



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

OFFICE OF EMERGENCY MEDICAL SERVICES

PO BOX 360

TRENTON, N.J. 08625-0360

JON S. CORZINE
Governor

www.nj.gov/health

HEATHER HOWARD
Commissioner

May 20, 2009

Mr. Jeffrey Woronowicz
Rural America Emergency Services
14A Brass Castle Road
Washington, New Jersey 07882

Re: **Order to Cease and Desist Operation of
Unlicensed Mobile Intensive Care Services**
Investigation Control #09-B-008

Dear Mr. Woronowicz:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of N.J.S.A. 26:2K-7, et seq., which govern the delivery of advanced life support services within the State of New Jersey. This law establishes a scheme that permits a provider, once licensed, to develop and maintain a mobile intensive care (MIC) program, specialty care transport service (SCTS), or air medical service (AMS) and to provide advanced life support services (ALS) using licensed physicians, registered nurses trained in advanced life support and certified Emergency Medical Technician-Paramedics (EMT-Ps). In furtherance of this statutory scheme, the Department of Health and Senior Services (the Department) has adopted administrative rules that govern the licensure and operation of these services. These administrative rules are set forth in their entirety at N.J.A.C. 8:41-1.1, et seq.

On March 6, 2009, staff of the Department's Office of Emergency Medical Services (OEMS) received a complaint that you were incarcerated. OEMS staff initiated an investigation in response to the complaint. OEMS staff telephoned Rural America Emergency Services (RAES) on March 6, 2009, and was told by Mr. Kevin Sheets that you were incarcerated and that he was in charge of the day to day operations of RAES.

On March 9, 2009, OEMS staff conducted an unannounced inspection at your place of business at 14A Brass Castle Road in Washington Township, New Jersey. This address was not the one on file at the OEMS. Mr. Sheets was present and advised OEMS staff that your office moved in June of 2008. RAES did not notify the OEMS that your office either intended to change location or did in fact relocate.

OEMS staff members reviewed patient care reports for SCTS from February 2009 back through September 2008. Twenty SCTS patient care reports were found to be emergency ALS calls that met the criteria for the dispatching of a hospital based Mobile Intensive Care Unit (MICU), not a Specialty Care Transport Unit (SCTU). RAES holds provider licenses for Mobility Assistance Vehicle (MAV) Services, Basic Life Support (BLS) Ambulance Services and SCTS. RAES is not a hospital and is not licensed to provide mobile intensive care services.

The Department issued an "Order to Cease and Desist Operation of Mobile Intensive Care Services, Control # 02-B-006" to RAES on December 27, 2002. At that time, you were ordered not to provide mobile intensive care services. You were also informed that "if RAES is observed providing prehospital ALS services in the State of New Jersey, this office will seek additional penalty action against RAES. This penalty action could be in the form of monetary penalties and/or revocation of your provider license."

N.J.S.A. 26:2K-12a states that, "Only a hospital authorized by the Commissioner with an accredited emergency service may develop and maintain a mobile intensive care unit and provide advanced life support services utilizing licensed physicians, registered professional nurses trained in advanced life support nursing, and mobile intensive care paramedics."

N.J.A.C. 8:41-1.3 states that, "The following words and terms, as utilized in this chapter, shall have the following meanings, unless the context in which they are utilized clearly indicates otherwise:

"Mobile intensive care program" means a program, operated by a mobile intensive care hospital, which is validly licensed by the Department to provide pre-hospital advanced life support care by way of a specially equipped and staffed mobile intensive care unit. The mobile intensive care hospital shall be vested with the ultimate responsibility for the delivery of services and shall be held accountable for the actions of all of its crewmembers in the event that there are violations of any State or Federal licensing standards.

"Specialty care transport service" means an entity that is validly licensed by the Department to provide ALS inter-facility transfers, by way of a specially equipped and staffed specialty care transport unit, between a sending health care facility and a receiving health care facility (such as a nursing home, rehabilitation facility or other facility as provided for at N.J.S.A. 26:2H-2a) of patients requiring specialized medical intervention or medical monitoring that is beyond the capabilities of BLS ambulances and their crewmembers."

N.J.A.C. 8:41-12.5(a) states that, "Consistent with N.J.A.C. 8:41-9.1, 10.1 and 11.1, no person, public or private institution, agency, entity, corporation, acute care hospital or business concern shall operate a mobile intensive care program, specialty care transport service or air medical service within the State of New Jersey until licensed by the Department.

1. Upon notice or discovery that a person, public or private institution, agency, entity, corporation, acute care hospital or business concern is providing mobile intensive care, specialty care transport and/or air medical services without having first obtained the required provider and vehicle licenses, after revocation or suspension of a license previously issued by the Department or after having allowed an existing license to lapse, the Commissioner or his or her designee may issue an order directing the operation of the unlicensed service to immediately cease and desist.

i. Failure to comply with an order to cease and desist may result in an action by the Department for injunctive relief in the Superior Court of New Jersey.

ii. The order to cease and desist shall constitute a final agency decision. As such, pursuant to New Jersey Court Rule 2:2-3, any appeal from the Commissioner's order to cease and desist shall be filed with the Superior Court of New Jersey, Appellate Division.

iii. Orders to cease and desist shall be considered public information and shall be posted on the OEMS website (www.state.nj.us/health/ems) as a public notice. Orders to cease and desist shall remain posted on the OEMS website permanently or until such time as a license is issued by the Department.

2. In addition to the issuance of an order to cease and desist, the Commissioner or his or her designee may:

i. Place a vehicle in DIOOS status and place an official Department "Out-of-Service" sticker on the window of any vehicle it knows or has reason to believe is being operated by any person, public or private institution, agency, entity, corporation, acute care hospital or business concern that is not licensed to operate a mobile intensive care program, specialty care transport service or air medical service in New Jersey. Utilization of the vehicle shall immediately cease once an "Out-of-Service" sticker has been placed on the vehicle. The "Out-of-Service" sticker shall not be removed except by an authorized representative of the Department upon the issuance of a provider license and a vehicle license;

ii. Impose a monetary penalty in the amount of \$200.00 per calendar day for each day that a service is found to have operated without a license. In addition, the Department may impose a penalty in the amount

of \$200.00 per calendar day/per vehicle for each day that each unlicensed vehicle is utilized, as well as an additional \$500.00 per calendar day/per vehicle if the "Out-of-Service" sticker has been destroyed, distorted and/or removed from the vehicle; and/or

iii. Refuse to issue or renew any subsequent licenses.

As such, in accordance with N.J.A.C. 8:41-12.5(a)2ii, you are hereby assessed a penalty in the amount of \$400.00 for each of the 20 days that RAES operated as a mobile intensive care unit service without the required provider and vehicle licenses.

A certified check or money order in the amount of \$8,000 made payable to "Treasurer, State of New Jersey," must be submitted within 45 days from the date of this Notice. In accordance with N.J.S.A. 26:2K-15 and N.J.A.C. 8:41-12.3(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection (N.J.S.A. 2A:58-1, et seq.), refusal by the Department to issue or renew a license and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Emergency Medical Services
P.O. Box 360
Trenton, NJ 08625-0360
Attn: Ms. Karen Halupke

In addition, you are hereby **ordered to immediately CEASE AND DESIST** providing mobile intensive care services. Failure to abide by this order to cease and desist may result in additional fines and penalties as provided for by law.

This order to cease and desist shall constitute a Final Agency Decision. As such, pursuant to New Jersey Court Rules 2:2-3 and 2:4-1, you may appeal from this Final Agency Decision within 45 days to the following authority:

New Jersey Superior Court-Appellate Division
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0006

If you have any questions concerning this matter, please contact Mr. Samuel Stewart, OEMS Regulatory Officer, at (609) 633-7777.

Sincerely,



Karen Halupke, R.N., M.Ed.
Director, Emergency Medical Services

c: David W. Gruber, Senior Assistant Commissioner
Joseph Tricarico, Jr., Assistant Commissioner
Samuel Stewart, OEMS
William Duffy, OEMS
Christopher Tams, OEMS
Michele Stark, OLRA
Division of Medical Assistance and Health Services

SENT VIA REGULAR U.S. MAIL AND
CERTIFIED MAIL #7006 2150 0001 2716 8882
RETURN RECEIPT REQUESTED