

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building – Third Floor
Des Moines, Iowa 50319

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IOWA JUSTICE DEPARTMENT
ADMINISTRATIVE LAW

In the Matter of)	CASE No. 14-06-07
)	DIA No. 14DPHES005
Salix Ambulance Service)	
315 Tipton Street)	
Salix, IA 51052-0215)	PROPOSED DECISION
)	
Service #2970800)	

On June 5, 2014, the Department of Public Health-Emergency Medical Services Bureau (Department) issued a Notice of Proposed Action-Citation and Warning to the Salix Ambulance Service (Appellant). An appeal was filed, and a telephone hearing was held before Administrative Law Judge Margaret LaMarche on July 22, 2014 at 1:00 p.m. Assistant Attorney General Heather Adams represented the Department. The Appellant was self-represented by its Treasurer, Jan Hubert. The Appellant elected to have an open hearing, pursuant to Iowa Code section 272C.6(1).

THE RECORD

The record includes the Notice of Telephone Hearing, testimony of Steve Mercer, and Department Exhibits 1-7.

FINDINGS OF FACT

Steve Mercer is an Executive Officer with the Iowa Department of Public Health-Division of Acute Disease Prevention and Emergency Response (department) and is responsible for program management and oversight of all Emergency Medical Services (EMS) Authorized Service Programs. Mercer also manages the disciplinary actions for all authorized service programs and all certified EMS providers. (Steve Mercer testimony)

Salix Ambulance Service is located in Salix, Iowa and is an EMS based authorized ambulance service with a transport agreement. This means that the

service has a backup plan for dispatching another ambulance service when it cannot meet the minimum staffing requirements of a certified driver and an EMT-Basic. With proper staffing, Salix Ambulance Service may provide up to the paramedic level of service. (Department Exhibit 6; Steve Mercer testimony)

A "service program" or "service" means any medical care ambulance service or nontransport service that has received authorization from the department under Iowa Code section 147A.5.¹ Each individual service program is responsible for ensuring that it has provided the Department with its current contact information, including email addresses. The Department's records indicate that the Service Director and Contact person for Salix Ambulance Service is David Huot. The responsible parties that were listed under "Service Ownership Information" were Dave Huot-Operational and Jan Hubert-Administrative. The contact email address for Huot and for Hubert was listed as janh@longlines.com. (Steve Mercer testimony; Department Exhibit 6)

All authorized service programs are required to submit "reportable patient data," to the Department each calendar quarter. The Department's rules incorporate the "Iowa EMS Patient Registry Data Dictionary (August 2007)" by reference for the inclusion criteria and reportable patient data to be reported to the Department. The reportable patient data is used at the local, state, and national levels to perform quality assurance. The data that is required to be submitted includes such information as: response and scene times; types of patients and patient conditions; assessment findings; skills, equipment and staff utilized; adherence to protocols; and transportation destinations. (Steve Mercer testimony; Department Exhibit 2)

The data must be submitted by electronic transfer no later than 90 days after the end of the quarter. If the data is not submitted in a timely manner, the Department's ability to perform quality assurance is compromised. Service programs are made aware of these reporting requirements at the time they are authorized, during the educational programs provided to their service directors and medical directors, and during their on-site inspection, which is conducted by the Department every three years. In addition, the reporting requirements are found in two different chapters of the Department's published rules pertaining to service programs. (Steve Mercer testimony; Department Exhibit 2)

¹ Iowa Code section 147A.1(8)(2013).

Anita Bailey is the Department's Regional EMS Coordinator who has oversight for Woodbury County.

- On March 18, 2014, Bailey sent an email to "Jan and Dave" at "salixfd@aventurement.com." The message stated that all data was required to be submitted by the end of the next quarter and that no data had been received since February 2013. The email instructed Jan and Dave to enter all data for 2013 by April 1, 2014 or to contact medmedia at techsupport@medmedia.com if the data had already been submitted. (Department Exhibit 3; Steve Mercer testimony)
- On April 16, 2014 at 4:21 p.m., Bailey sent a second email to salixfd@aventurenet.com and also to "Jan Hubert." The second email again stated that no data had been received from Salix Ambulance since February 2013. In addition, the second email stated: "Submit the remainder of 2013 transports by 5-16-14 to avoid disciplinary action. Contact me if you need assistance." Bailey received a receipt stating that the email message was read on Friday, April 18, 2014 at 11:42 a.m. (Department Exhibits 4, 6; Steve Mercer testimony)

Salix Ambulance Service did not submit its required patient data by the May 16, 2014 deadline. On June 5, 2014, the department issued Salix Ambulance Service a Notice of Proposed Action-Citation and Warning for its failure to submit the reportable patient data. The service was warned that continued violation of the department's rules could result in further disciplinary action, including suspension or revocation of the service program's authorization. (Department Exhibit 1)

The appeal letter filed by Jan Hubert on behalf of Salix Ambulance states that all of the service's data was submitted as of June 11, 2014 and all records were up to date as of May 31, 2014. The appeal letter further stated that the service was using janh@longlines.com as its only active email address because the service had lost its internet carrier on two occasions. (Department Exhibit 7)

A citation and warning has no impact on the service program's ability to provide emergency medical services. The Department has consistently issued Citation and Warnings to other service programs who failed to submit reportable patient data in a timely manner. Since January 1, 2014, the Department has issued five (5) Citation and Warnings to service programs for failure to submit reportable

patient data. In addition, one service program was suspended for its failure to submit patient data. (Steve Mercer testimony)

CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the operation of ambulance, rescue, and first response services which have received authorization to utilize the services of emergency medical services providers.² The Department has adopted rules governing service programs at 641 IAC chapters 132 and 136. 641 IAC 132.8 specifies the service program operational requirements. It states, in relevant part, that ambulance and nontransport service programs shall:

q. Submit reportable patient data identified in subrule 132.8(7) via electronic transfer. Data shall be submitted in a format approved by the department.

r. Submit reportable patient data identified in subrule 132.8(7) to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter.

641 IAC 132.8(7) states that the Iowa EMS Patient Registry Data Dictionary identified in 641-paragraph 136.2(1)"c" is adopted and incorporated by reference for inclusion criteria and reportable patient data.

641 IAC 136.2(1)"c" provides that the "Iowa Trauma Patient Data Dictionary" (August 2007) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the department. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

641 IAC 136.2(3) specifies the same reporting requirement for service programs as those found in chapter 132 and states that a service program shall submit reportable patient data identified in 136.2(1) via electronic transfer in a format approved by the department.³ The reportable patient data must be submitted to

² Iowa Code section 147A.4(1)(2013).

³ 641 IAC 136.2(3)"a."

the department for each calendar quarter, no later than 90 days after the end of the quarter.⁴

The Department is authorized to issue a civil penalty not to exceed \$1000, to issue a citation and warning, to put a service program on probation, to suspend or revoke a service program authorization, or the otherwise discipline a program in accordance with Iowa Code chapter 147A and 641 IAC 132.10(3), for:

...

f. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.

...

i. Failure to correct a deficiency within the time frame required by the department.

Pursuant to these rules, the Department was fully authorized to issue a Citation and Warning to Salix Ambulance Service for its failure to submit reportable patient data in a timely manner, as required by 641 IAC 132.8(3)"q", 132.8(7) and 641 IAC 136.2(3) and 136.2(1)"c" and for its failure to correct those reporting deficiencies within the time frame required by the department, in violation of 641 IAC 132.10(3)(i).

Salix Ambulance was provided more than sufficient opportunity to comply with the patient data reporting requirements. Salix had notice of these requirements through the Department's published rules, through information provided when the service was first authorized, and through subsequent training. Moreover, the Department's regional coordinator sent an email to both of the contact persons for Salix Ambulance on April 16, 2014, and the record includes a receipt indicating that this email message was read on April 18, 2014. Salix Ambulance Service failed to submit its missing patient data to the department by the established deadline of May 16, 2014. Salix has admitted that the missing data was not submitted until June 11, 2014, and there is no contrary evidence in the record. Salix did not present any witnesses or exhibits at hearing.

The proposed disciplinary action of a Citation and Warning was reasonable and should be affirmed. A Citation and Warning is proportionate to the reporting

⁴ 641 IAC 136.2(3)"b."

violations, is consistent with prior disciplinary actions by the Department, and is the least serious discipline that can be imposed. The Citation and Warning does not interfere with the service program's ability to serve the public but creates a record of the reporting deficiency.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Citation and Warning, issued to Appellant Salix Ambulance Service on June 5, 2014 by the Iowa Department of Public Health, is hereby AFFIRMED.

Dated this 4th day of August, 2014.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Jan Hubert, Salix Ambulance Service, 315 Tipton Street, Salix, Iowa 51052 (CERTIFIED MAIL);
Heather Adams, Assistant Attorney General, Hoover State Office Building, Des Moines, Iowa 50319 (LOCAL);
Rebecca Curtis and Steve Mercer, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319 (LOCAL)

This proposed decision and order becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director of the Department of Public Health is taken as provided in subrule 131.12(11). Any appeal to the director for review of this proposed decision and order shall be filed in writing and mailed to the director of the Department of Public Health by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. Any request for appeal shall state the reason for the appeal. 641 IAC 131.12(11).