

I would like to take this opportunity to brief you on the status of EMS issues in California.

## **ANTI-TRUST LITIGATION by CAL CHIEFS**

As you may know, Cal Chiefs was authorized by their membership to file legal action against the State of California over the issue of Anti-Trust Immunity for 201 ambulance providers. After a year of due diligence and consultation with attorneys who have the expertise in this area of law, the Cal Chiefs E-board brought back their findings to the membership at last year's conference and was authorized by the membership, at the boards' discretion, to file.

Cal Chiefs then moved forward to file said law suit in the Federal court out of Sacramento. This suit seeks to once and for all determine if 201 providers have anti-trust immunity or not. In other words do 201 providers enjoy exclusivity and can they eliminate competition from other providers in their community. It seems that Cal Chiefs was justified in filing this suit because over the last few months, a private provider in Orange County has filed lawsuits in numerous jurisdictions alleging, among other things, that if these providers are 201 providers, they do not enjoy antitrust immunity and that they must overlay the private providers in those cities and districts jurisdictions and rotate and share the calls with these private providers. It should be noted that the state EMSA is of the same opinion as these private providers and as such, has put this in writing in the past. The status of the Cal Chiefs' suit is that the State Of California has filed to have it dismissed on numerous grounds of which Cal Chiefs attorneys do not agree and have filed responses to the State's filings for dismissal. The federal Judge has had the state's filing and Cal Chiefs response since November 2015 and has not issued a ruling on the dismissal to date.

## **ELIMINATING FIRE RESPONSE TO EMS CALLS**

On another topic, the LEMSA Director in San Joaquin County issued a new policy that would have, in effect, eliminated the Fire Departments in that county from responding to emergency medical calls in care homes unless CPR was initiated or the patient was not breathing. This same policy would have also prevented the fire departments from responding to Alpha and Bravo level EMS calls to the general population within their own jurisdictions. The LEMSA Director is Dan Burch who, if you are not aware, stripped the City of Stockton of its ALS services many years ago and is the current Chair of the State EMS Commission. It should be noted that Cal Chiefs opposed Mr. Burch being appointed Chair for his clear anti-Fire Department bias that goes back many years. **It is particularly important to know that CSFA Representative and EMS commission Chair Lew Stone asked CPF representative Dave Rose to nominate Mr. Burch to this position of Chairman of the state EMS Commission.**

The Fire Departments in this state run about 70 to 80 percent EMS calls in their respective jurisdictions. This is another blatant attempt to cut the fire service out of the very essential service that the public expects us to deliver. The City of Tracy (located in San Joaquin County) has publicly opposed this move and has made it clear that this is an issue of local control. In other words the tax payers of their community pay for these fire/EMS services and have the right and expectation that their Fire Department will respond on all calls of an EMS nature. Mr. Burch seems to believe that he can now tell local governments what calls they will or will not respond to even though this is clearly a policy decision of the local, elected officials. Unknown to the officials of the City of Tracy, Mr. Burch had already implemented this policy at the dispatch level allegedly resulting in the failure of the dispatch center to dispatch fire units. This allegedly resulted in long

delays in ALS care arriving on the scene. Though fire stations were located close to these incidents, they were never dispatched until the reporting parties called back and stated that no ambulance had ever showed up. It was only at this point that fire was dispatched. This allegedly resulted in patient deaths on several occasions. After intense, negative reaction to this new policy by elected officials, Fire Chiefs and organized labor, Mr. Burch and the LEMSA have slightly backed down from their position but still maintain their position that they have the authority to direct local fire agencies on what calls they will or will not be dispatched to on EMS services. I believe that CSFA should take a position on this issue as it affects firefighter's ability to provide services and is a matter of public safety.

## **ALAMEDA COUNTY FIRE DEPARTMENT PREVENTED FROM PUBLIC-PRIVATE PARTNERSHIP MODEL**

As of this report, the EMSA has questioned the integrity and legality of public-private partnerships for the delivery of ambulance services in California which have existed for decades and currently thriving in Contra Costa Fire Department partnership with AMR. Some of the LEMSA Directors in California have seen this as a threat. In Alameda County, the Alameda County Fire Department was preparing to put together a partnership with either AMR or Paramedics Plus in anticipation of competitively bidding the ambulance system. The LEMSA Director, in an unprecedented move, submitted two proposed RFPs to EMSA for approval. The RFP that was released prohibited the fire departments from bidding and further does not allow public private partnerships. This is hardly in the public's best interest when the contract in Alameda County is worth in excess of half a billion dollars over a 10 year period and more importantly, deals with the delivery of patient care. It is clear that the State EMSA and that some LEMSA Directors in the State of California are working tirelessly to eliminate the Fire Departments in this state from providing the best services and patient care to their citizens. It should be pointed out that the State EMSA, in order to cast doubt by local elected officials as to public-private partnerships and their validity, have asked the Attorney General to issue an opinion. This was clearly done to chill the environment of these types of partnerships moving forward. In fact we have had other LEMSA Directors in California opine that these types of partnerships are not legal. In spite of what I would consider agenda-driven motives by EMSA, we (CSFA) should urge the Attorney General to issue an opinion as to the validity of public-private partnerships in California as soon as possible.

## **IGT/GEMT UPDATE**

As for our current IGT/GEMT program in California, I (representing the states fire services and Ted Peterson representing CalChiefs) are still negotiations with the State on increasing GEMT: As of this letter, we are still negotiating with the State to increase the amount of federal reimbursement to Fire agencies providing ambulance transport. The State Representatives we were dealing with have changed 3 times, so progress was very slow. We now have a new permanent person to work with and we are cautiously optimistic. We hope to bring back recommendations on an Agreement within the next several months. This whole process was initiated after the Governor vetoed Cal Chiefs' clean-up language to original GEMT legislation that was approved and signed that would have allowed the Fire Service to have its own IGT program and to submit for first responder reimbursement as well. I will keep you updated as this issue proceeds.

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## **SB 1300 (PROVIDER TAX)**

The private ambulance companies in California moved SB1300 through the legislature. This legislation would have provided a mandatory provider tax that both public and private sector agencies that provide ambulance transport would need to pay in order to put up matching funds to draw down additional dollars. This would have benefitted both the private and public sectors, and was estimated to more than triple the average revenue currently received by transporting fire agencies. Total value statewide to both public and private providers was estimated at nearly 500 million dollars. This was vetoed by the Governor.

## **EMT REGULATIONS**

The state has updated the EMT regulations to include the use of Epi Pens, Glucose test and the use of Narcan. While these changes have the ability to have a positive impact to the citizens we serve they come at a cost. As we have seen in the news Epi Pens come at a price as high as \$600 per two pack. The use of Epi-pens, Narcan and glucose test are in the optional scope of practice and are not mandated to be used or even stocked by BLS units. However, every EMT must be trained in their use even if there is no intension to allow EMT's to use them. This training will result in an increase in the initial training and will also require every currently certified EMT to receive an additional 16 hours of training. Agencies that reimburse for those recertification hours can likely expect to have an increase in costs.

The state also passed legislation that will require every provider of EMS services at both the ALS and BLS levels to transition to an electronic patient care record or EPCR. This will require that all providers including volunteer organizations will need to obtain some form of electronic devise to record any patient contact. This mandate will also include the requirement that each provider also transition to the new NEMSIS 3 reporting platform. While this is a good move it also carries a significant financial commitment that many providers will find nearly impossible to meet.

## **EMS COMMISSION**

If you remember CSFA was asked to assist Assemblyman O'Donnell with crafting language for Assembly Bill 1223. Although this Bill was hotly contested CSFA worked hard with Assemblyman O'Donnell to get this Bill passed. This Bill is the beginning for establishing criteria for statewide "wall time" standards that will help get our ambulance out of the hospital hallways and back into service. The State EMS Authority as mandated by the Bill crafted language and methodologies that are needed to meet this Bills objective. In the last EMS Commission meeting the EMSA asked the commissioners to approve the language to start the program. **CSFA Representative Lew Stone asked that the state put this on hold until a later date. He was overruled and the language was passed thanks to the other fire service representatives looking out for the fire services best interest.**

This concludes my report. Please feel free to contact me if you have any questions.

Respectfully submitted,

SCOTT A. CLOUGH  
CSFA EMS Chair

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