

**EMERGENCY MEDICAL SERVICES AUTHORITY**

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June 24, 2014

Gurujodha Khalsa, Deputy County Counsel  
County of Kern  
1115 Truxtun Avenue  
Bakersfield, CA 93301

Ed Hill, Director  
Kern County EMS Department  
1800 Mt. Vernon Avenue, 2<sup>nd</sup> Floor  
Bakersfield, CA 93306

Dear Mr. Khalsa and Mr. Hill:

This letter is in response to your 2012 Kern County EMS Plan submission to the EMS Authority in February 2013.

**I. Introduction and Summary:**

The EMS Authority has concluded its review of Kern County's 2012 EMS Plan Update and cannot approve this plan as submitted.

**II. History and Background:**

Kern County received approval of its 1994 Five-Year Plan, and the last annual Plan Update approval was as a partial approval the 2006 plan submission.

The Kern County EMS Department has inconsistently submitted EMS Plans to the EMS Authority. Historically, we have received EMS Plan documentation from Kern County in 1994, 1999, 2003, 2006 and most recently for 2012. The California Health and Safety (H&S) Code § 1797.254 states:

*"Local EMS agencies shall **annually** (emphasis added) submit an emergency medical services plan for the EMS area to the authority, according to EMS Systems, Standards, and Guidelines established by the authority".*

The EMS Authority is responsible for the review of EMS Plans and for making a determination on the approval or disapproval of the plan, based on compliance with statute and the standards and guidelines established by the EMS Authority consistent with H&S Code § 1797.105(b). Due to the pattern of inconsistent EMS Plan submissions, an ongoing assessment of the EMS system in Kern County has been difficult and, therefore, has delayed this review.

### III. Analysis of EMS System Components:

Following are comments related to Kern County's 2012 EMS Plan Update. Areas that indicate the plan update submitted is not concordant and consistent with applicable guidelines or regulations and H&S Code § 1797.254 and the EMS system components identified in H&S § 1797.103 are indicated below:

A.              
          Approved      Not  
                          Approved

#### System Organization and Management

##### 1. System Assessment Form

- One form was submitted for Standards 5.10, 5.11, and 5.12. Please ensure each Standard is assessed individually on one form.
- The short-range objectives for Standards 1.27, 5.10, 5.11, and 5.12 are to implement a pediatric critical care system. While these are Enhanced Level standards, it is recommended that Kern County review the manual titled "Development and Implementation of EMS-C: A Step by Step Approach," found on the Authority's website at: <http://www.emsa.ca.gov/Media/Default/PDF/EMS-C.pdf>, which will assist Kern County in developing an EMS Program for Children. Please provide an update on the implementation of the pediatric critical care system.

##### 2. System Assessment Form and Table 1 (Minimum Standards/Recommended Guidelines)

- Standards 5.10, 5.11, and 5.12 were identified as long-range plans, whereas on the System Assessment Forms they were identified as short-range plans. Please ensure the information documented in Table 1 is consistent with the information documented in the System Assessment Forms.

B.                  Staff/Training

- C.            Communications
1. Table 4 (Communications)
    - The table used is outdated and does not contain a list of the current questions. A revised table will be sent to you electronically; please use this table until further notification.
  2. Table 11 (Dispatch Agency)
    - The table is incorrectly labeled as Table 9. Please label appropriately.
- D.            Transportation
1. Operational Areas or subareas for Ground Ambulance Service:
    - Operational Area #1: In 1981, Wasco Ambulance was the only noted provider in Operational Area #1. In 1983, a second provider began operating in the area, North Kern Ambulance. Wasco Ambulance was sold to Delano Ambulance in 1984 (terms of sale unknown to the Authority). In 1987, North Kern Ambulance went bankrupt and left the area. Another ambulance service, Kern Ambulance, was started the same year. In 2003, the ownership of Kern Ambulance changed (terms of the sale unknown to the Authority). The change in number of providers (from Wasco Ambulance to Wasco and North Kern Ambulance) and exit (North Kern Ambulance) and entry (Kern Ambulance) of providers into the marketplace are changes in the manner and scope of services in that zone. The plan does not continue the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981. It is our understanding that more recent ownership changes in this zone have taken place of which the Authority does not have detailed knowledge or documentation to indicate the purchase agreements. In addition to the above noted concerns by the Authority, other changes could affect exclusivity as well. The changes in manner and scope make the zone ineligible for exclusivity without a competitive process; therefore, the Authority has determined this zone as non-exclusive. If you wish this zone to be exclusive, a competitive process will need to be completed pursuant to H&S Code § 1797.224.
    - Operational Area #2: In 1999, Schaefer's Shafter Ambulance was sold to Hall Ambulance Service, Inc. The Purchase Agreement dated March 16, 1999, between the

companies substantially shows that the intent of the parties was to completely transfer Schafer's Shafter Ambulance to Hall Ambulance Service, Inc. The documentation available indicates that this zone is eligible for exclusivity without a competitive process for Emergency Ambulance Service at the 9-1-1 call level. The Authority has determined that this operational area is not eligible for 7 digit emergency call, Inter-Facility Transport (IFT) or stand-by exclusivity as other providers routinely handled these types of services since 1981, which is a change in manner and scope for these levels of exclusivity.

- Operational Area #3: Delano Ambulance Service has been the sole provider of 9-1-1 ambulance service since January 1, 1981. In 2006, a stock only purchase was completed. The stock purchase documentation substantially shows that Delano Ambulance Service still exists today as it did in 1981. The documentation available indicates that this zone is eligible for exclusivity without a competitive process for Emergency Ambulance Service at the 9-1-1 call level. The Authority has determined that this operational area is not eligible for 7 digit emergency call, IFT or stand-by exclusivity as other providers routinely handled these types of services since 1981 which is a change in manner and scope for these levels of exclusivity.
- Operational Area #4 and Operational Area #5: Golden Empire Ambulance and Hall Ambulance operated in Operating Area #4 and Operational Area #5 in 1981. At that time, there was one global operational area for ambulance operations in the greater Bakersfield area. The providers were assigned source agency calls via a rotation system handled by the public safety agencies in the area. In 1987, the handling of calls in the greater Bakersfield ambulance operational area was changed. The rotation system was removed from use and Golden Empire and Hall Ambulance were assigned response areas within the global operating area. Over time, these response areas were revised and in 1989, Operational Area #4 and Operational Area #5 were officially established with set boundaries for response areas. In 1999, Golden Empire Ambulance was sold to Hall Ambulance, leaving Hall Ambulance as the sole provider in what was the global operational area as of 1981. The Purchase Agreement dated July 1999 between the companies substantially shows that the intent of the parties was to completely transfer Golden Empire Ambulance to

Hall Ambulance Service, Inc. Given that in 1981, Golden Empire Ambulance and Hall Ambulance Service, Inc. operated the entire geographic area of Areas 4 and 5 and that those two companies still technically exist today, the Authority will recognize Operational Area 4 as being the entire greater Bakersfield area and exclusive for Emergency Ambulance Service for 9-1-1 calls. Operational Area 5 will cease to exist. This exclusivity can only apply if Operational Area 4 and 5 are considered one area as was the case in 1981. The Authority has determined that this operational area is not eligible for 7 digit emergency call, IFT or stand-by exclusivity as other providers routinely handled these types of services since 1981, which is a change in manner and scope for these levels of exclusivity.

- Operational Area #6: Care Ambulance provided service in Operational Area #6 in January 1981. In 1982, the California Highway Patrol revoked Care's permit to operate. Hall Ambulance then based an ambulance in that operational area to ensure coverage of ambulance service. Care Ambulance regained its operating permit and Hall Ambulance removed their unit stationed in that area. The entry and exit of Care Ambulance and Hall Ambulance is a change in manner and scope making the zone ineligible for exclusivity without a competitive process. This change to the area or subarea did not continue the use of existing providers operating continuously since January 1981 causing a change in call distribution that is a change in manner and scope. It is our understanding that more recent ownership changes in this zone have taken place for which the Authority does not have detailed knowledge or documentation to indicate the purchase agreements. In addition to the above noted concerns by the Authority, other changes could affect exclusivity as well. The Authority has determined this zone as non-exclusive. If you wish this zone to be exclusive, a competitive process will need to be completed pursuant to H&S Code § 1797.224.
- Operational Area #7: In 1981 the operational area included most of the eastern Kern County desert. In 1992, Operational Area #7 was split into a northern area and southern area; Operational Area #7 and Operational Area #11 respectively. In 1982, Tri-County Ambulance sold part of its operation to Trans-Med Ambulance (terms of sale unknown to the Authority). In 1985, Tri-County Ambulance repossessed the assets from Trans-Med Ambulance and

took over operation of the area (conditions of the repossession are not known to the Authority). The change in the boundaries and the change from one provider in 1981, to two providers in 1982, then back to one provider in 1985 are both changes in manner and scope that changed the area or subarea making the zone ineligible for exclusivity without a competitive process. The Authority has determined this zone as nonexclusive. If you wish this zone to be exclusive, a competitive process will need to be completed pursuant to H&S Code § 1797.224.

- Operational Area #8: In January 1981, there were two ambulance services in Operational Area #8; Hall Ambulance and Golden Empire Ambulance. At some point, Golden Empire Ambulance withdrew their ambulance from the area leaving only Hall Ambulance. The change in the number of providers is a change in manner and scope and makes the zone ineligible for exclusivity without a competitive process; therefore the Authority has determined this zone as nonexclusive. If you wish this zone to be exclusive, a competitive process will need to be completed pursuant to H&S Code § 1797.224.
- Operational Area #9: In January 1981, Taft Ambulance was the sole ambulance provider in Operational Area #9. In 1983, Tommy's Taft Ambulance and Golden Empire Ambulance entered and later left Operational Area #9. The change in the number of providers from one in 1981, to three in 1983, then back to one is a change in manner and scope and makes the zone ineligible for exclusivity without a competitive process. The Authority has determined this zone as non-exclusive. If you wish this zone to be exclusive, a competitive process will need to be completed pursuant to H&S Code § 1797.224.
- Operational Area #11: A competitive process was successfully completed for this operational area in 1994. Based on the lack of periodic interval as required criteria in H&S Code §1797.224, a competitive process needs to be completed for this operational area to reestablish exclusivity. The Authority has not approved a Plan or Plan Update with a periodic interval listed and has determined this zone as non-exclusive.

2. Operational Areas or subareas for prehospital EMS aircraft:
  - The Authority was recently copied on correspondence from the US Department of Transportation (DOT) General Counsel for Operations related to EMS aircraft operations in California. The letter from DOT states that local criteria related to market entry for EMS aircraft operations that can affect items related to price, route or service are preempted by the Airline Deregulation Act (ADA). Local County ordinances cannot supersede federal or state regulation or law.
  - The Authority approved a Request for Proposal (RFP) for emergency and non-emergency air ambulance services in Kern County in October 2007 based on the information available to us at the time. The RFP provided to the Authority in 2007 for emergency and non-emergency air ambulance services was designed to restrict operations to a single provider in two operations areas in Kern County. Based on the recent information from the DOT, it appears the ADA preempts this type of activity as affecting prices, routes or services under Title 49, United States Code § 41713 (b).
  - It is the Authority's belief that Kern County was acting as a consumer of prehospital EMS aircraft services in the October 2007 RFP. However, since the DOT has weighed in specifically related to the prehospital EMS aircraft system in Kern County, the Authority is unable to continue to support the Exclusive Operations Area (EOA) for prehospital EMS aircraft in Kern County.
3. Table 5 (Response/Transportation)
  - The Recommended Guideline for Standard 4.05 outlines four types of emergent responses, and Table 1 indicates the Recommended Guideline is met. However, the information provided in Table 5 identifies only two types of emergent responses. In order to meet the Recommended Guideline, all four types need to be outlined in Table 5. Please make the appropriate correction or update.
4. Table 8 (Response/Transportation/Providers)
  - The Summary of Changes indicates that "patient care record data continues to be collected from all ground and air transport providers...." However, there are several Providers that do not have this data identified. Please

ensure that Providers identified as "Transport", document the number of emergency/non-emergency transports, as well as the number of emergency/non-emergency responses, and that Providers identified as "Non-Transport" document the number of emergency/non-emergency responses.

- The number of emergency/non-emergency responses and transports do not correctly sum together. Please ensure the totals are reflective of the numbers provided within each listing.
- The Service category for Liberty Ambulance Service was not identified in the table; however, it was identified as a ground provider in the Summary of Changes. Please ensure all relevant categories in the table are checked.

E.   Assessment of Hospitals/Critical Care Centers

1. Table 6 (Facilities/Critical Care)

- The numbers presented in Table 6 for standby emergency services and basic emergency services are inconsistent with the information presented for the Facilities in Table 9. Please ensure the data contained in Table 6 is consistent with the information documented in Table 9.

2. Table 9 (Facilities)

- The table used is outdated and does not contain a list of the current questions. A revised table will be sent to you electronically; please use this table until further notification.

F.   Data Collection and Evaluation

1. Quality Improvement (QI) Program

- Pursuant to Title 22, California Code of Regulations (CCR), § 100404, a Local EMS Agency shall develop and implement a written QI Program, and annually provide the written Program to the Authority. The Authority does not have any record of a submission of the required QI plan. In accordance with the Authority's *EMS System Quality Improvement Program Model Guidelines (EMSA #166)*, please submit a written QI Program immediately.

2. CEMSIS Data Submissions

- Trauma Centers shall have a QI process and shall include participation in the trauma system data management system



(22 CCR § 100265). The Authority does not have any record of a submission of the required data. In accordance with the Authority's *EMS Data System Standards (EMSA #164)*, please submit the trauma data immediately.

- The Authority shall assess each EMS area or the system's service area to determine the effectiveness of emergency medical services (H&S Code § 1797.102) as it relates to data collection and evaluation (H&S Code § 1797.103). The Authority does not have any record of a submission of the required data. In accordance with the Authority's *EMS Data System Standards (EMSA #164)*, please submit the EMS data immediately.

- G.            Public Information and Education
1. Table 10 (Approved Training Programs)
- The table is incorrectly labeled as Table 8. Please label appropriately.
- H.            Disaster Response

#### IV. Conclusion:

Based on the information identified, Kern County may not implement areas of the 2012 EMS Plan Update that have not been approved. Pursuant to H&S Code § 1797.105(b):

*"After the applicable guidelines or regulations are established by the Authority, a local EMS agency may implement a local plan...unless the Authority determines that the plan does not effectively meet the needs of the persons served and is not consistent with the coordinating activities in the geographical area served, or that the plan is not concordant and consistent with applicable guidelines or regulations, or both the guidelines and regulations established by the Authority."*

#### V. Next Steps:

Within four months from the date of this notification, Kern County has the option to submit a revised EMS plan correcting all disapproved items identified in this letter, or to appeal the Authority's determination. Per H&S Code § 1797.105(c):

*"A local EMS agency may appeal a determination of the Authority pursuant to subdivision (b) to the Commission."*

Please let the Authority know within the established timeframe if you wish to appeal the Authority's disapproval of your EMS Plan.

Gurujodha Khalsa  
Ed Hill  
June 24, 2014  
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Kern County's submission was an annual Plan Update; however Kern County is due for a complete plan submission. Please ensure the next submission to the Authority is a complete Five-Year Plan.

Please contact Tom McGinnis, EMS Systems Division Chief at (916) 431-3695 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Backer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Howard Backer, MD, MPH, FACEP  
Director

MATTHEW CONSTANTINE  
DIRECTOR  
PUBLIC HEALTH SERVICES



ROSS ELLIOTT  
DIRECTOR  
EMERGENCY MEDICAL SERVICES DIVISION

**PUBLIC HEALTH SERVICES**  
D E P A R T M E N T

December 14, 2012

Dr. Howard Backer, MD, MPH, FACEP  
Director, California EMS Authority  
10901 Gold Center Drive, Suite 400  
Rancho Cordova, CA 95670

**Submission of EMS Plan**

Dr. Backer:

In accordance with Section 1797.254 of the Health and Safety Code, please find enclosed Kern County's EMS Plan update for 2012.

If you have any questions or if you need additional information, please feel free to contact me at 661-868-5210 or via email at [relliott@co.kern.ca.us](mailto:relliott@co.kern.ca.us).

Sincerely,

ROSS ELLIOTT  
EMS Director

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“ONE VOICE”

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