

**STATE OF CALIFORNIA  
COMMISSION ON EMS  
WEDNESDAY, SEPTEMBER 17, 2014  
KONA KAI HOTEL  
1551 SHELTER ISLAND DRIVE  
SAN DIEGO, CA 92106  
800-566-2524**

**MINUTES**

**COMMISSIONERS PRESENT:**

Linda Broyles, Dan Burch, Jaison Chand, Steve Drewniany, Aaron Hamilton, Mark Hartwig, Ruth Haskins, MD, Richard O. Johnson, MD, Kristi L. Koenig, MD, Alexis F. Lieser, MD, Daniel Margulies, MD, David Rose, Eric Rudnick, MD, Jane Smith, Kathleen Stevenson, Lew Stone, Dave Teter

**COMMISSIONERS ABSENT:**

Joy Stovell

**EMS AUTHORITY STAFF PRESENT:**

Reba Anderson, Howard Backer, MD, Jennifer Lim, Steven McGee, Tom McGinnis, Daniel R. Smiley, Sean Trask, Lisa Witchey

**AUDIENCE PRESENT:**

Allan Francis, California Correctional Healthcare Services/CDCR  
Steve Osborn, Rural/Metro  
Tom Lynch, ICEMA  
Susan Smith, San Diego County  
Mike Giannini, Cal Chiefs/Marin Fire  
Dave Duncan, Cal Fire  
Marcy Metz, San Diego EMS  
Dan Lynch, Central California EMS Agency  
Pete Rocbact, Chino Valley Fire  
Diane Ameny, San Diego County EMS  
Brian Hartley, Boundtree Medical  
June Iljana, California Ambulance Association  
David Chase, Ventura County & City Fire  
Alan Deal, Commission on POST  
Scott Loggins, Commission on POST  
Ken Miller, OCEMS  
Laurent Repass, OCEMS  
Ryan Williams, Ontario Fire  
Evie Anguiano, Los Angeles County Fire Department  
Margie Chidley, Los Angeles County Fire Department  
David Magnino, Sacramento County EMS Agency  
Maurice Johnson, Sac Metro Fire

**AUDIENCE PRESENT (continued)**

David Shrader, The Polaris Group  
Marilyn Anderson, Vista Fire  
Kristin Weivoda, Yolo Co EMS  
Nicole Iezzi, Z-Medica (Quik Clot)  
Ed Gandara, Los Angeles County Fire Department/FIRESCOPE  
Joshua Smith, San Diego EMS  
Lee Cantrell, California Poison Control System  
BJ Bartleson, CHA  
Amelia Kenner Brininger, County of San Diego EMS  
Chris Herring, Imperial County EMS Agency  
Greg Reynar, Los Angeles Fire Department  
David Austin, AMR  
Mitch Dattilo, SBSD  
Steve Yoder, Los Angeles County Fire Department  
Scott Clough, Metro Fire  
Kathleen Markham, El Dorado County  
David Brodie, County of San Diego  
Stephen Magruder, County Counsel of San Diego  
Lisa Macchione, County Counsel of San Diego  
Ed Hill, Kern County EMS  
Richard Murdock, MVEMSA  
Joe Powell, Rialto Fire  
Sarah Koster, SPCC/Cal Base Hospital  
Pam Martinez, Ontario Fire  
Kirk Schmitt, Monterey County EMS  
Alan Green, San Bernardino County Counsel  
Denice Stiles, ICEMA  
Max Luoto, CVEMSA  
Ann Yoshinaga, Moreno Valley College  
Mark Hartley, Cal Chiefs  
Barbie Law, Metro Fire  
Meredith Cook, SD County EMS  
Patrick Powers, OC EMCC  
Noele Richmond, Cal Fire  
Barbara Stepanski, County of San Diego EMS  
Sandy Griffin, RCFD  
Noah Brazier, City of San Diego  
Alyssa Ross, City of San Diego  
Kristin Thompson, City of Anaheim  
Michael Murphy, AMR  
Leslie Parham, SB Co Fire  
Sandy Carnes, Rancho Fire  
Stephanie Rasmussen, Upland Fire  
Jeff Lucia, Caltrans

**AUDIENCE PRESENT (continued)**

Tom Roche, Anaheim Fire  
Sanaa Abedin, County of San Diego  
Steve Carroll, County of Ventura  
Michael Simonsen, Rural/Metro  
Louis Bruhnke, North Coast EMS  
Fred Hawkins, Liberty Ambulance  
Cathy Chidester, LA County EMS Agency

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairperson Lew Stone called the meeting to order at 10:01 a.m. Seventeen Commissioners were present. Since there was no flag at the meeting the Pledge of Allegiance was not recited.

**2. REVIEW AND APPROVAL OF JUNE 18, 2014 MINUTES**

Chairperson Lew Stone reported that there were three corrections needed for the June 18 minutes: 1) Item number 2 should have stated that David Rose (not Lew Stone) made the motion to approve, 2) Item number 9 stated that Lew Stone requested to see an EMS Systems report when Dan Burch made the request 3) Item number 11 stated Lew Stone made the motion to adjourn when it was Dave Teter who made the motion).

**Action: Commissioner Burch made the motion to approve as revised. Second (Jane Smith). Abstain (Rudnick). Eric Rudnick was not at the June Commission meeting. Motion was passed. Minutes were approved.**

**3. DIRECTOR'S REPORT**

Dr. Howard Backer presented his report:

**2014 – 2015 State Budget**

There was a 30% increase in the Preventive Health Block Grant, which is shared with and administered by the California Department of Public Health. This will allow short term investments in programs. Fund will be directed to the EMS Systems Division, where limited-term positions will be recruited and filled.

**Legislative Initiatives**

Jennifer Lim provided a more comprehensive report.

Two bills that did not make it out of the Legislature were related to EMS data and trauma systems; they failed to proceed because of costs associated with these bills as well as differences of opinion among the EMS community.

In the final version of SB 1438, the naloxone bill, language that would have imposed negative conditions on EMS agencies was avoided.

## **DIRECTOR'S REPORT (continued)**

The sponsor of the active shooter legislation accepted the designation of the group membership is in progress.

The public safety first aid regulations will be reviewed and presented to the Commission for approval.

Thank you to the EMS community and the fire agencies for supporting community paramedicine at the second public hearing.

The Chapter 13 group is progressing with preliminary review planned at the end of September 2014. If everyone involved in the process serves in their role as leaders of state EMS, and they envision the end goal, then this endeavor will be a success.

### **Data**

Thank you to the LEMSAs for their participation in the Core Measures Project; however, only half have reported data. EMSAAC is committed to helping EMSA find data solutions. At the Health Information Exchange Summit in November, findings will be shared and discussed.

### **Disaster**

An analysis has been submitted to CHHS to determine what level of preparedness they will support. So far, during this administration, there have been no moderate to catastrophic events to test state-level preparedness.

In the interim, catastrophic planning, patient movement, exercise planning and infectious disease response (including Ebola) is ongoing. It is imperative that EMS be aware and understands how to identify and manage potential cases of Ebola safely.

### **EMSA Personnel Updates**

Don Campbell, a representative of air ambulance on the Director's Advisory Group, who worked as a ground and air ambulance paramedic throughout the Central Valley and San Francisco for 30 years, passed away in September 2014.

Matt Powers, a former Commissioner, has been appointed president of the National Emergency Nurses Association.

Dave Teter, a current Commissioner, has been appointed a deputy chief at CAL FIRE.

## **4. CONSENT CALENDAR**

### **Legislative Report**

Deputy Director Jennifer Lim presented her report.

## CONSENT CALENDAR (continued)

The legislative report provided to the Commissioners was made available to Commission attendees as well.

AB 1620 (Rodriguez), the California Emergency Management and Disaster Preparedness Commission, was vetoed by the governor because it was contrary to the reorganization plan and would duplicate systems.

AB 2536 (Mullin), the Employees Emergency Rescue Personnel, was signed and chaptered.

SB 1266 (Huff), the public health epinephrine auto-injector bill was signed by the governor.

**Action: Commissioner Burch moved to approve the Consent Calendar. Second (Hartwig). The motion passed. Consent Calendar was approved.**

### 5. EMS PERSONNEL

Lisa Witchev, manager of the EMS Personnel Standards Unit presented her report regarding the revised Chapter 1.5 Public Safety First Aid Standards and Training Regulations.

Revisions include addressing outdated first responder curriculum and emerging health and safety issues. Rulemaking was opened May 2014 with a formal public 45-day comment period.

Key changes included a new section that outlines authorized skills, course content additions, and tactical first aid and integration with EMS. New optional skills were added. Areas of concern included the timeline for compliance with revised training standards, which resulted in a 6 months to 24 months timeframe extension from EMSA.

EMSA collaborated with Commission on Peace Officer Standards and Training (POST) to develop a curriculum and will provide subject matter experts.

The workload for LEMSAs to review programs based upon American Red Cross and American Heart Association standards is a concern. The optional skill training of AED training has been a concern, and this protocol is now incorporated into the required course content.

Chairperson Stone stated that a motion to present this report to the Commission, address any public comment, and then comment prior to voting should occur. **Action: Commissioner Drewniani moved to approve. Second (Smith).**

## **EMS PERSONNEL (continued)**

Alan Deal, the assistant executive director with POST spoke on behalf of POST executive director, Bob Stresak. The various editions of the revisions were reviewed and comments were provided. POST consulted with major law enforcement professional associations, and they have stated their strong support for the regulations. In closing, Deal thanked EMSA staff for its openness and helpfulness to POST, Commissioner Steve Drewniansky's input, and to Dr. Backer for his time and efforts.

There was a brief discussion regarding the fact that the Emergency Nurses Association and EMDAC did not believe that 21 hours is adequate. **Action: Chairperson Stone called a vote to approve the proposed changes to the chapter. The motion carried with one abstention from Commissioner Broyles.**

### **Community Paramedicine**

Lou Meyer, consultant project manager for EMSA's Community Paramedicine program presented his report.

A public hearing was held on July 30, 2014 by an administrative law judge; representatives from every pilot project site were in attendance. The opposition was not as strident as the first hearing.

The Core Program should be ready for launch in mid-January 2015. Work with UCSF independent evaluators and all of the pilot sites are ongoing for the collection of baseline data. These groups are fully engaged in the process and are enthusiastic about the community paramedicine concept.

### **Trial Studies**

Sean Trask, chief of EMS Personnel Standards, introduced Dr. Mark Luoto, Medical Director of Coastal Valleys EMS System, who presented his report.

The LMA-Supreme Trial study in collaboration with REACH Air Ambulance was initiated to introduce an effective LMA-type airway. Not enough patients were enrolled in the study and it was abandoned in August. Two reasons were cited for its failure: 1) Not enough LEMSAs participated 2) prior to the initiation of the study, all REACH ships were configured with video laryngoscopes and the rapid sequence intubations dropped exponentially, it was these RSIs that were potential enrollees.

It is hoped by the end of 2014 that the Air-Q (another LMA device configured for the ED) will be investigated in a trial study.

Sean Trask asked the Commission to make a recommendation whether to continue the study for an additional 18 months, discontinue it, or add it to the basic or local optional scope of paramedics. Since the study was discontinued, this is not an action item.

## **EMS PERSONNEL (continued)**

### **6. EMS SYSTEMS PLAN REVIEW**

Tom McGinnis, Chief, EMS Systems Division presented his report

#### **EMS Plan Review Process**

At the June 18, 2014 Commission meeting, the Commission requested that EMSA report on the process and activities on how EMS plans and transportation RFPs are handled. However, due to overburdened staff, the report will be made at the December 3, 2014 commission meeting.

#### **EMS Systems Regulations Update**

A draft document is available for review. The group has met monthly in a successful open forum since 2012. The next meeting is scheduled for September 23 and the document will go out for stakeholder review approximately a week after that meeting; however, it will not go out for public comment.

The goal is to have the constituent groups and the interested parties review the draft and provide input to the committee members. Another two-day meeting will take place in October 2014.

#### **Strategic Highway Safety Plan (SHSP)**

Jeff Lucia, a former San Diego County paramedic and a partner with the RedFlash Group (Encinita) contracted by representing Caltrans presented his report. a Power Point of the report.

SHSPs are required by the Federal Highway Administration for every state. The first was published in 2006. It is not relegated to highways or freeways exclusively, but to the entire state and any public road.

The objective is to place resources on the most significant problems. Each year more than 2,500 people die on California roadways and nearly 11,000 are seriously injured. According to the NHTSA, the economic cost of motor vehicle crashes in California (2010) was more than \$22 billion dollars.

The SHSP involves a broad-based group of safety stakeholders from a variety of public agencies and public sector organizations. More than 600 people helped develop the original plan and over the past eight years, hundreds of them have been working to implement the Four E's of Safety: Enforcement, Engineering, Education, and Emergency Response.

## **EMS SYSTEMS PLAN REVIEW (continued)**

Since its inception, the SHSP has reduced fatalities by 28% with serious injuries dipping 17%. However, the lowest numbers were reached in 2010 and they have been steadily rising since then.

Input in the California SHSP revision is needed and can be provided via email or telephone. There will be statewide webinars taking place throughout the fall with one occurring on October 30, 2014 that focuses solely on EMS. Additionally, two safety summits (in northern and southern California) will take place as well. Information can be obtained through the Caltrans website.

Dr. Backer commented that monies for this initiative are through Federal Highway Administration funds passed down to California with EMSA being the recipient of some of these resources. EMSA uses this funding to improve the data systems and provide data. One objective is to link CEMSIS with SWITRS data (the Statewide Integrated Traffic Records System) that is gathered from a collision scene. This data is filled out by law enforcement on scene at the crash site.

### **7. DISASTER MEDICAL SERVICES DIVISION**

Lisa Schoenthal, Chief, Disaster Medical Services Division presented her report.

#### **Impact of Budget Reductions on Disaster Medical Preparedness**

The loss of funding in 2011 for the state's mobile field hospital program was widely publicized and the Commission has been provided with regular updates.

An analysis has been completed of the state's disaster medical preparedness for CHHS. In June, 2014 an additional cut of 13.65% was incurred, this affects local partners and state preparedness as well.

The budget for Disaster Medical Services is 40% of what it was in 2008. Forty percent of the staff in the Disaster Services Division was recruited from outside of state service. External partners, such as Commissioner Steve Drewniany, have assisted in developing the state's Mission Support Team Program.

### **8. RESCHEDULING OF THE SEPTEMBER 16, 2015 COMMISSION MEETING**

Due to the Jewish holiday of Rosh Hashanah falling on September 16, 2015, the Commissioners voted on an alternate date for the September meeting.

Sean Trask presented the Commissioners with alternate dates as well as advantages and disadvantages of each option. Chairperson Lew Stone announced each alternate

## **RESCHEDULING OF THE SEPTEMBER 16, 2015 COMMISSION MEETING (continued)**

date and with a show of hands the Commissioners determined which date is best. Each Commissioner could only vote once.

September 2, 2015 – tally is undetermined  
 September 9, 2015 – 2 Commissioners could not make this date  
 September 16, 2015 – 1 Commissioner could not make this date  
 September 23, 2015 – tally is undetermined  
 September 30, 2015 – tally is undetermined

Chairperson Stone commented that September 2 is the best date to have a full Commission. **Action: Chairperson Lew Stone motioned to have the September Commission date moved to September 2, 2015. Rudnick (Moved). Rose (Second). There was brief discussion regarding Labor Day weekend as well as questions regarding whether EMSAAC/EMDAC would be held. Those issues will be addressed at the December 3, 2014 meeting. Motion carries.**

### **9. ITEMS FOR NEXT AGENDA**

Dr. Backer requested to see a presentation on the interstate compact for EMS, and a discussion of whether this is a concept that California should pursue.

Due to the hour, Chairperson Stone opted to not have recess (#11) and move on to item #12 on the agenda (Discussion of Adoption of Appeals Process for Appeals of Local EMS Plans Pursuant to Health and Safety Code Section 1797.105 (c)). After the report is given by Steven McGee, EMSA Administrative Advisor and Counsel, a motion will be put before the Commissioners for a discussion, and then public comment (limited to 5 minutes per person) will take place.

Chairperson Stone asked the audience if anyone had comments not pertaining to Item 12. There were none.

Steven McGee began his presentation by asking if the podium could be moved into the center of the room facing the Commissioners and if a five-minute break could take place to accomplish this.

### **12. DISCUSSION OF ADOPTION OF APPEALS PROCESS FOR APPEALS OF LOCAL EMS PLANS PURSUANT TO HEALTH AND SAFETY CODE SECTION 1797.105 (c)**

Steven McGee continued his presentation after the recess:  
 -There are two appeals pending.

**DISCUSSION OF ADOPTION OF APPEALS PROCESS FOR APPEALS OF LOCAL EMS PLANS PURSUANT TO HEALTH AND SAFETY CODE SECTION 1797.195 (c) (continued)**

-There is currently no rule, procedure or process for the Commission to hear an appeal of a local EMS plan since this situation has never happened before.

-There are two methods by which the Commission can hear an appeal:

1. Direct method (the Commission itself hears an appeal during a regular or a specially scheduled hearing and would adopt rules or procedures to hear that appeal)
2. Indirect method (EMSA advocates this option), use of the Administrative Procedures Act (APA) would not require a direct hearing in front of the Commission; an administrative law judge would hear it instead. It would closely follow the procedure of a civil trial

-Statutes and regulations that govern the APA currently exist and have been adopted by the Legislature.

-The Office of Administrative Hearings is run the by the Department of General Services.

-There are four locations in the state for the hearing of these appeals.

-A special location could take place in another city if necessary

-If another process other than the two mentioned are adopted, it would require that new regulations be adopted and a regulatory process take place.

-The Commission may adopt a rule to use APA process; this would require a simple majority vote, and the EMS bylaws would be amended.

-Hearings could then be scheduled immediately.

-EMSA will not temporarily approve a local EMS Plan, because it is not supported in either statute or regulation.

-A matter cannot be decided before an appeal is made.

-EMSA and LEMSAs are allowed due process, and if an item is decided before an appeal, then due process is not served.

-EMSA recommends that the Commission adopt the APA process.

-Hearings under the OAH are public; anyone can attend.

-Within 30 days the law requires a proposed decision; however, the decision is not binding on the Commission.

-The decision would be presented at the next regularly scheduled meeting, and the Commission would vote to adopt or reject.

-The decision would be published on EMSAs website prior to the next regularly scheduled meeting.

-A hearing takes place within three to four months after an appeal is filed.

-There is no modification of the decision by the Commission; it's either approval or non-approval.

-In order to amend the bylaws to adopt this procedure, a majority vote of the Commissioners would have to occur.

## **DISCUSSION OF ADOPTION OF APPEALS PROCESS FOR APPEALS OF LOCAL EMS PLANS PURSUANT TO HEALTH AND SAFETY CODE SECTION 1797.105 (c) (continued)**

Clarification was given regarding the back and forth correspondence between EMSA and Kern County and the regulatory process. EMSA drafted a set of rules to govern how a direct appeal would be heard before the Commission. However, when agreement could not be reached on the form of the rules, it was decided that establishing a formal method was the best course of action.

- If an informal process is going to be adopted all parties need to agree.
- If the Commission chooses to adopt its own process, it may do so but it must do so through the regulatory scheme.
- If the Commission rejects the proposal by the Administrative Law Judge, whatever it may be, then the opposite decision is adopted.
- The Commission would receive a summary document with the ALJ process in a form that a layman could understand.
- If the Commission felt a need for outside counsel, EMSA would enter into a contract with a neutral firm or contact the Attorney General's office; these costs would be borne by EMSA.
- The average regulatory process takes approximately 18-months from start to finish.
- The Commission has the final authority to approve or disapprove the local EMS plan when there's an appeal. (Health and Safety Code 1797.105, section sub-letter b).
- If the LEMSA opted not to adhere to the APA process, their last local approved EMS would be the blueprint that would be in operation.

Chief Deputy Director Dan Smiley stated that since there is not a budget to conduct these types of hearings and monies to pay for counsel, a thorough investigation would take place to determine how these costs would be paid.

Lew Stone announced that recess would occur for 45 minutes. He added that no discussion of this matter should be conducted during the recess. Recess began at 12:05 p.m. and would reconvene at 12:50 p.m.

The meeting was called back to order at 1:18 p.m.

### **PUBLIC COMMENT**

Public comment would be heard regarding Item #12 on the agenda: Discussion of Adoption of Appeals Process for Appeals of Local EMS Plans Pursuant to Health and Safety Code Section 1797.105 (c). Speakers were asked to keep their remarks at 5 minutes.

## **PUBLIC COMMENT (continued)**

### **Speaker 1:**

**Michael Petrie**, president of The EMS Administrators Association of California (EMSAAC), which represents 33 local EMS agencies throughout the state.

Petrie stated that although the appeal involves Kern County, it is relevant to all EMS agencies and is likely to set the precedent for future appeals.

EMSAAC's recommendation is as follows:

- The California Office of Administrative Hearings and Appeals should hear appeals referred to by the EMS Commission.
- Adoption of this procedural rule should take place at the December 3 EMS Commission meeting in San Francisco, CA.
- The EMS Commission should be provided with legal counsel separate from the EMS Authority to develop fair, unbiased, and equitable appellate rules.

### **Speaker 2:**

**Gurujodha Khalsa**, Chief Deputy County Counsel for Kern County stated that regardless of an in-house or delegated process the APA rulemaking process should be the choice. He then read from The Government Code to reiterate his point: a) this issue should go out for public comment b) people should comment to it in writing c) EMSA should respond in writing d) a third party needs to review the findings and determine if they're applicable to 1797.105 (c).

He added that the plans and their appeal must focus on the terms and conditions in the statute. Additionally, he stated that the burden of proof must be articulated as well as what the standard of review is going to be. He queried why the memo was released two days before the September 17 EMS Commission meeting if Kern's appeal was taken off the agenda on August 22.

Khalsa sent a set of procedural rules to EMSA on June 20 (two days after the EMS Commission) and asked for a response time of five business days. A reply from EMSA was received on August 6. A mandate to sign off on the rules was given, and if not, the Kern County appeal matter would be pulled from the agenda. He added that there was no opportunity for rebuttal, amicus briefs, a limit on presentation and a lack of burden of proof clarity, all of which was unacceptable to Kern County.

He urged EMSA to go through the rule-making process, get buy-in and participation of all EMSA's constituents.

When queried by Commissioner Kristi L. Koenig regarding EMSA adopting the APA process, Mr. Khalsa stated that the information regarding this in the memo is not

complete – the APA takes up 17 articles in the Government Code, as well several pages (if not volumes) in the California Code of Regulations.

### **PUBLIC COMMENT (continued)**

Mr. Khalsa asked if the Commission made the final ruling and in which format will the ALJ deliver their findings?

Mr. Khalsa added that EMSA and Kern County had been in discussions regarding exclusive operating areas for about 2 ½ years and he had travelled to EMSA to confer with Dan Smiley and Dr. Howard Backer to try to resolve the issue.

#### **Speaker 3:**

**Alan Green**, Deputy County Counsel, County of San Bernardino, representative of the Inland Counties Emergency Medical Agency, or ICEMA, as its better known, made his comments:

- ICEMA supports the submission of these matters to an administrative hearing judge.
- ICEMA feels that the Commission should not make a decision on 9/17/2014 because no prior discussion has taken place, nor has the item been placed on the agenda for voting.
- ICEMA does not agree that the Office of Administrative Hearings is the only authority for handling these appeals.
- How to conduct hearings, the cost involved, and who will bear the cost, are all issues that should be considered prior to the adoption of any rules.

#### **Speaker 4:**

**Steve Magruder**, Office of County Counsel in the County of San Diego EMS Division made his comments:

- He stated an appeal was submitted to the Commission two weeks before the 9/17/2014 Commission meeting and the letter outlining elements of what an appeal process should contain was included in that communique.
- The County of San Diego was prepared to ask the Commission to adopt a policy to preserve the status quo, which is critical to the LEMSAs.
- It is important that the appeal process play out before substantial systemic changes are undertaken.

#### **Speaker 5:**

**Kay Ann Markham**, El Dorado County Deputy County Counsel made her comments:

- A letter was mailed to Chairman Stone and to the EMS Commission member on September 16, 2014 (a day before the EMS Commission meeting).
- Ms. Markham opted to read the letter aloud since not every Commissioner received the letter.
- Contents of the letter included:

## **PUBLIC COMMENT (continued)**

-El Dorado County has been monitoring the appeal process discussion with great interest since it will have a statewide impact, direct county impact, and since EMSA disapproved certain portions of the county's 2011 EMS plan.

-A letter dated August 5, 2014 from EMSA stated it could not approve the response transportation section of the plan as it relates to the RFP process because it's basically the Lake Tahoe Basin

- Ms. Markham rebuffed this decision and she presented several reasons why she did

-Chairman Stone reminded Ms. Markham that the public comment period should be specific to the adoption or dismissal of the appeals process

-Ms. Markham distributed copies of the letter to the Commissioners

-On September 15 (two days before the Commission meeting) she received a memo from Steven McGee, EMSA Legal Counsel, addressed to Lew Stone that was posted on the EMSA website as an attachment to agenda item

-The memo indicated that EMSA recommendation to the EMS Commission is to vote to adopt APA procedures and regulations

-Ms. Markham stated that the agenda packet had no attachments, no staff report, no proposed rules and no plans for going forward; as a result next steps were unclear.

-She concluded that any adoption of any procedural rules for Commission appeals must comply with the APA and the Bagley-Keene Open Meeting Laws.

Chairman Stone called Steven McGee back up to the podium for further questions. He asked if other boards or Commissions in California use the Office of Administrative Hearings? Mr. McGee replied that he would have to research the answer.

Chairman Stone's next question was could bylaws be revised or amended at the meeting without entering into a rulemaking process?

Mr. McGee stated that according to 1759.50 of the Health and Safety Code a regulation to adopt a regulation is not needed. Bylaws don't need to be amended by regulation, they can be done with a majority vote.

Mr. McGee stated that according to the Bagley-Keene Act, agenda items must be noticed ten days prior to the meeting. Every document does not have to be included with the agenda. They can be provided prior to or at the meeting. However, the agenda item must clearly set forth what is going to be discussed at the meeting, the public must have the opportunity to see the agenda, to attend the meeting, and have the opportunity to provide comments at the meeting.

Chairman Stone opened up the discussion for the Commissioners.

## **PUBLIC COMMENT (continued)**

Commissioner Lieser concurred that the goal was that the LEMSAs have due process for their appeal and a fair and equitable way to move forward. She also concurred that this is a precedent-setting decision that requires thoughtful consideration by the Commission. And although the APA process might be a good way to go, there may not be enough information to make the best decision.

Commissioner Burch requested to make a two-part motion: 1) Direct the Authority to create a process to create regulations that establish a process for the Commission to hear appeals 2) Have EMSA meet with Kern County representatives so that a mutual, agreeable, stipulated process to hear appeals can result.

Commissioner Burch restated his motions. **Action: Motion to direct the Authority to begin the process for creating regulations to establish a process for the Commission to hear appeals. Second (Johnson). The motion is under discussion. Commissioner Hamilton had a question and needed clarification regarding using the Administrative Review. Commissioner Burch answered the question.**

Commissioner Eric Rudnick is not in support of Commissioner Burch's motion. He recommends that the motion not pass and outside counsel should be obtained.

Commissioner Drowniany asked Commissioner Burch to clarify his request and to explain how it differs from what has already taken place.

Commissioner Burch does not think that EMSA should delay the official rulemaking process that Kern County requested. Commissioner Chand concurs with Commissioner Burch. Commissioner Koenig stated she was against the motion.

It is recommended that the Commission form a task force to examine the issue in more detail and present a progress report at the Commission meeting in December.

**Action: Chairperson Stone asked for a vote for all Commissioners in favor of Commissioner Burch's motion to refer and begin the regulatory process for the promulgation to regulations pertaining to appeals. The motion did not pass.**

**Action: Commissioner Koenig motioned for another vote for the EMS Commission chair to appoint a task force of Commissioners to review responsibilities and authorities for the Commission related to appeals of local EMS plans. Second (Haskins). The motion did not pass.**

There was brief discussion regarding the availability of independent counsel to the EMS Commission during the process. It was determined that counsel from the AG's office would suffice.

**PUBLIC COMMENT (continued)**

There was discussion regarding the time commitment involved if a task force, committee, or sub-committee was formed, and if sufficient information would be available (due to the short turn-around time) to be presented at the December 3, 2014 EMS Commission meeting.

**Action: Chairperson Koenig motioned that a subcommittee of two, in conformance with the Bagley-Keene Act, be formed to review responsibilities and authorities for the Commission related to appeals of local EMS plans and report back as soon as possible. The friendly amendment states that for budgetary reasons counsel will be independent and will emanate from the AG's office. The vote is unanimous.**

Chairman Stone solicited for volunteers to participate on the subcommittee: Commissioners Chand and Hartwig were tasked with coordinating with Dr. Backer to facilitate a meeting as soon as possible.

Chairman Rudnick motioned for the meeting to adjourn. **Action: Second (Hamilton). The meeting adjourned at 2:43 p.m.**