



State of New Jersey

DEPARTMENT OF HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
PO BOX 360
TRENTON, N.J. 08625-0360

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

www.nj.gov/health

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

January 7, 2021

Chief Robert Resetar, Jr.
Lanoka Harbor Emergency Medical Services
PO Box 269
Lanoka Harbor, New Jersey 08734

Re: **AMENDED Notice of Proposed Assessment of Penalties:
Basic Life Support Ambulance Provider
Investigation Control #2019-0094V**

Dear Chief Resetar, Jr.:

The New Jersey Department of Health (Department) is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2(b), health care services include ambulance services. Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department adopted regulations that govern the licensure and inspection of ambulance providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1 et seq.

The Department's Office of Emergency Medical Services (OEMS) received an anonymous complaint that Lanoka Harbor Emergency Medical Services (LHEMS) was operating unlicensed vehicles when providing 911 emergency medical care to the residents of Lacey Township and its contiguous area. Consistent with its regulatory authority and OEMS policy, the OEMS opened an investigation in response to this notification on June 7, 2019.

During the OEMS initial investigation and after review of all agency information provided and available an initial penalty was issued on January 31, 2020 in the amount of \$617,000. After this action was taken Lanoka Harbor Emergency Medical Services provided additional documentation and information. After being reviewed, the Department is issuing an adjusted penalty as set forth herein. Accordingly, this Amended Notice of Proposed Assessment of Penalties replaces the Notice issued to LHEMS on January 31, 2020.

Upon opening the investigation, the OEMS investigator confirmed that LHEMS is currently licensed to provide basic life support (BLS) services within the State. According to the OEMS licensing system, LHEMS operates two licensed vehicles: BLS vehicle #268 and BLS vehicle #269. The OEMS then commenced an audit of LHEMS on June 20, 2019. During the audit,

LHEMS' employee roster, credentials, insurance and standard operating procedures were reviewed. At this time, investigators advised LHEMS that, as a licensed provider with the New Jersey Department of Health, it was not permitted to operate ANY unlicensed vehicles and all vehicles must have a minimum of two licensed EMTs.

You were advised the OEMS would be conducting an audit of the patient care reports entered into the electronic patient care system. A review of LHEMS' electronic patient care reports revealed 705 of LHEMS' assignments from June 1, 2018 to June 1, 2019 required an ambulance response. Of those assignments, vehicle #268 responded to 263 assignments, vehicle #269 responded to 311 assignments and Vehicle #267, which is not licensed by OEMS, responded to 78 emergency assignments. It was also found that LHEMS used several other vehicles to respond to emergency assignments, even though these vehicles were not licensed by OEMS as required by N.J.A.C. 8:40-2.3. Specifically, vehicle #260 responded to 22 assignments, vehicle #265 responded to 1 assignment, vehicle #266 responded to 1 assignment, vehicle #266-T responded to 2 and a special event (SE) vehicle responded to 3 assignments. Additionally, 24 charts indicated a personal vehicle (PV) was used to respond to an emergency assignment. The OEMS was provided with corrections from LHEMS on data submitted incorrectly by the agency which revealed vehicles #260, #265, and #266 are first responder vehicles and not transport capable. Please see the table below for a breakdown of the violations by vehicles.

Vehicle Violations:

| Total Number of Assignments over the 365 day: 705 | | | |
|--|-------------------------|-----------------------------|------------------------|
| Vehicle | # of Occurrences | Fineable Occurrences | Reason for Fine |
| #260 | 22 | 0 | |
| #265 | 1 | 0 | |
| #266 | 1 | 0 | |
| #266-T | 2 | 0 | |
| #267 | 78 | 55 | Unlicensed Vehicle |
| #268 | 263 | 0 | |
| #269 | 311 | 0 | |
| PV | 24 | 0 | |
| SE | 3 | 0 | |
| | | 55 | |

The OEMS also discovered that LHEMS failed to staff its ambulances with at least two EMTs, as required by N.J.A.C. 8:40-6.3. On 169 instances, only one certified crewmember was present on the assignment, on 6 instances there was only one member listed on the chart and in one instance, there was no certified crew members on the vehicle at all. In total, there was 192 occurrences where vehicles were not staffed appropriately on 176 days during the audit of 365-day period. Please see the table below for a summary.

| Total Number of Occurrences for the given period: 192 | | |
|--|-----------------------------|-------------------------------|
| # of Occurrences | Fineable Occurrences | Reason for Fine |
| 1 | 1 | No certified crew members |
| 6 | 6 | One crew member |
| 185 | 169 | Only one certified crewmember |
| TOTAL: | 176 | |

* NOTE: The remaining, non-fineable instances are a result of multiple occurrences taking place on a single day.

As LHEMS should already be aware, a licensed BLS provider may only operate Department licensed vehicles when responding to emergency assignments. N.J.A.C. 8:40-6.15 and N.J.A.C. 8:40-2.3. Utilizing an unlicensed vehicle when responding to an emergency assignment is not permitted. Additionally, N.J.A.C. 8:40-6.3 provides that each in-service ambulance must be staffed with a minimum of two EMTs. Pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:40-7.2(e), the Department may impose monetary penalties for violations of any of the rules set forth in N.J.A.C. 8:40. Specifically, N.J.A.C. 8:40-7.2(e)(5) provides that “[v]iolations of any vehicle licensure requirements or utilization of a vehicle ordered or placed in DIOOS status shall result in a monetary penalty of \$1,000 per vehicle/per calendar day.” N.J.A.C. 8:40-7.2(e)(3) further provides that “[v]iolations of any rule pertaining to minimum crewmember requirements . . . shall result in a monetary penalty of \$ 1,000 per violation/per calendar day.”

Based upon the investigation, the OEMS finds that Lanoka Harbor Emergency Medical Services violated the Department’s administrative rules, specifically N.J.A.C. 8:40-2.3, by utilizing unlicensed vehicles for BLS services, and N.J.A.C. 8:40-6.3, by insufficiently staffing ambulances with either one or no EMT rather than the required two. Consistent with N.J.A.C. 8:40-7.2(e)(5), Lanoka Harbor Emergency Medical Services is assessed a penalty of \$1,000 for each of the 55 occurrences that Vehicle #267 was utilized for patient calls without obtaining proper vehicle licensure prior to use. And, pursuant to N.J.A.C. 8:40-7.2(e)(3), LHEMS is assessed a penalty of \$1,000 for each of the 176 occurrences when it failed to staff its ambulances with at least two EMTs. **Accordingly, Lanoka Harbor Emergency Medical Services is hereby assessed a monetary penalty of \$55,000.00 for operating unlicensed ambulances and \$176,000 for violating minimum crewmember requirements, pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:40-7.2. In total, LHEMS is fined \$231,000.**

Payment of \$231,000.00 must be submitted within 30 days from the date of this Notice. Payment must be submitted electronically through the E-Pay link on our website (www.nj.gov/health/ems). No payments made by company business check, personal check, cashier’s check and/or money order will be accepted. If you attempt to pay the penalty by any method other than electronic E-Pay, the paper instrument will be returned to you.

In the event of future violations, the Department may seek to impose stricter penalty and/or corrective actions, which include, but are not limited to doubling the monetary penalty, and/or suspending and/or revoking Lanoka Harbor Emergency Medical Service’s provider license.

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3(b), Lanoka Harbor Emergency Medical Services may request a hearing before the Office of Administrative Law to contest this proposed penalty assessment. The request for a hearing on this matter must be submitted in writing, within 30 days from the date on this correspondence, and must be accompanied by a response to the deficiencies noted above, indicating why the Department was incorrect in alleging the cited violations to the governing rules. In the event that a hearing is requested, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

The request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health
Office of Legal & Regulatory Compliance
PO Box 360
Trenton, N.J. 08625-0360

Please include control number **2019-0094V** on all correspondence. Finally, please note that failure to submit a request for a hearing within 30 days from the date of this Notice shall render this Notice final, and the entire **\$231,000.00** shall be immediately due and payable. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection, pursuant to N.J.S.A. 2A:58-1, et seq., refusal by OEMS to issue or renew Lanoka Harbor Emergency Medical Service's license and/or any such other action as authorized by law.

If you have any questions concerning this matter, please contact Eric Hicken, Chief of Licensing, Inspections, and Enforcement, at (609) 633-7777.

Sincerely,



Terry Clancy, PhD, RN, NRP
Director
Office of Emergency Medical Services

cc: Eric Hicken, Chief, Licensing, Inspections, and Enforcement OEMS

SENT VIA REGULAR US MAIL AND
CERTIFIED MAIL #
RETURN RECEIPT REQUEST