

REGULAR MEETING OF THE TRINIDAD AMBULANCE
DISTRICT BOARD OF DIRECTORS

DATE: August 27, 2019

Present: Kathy Bueno via teleconference
Derek Navarette
Nick Mattorano
Joseph Martinez
James Casias

Other Guests: Daniel Moynihan, Chief
Gabriel Moreno, Deputy Chief
Barbara Fisk, Executive Assistant

SUBJECT

DISCUSSION

Call to Order/Pledge	Meeting was called to order at 4:28pm by Derek Navarette followed by the recitation of the Pledge of Allegiance.
Roll Call/Proof of Quorum	There was a quorum with Kathy Bueno participating via teleconference, Derek Navarette, Joseph Martinez, James Casias and Nick Mattorano in attendance.
Proof of Notice	Notices were posted at the Trinidad Ambulance District Office, City of Trinidad, Las Animas County Sheriff's Office, and Las Animas County Court House. The Agenda was posted at Trinidad Ambulance District Office at 939 Robinson Avenue.
Approval of Minutes	Motion to approve the July 24, 2019 regular meeting minutes as presented was made by James Casias and seconded by Kathy Bueno. The minutes were approved unanimously.
Public Comments	N/A
Ratify TAD/LAC Elections IGA	<p>The Las Animas County Elections Intergovernmental Agreement for the coordination of elections November 2019 was reviewed. As it was required to be submitted prior to August 27, 2019, the board reviewed for ratification.</p> <p>Motion to ratify the LAC/TAC Elections IGA was made by Derek Navarette and seconded by James Casias. The motion was approved unanimously.</p>

Financial / Billing Report

Bernadette Cappellucci of Century Financial Group submitted monthly financial reports for the month ending July 31, 2019 along with the following written statement, "the financials for Trinidad Ambulance District appear consistent with the normal month to month income and expenditures. I see nothing out of the ordinary to report on any of the financial data used to compile the July 2019 financials."

Dan Moynihan noted a balance of \$3,571,728.24 combined balance for savings and checking accounts. A comparison of July 2018 and July 2019 accounts receivable shows a decrease of \$26,137.48 in 2019. Profit and Loss Statement shows July 2019 income as \$185,341.13. Quick Med Claims continues to do a good job billing.

Motion to approve the July 2019 financial reports as presented was made by Joseph Martinez and seconded by Nick Mattorano. The motion was approved unanimously.

Ambulance Purchase

Dan requested approval of the board to purchase one more ambulance under the 2020 budget. Grant funding will be sought to reimburse 50% of the total expenditures. The purchase of this ambulance will complete the fleet so that only chassis will need to be replaced in the future.

Motion for Dan Moynihan to sign the purchase order for ambulance purchase which was budgeted for in the 2019 budget was made by James Casias and seconded by Joseph Martinez. The motion was approved unanimously.

Director's Report

eForce Program Dan requested approval from the board to purchase mobile data terminals for TAD rigs. These terminals are the same as those used by law enforcement which enable access to real time CAD data including address info. It will cost \$6,991 for a setup fee for four (4) licenses and the first year maintenance. The maintenance fee will then be \$1,000 per year. There is no server charge.

Motion to purchase four (4) licenses plus continued maintenance service for eForce mobile data terminals was made by Joseph Martinez and seconded by James Casias. The motion was approved unanimously.

2001 E. Main Street Asbestos Abatement Issue Dan updated the board regarding the lack of complete asbestos abatement by Edge Environmental. Pre-trial mediation is ongoing. Dan will update the board with court dates.

Mt. San Rafael Hospital The TAD board along with TAHA board, County Commissioners, Dr. Eckler and MSRH CEO John Tucker were all included in a series of emails (attached) which originated with a concern raised by the City of Trinidad Chief Communications Director Rita Mantelli when dispatch could not contact Care Connect for an emergency flight operation. Also discussed was TAD's notification that transfers to Denver will no longer be feasible for the district.

Dan Moynihan has contacted Colorado CMS with concerns about fraudulent PCS forms for transfer requests from MSRH. He also noted that the U.S. Attorney General's office in Florida sued area hospitals for fictitious PCS forms and won the case. He quoted part of an article in the *Journal of Emergency Medical Services*, published November 1, 2010 by Rick Keller titled "How to Prevent EMS Fraud" (attached) which focused on the definition of medical necessity.

Dan has been in communication with Brian Werfel, a partner in Werfel & Werfel, PLLC, a New York based law firm specializing in Medicare issues related to the ambulance industry. Brian is a Medicare Consultant to the American Ambulance Association, and has authored numerous articles on Medicare reimbursement, most recently on issues such as the beneficiary signature requirement, repeat admissions and interrupted stays. He is a frequent lecturer on issues of ambulance coverage and reimbursement. Brian is co-author of the AAA's Medicare Reference Manual for Ambulance, as well as the author of the AAA's HIPAA Reference Manual. Werfel & Werfel, PLLC was founded by David M. Werfel, who has been the Medicare Consultant to the American Ambulance Association for over 20 years who recommended billing the hospital for fraudulent transports.

The TAD Service Plan mentions a contract with TAHA but neither the county administrative offices, TAD attorneys, DOLA nor TAD administrative offices have any record of a contract being drafted. The Service Plan specifically states:

Contract with Trinidad Health Association – Trinidad Ambulance District will enter into contract with TAHA for transportation of Medicare patients under the rules of the Federal Medicare Act and DRG. (See Attachment.

Board members shared their concerns for the community and how to best protect the district from potential legal issues. A letter was

sent to TAHA in 2016 voicing the same PCS concerns with no action taken by TAHA or MSRH. Options discussed were billing MSRH, sending a letter from our attorney, contract with TAHA for Medicare patients and possibly not transporting patients to facilities of higher care for fear the PCS forms would be fraudulent. Ultimately it was decided, in order to protect the district from involvement in fraudulent activities surrounding MSRH, Dan should draft a contract between MSRH and TAH to be effective December 31, 2019 wherein MSRH will pay Medicare rates or TAD will not provide transfer services.

A Las Animas County Commissioner work session is scheduled for September 5, 2019 to include the TAHA and TAD board members to discuss the issue.

Joseph Martinez made a motion to provide a letter to TAHA advising that as of December 31, 2019 TAD will no longer transport patients requiring a PCS form to a higher level of care without a contract wherein MSRH will be the payor of last resort and be billed Medicare allowable plus mileage. A copy of the letter will be provided to Kathy Bueno, Derek Navarette, Joseph Martinez, Nick Mattorano and James Casias for review and approval before being mailed to the individual board members of TAHA. Derek Navarette seconded the motion. The motion pass unanimously.

Operations Report

Gabe Moreno provided an Operation Report for the board to review the operations data for June 2019 which included the following information:

Requests for Service	218; 2 On Call
Non-Transports	54
Transports	164; 41 were IFT 0 were flight related

<i>Memorial Ctr</i>	<i>11; 2,838 miles</i>
<i>Children's Hosp</i>	<i>1; 396 miles</i>
<i>Parkview</i>	<i>20; 3,488 miles</i>
<i>St. Mary Corwin</i>	<i>2; 336 miles</i>
<i>Penrose</i>	<i>2; 528 miles</i>
<i>Memorial North</i>	<i>2; 568 miles</i>
<i>Patient's Home</i>	<i>3</i>

JULY 2019 MILES: 8,154 miles / average 215

JANUARY-JUNE 2019 MILES: 55,264 / average 205

Shift Volume	A/62; B/85; C/71
Call Volume	West/109; East/106; On Call/2
Doctor w/Most Calls	Dr. LeComte

Miscellaneous

Dixon Waller Co., Inc. has set up an exit interview regarding the 2018 audit on Thursday, September 5, 2019 at 1pm. Joseph Martinez and Kathy Bueno both thought they could attend.

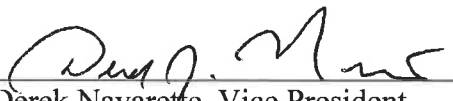
Next Meeting Date

The next Regular Meeting date was set for Wednesday, September 25, 2019 at 4:30pm.

Adjournment

A motion to adjourn the regular meeting of the Board of Directors was made by James Casias and seconded by Joseph Martinez. The motion was approved unanimously. The regular meeting was adjourned at 5:34pm

Minutes Approved by Trinidad Ambulance District Board of Directors.



Derek Navarette, Vice President

9 / 25 / 19
Date

Barbara Fisk

From: John Tucker <jtucker@msrhc.org>
Sent: Monday, August 26, 2019 8:07 AM
To: Dan Moynihan; phil.dorenkamp@lasanimascounty.org
Cc: luis.lopez2; Rita Mantelli; Charles Glorioso; Gabriel Moreno; Barbara Fisk; carico_1@msn.com; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler; Mandy Shaiffer; Carolynn Johnson - G-Mail; Laura Edgerley-Gibb
Subject: RE: Flight For Life

Works for us, too.

Respectfully,

John Tucker | Chief Executive Officer

Mt. San Rafael Hospital | www.msrhc.org

410 Benedicta Ave | Trinidad | CO | 81082 | Office: 719-846-8050 | Fax: 719-846-2752

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From: Dan Moynihan <dan.m@tadems.com>
Sent: Monday, August 26, 2019 7:59 AM
To: phil.dorenkamp@lasanimascounty.org
Cc: luis.lopez2 <luis.lopez2@lasanimascounty.org>; John Tucker <jtucker@msrhc.org>; Rita Mantelli <rita.mantelli@trinidad.co.gov>; Charles Glorioso <charles.glorioso@trinidad.co.gov>; Gabriel Moreno <gmoreno@tadems.com>; Barbara Fisk <barbara.f@tadems.com>; carico_1@msn.com; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler <tr@innovaem.com>; Mandy Shaiffer <mshaiffer@msrhc.org>; Carolynn Johnson - G-Mail <carico4u@gmail.com>; Laura Edgerley-Gibb <laura@innovaem.com>
Subject: Re: Flight For Life

Tentatively good for me! Have others that want to attend, so I'll have to make sure their schedules work.

Dan

On Aug 26, 2019, at 8:45 AM, "phil.dorenkamp@lasanimascounty.org" <phil.dorenkamp@lasanimascounty.org> wrote:

Good morning,

How does a work session at 9 a.m., September 5th, Room 201 (Commissioners' Chambers) at the Courthouse fit into everyone's schedule?

From: luis.lopez2 <luis.lopez2@lasanimascounty.org>

Sent: Friday, August 23, 2019 3:55 PM

To: John Tucker <jtucker@msrhc.org>; Dan Moynihan <dan.m@tadems.com>

Cc: Rita Mantelli <rita.mantelli@trinidad.co.gov>; Charles Glorioso <charles.glorioso@trinidad.co.gov>; Gabriel Moreno <gmoreno@tadems.com>; Barbara Fisk <barbara.f@tadems.com>; carico_1@msn.com; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; phil.dorenkamp@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler <tr@innovaem.com>; Mandy Shaiffer <mshaiffer@msrhc.org>; Carolyn Johnson - G-Mail <carico4u@gmail.com>; Laura Edgerley-Gibb <laura@innovaem.com>

Subject: Re: Flight For Life

Greetings to you all . As chairman, I will ask our administrator to schedule a work session as soon as possible . Thank you. Luis

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: John Tucker <jtucker@msrhc.org>

Date: 8/23/19 1:33 PM (GMT-07:00)

To: Dan Moynihan <dan.m@tadems.com>

Cc: Rita Mantelli <rita.mantelli@trinidad.co.gov>, Charles Glorioso <charles.glorioso@trinidad.co.gov>, Gabriel Moreno <gmoreno@tadems.com>, Barbara Fisk <barbara.f@tadems.com>, carico_1@msn.com, tony.hass@lasanimascounty.org, felix.lopez@lasanimascounty.org, luis.lopez2@lasanimascounty.org, phil.dorenkamp@lasanimascounty.org, phil.rico@trinidad.co.gov, "T.R. Eckler" <tr@innovaem.com>, Mandy Shaiffer <mshaiffer@msrhc.org>, Carolyn Johnson - G-Mail <carico4u@gmail.com>, Laura Edgerley-Gibb <laura@innovaem.com>

Subject: Re: Flight For Life

Drs. Eckler and Gibb and All -

Let me know when you're available for a discussion with this group - maybe one morning before a county commission meeting?

Respectfully,

- Sent from John Tucker's iPhone -

John Tucker | CEO

Mt. San Rafael Hospital | www.msrlhc.org

410 Benedicta Ave | Trinidad | CO | 81082 | Office: 719-846-8050 | Fax: 719-846-2752

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On Aug 23, 2019, at 12:49 PM, Dan Moynihan <dan.m@tadems.com> wrote:

John:

I have waited several days to respond to your last email as I did not want it to appear that I am simply engaged in a tit for tat argument with you. I am responding with facts that I can document, unlike you who responded with rumor, conjecture and personal attacks. Also, the original purpose for the email to you was responding to a complaint that a contractor of yours was not responsive to requests for service. I thought poor service was something you might be interested in correcting, so I copied you on the email.

Let's be clear, it was **you** that started with ad hominem attacks and felt the need to add fuel to the fire by raising topics other than the helicopter issue. Your first response to me included comments about the transfers not going to Denver any longer, my failure to "reach out" to the hospital team and copying community leaders. You concluded by criticizing us for calling a helicopter prior to arriving on scene to see if one was necessary and you even threw in a totally baseless accusation that others, who may have needed the helicopter, were "likely

delayed". I responded to those claims and accusations and explained my reasoning for including elected officials. I added nothing extra and did not attack you personally. I did comment that you obviously, based on your own comments, do not know how this EMS system works.

Your last response was almost totally an ad hominem attack against me, personally. You said I had no basis to assess (your) knowledge of EMS, even though I explained why I made that assessment. You went on to say that I'm not communicating with the hospital and that I'm aggressive and negative and spread these negative feelings with the community. You accused me of questioning physicians' decisions, which is a prevarication at best. You also added some italicized comments, which I assume were from Dr. Eckler or another provider, assuming that those comments would be evidence of my "constantly questioning" medical necessity. They did not, as I address later.

You stated that you were not willing to "keep quiet and listen to malicious gossip". All you provided in your email response to me appeared to be malicious gossip and not "facts", as I am providing here.

Let's begin with your comment that my communication with the hospital team has been rare to non-existent. I believe it is I who responded to your emails of a few months ago, which were also full of rumors and inuendo. In your rather "aggressive" email to me, you told me that the Ambulance District was receiving \$200,000 a month from the County as a subsidy. When I informed you that there is no such subsidy and said that our relationship should be more collegial, you agreed and apologized for your tone. You were forming an opinion and making business decisions regarding the Ambulance District based on rumors you had heard because your communication with the District is rare to non-existent. It should be a two-way street, should it not? (These are verifiable facts [emails can be produced] and a question).

I was the one that invited you to lunch so we could discuss the issues and find appropriate solutions. You have never followed up with a single phone call or email to me after that lunch about anything discussed during that meeting. To say that I have not reached out is simply not true. (This is a fact [emails can be produced])

I have also met with Dr. Eckler on several occasions to discuss how the Ambulance District and hospital could improve our teamwork. When I asked Dr. Eckler what we could do to improve things or what he would like to see change, he said everything was going well. (Again, completely factual)

Once again, I reached out to the hospital. It was I who scheduled a meeting in my classroom with you and your staff. Emails were sent and dates were agreed upon, but you never came to that meeting, did you? In fact, none of your executive staff or Board members attended. The only two that attended the meeting were Clay Hart and Dr. Eckler. That would have been an appropriate forum to resolve some issues, as I even had some of my Board members in attendance. However, you continue to make accusations that my communication is "rare to non-existent" when it is you that passed up a golden opportunity to express whatever concerns you had. (Facts [emails can be produced])

Over the past several years, I have met with your Board, attended medical staff meetings, trauma/ER meetings and even had a meeting in your office where the first question I was asked was, and I quote, "How can we get you guys to do your jobs". You can say that my communication is "very aggressive and focused on (my) negative opinions", but if that's the incredibly disrespectful way you start a dialogue with another member of the healthcare team, perhaps you need to look in your own house before criticizing others. (This is a factual statement with a suggestion)

I'm absolutely amazed that after my continued, demonstrated attempts to improve our relationship, you make it sound as though I have some personal animus towards the hospital. I do not. In fact, I have made public comments stating that I am happy we have a hospital in our community and that in order for our community to grow and attract new businesses and residents, having a hospital is absolutely necessary. I publicly supported your attempts to pass initiatives to obtain tax support from the community. I even received a complaint from a member of the public about having your signs up on District property. (These are facts)

As far as medical necessity is concerned, I have stated the case as clearly as I can. I have provided documentation from the Centers for Medicare and Medicaid Services (CMS), but for some reason, you appear to want to intentionally and willfully ignore the information I have presented to you. You stated, "(you are) beginning to wonder if a reasonable, factual explanation to any of (my) concerns would actually be accepted". If that's the case, then perhaps that's what has been going on for years. I have been providing "reasonable, factual" information and explanations to you for that long.

I will tell you one last time that medical necessity has nothing to do with whether or not the patient needs a higher level of care. We have not and would not question any physician's decision in that arena. When we speak of "Medical Necessity", we are speaking solely and singularly of the definition provided by CMS. I am providing this one more time (directly copied and pasted from

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c10.pdf>) in hopes that you will finally understand what we mean by "Medical Necessity". I added the emphasis in sections that are the most pertinent.

10.2.1 - Necessity for the Service (Rev. 1, 10-01-03) B3-2120.2.A, A3-3114.B, HO-236.2 **Medical necessity is established when the patient's condition is such that use of any other method of transportation is contraindicated. In any case in which some means of transportation other than an ambulance could be used without endangering the individual's health, whether or not such other transportation is actually available, no payment may be made for ambulance services.** In all cases, the appropriate documentation must be kept on file and, upon request, presented to the A/B MAC (A) or (B). **It is important to note that the presence (or absence) of a physician's order for a transport by ambulance does not necessarily prove (or disprove) whether the transport was medically necessary.** **The ambulance service must meet all program coverage criteria in order for payment to be made.** In addition, the reason for the ambulance transport must be medically necessary. That is, the transport must be to obtain a Medicare covered service, or to return from such a service.

10.2.3 - Medicare Policy Concerning Bed-Confinement
(Rev. 1, 10-01-03)

As stated above, medical necessity is established when the patient's condition is such that

the use of any other method of transportation is contraindicated. A/B MACs (A) and (B)

may presume this requirement is met under certain circumstances, including when the

beneficiary was bed-confined before and after the ambulance trip (see §20 for the complete list of circumstances).

A beneficiary is bed-confined if he/she is:

- **Unable to get up from bed without assistance;**
- **Unable to ambulate; and**
- **Unable to sit in a chair or wheelchair.**

The term "bed confined" is not synonymous with "bed rest" or "nonambulatory". Bed confinement, by itself, is neither sufficient nor is it

necessary to determine the coverage

for Medicare ambulance benefits. It is simply one element of the beneficiary's condition

that may be taken into account in the A/B MAC (A)'s or (B)'s determination of whether

means of transport other than an ambulance were contraindicated.

Using these criteria, perhaps you can revisit your example of medical necessity for a finger infection because "She had no other way to get to a hand surgeon than the ambulance". This statement, in and of itself, shows a complete disregard for the

actual purpose of an ambulance. Ambulances are not merely a method to transport patients from your facility because you couldn't find another method that would be more appropriate. Ambulances are to be used when the patient requires some sort of medical care en-route to the higher level of care to which you are transferring. Ambulances are not Uber or Lyft for hospital patients. In fact, we recently looked at what Lyft would charge to drive from Mt. San Rafael Hospital to Parkview Medical Center and return to Trinidad. The answer was \$340. When we transport a Medicaid patient, we are reimbursed \$304 for the same trip in an Advanced Life Support ambulance with highly trained medical practitioners and specialized medical equipment. (These are facts)

Also, the Ambulance District is responsible to the community to ensure that we are not subsidizing out of state or out of District residents by providing care, free of charge. Refer to CMS position that "THE AMBULANCE SERVICE MUST MEET ALL PROGRAM COVERAGE CRITERIA IN ORDER FOR PAYMENT TO BE MADE". That means it is up to us to ensure medical necessity (once again, as defined by CMS) is met. To state that we are not qualified to determine "medical necessity" completely contradicts what CMS mandates we do as an ambulance service. We don't make the rules, we just obey them. If you have issues with this, then perhaps you can question CMS yourself, as that appears to be where your concerns lie. (Facts and opinion)

I will inform you that I have recently contacted CMS and HHS to get their opinion on several of these transfers. They requested and I have provided documentation of several calls the District would consider "questionable". I have asked that a CMS representative come to Trinidad and meet with the hospital and the District to explain "medical necessity" so that I am no longer questioned about my motives or accused of sowing animosity in reference to the hospital in regards to "medical necessity". (Fact)

I think it would be helpful for you to take note of a 2015 settlement with the US Attorney's Office with several hospitals who provided Physician Certification Statements for ambulance transports that were not medically necessary (once again, as defined by CMS). This case is on the US Attorney's website at <https://www.justice.gov/usao-mdfl/pr/united-states-settles-false-claims-act-allegations-against-multiple-jacksonville> In part, the settlement states:

After a multiple-year investigation, the United States announces settlements with the following defendants: Baptist Health, who owns and operates four hospitals in Jacksonville (settlement of \$2.89 million); Memorial Hospital, Specialty Hospital, Lake City Medical Center, and Orange Park Medical Center (collective settlement of \$2.37 million); UF Health Jacksonville (settlement of \$1 million); and Century Ambulance Service (settlement of \$1.25 million). In reaching this settlement, the parties resolved allegations that, from January 1, 2009, until April 2014, the hospitals provided Certificates of Medical Necessity that attested to the need for basic life support, non-emergency ambulance transports even when these transports were not medically necessary.

The District has been keeping copies of Physician Certification Statements and Patient Care Reports that we believe document the behavior described above and will provide those documents to CMS upon their request.

You also make some remarks about the level of my practitioners' skills and knowledge as well as their ability to make decisions regarding patients. I assume you must believe them to be highly qualified since, on several occasions, the hospital has actually called 9-1-1 to tone out our crews to come and help your emergency department staff. This was not a mass casualty incident or some sort of disaster; this was just to supplement your staffing. Essentially, you asked the Ambulance District to provide you with free labor, which we have done, but you still want to berate us and say that we're not team players. (These are all documented facts)

Finally, I would like to address your concern regarding our decision not to transfer patients past Colorado Springs in the future. As I have told you more times than I can remember, the District understands that Mt. San Rafael is a small, Critical Access Hospital with limited capabilities. I always immediately follow that up with, the Ambulance District is a small, rural ambulance service with limited resources and capabilities. (Fact)

The hospital has called upon us to help them **INSIDE** the hospital, which has nothing to do with our responsibilities at all, because your staffing did not meet the demand. This is something I have never seen in my 44 years in EMS. What I personally find so offensive is that even though this has happened several times, you still can't understand that, just as your demand sometimes surpasses your ability to provide services, we have a limited number of resources, just as you do. Knowing this, you still choose to criticize our decision to limit our out-of-town transfers to perfectly capable facilities in Colorado Springs, that are still two hours away. (These incidents are documented in our run reporting software and dispatch logs)

We have explained on many, many occasions that the District only has two ambulances on-duty 24/7. Even though this has been stated countless times, we are still asked about a mythical "third ambulance" that we're supposed to produce. When we transferred a patient to Denver whose only treatment was self-administered eyedrops (said by your physician to be "medically necessary" because her landlord and our van service could not take her [we have a signed Physician Certification Statement]) and we informed the doctor, due to this transfer, no transfers would be able to go for at least eight hours, his comment was, "but you still have that third ambulance, right?" Again, rumors about the District seem to be alive and well at the hospital when all that would be required of you is an email or phone call. Instead, these rumors are allowed to persist and grow exponentially over the years. It's as though **YOUR** communication with the District is rare or non-existent. (Fact and opinion)

The Ambulance District's Board of Directors agreed with my decision that it is unreasonable to send ambulance crews out of the District for more than a full 1/3 of their entire 24-hour shift. You are always saying you want to do what's best for the community and somehow want to accuse me of not having the community's best interests at heart. I assure you, it's quite the opposite. The Ambulance District's primary responsibility is to respond to requests for emergency service. When the hospital sends us out of town, you have depleted our resources by 50%. This happens approximately 400 times a year. Do you think it unreasonable that we should prioritize having ambulances inside the District, available for 9-1-1 calls? (Fact and question)

Before making this decision, I also consulted with our Medical Director, Dr. Kevin Weber. In addition to being the Medical Director for the vast majority of the EMS agencies in Southern Colorado, he is also a practicing Emergency Department physician. He agrees with our decision and feels, with a Level 1 Trauma Center and a Children's Hospital now in Springs, it is unnecessary to transport all the way to the Denver area. He said that he has been assured by Memorial Hospital in Colorado Springs, that they will never turn a transfer away. (Facts)

The reason the transport you mentioned in your last email was to go to Denver is because that's where the patient's doctor is. With that in mind, since my doctor is in Oklahoma City, would it be your position that I be transferred by ambulance that far? What, exactly, is your cut off point? I'm just wondering since I've also been asked to take a crew out of service for 10 hours to transfer to Albuquerque; therefore, it doesn't appear to be a question of intrastate transfers. Also, we have been contacted by the management of AMR in Pueblo and they asked that we tell you they will no longer take patients out of your facility. We told them they needed to contact you directly to inform you of their decision. Based on this interaction, it appears we are not the only ambulance service having issues with the hospital. (Facts and questions)

In closing, I have to say that I take great umbrage with several remarks you made that are fallacious and cannot have any basis in fact. You accuse me spreading "negative opinions and judgment" to "any member of the community that will entertain it". Believe it or not, I have a full-time job that keeps me pretty busy. I do not have the time or inclination to find members of the community to "entertain" my opinions. We had this same conversation years ago, after the two children drowned in the Weston area. Following a story about the incident on social media, there were several negative comments made about the hospital, which I forwarded to you (and you never responded) and told you that whatever feelings there are about the hospital, positive or negative, were here long before you and I ever came to town. (Facts)

I have shared your most recent comments with several long-time residents of Trinidad who told me that, even when they were kids, the word was that if you got

sick, just go north. These are opinions that were formed decades before I came here. Although I'm sure you would love to have a scapegoat upon which to blame negative opinions of the hospital and failed ballot initiatives, I know for a fact that I am not the cause. In fact, you make it sound as though the crews represent my feelings towards the hospital. I can assure you, it is quite the opposite. My feelings about the hospital are formed by my interactions with you and your staff, as well as what my crews tell me about their experiences at your facility and their interactions with your staff.

I certainly want to have an open dialogue with the hospital, but when the emotions you have expressed in your previous emails are shared and expressed by your staff members, it is a somewhat pointless endeavor. The Ambulance District is seen as subservient to the hospital, rather than an equal and independent entity. The feeling of some staff members at the hospital is that we are de facto employees of the hospital. We are not. The fact that someone would have the nerve to ask, "how can we get you guys to do your jobs," demonstrates the demeaning and condescending attitude the hospital expresses towards us. The fact that you would call and request District employees to be free labor for your hospital is further evidence of the way in which the hospital staff sees us as nothing more than "ambulance drivers" or orderlies that must cater to their every whim. This will not change until the attitudes of hospital administration changes and we are treated with the respect we deserve.

From: John Tucker <jtucker@msrhc.org>

Sent: Thursday, August 15, 2019 9:45 AM

To: Dan Moynihan <dan.m@tadems.com>

Cc: Rita Mantelli <rita.mantelli@trinidad.co.gov>; Charles Glorioso <charles.glorioso@trinidad.co.gov>; Gabriel Moreno <gmoreno@tadems.com>; Barbara Fisk <barbara.f@tadems.com>; carico_1@msn.com; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; luis.lopez2@lasanimascounty.org; phil.dorenkamp@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler <tr@innovaem.com>; Mandy Shaiffer <mshaiffer@msrhc.org>; Carolyn Johnson - G-Mail <carico4u@gmail.com>

Subject: RE: Flight For Life

At no point would myself or anyone involved in this tragedy say "no harm, no foul". And as stated before there has not been a collaborative enough situation for you to assess my knowledge of how EMS works. This type of communication is not necessary nor helpful.

Dan, the hard fact is that your communication with the hospital team has been rare to non-existent and when it does occur is very aggressive and focused on your negative opinions and judgment of circumstances that you have already voiced to any member of the community that will entertain it. This is clearly evidenced by your email. It is on a regular basis that our staff, physicians, and admin are approached at work and in public

with questions arising from statements you and your crews have made about MSRH to community members. At this point, I am quite frankly not willing to keep quiet and listen to malicious gossip and not reply with factual responses.

Your team has a standing invite to our ER/Trauma meetings every month which are rarely attended. This is an exact example of an appropriate forum and access to our hospital team for you to discuss and have reviewed any trauma or transfer concerns, which you opt not to utilize. When you made the decision to cease transfers north of Colorado Springs, again there was not any acceptable or timely advisement to our hospital team. Dr. Eckler received a letter informing him of this decision only after a 5 year old child was delayed transfer for five hours after the ED team was advised by one of your medics on duty that you had stopped providing this service to the community.

One of the most concerning barriers to collaborative care in this community is your attitude of constantly questioning medical necessity has spread to most if not all of your crews. As displayed in your email, you and your crews continue to question medical necessity which you, your crew, and myself are not qualified to argue. When transfers are arranged, all of the required elements are adhered to and part of that is that there is an accepting physician at a higher level of care who agrees to the transfer and mode of transport. The opinions of the EMS crew at that point are not required and should not be discussed at time of transfer that could delay the process, nor should they be gossiped about later. Again, if you have concerns, you have access to appropriately address them at an appropriate time as to not interfere with care in the community or damage confidence in your crews with our providers.

As to the Apollo and Care Connect issue, it is not your concern or responsibility to follow up on any of our agreements with any other service. Our team participated and provided data for Apollo's assessment of feasibility to place a base here. It is not our concern to chase after them demanding a continued reason for why they chose not to.

I certainly understand your responsibility to respond to a communications center complaint or concern. However, it is not understandable that you use that to air your negative notions about MSRH to multiple community members when you have not aired them in an appropriate manner to the entity that can actually respond. Although, with your consistent condemnatory approaches, I am beginning to wonder if a reasonable, factual explanation to any of your concerns would actually be accepted. In case it would be, here is the explanation for "finger infection" you mention.

the finger infection that Dan mentioned went to the operating room with a hand surgeon for washout of an infection that was suspected to be flexor tenosynovitis and could have cost her the use of her middle finger on her dominant hand or the hand itself. There was also concern the infection was spreading into her bloodstream given she had a fever, WBC count of 16k and cellulitis of her hand and forearm. She was in the hospital for 6 days on the strongest antibiotics we have. She had no other way to get to a hand surgeon than the ambulance.

As far as discussion for contract for patient transfer/transport, it would be negligent of us not to consider all options, yours would of course be included. Our team is as always willing to sit at the table with any of the appropriate or concerned stakeholders. Our first priority is providing quality care and service to our community and we go to great lengths and quality improvement processes to ensure this.

Let's schedule the work session you mention.

Respectfully,

John Tucker | Chief Executive Officer

Mt. San Rafael Hospital | www.msrlhc.org

410 Benedicta Ave | Trinidad | CO | 81082 | Office: 719-846-8050 | Fax: 719-846-2752

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From: Dan Moynihan <dan.m@tadems.com>

Sent: Wednesday, August 14, 2019 5:41 PM

To: John Tucker <jtucker@msrlhc.org>

Cc: Rita Mantelli <rita.mantelli@trinidad.co.gov>; Charles Glorioso <charles.glorioso@trinidad.co.gov>; Gabriel Moreno <gmoreno@tadems.com>; Barbara Fisk <barbara.f@tadems.com>; carico_1@msn.com; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; luis.lopez2@lasanimascounty.org; phil.dorenkamp@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler <tr@innovaem.com>; Mandy Shaiffer <mshaiffer@msrlhc.org>

Subject: Re: Flight For Life

John:

Your comments show that your knowledge of how EMS works is rather limited. You want to say, "no harm, no foul", because both patients died. You fail to recognize that it takes us almost an hour to get a helicopter here in Trinidad, even though I have explained this to you and Dr. Eckler on several occasions. The sooner we launch, the sooner they get here. This is not taking resources away from others, and it is not, as you claim, "likely" other patients in the region had response delayed. In fact, it is exactly what the flight services have requested of us. They wish to be launched immediately upon our notification of a patient that might require flight. Imagine how long it would have taken to get our

recent motorcycle vs. deer patient to a trauma center had we waited until arriving on scene near Weston to call for flight! Is that how you envision the system working?

It takes these helicopters several minutes to get the crews to the aircraft and get the engines prepared for flight. The worst that can happen is that they are already in the air when another agency calls for them, which actually SAVES TIME!

If you're concerned about taking resources away from people, perhaps you should review our call from a couple of days ago where an ambulance was used to transport a patient with a finger infection to Colorado Springs, or the patient that needed "eye drops" that went to Denver. The people of the District had an ambulance out of town for more than four hours for the finger infection and more than eight hours on the Denver trip. These types of calls are not unusual.

I also have to say your comments that I have not reached out to the "hospital team" is extremely misleading. It was I who invited you to lunch, saying I felt that our relationship was contentious, when it should be collegial. I'd be happy to forward that email to anyone who would like to see it. It's the same email where you falsely stated that the Ambulance District was receiving \$200,000 mo. subsidy from the County. I have had the same types of meetings with Dr. Eckler, but never receive any follow-up from the hospital.

I would also ask you to please send me whatever documentation you have to show Apollo said they would not come to Trinidad. I have remained in contact with these people and no such comments have ever been made to me. In fact, I was told if the hospital agreed to sign a preferred provider agreement with them, the helicopter would be sitting on your pad today. If they said something different to you, then I'd like to know about it, as it would change my perception of the company and the representations made to me by their management.

As far as your current preferred provider agreement, it does not appear that you are calling Care Connect first, as per your contract. In fact, they were in Trinidad to help us with a DUI demonstration/scenario that was conducted at the high school. About an hour after they left town, Flight for Life landed on the hospital's pad. I called the Care Connect crew member that had just left Trinidad to see if they were available, and was told they were. They were somewhat surprised to learn that their competitor, who has no contract with the hospital, was sitting on your pad, leaving with a patient. Since this is what happens more often than not, I find your assertion that you worry about endangering your ability to receive flight services a bit disingenuous.

It is not my intent to "air our dirty laundry"; however, as the leader of the local EMS agency, I have a duty to act when the head of our Countywide communications center complains to me about something as important as this. The agency she is complaining about is the same agency with whom the

hospital maintains a "Preferred Provider Agreement". I would welcome the opportunity to sit down and discuss these issues, but I think such meetings might be more productive with our community leaders in attendance. They are the representatives of the people and are stakeholders in the medical care provided to their constituents. Perhaps a work session with the County Commissioners is in order? That might be a good place for us to discuss the District's "contract with TAHA" for transports, as mandated by the District's service plan. As you know, no such contract exists, but perhaps it's time that such a contract be negotiated?

As I have told you in the past, I do not see these issues as being insurmountable. They are merely speed bumps we need to properly navigate. I still believe that our relationship should be more collegial, but it's a two-way street. If you're willing to work with me, I'm more than willing to work with you. Let's do what's best for those to whom we provide service and we'll both be in a good position, don't you agree?

-Dan

On Aug 14, 2019, at 4:23 PM, John Tucker <jtucker@msrhc.org> wrote:

Dan –

Yesterday's accident was a terrible tragedy. Hospital staff and Dr. Eckler want to recognize first and foremost the incredible work under difficult circumstances your paramedics and EMTs did yesterday in trying to save both parents. As the physician who treated the surviving children, Dr. Eckler knows for a fact that they appreciated the care and compassion of the people from local police, fire and EMS more than can be easily conveyed in words.

I am concerned that your response to this tragedy is an email that includes many of the leaders of this community without reaching out first to the hospital team to discuss how we might reconsider our deployment of resources in the community.

As you noted, we explored placing a helicopter here in Trinidad with Apollo but after reviewing the data and demographics for our community they decided it would not be profitable to operate a helicopter here. We were unwilling to abandon our first call agreement with our current partner for concern that if (and when) Apollo found Trinidad unprofitable and were to leave, we would find ourselves with even less coverage than we have now. The first call agreement has no impact on their decision – whoever has the fastest ETA is who receives the patient – if they were on our helipad, they'd receive practically all of them.

Given your recent decision to limit ambulance transfers to no further north than Colorado Springs it would appear it is time to sit down and reassess how we are going to manage the needs of critically ill patients in this community including transportation by ground and air. I would welcome anyone to that meeting so we can have an open discussion on how to resolve these issues.

Of note – when you imply we were unable to receive flight support yesterday – two helicopters were launched before anyone was on scene and see if they were actually needed. One patient was already dead, the other died in minutes. Both helicopters were cancelled after being launched – and likely delayed other patients in the region needing emergency helicopter transport.

Respectfully,

John Tucker | Chief Executive Officer

Mt. San Rafael Hospital | www.msrlhc.org

410 Benedicta Ave | Trinidad | CO | 81082 | Office: 719-846-8050 | Fax: 719-846-2752

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From: Dan Moynihan <dan.m@tadems.com>
Sent: Wednesday, August 14, 2019 3:10 PM
To: Rita Mantelli <rita.mantelli@trinidad.co.gov>
Cc: Charles Glorioso <charles.glorioso@trinidad.co.gov>; Gabriel Moreno <gmoreno@tadems.com>; Barbara Fisk <barbara.f@tadems.com>; carico_1@msn.com; John Tucker <jtucker@msrlhc.org>; tony.hass@lasanimascounty.org; felix.lopez@lasanimascounty.org; luis.lopez2@lasanimascounty.org; phil.dorenkamp@lasanimascounty.org; phil.rico@trinidad.co.gov; T.R. Eckler <tr@innovaem.com>
Subject: Re: Flight For Life

Rita:

Thank you for bringing this to light. It is an issue I have raised with Mr. Tucker and Dr. Eckler at Mt. San Rafael, but it doesn't appear they want to make a change. Even though I have worked for years to bring a helicopter to Trinidad for the benefit of our residents and visitors, when the opportunity presented itself, it was ignored by the hospital.

I had a helicopter service (Apollo) that wanted to put a helicopter on the helipad right here in Trinidad. They met with Mr. Tucker and asked for a preferred provider agreement with the hospital; however, the hospital administration has chosen to maintain their Agreement with Care Connect, despite consistently calling FFL.

The hospital currently has a Preferred Provider Agreement with Care Connect, but as you are well aware, they are very rarely called. When flight is called by the hospital, they are using Flight For Life (FFL), in violation of their agreement. That's the part I really don't understand. Also, the service that wanted to put a helicopter here is "in network" for our major insurance providers. That means they do not engage in the shady billing practices that some of the other helicopter services do. They have stated, should there be an insurance carrier that they are not in network with that provides coverage to a significant number of people in Las Animas County, they will do everything in their power to become an in-network provider for that insurance company.

I am copying the County Commissioners, the Mayor and hospital administration in hopes that your comments will make them see the necessity and benefit of having a helicopter here in town, rather than waiting almost an hour for one out of Pueblo. I think an open dialogue regarding this issue would be the best possible solution.

You are absolutely correct...it shouldn't be so difficult to request flight when lives are at stake!

Dan Moynihan
EMS Chief
Trinidad Ambulance District

On Aug 14, 2019, at 11:55 AM, Rita Mantelli
<rita.mantelli@trinidad.co.gov> wrote:

Dan,

Yesterday, on the fatal accident on the I25 SB at the 23 you had requested a second flight out of La Junta. That is Care Connect. It was almost impossible to get a flight confirmed much less in the air. In the past we have had problems getting flights out of this agency as well and I thought this was the reason we weren't utilizing their services.

This something that needs to be addressed. It should be so difficult to request a flight when lives are at stake.

Respectfully submitted,

Rita Mantelli

Trinidad Police Department
Communications Director, E911
CCIC/NCIC Coordinator
160 E. First Street
Trinidad, CO 81082
719-846-2993 ext. 230



How to Prevent EMS Fraud

Mon, Nov 1, 2010 | By [Rick Keller](#)

Health-care fraud and abuse are playing a prominent role in political theatre. Targeting fraud and abuse is an easy political position; who could possibly argue against prosecuting crooks that take advantage of our health-care system and taxpayers? As would be expected, when the politicians focus on a specific agenda, the bureaucrats follow.

The government has unleashed an army to combat health-care fraud—the Office of Inspector General, the Federal Bureau of Investigation, state attorneys general and the Department of Justice have committed significant resources to identify and prosecute health-care fraud.

Then there are the disgruntled employees, former employees, competitors and others who are more than willing to aid the government and claim up to 30% of any damages, penalties and fines ultimately collected. In fact, whistleblowers initiate many government investigations of EMS and ambulance services. Increasing awareness and prevention at all levels of an organization proves the best way to avoid prosecution.

What is fraud?

Many of us fail to understand the full meaning and implications of health-care fraud. We believe that fraud requires the intent to steal money not rightly due the perpetrator. In reality, this assumption is naïve. Many investigations, prosecutions, settlements and sentences are the result of errors, omissions, misunderstanding, and lack of knowledge of the rules and regulations governing the filing of health-care claims.

Without confusing the issue with the legal definitions, fraud—as it relates to most ambulance investigations—is simply the result of filing a false claim. A false claim is one where the documentation associated with the trip doesn't substantiate the information submitted on the claim. It doesn't matter whether the ambulance service provider

intended to file an incorrect claim or if the information submitted was due to a failure to understand the rules and regulations.

Blatant examples of fraud within the ambulance industry include transporting dialysis patients who can walk to the ambulance and then billing Medicare, filing for patient transports that never occurred, filing claims for services not rendered and filing for upgraded levels of service that weren't appropriate. Although these cases make headlines and the evening news, the vast majority of investigations deal with finer nuances in the rules. The following are areas that are being closely scrutinized:

- Filing for Medicare reimbursement for patients who could've been transported by means other than ambulance;
- Filing claims at the ALS level for all 9-1-1 requests just because a paramedic responded;
- Seeking reimbursement for an emergency response when the transport doesn't meet the definition of emergency;
- Seeking reimbursement for transports beyond the closest appropriate facility capable of caring for the patient;
- Filing claims that conflict with documentation in the patient care report or physician certification statement; and
- Using incorrect modifiers to identify a non-covered destination as a covered destination.

By far, the predominant focus is on medical necessity (i.e., whether the patient could've gone by other means) and billing at the ALS level for assessment when the transport didn't fulfill the necessary criteria (especially documenting the patient's condition in dispatch that indicates that an ALS assessment is necessary). Investigations into air medical providers often focus on the issues of medical necessity and transport to the closest appropriate facility.

Relying on false assumptions?

How do we get into trouble when our intentions are good and we want to comply?

Frankly, many of us have made false assumptions. These include the following situations:

- The doctor ordered it, so it must meet the criteria for medical necessity.
- It's Medicare's responsibility to determine whether the claim meets medical necessity. If they pay the claim it's OK.
- I have a signed PCS form, so the trip is covered.
- All 9-1-1 patients deserve and require a paramedic response; therefore, they should be billed and paid at the ALS level.
- Our billing service is responsible for filing appropriate claims.

- As a paramedic or EMT, it isn't my job to determine whether the patient could've gone by means other than ambulance.
- Using incorrect modifiers to identify a non-covered destination as a covered destination.

Believing in any of these assumptions can lead to trouble. If you've heard statements similar to these repeated within your organization, you have some work to do. More importantly, you must understand that you're responsible for what is submitted on claims for reimbursement.

Just because Medicare pays a particular claim doesn't mean it's accurate. In fact, investigations often come down to calculating the overpayment amount an ambulance service will have to pay back. The Medicare contractor paying the claim isn't penalized.

If your EMS organization relies on a billing service to process claims, understand that the government will extract overpayments, penalties and fines directly from you, the ambulance service provider, regardless of who was at fault for filing the errant claims. What should you do?

Ideally, your EMS organization will implement and use a comprehensive compliance plan to monitor and ensure that claims are documented and filed appropriately. This plan should include the following key elements.

Training: Train dispatchers, field personnel, supervisors and billing personnel on the relevant rules and regulations. The following questions should be addressed: When is an ambulance trip medically necessary? What information must be obtained in dispatch to appropriately file a claim as an emergency or for an ALS assessment? How should the field crews document the patients' conditions, and when and how should they document that the patient doesn't need an ambulance?

Documentation monitoring: Include reviewing information and the PCR relevant for billing in your quality improvement processes. PCRs should be consistently monitored for accuracy and to ensure that important data elements are complete.

Internal monitoring: Complete internal prepayment and post payment claims reviews on a regular basis and require that your billing service also conduct reviews. The randomly selected claims should be examined with other source documentation from the field and dispatch to validate that the information on the claim was clearly supported in the documentation associated with the transport.

External monitoring: Ensure annual reviews are conducted by an external entity to assess the accuracy of the claims, overpayment amounts, errors and other variances from the

rules and regulations.

Reinforce findings: Communicate with staff when problems are identified and, when necessary, update your training programs.

Involve the work force: Reaffirm and communicate with staff your organization's commitment to compliance and the filing of appropriate claims for reimbursement. Let everyone know that you not only want but also expect employees to immediately bring forward any issues that they think may not be appropriate or comply with the letter and intent of the rules and regulations.

Compliance with federal rules and regulations for ambulance service billing is an organization-wide endeavor. It will take everyone to do the job right.

No one is immune

Federal and state governments have focused on ambulance services operated by cities, private companies and hospitals. Fraud cases have been instituted against organizations that do their own billing and those that use outside billing services. No one is immune.

Many of the cases have been resolved with “two comma” judgments—damages, penalties and fines totaling more than a million dollars. If your municipality, owner or hospital can't afford to pay a multi-million dollar settlement, it behooves you to do everything possible to ensure absolute compliance with the rules and regulations.

The best advice is to use common sense and be conservative. If you don't know whether a patient could've safely been transported by means other than an ambulance, don't bill. If you're unsure whether the transport meets the requirements for a higher level of service (i.e., emergency or ALS), bill at the lower service level.

The financial risk of not doing things right is immense (See sidebar, “A Cautionary Tale”). For example, one city is currently attempting to settle a fraud case arising from approximately \$500,000 in overpayments over four years for nearly \$2.5 million, and they think they will be lucky.

Fraud investigations originate from false claims. Make sure your claims are clean and that there are no intentional or accidental actions that could be classified as fraud.

A Cautionary Tale

On Oct. 13, the U.S. Department of Justice announced that an ambulance company owner in Texas was sentenced to 15 years in federal prison and ordered to pay more than \$1.3 million in restitution for running a health-care fraud scheme. Muhammed Nasiru Usman, the owner and operator of Royal Ambulance Service and First Choice EMS, was convicted in May of this year on 14 counts, including health-care fraud and money laundering. Two co-defendants, Shaun Outen and David McNac—both director-level employees—pleaded guilty prior to trial. They were awaiting sentencing at press time.

The two ambulance services routinely transferred patients on a non-emergency basis to and from dialysis treatments three times per week, according to a press release from U.S. Attorney James Jacks. The U.S. government presented evidence that the three defendants “conspired to defraud Medicare and Medicaid by submitting fraudulent claims related to the transportation of dialysis patients.

As part of the conspiracy, the defendants told Royal and First Choice employees to omit facts when documenting their transports ... such as whether the patients walked to the ambulance, in order to qualify the transports for reimbursement.” According to the DOJ, records showed that many patients rode to their appointments while sitting in the captain's chair in the back of the ambulance.

In total, more than \$3.5 million in fraudulent claims were submitted to Medicare and Medicaid, and \$1.3 million was paid.

By

Rick
Keller