July 13, 2023

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Dear Ms. Smejkal,

Thank you for the opportunity to provide follow-up comments on the draft revisions to Article 9 of the ground ambulance rules. I am commenting on behalf of the Arizona Hospital and Healthcare Association (AzHHA). AzHHA is a statewide association of 80 hospital and affiliated health system members, representing short-term acute care, behavioral health, post-acute care and critical access hospitals, as well as their affiliated clinics and staff. My comments today are on the June 2023 draft, and they are an update to our comment letter dated June 29th. The revisions reflect member input received subsequent to our previous letter.

AzHHA greatly appreciates the outreach that the Arizona Department of Health Services (ADHS) has made to all stakeholders, including holding regional and industry-specific listening sessions. With respect to the draft rules themselves, we are particularly grateful that ADHS has taken into consideration our member’s concerns about interfacility transport delays, which can severely impact the quality of patient care. We believe the establishment of performance metrics for interfacility ground ambulance transports, including the incorporation of compliance standards, corrective action plan requirements, and enforcement authority will promote accountability and improve patient care. Our detailed comments are below.

INTERFACILITY TRANSFERS FOR TIME SENSITIVE CONDITIONS

The draft rules establish two categories of interfacility transfers: transfers for patients with time-sensitive conditions and those with conditions that are not considered time-sensitive. The rules prescribe definitions for each of these categories, as well as different sets of performance metrics and compliance thresholds that could trigger a corrective action plan. **AzHHA is concerned the definition of “time-sensitive condition” is too restrictive and will result in dangerous treatment delays for many patients with emergency medical conditions needing a higher level of care than the sending hospital can provide.**
R9-25-101 defines a “time-sensitive condition” as “a patient's illness or injury for which, in the opinion of one of the following, a delay in the patient receiving appropriate medical services may result in irreversible harm to the patient:

a. For an interfacility transport, a physician, physician assistant, or registered nurse practitioner providing medical services to the patient; and
b. For a transport that results from a 9-1-1 or similar system dispatch, an EMCT or the physician providing on-line medical direction for the patient.”

Interfacility transfers of patients with conditions that do not meet this definition will be subject to a “negotiated” estimated time of arrival provided by the ambulance service—a time that the ambulance service can amend indefinitely under the rule. Transport of any patient with an emergency medical condition should be considered “time-sensitive.” Allowing a transport agency to simply provide an estimated arrival time and then amend that time indefinitely will delay medically necessary emergency care for many seriously ill or injured patients who require a higher level of care than the sending hospital can provide.

Most interfacility transfers of patients who need a higher level of acute care or specialty care not provided at a sending hospital are done via the emergency department (E.D.) for patients experiencing an emergency medical condition. These patients undergo an EMTALA emergency medical screening, are determined to have an emergency medical condition (EMC) and are then stabilized for transport. Without timely EMS transport to an appropriate hospital, these patients are at high risk for decompensating in the E.D.

Our members report ambulance transports for patients with an EMC needing a higher level of care are many times delayed for hours. And for patients experiencing a behavioral health related EMC it can be days. In some instances, sending hospitals have had to bypass ground transport because of delays, and instead turn to air transport. This increases costs and potentially places the patient and flight crew at additional risk. This is not acceptable. As mentioned, these patients become more ill awaiting transfer, often decompensating in the E.D. Moreover, if the patient is not transferred in a timely manner, the receiving facility that has accepted the transfer may no longer have available capacity or resources to treat the patient. For involuntary behavioral health patients, the 72-hour clock may run out, which further compromises patient safety.

If ADHS chooses to continue to divide interfacility transfers into two categories, we strongly recommend ADHS broaden the definition of “time-sensitive condition” by removing the reference to “irreversible harm.” Instead, we recommend that a “time-sensitive condition” either:

1. Include all interfacility transfers to a Medicare-certified hospital, including a critical access hospital and psychiatric hospital, or
2. Align with the definition of an “emergency medical condition” under EMTALA.
Alternatively, ADHS could consider breaking interfacility transfers into three categories, where all EMCs would be considered time-sensitive, but the standardized response times for transfers of patients with certain critical conditions (e.g., a patient needing transport to a level I trauma center) are shorter.

**Whichever way ADHS chooses to revise the definition, it is our strong belief that any emergency medical condition, including a behavioral health condition, is time-sensitive and necessitates quick transport. The arrival/response time for patients with EMCs should be standardized in a similar way to 911 response times and not simply be an estimated time of arrival provided by the ambulance service.**

**INTERFACILITY ARRIVAL TIME**

R9-25-901 defines “interfacility arrival time” as “the *standardized* time period within which an applicant or certificate holder plans to have a ground ambulance vehicle arrive at a health care institution, compared with a *negotiated estimated* time of arrival, for an interfacility transport of a patient who does not have a time-sensitive condition.”

It is not clear to us what the terms “standardized” and “negotiated” mean in the context of this definition, nor how the terms will be used with respect to non-time sensitive interfacility transfer performance. Under R9-25-908(E)(3), certificate holders or the entity receiving the interfacility transfer request must provide a “negotiated arrival time to the person requesting the interfacility transport at the time that the interfacility transport is requested.” If the estimated time of arrival changes to a later time, the ground ambulance must do one of the following:

1. Contact another ambulance to respond to the dispatch;
2. Provide contact information to the requesting facility of another ambulance service that has a back-up agreement with the ambulance provider; or
3. Provide an amended estimated arrival time.

Subsection E goes on to require the certificate holder’s actual arrival time to be within 60 minutes of the estimated time of arrival or amended time of arrival for at least 90% of non-time sensitive interfacility transfers. R9-25-908, Subsection H, further prescribes how performance on non-time sensitive interfacility transfers will be assessed, including compliance with the 90%/60-minute threshold. We do not see anywhere in these subsections where arrival times are standardized. We request AHDS explain how the department plans to standardize such arrival times, and what a standardized arrival time will be used for.

The term “negotiated” is also used in the definition of “interfacility arrival time,” but it is not clear to us what this term means. Is this merely an estimated arrival time that the ambulance service provides to the requesting facility, or must both parties agree upon the time? If the latter, how will ADHS determine that the time was agreed upon by both parties? While we are hopeful the majority of estimated arrival times will be agreed up by both parties based on the patient’s needs, experience tells us there will be disagreements. **We recommend that ADHS consider establishing a process for assessing how often there are disagreements and factoring this into performance evaluations.**
NON-TIME SENSITIVE INTERFACILITY ARRIVAL TIME PERFORMANCE

R9-25-908(H) prescribes the process for assessing non-time sensitive interfacility transfer performance. Paragraph 1, subparagraph b requires a certificate holder to determine the number of times an amended estimated time of arrival was provided to a health care institution, as allowed by subsection (E)(3)(b)(iii) as part of the certificate holder’s six-month self-assessment. Paragraph 2 requires this information to be submitted to ADHS, and paragraph 3 specifies the actions that ADHS can take if it determines the certificate holder is out of compliance with subsection (E)(3)(c), including submitting a corrective action plan.

Because subsection (E)(3)(c) only refers to compliance with the 90%/60 minute threshold, it is unclear what ADHS will do with information submitted under (E)(3)(b)(iii) relating to amended arrival times. AzHHA believes information on how many times a certificate holder amends arrival times is extremely important to assessing performance on quality of care. As such, we strongly recommend ADHS establish a performance metric relating to the number of times it is appropriate for a certificate holder to amend a time of arrival, including a compliance threshold, which, if exceeded would trigger a corrective action plan.

DEPARTMENT OVERSIGHT OF RESPONSE TIMES

In response to Laws 2022, Chapter 381, the draft rules add R9-25-907, Subsection A, to permit ADHS to periodically assess certificate holders’ response time performance, priority assignment, interfacility arrival time performance, and other factors deemed appropriate for ensuring quality patient care. In addition, Subsection C permits ADHS to develop a set of uniform standards for response times, compare actual response time performance to the applicable standard, and take enforcement action if warranted. However, Laws 2022, Chapter 381 requires the department to engage in these activities. As such, AzHHA recommends the term “may” in subsections A and C be changed to “shall.”

ENFORCEMENT; CLARIFICATION

Under R9-25-911, ADHS may take enforcement action against a ground ambulance service that fails to comply with Article 2, 9, 10 or 11 of Chapter 25, or which does not submit a corrective action plan under R9-25-903(A)(8) or R9-25-910(E)(2). AzHHA strongly supports granting the department additional enforcement action authority. However, R9-25-903 does not include a paragraph 8. In reading the rules, we believe the reference should be to paragraph 6, which references corrective action plan requirements under R9-25-908, subsections G, H and K.

RESPONSE TIME CALCULATIONS

At the June 27th ground ambulance rules stakeholder meeting, there was much discussion on how to calculate response times using either GIS or call volume data. AzHHA does not have a formal position on whether GIS, electronic patient care or financial data be used as the basis for calculating a standardized response time for similarly situated certificate holders. However, we strongly recommend that ADHS monitor patient outcomes under the methodology adopted to ensure that the methodology does not
inadvertently result in access to care barriers or poorer outcomes for patients living in different geographic areas (e.g., rural vs. urban areas).

Additionally, we recommend that ADHS establish a base year for which data will be used for calculating the standardized response times, which could be rebased every few years. This would allow for greater transparency and predictability around response times for all stakeholders. In choosing a base year, we recommend that ADHS be cautious of choosing a year in which COVID-19 may have skewed response times.

Thank you for the opportunity to comment on the draft rules. Please do not hesitate to contact me if you have questions.

Sincerely

Debbie Johnston
Executive Vice President

CC: Rachel Garcia, Bureau Chief, ADHS Emergency Medical Services and Trauma Systems