



October 15, 2023

Rachel Garcia  
Bureau Chief, Bureau of Emergency medical Services and Trauma System  
Arizona Department of Health Services  
150 N. 18<sup>th</sup> Ave., Suite 200  
Phoenix, AZ 85007

Dear Ms. Garcia,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPR) making changes to ground ambulance regulations. I am commenting on behalf of the Arizona Hospital and Healthcare Association (AzHHA). AzHHA is a statewide association of more than 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. Our comments are focused on Article 9, relating to ground ambulance certificate of necessity (CON).

AzHHA greatly appreciates the outreach that the Arizona Department of Health Services (ADHS) has made to all stakeholders during the draft rulemaking process. We thank ADHS for taking the time to listen to our members' concerns, especially as they relate to extensive delays in interfacility arrival times. ADHS staff have taken extraordinary steps to weigh the perspectives of all parties, always with an eye to promoting patient-centered care.

As we have stated previously, the CON framework the State of Arizona uses to authorize ground ambulance service operations constitutes monopolies or near monopolies in all areas of the state. It is inexcusable that agencies granted this monopoly are permitted to "park" patients in an emergency department when those patients are in a medical crisis and require transportation to a higher level of care or specialty hospital. Several years ago, the Centers for Medicare & Medicaid Services informed hospitals that "parking" a patient in an ambulance is a potential violation of EMTALA. Ambulance companies who are granted the privilege of a CON should not be allowed to engage in a similar practice.

We acknowledge that CON holders, at times, will need to prioritize responses based on the clinical conditions of patients and limited resources. However, the persistent delays in interfacility transport in many areas of the state are unacceptable. Hospitals have recently reported the shortest arrival times for behavioral health patients needing admission to a level I psychiatric

hospital was 10-12 hours. Many wait times exceed 24 hours. In some areas of the state, actual transport routinely occurs more than 72 hours after the facility calls for it.

Unfortunately, under the existing ground ambulance rules, ADHS does not have a mechanism to capture interfacility transport data, evaluate CON holder performance, and hold CON holders accountable for non-compliance with appropriate, evidence-based, standards of care. **It is imperative that the CON process include these accountability measures in order to safeguard the public.**

We have had extensive conversations with our members about the proposed revisions to the rule. While a few members had previously expressed concern that some revisions might negatively impact current 911 service in their rural areas, the differentiation between urban, suburban, rural and wilderness scene locality addresses these concerns. Moreover, limiting the definition of “response time” for interfacility transports to just those conditions that are “time-critical,” which is narrowly defined under the rule, strikes a compromise for all parties.

AzHHA has previously advocated for more stringent oversight of interfacility transport during the draft rulemaking process. However, we are fully supportive of the framework ADHS has proposed in the revisions to Article 9 included in the NOPR. Without these changes, policymakers and the public will have no data on which to evaluate CON holder performance with respect to interfacility transport. **As such, AzHHA strongly recommends that ADHS finalize the revisions to Article 9 as proposed in the NOPR.**

Sincerely



Debbie Johnston  
Executive Vice President