts the Brock Award from John Brock, Jr. It was his father for whom the award is named.

The Executive Advisory Council of California State University Bakersfield's (CSUB) School of Business and Public Administration has recognized Harvey L. Hall as the recipient of the John Brock Community Service Award. Hall is founder and president of Hall Ambulance Service, Inc. which provides ambulance services to approximately 87% of Kern County.

Hall was honored for his lifetime commitment as an entrepreneur,

public servant and humanitarian who continually works to improve the quality of life for those who live, work or play in Bakersfield and its surrounding communities. Hall shares a common thread that runs amongst those Bakersfield business leaders who have preceded him in being honored with the John Brock Award over its 20-year history. That trait is comprised of generosity of time, money and resources when it comes to giving back to their community.

For Harvey Hall it comes down to one simple thing. Each day, he looks for a way to make it more positive than the last. Proceeds from the event help to fund the John Brock Endowment, which funds scholarships for business and public administration students attending CSUB.

Emergency Medical Services Authority (EMSA) Selects Division Chiefs



*Sean Trask,
EMS Personnel
Division Chief*

Dr. Steve Tharratt, Director of the Emergency Medical Services Authority, has announced selection of Sean Trask and Lisa Schoenthal to lead the department's EMS Personnel and Disaster Medical Services divisions after the chiefs of both divisions retired in June.

Sean Trask is moving up from his position as Health Program Manager in the EMS Personnel Division where he served as deputy to Nancy Steiner, who retired from the Division Chief position last month.

"Sean has been a valuable contributor to most of the significant efforts the EMS Authority has undertaken in the area of EMS personnel over the years, but his knowledge and leadership were especially evident as he shepherded the development and delivery of the EMT 2010 regulations and central registry this year," said Tharratt. "It was a complex project that allowed Sean to demonstrate the cooperative spirit and organizational skills necessary as division chief to work with all of our stakeholders as we continually enhance the quality of EMS personnel throughout the state."

Trask started his EMS career in 1978 as an EMT and worked in the prehospital field for 16 years during which time he upgraded to EMT-II and eventually paramedic. After leaving the prehospital field, he worked for the Sacramento County EMS agency for six years before joining the EMS Authority in 2000. Sean has a bachelor's degree in accounting and a master's degree in public administration with an emphasis in healthcare administration.

Lisa Schoenthal, who has served as Deputy Division Chief for the Disaster Medical Services Division for the past four years, has been selected to lead that

division following the retirement of Jeff Rubin.

"Lisa brings the knowledge gained from service as Deputy Chief combined with a vision and plan to advance disaster services for California," said Tharratt. "I am impressed with Lisa's plans for the division and her commitment to the Disaster Medical Services programs and staff."



*Lisa Schoenthal,
Disaster Medical
Services Division Chief*

Schoenthal has more than 20 years of public and private sector expertise in the area of health and human service; including emergency response, social services management, and health care administration.

She began working at EMSA in 2005 in the Disaster Medical Services Division as the Hospital Bioterrorism Preparedness Program Manager.

In this role, she coordinated the development of the current Hospital Incident Command System (HICS) that serves as a national model and is now used by all Department of Defense hospitals worldwide. Schoenthal was instrumental in the expansion of EMSA's disaster response role from that of Emergency Operations Center coordination to a mobile medical response capability, including the largest Mobile Field Hospital Program in the civilian world. She also serves on several national committees related to disaster preparedness.



Chairman's Message



The Importance of Membership

by Bob Barry, Chairman of the Board

Vision

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

Mission

- Serve as the voice and resource on behalf of private enterprise emergency and non-emergency ambulance services.
- Promote high quality, efficient and medically appropriate patient care.
- Advocate the value that pre-hospital care provides in achieving positive patient outcomes.
- Promote effective and fiscally responsible EMS systems and establish standards for system design.



Bob Barry

There are legitimate questions as to the value of being a member of any association. Questions like “What is in for me?” and “What are the membership benefits that justify the dues we pay?” are ever present. The CAA is no exception. Many of us ask those same questions as we sign the check for our annual dues or decide if we are even going to join. I can tell you that I too have asked those questions. Over the past few years I have come to find the answer.

Your CAA membership and your involvement in your association is more critical now than ever before.

CAA is the recognized voice of our industry

The CAA's position on critical policy issues is sought after by all the major statewide groups, including the legislature, the Department of Health Care Services, the CA EMS Authority, EMS Administrators of CA (EMSAAC), EMS Medical Directors of CA (EMDAC), CA Professional Fire Fighters (CPF), and both the CA Chiefs and Fire Districts Association of CA. These groups look to us for our opinions and support, we are asked to participate on numerous statewide task forces and committees and we are viewed as an expert authority on ambulance issues and system design.

Without a strong, viable, and engaged association, we would have very little ability to influence what happens to our industry. What is worse, without an association, we would have no voice at all, and would be at the mercy and control of every other large entity that has the means to operate at a state-wide level.

This past year brought several examples to the frontline. The CAA was involved in the design and implementation of the new EMT regulatory changes, and was invited as a key industry stakeholder to be a presenter at the EMSA “201 Workshop” in May. The CAA has just completed an industry response to the EMSA proposed changes to Guideline #141 regarding the creation EMS Transportation Plans and Exclusive Operating Areas. The CAA also analyzes and monitors nearly 30 pieces of legislation each year. The CAA is fully engaged and provides leadership on every statewide policy issue that

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**Ms. Schrum's license is on inactive status pending completion of CPE requirements.*

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Executive Director's Update

Health Care Reform is a Game-changer

by Brenda Staffan, Executive Director



Brenda Staffan

At the recent *Pinnacle* national EMS conference in San Diego, I had the honor of representing the California Ambulance Association in a high energy discussion about the "Public/Private Elephant in the Room!" Perhaps some attendees anticipated hearing a continuation of the EMS battles—conflicts in many EMS systems across

the country and in California where public and private providers struggled with a variety of EMS system issues. In these sometimes heated debates, the scene often resembles a backyard sandbox argument.

On March 23, 2010, however, everything changed. On this day, President Obama signed the legislation that assures unprecedented change for America's health care system. As health care's first responders, there is no doubt the nation's EMS systems will be dramatically impacted. But how?

In his keynote address at *Pinnacle* regarding the national health care reform legislation that is now the law of the land, Dr. Ed Racht declared, "it's time for EMS to look different." Dr. Racht provided numerous examples of ways EMS can change.

The CAA also recently tackled this topic at its annual convention in Tahoe in June. In a separate article found in this issue, there is a list of issues to watch and some initial ways ambulance providers can get ready for changes which may be coming.

So while public and private providers may have been in the EMS sandbox—sometimes co-existing, sometimes partnering, sometimes battling—the health care landscape architects have now arrived to design a new blueprint for the backyard. The "architects" are evaluating how to restructure the patio, move the barbeque, eliminate the pond, and decide what to do with the sandbox—just like local, state and federal policymakers will reform the HC system.

Much of these changes will be determined at the state level, as is evidenced by the dozen or so health care related bills which just passed the California legislature and await Governor Schwarzenegger's signature. While some states

vow to repeal all or some provisions, many in the CA legislature have promised to quickly implement and improve on aspects of reform, expand patient protections, consider single payer reforms and maximize what some see as a once-in-a-life-time opportunity.

Considering the implications of the federal legislation, where do we start? We can find guidance in the landmark report published in 2007 by the Institutes of Medicine (IOM) titled, "Future of Emergency

"The problems that exist in the world today cannot be solved by the level of thinking that created them."

-Albert Einstein

Care in the U.S." The publication encompassed three reports addressing hospital-based emergency care, emergency care for children and pre-hospital care. One of those reports, "EMS at the Crossroads," evaluates the development of EMS over the last 40 years resulting in the "fragmented system that exists today." The IOM report recommends three broad goals for the nation's "systems" of emergency care:

- improved coordination
- expanded regionalization
- increased transparency and accountability

To respond to these unprecedented challenges and opportunities, we must look beyond our current view of EMS to proactively determine our role in the reformed health care system.

CAA will provide leadership on the multitude of policy issues associated with the impact of national health care reform on California ambulance

providers. This will certainly be a strenuous process and an enormous task of turning a massive piece of federal legislation into a new "system" that achieves the President's political promises to provide coverage to the uninsured, reduce health care costs and improve health care quality. It is impossible to tackle this enormous task unless we fully engage with members, non-members, and broad categories of "stakeholders" like never before. Some level of reform is on the horizon and while we can

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Welcome New CAA Members:

Alpha Ambulance
Russ Muratov
Active Member

Demers Ambulances
Tom Goggan
Commercial Member

Health Services Integration, Inc.
Jennifer Hardcastle
Commercial Member

Sonoma Valley Fire & Rescue
Alan Jones
Associate Member

New Member Applications:

CHP Enterprises dba Response
Vehicle Solutions
Commercial Membership
Raymond Claridge, President
North Hollywood, CA

Comments or questions about new member applicants should be directed to:

Alan McNany, Chair Ethics & Professionalism Committee
amcnany@alpost108.org



Focus on Membership: Why Join the CAA?

Membership offers easy access to a range of resources and learning opportunities to help your organization operate efficiently and effectively. Our exclusive member-only discounts assure you receive the best value. In the face of unprecedented change due to health care reform, our advocacy leadership is more important today than ever before and your membership assures the CAA has a unified voice on issues that affect both emergency and non-emergency ambulance services.

Leadership on Statewide Legislative and Regulatory Issues

- Legislative advocacy program including member needs assessment, policy analysis, position development, grassroots activities, lobbying and political action
- Regulatory affairs program including liaison to regulatory agencies, ombudsman to the Medicare and Medi-Cal intermediary, and representation on essential commissions, panels, boards and committees
- Proactive statewide activities to build alliances and assure collaboration with other stakeholder groups
- Leadership to represent members throughout health care reform implementation in California



Targeted Conferences & Educational Programs

- *Annual Legislative Summit* featuring meetings with legislators
- *Annual Stars of Life Celebration* featuring recognition of top field personnel
- *Annual Convention* featuring seminars on general topics, forums, networking and exhibits
- *Annual Reimbursement Conference* featuring targeted seminars and workshops

Customized Publications and Information

- Website with exclusive members-only section
- *Siren* quarterly newsletter with articles and highlights of quality services of CAA members
- Membership Updates and Alerts on industry news, association updates and resources

Access to Expert Resources & Member-only Discounts

- Member-only discounts on CAA conferences and products
- Member-only discount programs offered by growing number of

- commercial members
- On-line Resource Library with growing collection of ambulance-specific information
- Network of expert resources providing business solutions
- Safety information and resources

Membership Recognition

- Member-only opportunity for service profiles in Siren and photos on website
- Member listings in annual Membership Directory
- Recognition of member volunteer contributions at Annual Convention
- Member listings and logos at CAA-sponsored external events

- Authorized use of CAA logo on stationary, website, ambulances

Membership Engagement

- Dedicated committees addressing strategic issues and member-specific challenges
- General membership forums to discuss and shape policy and strategic objectives
- On-line feedback surveys to identify future



- member benefits and resources
- Networking events where professionals share innovations, find solutions and stay competitive
- Volunteer leadership opportunities to serve on work groups, committees and board of directors

Future Membership Benefits

While there are many valuable benefits immediately available, the CAA will regularly update our offerings as the business environment, healthcare sector and industry evolve. All members are encouraged to actively participate in building the CAA into a truly remarkable association and in achieving our vision:

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

Not a Member? Join Today! For more information go to <http://www.the-caa.org/membership.html>.



Healthcare Reform

The Impact of Healthcare Reform on EMS and the Ambulance Industry



- 5. **Reform Insurance Underwriting.** Curb or ban certain insurance industry practices, such as loss of insurance due to pre-existing conditions and eliminating life-time caps on care received.
- 6. **Promote Prevention & Wellness.** Encourage a healthier population by advancing numerous prevention and wellness initiatives.

A national demonstration project will create new accountable care organizations which Mr. Lott referred to as “managed care on steroids.” One of the national demonstration projects is being launched next year in Orange County, CA and this development should be monitored by the ambulance industry.

Jim Lott recommended one of the most comprehensive overviews of the PPACA published by the Kaiser Family Foundation, “Summary of New Health Reform Law,” which is available for download at www.kff.org.

Impact on Ambulance Providers: A Revenue and Expense Perspective

Following the informative overview of health care reform legislation from Jim Lott, Bruce Lee facilitated a discussion and encouraged active participation from the audience regarding the impacts of health care reform and the specific concerns of ambulance providers. Panel members included Mike Scarano, Partner and Vice Chair of the Health Care Industry Team of Foley & Lardner LLP and Brenda Staffan, Executive Director of the CAA. Bruce Lee framed the issues and proposed several key questions in two important areas: revenue impact and expense impact. What follows each question below are some of the more thought-provoking comments and questions that were posed during the discussion.

Impact on Revenue

- **How will the payor mix change (in the short-term and long-term) for ambulance reimbursement?** While there may be fewer uninsured patients, there will be more patients insured at below cost Medical rates, and some will still be unable to acquire insurance. There may be an increase in patients covered by commercial insurance.
- **Will the change in the payor mix be more a function of the economy or of health care reform?** How can EMS systems and providers sustain the current level of cost shifting? Will cost shifting be prohibited by future insurance policies, legislation or

The debate over health care reform has been one of the most controversial and polarizing political and policy issues in recent years. Many of the potential impacts, either positive or negative, still elude us. Health care reform was the focus for the opening general sessions at the CAA’s 62nd Annual Convention: “Leading the Industry through Health Care Reform” held in June at beautiful Lake Tahoe. This article provides a summary of both the general session overview of the federal legislation and the facilitated discussion which followed about its impacts on ambulance providers.

The Patient Protection and Affordable Care Act of 2010 (PPACA)

The opening general session featured a presentation by Jim Lott who provided an overview of the federal legislation that creates the framework for changes to the entire health care delivery system. The enormous effort to achieve national health care reform was accomplished on March 23, 2010, when President Obama signed into law the *Patient Protection and Affordable Care Act of 2010 (PPACA)*. A companion bill, the *Health Care and Education Reconciliation Act of 2010* was also signed into law a short time later. Jim Lott’s presentation was focused on the legislation’s six main strategies to reform the delivery of health care in America:

1. **Fix Medicare.** Assure Medicare is available to future generations by assuring the program is financially sustainable.
2. **Reduce Uninsured.** Assure health insurance coverage is available to the millions of Americans without insurance.
3. **Control Cost.** Reduce the cost of health care which has been growing at a pace which is faster than the rate of inflation.
4. **Improve Quality & Efficiency.** Identify ways to dramatically improve the coordination of care to achieve greater efficiencies and to improve the quality of care via mechanisms such as pay-for-performance and value-based purchasing.

rate regulation?

- **What do we expect with net revenues?** If there is a dramatic increase in the Medi-Cal population at current rates, how can we sustain our EMS systems? How do we deal with even more patients reimbursed at below-cost rates?
- **Will ambulance usual and customary rates (UCR) flatten out or continue to escalate?** Even before new reforms are implemented, EMS RFPs are generating ever higher UCRs in some markets. Some RFPs divert transport revenues from ambulance providers to local government, yet, UCR increases have diminishing returns.
- **What can we do as an industry to prepare for the expected changes in ambulance reimbursements?** Continue to advocate for increased Medi-Cal funding and defend against Medi-Cal decreases. Engage and educate local and state regulators about the projected changes in the EMS financial infrastructure due to health care reform.
- **What industry changes do we foresee as a result of healthcare reform and changes in reimbursements?** Increased use of coordinated care models may include new bundling of health care services, similar to how certain non-emergency ambulance services are bundled under the skilled nursing facility prospective payment system. Will there be more transportation broker contracts in the future?
- **How will our healthcare partners respond?** How will hospitals respond to the new requirements to reduce readmissions? Is there a role for ambulance providers in this effort? How will SNFs predict ambulance transportation needs if there is an expansion of ambulance services bundled with payments to SNFs?
- **What state or local law, regulatory or policy changes do we foresee?** Commercial insurance may increase efforts to constrict the definition of medically necessary care. While current Medicare rates are below the national average cost of ambulance transportation service, health reform includes plans for substantial cuts in total Medicare program spending which may impact ambulance reimbursement. How will future RFPs achieve medically appropriate care and transport?

Impact on Expenses

- **What expense side changes do we see forthcoming as employers? Will our costs go up or down?** How will employers deal with the pressure of projected increase in health insurance premiums? Will struggling EMS providers feel pressured to shift

more costs to employees? Shift more employees into HMOs, even Medi-Cal? Will there be differences in how large vs. medium vs. small private ambulance providers respond? How will public ambulance providers respond?

- **How will companies and/or public entities change to**

mitigate the impacts? Will fewer employers be able to offer “Cadillac” health plans? Will ambulance revenues keep pace with increased health insurance costs?

Summary and Conclusions

While there are currently more questions than answers, the discussion

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CAA 2010 Ann Features Outstanding

Over 130 EMS leaders from around the state of California gathered June 23-25 at Harrah's Lake Tahoe for 11 seminars by a faculty of leading experts offering tools and strategies to help ambulance providers achieve their business objectives. Themed, "Leading the Industry Through Health Care Reform," the convention featured two critical sessions on the impacts of health care reform on ambulance providers. *Based upon written feedback from participants, the seminars, presenters and panels, across the board, were rated as outstanding.* Of particular interest to attendees were the forums which generated excellent discussion on cutting edge issues, especially the panels on health care reform and EMS entrepreneurship.

Golf at Edgewood & Welcome "Dinner at the Lake"

Conference attendees enjoyed one of the most beautiful settings in the world with a lake-side Welcome Reception and Dinner on the shores of spectacular Lake Tahoe. Earlier in the day, over 30 golfers kicked-off the convention activities with a round of golf in the Annual Ray Lim Memorial Golf Tournament. Winners are listed below:

- Longest Drive Women - Randi Schimke
- Longest Drive Men - John Surface
- Closest to Pin - John Surface
- Low Net (Ed Ehrenborg Memorial Trophy) - John Surface
- Low Gross (Lyla M. Johnson Memorial Trophy) - Dana Solomon
- Low Net Ladies - Sandy Stipe
- Low Gross Ladies - Randi Schimke
- Most Honest - Brenda Staffan

CAA Marketplace

Attendees were able to visit over 25 vendor booths at the CAA Marketplace which featured providers of innovative business solutions. Several networking events were held at the CAA Marketplace allowing attendees to connect with other industry leaders at breaks and a reception.

Chair's Award of Excellence – Helen Pierson

At the Chair's Banquet, the association was honored to recognize CAA Board Member Helen Pierson of Medic Ambulance Service of Sacramento with the *Chair's Award of Excellence*. This annual award identifies an individual whose efforts and contributions elevate the standing of the private ambulance industry and our Association. Chairman Dana Solomon stated, "Helen receives this

award for her outstanding leadership on the CAA Board of Directors, for her hard work as Chair of our Education Committee and for her tremendous guidance and contributions on the association's Medi-Cal Work Group. She has also represented the CAA at countless meetings around the state and in Sacramento. I am grateful that Helen is part of our leadership team as she is a talented businesswoman and an extraordinary industry leader."

Recognition of Outgoing Chairman Dana Solomon

After passing the gavel, incoming Chairman Bob Barry and Chris Micheli presented Dana with an official State Senate/Assembly resolution which read in part:

WHEREAS, Dana A. Solomon has demonstrated in his service to [the CAA] and through his involvement in the local community an outstanding record of personal and civic leadership, and . . . he is deserving of special honors and the highest commendations;

WHEREAS, A dedicated member since the early 1980s, Dana Solomon is a fervent believer in the ideals of the CAA as evidenced through his service as Director, Secretary/Treasurer, Vice Chair, and Chair of its Board of Directors;

RESOLVED by Senator Lois Wok and Assembly Member Bill Berryhill, that they join with the members of the CAA in congratulating Dana A. Solomon on the resounding success of his term as Chair, and convey him best wishes for a future filled with continued success.

Thank you to the 2009/2010 CAA Leadership Team

At the Chairman's Banquet, Dana Solomon recognized that all of the association's members have contributed to making this association remarkable and he personally thanked the banquet attendees for their tremendous support of the association.

Board of Directors

- Dana Solomon, Chair
- Bob Barry, Vice Chair
- Leslie Jessop-Watkins, Secretary
- Treasurer
- Richard Angotti
- Jim McNeal
- Helen Pierson
- Fred Sundquist
- Alan McNary, Sergeant-at-Arms

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- Brenda Staffan, Executive Director
- Chris Micheli, Legislative Advocate
- Mark Corum, Siren & Website Editor
- Jennifer Blevins, Meeting Planner
- Tricia Schrum, Accountant
- Kim Ingersoll, Membership Services

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- Gerry Hart, EMS Commission Subcommittee
- Alan McNary, Ethics & Professionalism Committee
- Jim McNeal, CAAPAC Committee
- Eb Muncy, Nominating Committee
- Helen Pierson, Education Committee
- Stewart Slipiec, Safety Subcommittee
- Jody Soule, Payer Issues Subcommittee



Annual Convention Seminars & Forums



2010 Annual Convention

Thank You Sponsors

A very special thank you to our sponsors whose financial support helped to make this year's convention a big success, enjoyed by all in attendance.





San Joaquin County Prevails in Court Battle with City of Stockton

by Mike Scarano, Foley & Lardner LLP

A recent lawsuit between the County of San Joaquin (the “County”) and the City of Stockton (the “City”) has resulted in two favorable trial court decisions for the County. Although the two decisions are binding only on the parties to the case, they illustrate how at least one court has resolved two important issues bearing on the relative rights of cities and counties under Health and Safety Code Section 1797.201: (1) the right to control dispatching, and (2) the right to control the delivery of ALS First Response.

In a decision dated March 16, 2009 (“Stockton I”), the court held that the County controlled dispatching. In a more recent decision dated June 3, 2010 (“Stockton II”), the court held that the County also controlled the right of the City to perform ALS First Response. A summary of the two decisions follows:

Stockton I Decision Background

The County has designated its own Emergency Medical Services Agency as its local EMS agency (“LEMSA”). Between 2003 and 2005, the County LEMSA developed and ultimately adopted a new Transportation Plan for the delivery of emergency ambulance services within the County. It also prepared a Request for Proposal (RFP) in order to conduct a competitive process for the establishment of one or more exclusive operating areas (EOAs) within the County. The RFP provided that the winning proposer would be entitled to perform its own dispatch services if it chose to do so.

The City and American Medical Response (AMR) submitted proposals in response to the RFP. AMR prevailed, and, as permitted by the RFP, chose to perform its own dispatching from its LIFECOM dispatch center. To implement its new contract with AMR, the County promulgated Policies 3001 and 3001A (the “Policies”) governing dispatching within the County. The Policies required that all emergency medical calls must be transferred by law enforcement agencies in the County to AMR’s LIFECOM facility. The City refused to comply with the Policies, asserting that it held “grandfather rights” pursuant Section 1797.201 to continue performing dispatching from its own facility. Section 1797.201 permits cities and fire protection districts to continue administering certain prehospital emergency medical services that they have performed continuously since June 1, 1980, unless and until they enter into an agreement with a LEMSA giving up such rights. Specifically, Section 1797.201 provides as follows:

“Upon the request of a city or fire district that contracted for or provided, as of June 1, 1980, prehospital emergency medical services, a county shall enter into a written agreement with the city or fire district regarding the provision of prehospital emergency medical services for that city or fire district. Until such time that an agreement is reached, prehospital emergency medical services shall be continued at not less than the existing level, and the administration of prehospital EMS by cities and fire districts presently providing such services shall be retained by those cities and fire districts, except the level of prehospital EMS may be reduced where the city council, or the governing body of a fire district, pursuant to a public hearing, determines that the reduction is necessary. Notwithstanding any provision of this section the provisions of



Chapter 5 (commencing with Section 1798 [“medical control”]) shall apply.

The California Supreme Court has held that so-called “201 rights” can also be lost if a city or district acquiesces to LEMSA control over the delivery of EMS within its boundaries, even in the absence of an agreement.

The Court’s Decision

In a response to the City’s refusal to comply with the Policies, the County filed a lawsuit seeking an order requiring the City’s compliance. In the first of two decisions in the case, the Superior Court ruled in favor of the County, based on two separate and independent grounds. First, the court held that the City did not have 201 rights to perform dispatch. The court noted that the City had actively participated in the formulation of the County’s Transportation Plan and RFP, both of which clearly provided for the potential loss of the City’s dispatching function in the event it was not the prevailing bidder. Yet, the City never objected to this aspect of the Plan or the RFP.



Further, the City submitted a proposal in response to the RFP. The court observed that “both the 2004 Transportation Plan and the RFP explicitly stated that the contractor would be allowed to choose whether to perform ambulance dispatch services itself or whether to contract with another entity for that service.” Yet, “[a]t no time did any representative [of the City] raise any questions or objections . . . as to how dispatch would be handled under the RFP.” Moreover, “in responding to the RFP, the Stockton Fire Department specifically touted the strength of its dispatch center and clearly indicated it knew dispatch could be separated [from ambulance service].”

The court concluded that these actions by the City “constituted acquiescence in County’s assertion of control over emergency medical dispatch within the City.” Citing the landmark *County San Bernardino v. City of San Bernardino* Supreme Court decision in 1997, the court observed that cities and fire districts may lose their right to continue performing emergency medical services under Section 1797.201 “either through acquiescence or through formal agreement.” Here, the court held that the City had lost such rights through acquiescence.

As a separate and independent basis for its decision, the court noted that although Section 1797.201 provides cities with certain “grandfather” rights, the statute has been interpreted by the Supreme Court as vesting LEMSAs with “medical control” authority even over “201” cities and districts. The court further noted that “medical control” is defined in the Health and Safety Code, and has been interpreted by the Supreme Court, as including dispatch. Therefore, even if the City held “201” rights, those rights would be subservient to the County’s authority to control dispatching as part of its medical control authority.

The Stockton I decision is significant because it illustrates that counties and their LEMSAs control dispatch as a medical control function. It also applies the Supreme Court’s holding that 201 rights can be lost through acquiescence, even in the absence of a formal agreement by a city to give those rights up.

The Stockton II Decision

In the more recent Stockton II decision, the Superior Court held that the City’s execution of an agreement authorizing it to perform ALS First Response was sufficient to relinquish 201 rights as to those services even if the agreement made no mention whatsoever of the Section 1797.201 or any rights thereunder.

Background

This part of the dispute between the parties arose from an agreement drafted by the County and entered into by the parties on April 9, 1986 (the “1986 Agreement”), regarding certain rights and responsibilities of the parties regarding the delivery of ALS First Response. The agreement provided for renewals every two years unless either party gave written notice of termination at least 60 days in advance of the renewal date. In February 2008, in the

midst of the dispute over dispatching which led to the Stockton I decision, the County sent a letter to the City terminating the agreement. The County’s termination letter indicated that “[l]itigation and the existing tensions between the Stockton Fire Department and County EMS agency resulted in significant compliance issues that must be resolved prior to the renewal of the agreement.”

The parties disagreed over the significance of the 1986 Agreement. The County contended that it was a valid agreement of the type contemplated by Section 1797.201 that would result in extinguishment of the City’s 201 rights. As noted above, that statute permits a city to retain grandfather rights until it requests and enters into an agreement with the LEMSA “regarding the provision of prehospital emergency medical services.” The County further contended that, in the absence of the agreement or consent by the County, the City could not continue performing First Response ALS. The County’s apparent intent was to force the City to sign an amended agreement establishing appropriate ground rules for the City’s participation in the County system. The City refused to do so and asserted that the County had improperly terminated the agreement.

The City argued that it enjoyed “grandfather” rights to provide First Response ALS services within the City, and that the 1986 Agreement did not extinguish those rights. The City further asserted that the sole purpose of the Agreement was to comply with Regulation Section 100161(b)(4) (now renumbered as Section 100167(b)(4) and slightly reworded). That section requires all paramedic service providers to enter into an agreement with the LEMSA. The regulation does not distinguish between cities or districts which have 201 rights and those which do not, and there is disagreement around the state as to whether it applies to agencies with 201 rights. The 1986 Agreement did, in fact, recite as at least part of its purpose compliance with Section 100161(b)(4).

The court again ruled in favor of the County. It held that an agreement may relinquish 201 rights without mentioning Section 1797.201 or 201 rights. The court also held that although Section 1797.201 refers to a city or district requesting an agreement, it did not matter that the County, rather than the City, had initiated the 1986 Agreement. The critical issue, the court held, was whether the language of the agreement indicated an intent on the

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EMSA Introduces California Emergency Medical Technician Registry

Dr. Steve Tharratt, Director of the Emergency Medical Services Authority, today announced the debut of the new California Emergency Medical Services (EMS) Personnel Registry. This project is the final step in implementing legislation signed by Governor Schwarzenegger in 2008 to improve accountability and oversight of emergency medical services in California.

“EMTs provide critical services in situations where patients are incredibly vulnerable, and through this new statewide registry we can make sure these technicians are qualified and can provide the right care,” said Governor Arnold Schwarzenegger. “With today’s final step in implementing more oversight and accountability in the system, we are now able to ensure that Californians have the best EMTs available anywhere in the state and at any given moment.”



On July 1, almost all EMT certification data from throughout the state was consolidated in the new system. Local EMS agencies and employers still certify EMTs, however instead of using their own processes they all now use the EMS Personnel Registry and certification standards.

As of now, all EMTs statewide must complete a criminal background check for certification or recertification and it must include notification to the certifying entity of any subsequent arrests. Many EMTs already meet this requirement because some counties and employers have required background checks of this nature for some time. Paramedics, the highest level of EMT, are licensed by the state and have been subject to background checks for over a decade.

“The new process enables local EMS agencies and others to share critical disciplinary information. If an EMT we certified is arrested anywhere, we will know about it,” said Bruce Barton, who is the Riverside County EMS Administrator and a member of the Commission on Emergency Medical Service. “EMTs also benefit. With every county now using the same system and standards, certification in one county is valid statewide. Any employer can easily look up an EMT on the registry to verify that they are qualified to work.”

The project is funded through certification and licensing fees on EMTs to pay for the database, the improved disciplinary process and management of background checks. The additional cost is \$37 for recertification; \$75 for initial certification or certifying through a different county or employer. EMTs also must pay for the criminal background check.

EMSA created a workgroup to ensure that the people who would perform the background checks, use the registry, and apply the new discipline process were involved in developing them. All of the new regulations were subject to public review and comment and then were reviewed and approved by the Commission on Emergency Medical Services. In addition, EMSA hosted training workshops throughout the state to ensure that system users were prepared for the July 1 start date. For more information go to <http://www.EMSA.ca.gov>

Authored by

Assemblymember Alberto Torrico (D-Newark), Assembly Bill 2917 required the EMS Authority to develop a single set of statewide standards for certification and discipline for EMTs and to create a single database for all emergency medical technician (EMT) certification data. The bill also required all EMTs to be fingerprinted for state and federal criminal background checks as a condition of certification.

No matter where you live in California, you can now be assured that emergency medical technicians who respond to your call for help have been background checked and certified to the state’s standards, and you can look up any EMT or paramedic online to verify their license or certification status,” explained Tharratt.

California has a decentralized EMS system with the State providing direction and organization but with each county administering a local EMS system including EMT certification. In addition, some public safety agencies are allowed to certify their employees as EMTs. Basic information about EMTs was spread out all over the state and packaged in 70 different ways. Some EMTs were certified through more than one agency. Some EMTs whose certification was revoked in one county for disciplinary cause were able to easily get recertified in another county because neither the revocation nor the reason for it was shared.

“We had no way to analyze the status of California’s EMS system, to ensure public safety, or even to know how many EMTs we had statewide,” said Tharratt.



Medi-Cal Payment System to Recognize Paramedic-level Care

Following an aggressive campaign by the association and its members to gain support for AB 1932, the “Medi-Cal Ambulance Payment Reform Act,” the department that oversees the Medi-Cal program has agreed to implement the bill’s requirement for a uniform system of claims processing. By mid-2011, the Department of Health Care Services (DHCS) will implement the *Healthcare Common Procedure Coding System (HCPCS)* at basic life support (BLS), advanced life support (ALS) and Specialty Care Transport (SCT) clinical levels which were implemented by Medicare on April 1, 2002. The Medicare carrier that processes ambulance claims in California, Palmetto GBA, already uses these codes to process ambulance claims for Medicare patients transported in California.

Implementation of Ambulance HCPCS Codes by Medi-Cal

The implementation of HCPCS codes is a long-awaited improvement of the Medi-Cal payment system and will assist ambulance providers in two key ways: 1) reduce

administrative burdens by standardizing and streamlining the claims process; and 2) recognize paramedic-level services within the Medi-Cal payment system for the first time. While paramedics have delivered advanced life support (ALS) services since the early 1970s, the current Medi-Cal payment system does not recognize paramedic level care, even for heart attack or trauma patients. Below is a comparison of the Medi-Cal coding system

for ambulance base rates and mileage rates:

Current Medi-Cal Code	New HCPCS Code	Service Level	Description
X0032 & X0400	A0428	BLS-NE	Basic Life Support Non-Emergency
X0030	A0429	BLS-E	Basic Life Support Emergency
	A0426	ALS-NE	Advanced Life Support Non-Emergency
	A0427	ALS-E	Advanced Life Support Emergency
	A0433	ALS-2	Advanced Life Support 2
	A0434	SCT	Specialty Care Transport
X0034/ X0402	A0425	Mileage	No Change

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The Importance of Membership

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impacts the industry. And every one of these issues has the potential for tremendous consequences for our industry and for you as a private ambulance provider.

CAA fights for Medi-Cal reimbursement

We are also responsible as your statewide association to research and present an even stronger case for a Medi-cal rate increase. For the second session in a row, we have introduced legislation to pressure the legislature to deal with the inadequacy of current Medi-Cal reimbursement—a shortfall our industry has been forced to accept for far too long. While economic reality has thwarted any realistic chance for increased rates this year, we have made more progress than ever before moving our current bill, AB 1932, which requires DHCS to recognize Medicare billing codes and service levels. This is the first step in getting increased funding to our industry.

Membership is not just about what the association can do for you, it is also about preventing bad things from happening to you.

By far the CAA's most important accomplishment this year was the defeat of AB 511. This bill was a fast track effort to mandate a "Quality Assurance Fee (QAF)." AB 511 was significantly flawed legislation that would have had a negative impact on a significant number of ambulance providers.

The determination of whether or not a properly designed QAF would be a workable way to obtain a Medi-cal rate increase has yet to be proven, and the CAA continues to take the lead in researching this question. This bill, had it passed, would have required **every ambulance provider to pay a fee on every transport**. After the State took its share, matching funds from the Feds would be returned to providers in some form of a Medi-Cal rate increase. The flawed bill language provided no details on fee or payment structure and failed to provide any protections for ambulance services that were potential losers. While the bill's sponsor had calculated that they would benefit, the CAA's analysis indicated there could be numerous negative impacts for all providers including loss of revenue for many providers, uneven distribution of additional payments, cash flow lags and other unintended consequences.

CAA opposes flawed legislation

Not only is this association trying to bring you value for your dues paid, and represent your interests regarding serious industry policy concerns, we are a watchdog to prevent bad things from happening to you. Without you and without the association, I have no doubt that we would all be scrambling to analyze how AB 511 would

affect us as it would now be law. I ask you to think about these things as you write your dues check, or as you consider submitting your membership application.

Your association has survived the major reorganization experienced a few years ago. We have built an even stronger network of relationships with the legislature and all of the other stakeholders. We are now viewed as the voice and experts for our industry and this leadership position needs to not only be maintained, but further developed. To do this, we need you. The primary reason to be a member of this association is to ensure that you have a voice in every policy arena that can have an impact on your business. Increasing reimbursement, influencing regulations, and preventing domination of our industry by interests that do not represent the state's independent ambulance provider—these are the critical benefits that only an association can accomplish—and these are the benefits that result from your membership in the CAA.

Become part of the solution. Engage today. Join today.

San Joaquin County Prevails in Court Battle with City of Stockton *Continued from page 11*

part of the City to integrate into the LEMSAs's system. It noted that "[t]he express terms of the 1986 Agreement were much broader than those which were required by Section 100161." Therefore, the court concluded that the City had relinquished any grandfather rights it once possessed to provide ALS First Response by entering into the 1986 agreement.

The Stockton II decision is significant because it indicates that a city or fire district can give up their 201 rights by signing any agreement evidencing an intent to integrate into the county system, even if the agreement is silent regarding the Section 1797.201. The decision is, however, likely to make 201 cities and districts with 201 rights even more reluctant than they already are to sign agreements with LEMSAs or counties.

conclusion

The Stockton I and II decisions are good news for counties and their private providers because they reinforce the authority of counties to control their EMS systems. As noted above, both decisions are binding only on the parties, and not on any other cities or counties. Nevertheless, the decisions are well reasoned and other courts could reach the same conclusions if faced with similar issues. In the event the City appeals either or both decisions, the Court of Appeal and possibly the California Supreme Court would have the final word on these issues, and any appellate decision would be binding on other parties as well. As of the date of this article, the City had not yet filed an appeal but will likely do so.

About the Author

R. Michael Scarano, Jr., is a Partner and Vice Chair of the Health Care Industry Team of Foley & Lardner LLP, a national law firm with five offices throughout California. Mr. Scarano specializes in representing ambulance providers and other health care organizations in regulatory, transactional, compliance-related and HIPAA/privacy matters. He can be reached at (858) 847-6812 or by e-mail at mscarano@foley.com.



Impact of Healthcare Reform

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was successful in highlighting various opportunities and challenges. The following are issues to watch:

- Growing use of health information technology
- More health care decisions based upon data/research
- Expansion of quality initiatives and quality measures
- Increased use of bundling
- Emphasis on primary care & prevention
- Shift in payer mix
- Increase in Medi-Cal volume
- Medicare cuts
- Increased health care costs for employers and employees
- More scrutiny of medical necessity criteria

Bruce Lee proposed that EMS systems may find both challenges and opportunities. Based upon early educated assumptions, ambulance providers can get ready:

1. Prepare for pay-for-performance models to be applied to ambulance providers.
2. Monitor bundling of ambulance services into coordinated care models.
3. Examine the progress of accountable care organizations.
4. Seek opportunities for ambulance services to be included in prevention and wellness programs.
5. Provide feedback and alternatives to LEMSAs regarding the fiscal impact of RFPs, including the fees passed through from ambulance providers to fund other EMS system components.
6. Explore alternatives to full RFPs such as benchmarking.
7. Assure RFP requirements and competitive processes achieve a level playing field.
8. Assure compliance programs are fully implemented.
9. Continue to advocate for increased Medi-Cal funding

and defend against Medi-Cal decreases.

About Jim Lott, Keynote Presenter

Jim Lott is the Executive Vice President of the Hospital Association of Southern California, where he is responsible for health care policy development, advocacy, and association communications for hospitals serving Los Angeles, Orange, San Bernardino, Riverside, Santa Barbara, and Ventura counties. Over the years, Jim has served in several senior leadership positions on various boards and committees and as the President/CEO of a Hospital Council. Jim also served for nine years as Staff Director and Chief Consultant to the Senate Committee on Health and Human Services of the California Legislature. Jim received his undergraduate education at Cal State L.A. and his MBA degree from the University of Redlands. Because of his extensive and productive history in influencing health policy in California, and because of the numerous articles he has written on the subject, Jim is a sought after source by the print and electronic media for analysis and commentary on current health policy issues.

About the Bruce Lee, Facilitator

Bruce Lee is the President and CEO of verihealth, Inc., and ambulance and healthcare company based in Petaluma, CA. Bruce has an extensive background in EMS, including leadership positions in both public and private sectors. Before his appointment to verihealth, Bruce was EMS Director of the Santa Clara County Emergency Medical Services Agency and he was the Regional EMS Administrator for the Coastal Valleys EMS Agency. Bruce has also served as a general manager for both American Medical Response (including Sonoma Life Support) and Rural/Metro Corporation (with assignments in Colorado, Texas, and California). He is a Past President of the Emergency Medical Services Administrators Association of CA (EMSAAO). In 2006, Bruce was appointed by Governor Schwarzenegger to serve as a member on the State of California Commission on Emergency Medical Services. He served four years on the Commission, including two years as Chair. Bruce has a Bachelor of Arts Degree in Health Services Administration from Saint Mary's College and graduated from the Daniel Freeman Hospital School for Paramedics in Los Angeles.

Executive Director's

Update *Continued from page 4*

oppose those provisions we believe are harmful, we also must assure we are fully engaged in the reforms we can not stop.

Thank you to session facilitator Mike Ragone and co-presenter Mike Metro, Deputy Chief of the LA County Fire Department, for the opportunity to change the conversation from "Who's better?" to "What's needed?" We need more opportunities to explore familiar themes in new ways.

Medi-Cal Recognizes ALS-Level Care

Continued from page 13

CAA representatives met with the rate setting division of DHCS in September to provide input regarding the implementation of HIPAA-required ambulance-specific HCPCS codes for ground ambulance transportation services. The following goals have been identified:

- HCPCS codes will be implemented as soon as possible utilizing Medicare definitions
- Base rates for the new six service levels will match current Medi-Cal base rates
- Average reimbursement per transport for the average ambulance provider will be revenue neutral
- Aggregate Medi-Cal ambulance payments will be revenue neutral
- Additional charges will be bundled into base rates in a revenue neutral manner at a later date after sufficient data is available after HCPCS code implementation
- HCPCS codes will not be implemented for either litter van or wheel chair services

HCPCS codes do not exist for either litter van or wheel chair services since they are not health care related. Medicare covers ground ambulance transport services (patients require medical monitoring and treatment during transport) as a health care service. Medicare does not cover litter van and wheel chair services (riders do not require medical monitoring during transport). Medi-Cal provides coverage of this non-medical transportation between health care facilities generally to assure access to medical appointments for Medi-Cal recipients.

The target implementation date is May 2011, but the exact date is unknown because the Medi-Cal program is transitioning to a new contractor from Hewlett Packard to ACS.

Medi-Cal Rate Increase Not Included, Still Critical

The CAA will continue its efforts to seek a desperately needed Medi-Cal rate increase which was also a component of AB 1932, however, the state's budget crisis remains a significant hurdle. Medi-Cal continues to severely underfund ambulance services:

- Medi-Cal rates cover about *one quarter* of the cost of service (EDS, 2008; GAO, 2007)
- Medi-Cal rates are about *one third* of Medicare rates (EDS, 2008; CMS, 2007)
- 88% of Medi-Cal ambulance transports were *emergencies* in 2008 (EDS, 2008)
- Medi-Cal is underfunded by approximately *\$165 million per year* (CAA, 2009)

Thank you to the members of the CAA's Payer Issues Subcommittee for their hard work on this important issue. For more information about the shortcomings of the Medi-Cal reimbursement system, go to www.the-caa.org/mapra.html for the CAA background paper "Modernize Medi-Cal Reimbursement for California's Essential Ambulance Services."

Healthcare's Essential First Responders



Meeting Calendar



**Reimbursement
Conference**
October 4-6, 2010
Hyatt Regency
La Jolla, CA



Legislative Summit
Jan. 31-Feb 2, 2011
Sheraton Grand
Sacramento



Stars of Life
April 11-13, 2011
Sheraton Grand,
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