

NOTICE OF HEARING

DATE OF HEARING: January 10, 2022

TIME OF HEARING: 1 p.m.

LOCATION OF HEARING: Blue Mountain Community College, Classroom 2, 251 Olson Road, Boardman, OR 97818

This is to provide formal Notice of a Hearing under the Morrow County Ambulance Service Area Plan Complaint Review Process. Prior Notice of Deficiency and Request for Response was served on The Boardman Fire and Rescue District (BFRD) on July 26, 2022, documenting multiple violations of the ASA Plan and the Determination entered by the Morrow County Health District (MCHD) March 31, 2022. Those documents are attached to this notice for your reference.

Pursuant to the ASA Plan QA Problem Resolution requirements, BFRD Fire Chief Michael Hughes was contacted personally and in writing. Instruction was provided to prepare a written response and plan to address the deficiencies. Nothing was received in response. Continued non-compliance was found and was not evident within 10 days after attempts to gain compliance were made by the MCHD QA Subcommittee. Attempts to gain voluntary compliance were made and failed. A mediation was scheduled and occurred on October 3, 2022. Attempts were made to further mediate and those attempts have failed.

As a result of the continued failures to correct the deficiencies or complete a successful mediation or otherwise resolve the BFRD compliance issues, a Hearing was requested by the MCHD QA Subcommittee. That request was granted and a Hearing is hereby ordered to occur before the MCHD Board. The hearing shall be conducted by the Board Chairperson or vice-chairperson in accordance with the Attorney General's Model Rules of Procedures under the Administrative Procedures Act. In the event the Board determines the matter adversely to the BFRD and is unable to obtain compliance or correction as a result of this hearing, the Board shall request relief from the Morrow County Circuit Court, and the BFRD Supervising Physician shall be reported to the Oregon Board of Medical Examiners for further redress and discipline. Sanctions for non-compliance include, but are not limited to Nuisance penalties as specified under MC-C-4-98 for each occurrence.

Sincerely,

Marie Shimer

Marie Shimer, MCHD Board Chair

Pioneer Memorial Hospital & Nursing Facility	Pioneer Memorial Home Health & Hospice	Pioneer Memorial Clinic	Irrigon Medical Clinic	Ione Community Clinic	Morrow County Ambulance
P – (541) 676-9133	P – (541) 676-2946	P – (541) 676-5504	P – (541) 922-5880	P – (541) 422-7128	P – (541) 676-9133
F – (541) 676-2901	F – (541) 676-9017	F – (541) 676-9025	F – (541) 922-5881	F – (541) 422-7145	F – (541) 676-2901
TDD – (541) 676-2908					



DETERMINATION
Morrow County Health District
ASA Plan EMS Advisory Committee

A Request to Amend the Ambulance Service Area Plan (ASA Plan) was brought by Boardman Fire and Rescue District Chief, Michael Hughes, during a regularly called, public meeting on March 31, 2022. This meeting was preceded by a joint conference on March 21, 2022 attended by the following individuals:

- Michael Hughes (BFRD Fire Chief)
- Ken Browne (BFRD Board Chair)
- Lisa Pratt (BFRD Board Member)
- Emily Roberts (MCHD CEO)
- Nicole Mahoney (MCHD CFO)
- Donna Sherman (MCHD EMS Director / EMS Advisory Committee Member)
- Dr. Ed Berretta (MCHD EMS Supervising Physician / EMS Advisory Committee Member)
- John Murray (MCHD Board Chair)
- Diane KilKenny (MCHD Board Member)
- Troy Bundy (Legal Counsel)

The public meeting was duly called and attended by the following Committee members:

- Dr. Ed Berretta (Supervising physician or designee for the ambulance service provider)
- Donna Sherman (EMT from Heppner)
- Josie Foster (EMT from Irrigon)
- Adam McCabe (EMT from Ione)
- Charlie Sumner (Quick response team representative from Lexington)
- Eric Chick (Fire department representative)
- Kristen Bowles (9-1-1 systems representative)
- Judi Gabriel (Director of nursing service or designee from Good Shepherd Hospital)
- Kathleen Greenup (Director of nursing service or designee from Pioneer Memorial Hospital)

The Request to Amend was based upon the desire of Boardman Fire District to attend all emergency calls within Boardman Fire District, regardless of subject matter of the calls. Following the public discussion, an Executive Session was called and the EMS Advisory Committee/QA Subcommittee was tasked with evaluating quality concern issues in determining whether amendment of the ASA would be appropriate, as it is required to do per the ASA Plan. The following background is highlighted for purposes of this DETERMINATION.

The procedures for adopting ASA Plans are set out under the Oregon Administrative Rules (OAR) in Chapter 333. The County, after consultation with appropriate entities, must present the proposed ASA Plan to the State of Oregon, Public Health Division – Oregon Health Authority (OHA) for approval. Once approved, the ASA Plan controls **all aspects** of the ambulance service area in question, including the coordination of “non-transporting EMS Providers,” including Quick Response Teams (QRTs), which are defined as any agency that provides initial response and basic life support care without transportation capabilities by certified First Responders, OAR 333-260-0020(6)(e)(A). Emergency and Non-Emergency

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scene response are incorporated into the ASA Plan, and the Morrow County Health District Board is responsible for Plan oversight and appointment of the multi-disciplinary task force referred to as the EMS Advisory Committee. The Committee is composed of members representing all relevant specialty groups including medical, fire, and EMS.

Per the ASA Plan, “The County is considered a single EMS area.” This incorporates the Boardman Fire District. A narrative description of the boundaries of the EMS area are set out on Page 7 of the ASA Plan. The Plan was developed to “ensure that the citizens of Morrow County have access to an efficient and effective ambulance service in spite of this being a remote and sparsely populated area.”

The EMS Advisory Committee is tasked with advising the Morrow County Health District Board (The Board) on all matters relating to pre-hospital emergency medical care, making ASA Plan amendment recommendations to the Board, and fostering co-operation among pre-hospital care providers and the medical community. For Quality Assurance purposes with respect to EMS care, the members must investigate all medically related issues and perform any duties that are required to carry out the requirements of the ASA Plan as directed by the Board. The EMS Advisory Committee reports directly to the Board on all matters coming before the Committee. The Chairperson of the Committee is given the power and responsibility of Administering the ASA Plan and EMS Ordinance, as specified on page 15 of the ASA Plan, based upon the findings and determinations made by the EMS Advisory Committee. As stated on Page 17 of the ASA Plan: “COORDINATION – ADMINISTRATION OF THE PLAN: (1) The Morrow County ASA Plan shall be administered by the EMS Advisory Committee, as representatives of the Board.”

NOW, THEREFORE, after hearing full argument and requests made on behalf of the Boardman Fire and Rescue District, it is hereby **DETERMINED**, that the ASA Plan EMS Advisory Committee has voted to **REJECT** the request from Boardman Fire and Rescue District to Amend the Plan and the County/Health District’s longstanding policy and procedure of dispatching the Fire District to Fire and Motor Vehicle Accident calls only, unless specifically requested by the Health District/Morrow County Ambulance. Considerations of the following details were made by the Committee and given appropriate weight:

- (1) Oregon law specifically prohibits what is known as “call-jumping.” OAR 222-265-0083(15). It has been determined by the State of Oregon that **sending multiple providers to a single call presents risks to the public and patients that do not outweigh the benefit of that action.** This includes: (a) Traffic risks to the public at large associated with multiple providers coming in “hot” to a single scene and, potentially, exceeding speed limits and other traffic laws in an effort to attend the scene first; (2) Creating conflicts and disputes between care providers on scene, lending to unnecessary delays in care; (3) Slowing the delivery of care given the above; (4) Having multiple opposing treatment protocols in place with regard to patient care; (5) Splitting emergency resources that results in waste of time, budget, and expense; (6) Delays in patient transport associated with the foregoing and in failures to understand appropriate chain of command; (7) A review of Morrow County Ambulance response times revealed that response times are all well within protocol; (8) Personnel changes have occurred at Morrow County Ambulance that increase the number of available responders; (9) No other Fire District in Morrow County operates in the fashion proposed by Boardman Fire District, nor has any done so in 70 years.
- (2) Over the last year, the Boardman Fire District has demonstrated a failure to adhere to appropriate protocol and procedure. This has been demonstrated by the following: (1) Failing to have an appropriate contract and protocols in place with its medical director; (2) Failing to have a clear set of standing orders approved and reviewed by a medical director; (3) Instructing the Sherriff’s Department to ignore determinations of the Health

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District and the procedures laid out in the ASA Plan with regard to dispatch; (4) Engaging in multiple instances of patient confidentiality violations in public forums; (5) Multiple instances of Fire District crew disparaging Health District ambulance crew in public, at incident scenes, and elsewhere; (6) Multiple instances of Fire District crew unlawfully removing medications and supplies from Morrow County vehicles and facility without Health District authority; (7) Failing to engage in appropriate transfer of patient care when indicated; (8) Engaging in a public campaign to undermine the reputation of the Morrow County Ambulance personnel and the Board by posting false information in social media and attempting to create a false narrative that the District was slow in responding to calls or provided otherwise substandard care with respect to arrival and transports, or that the public was at risk if the Fire District was prohibited from responding to every EMS call.

- (3) One of the overriding reasons for the Fire District’s requested amendment is funding-based, rather than safety-based. This is not an appropriate reason to change protocol and the ASA Plan.

Based upon these considerations and conclusions, it is the medical and public safety determination of the EMS Advisory Committee, the QA Subcommittee and the Morrow County Health District that the Morrow County ASA Plan remain unchanged and the Morrow County Sherriff’s Department shall **discontinue** the practice of dispatching Boardman Fire and Rescue to all calls and will **resume** the practice of dispatching Boardman Fire and Rescue to Fire and Motor Vehicle Accident calls only, unless specifically requested by the Health District/Morrow County Ambulance. Continued activities in opposition to this arrangement are inappropriate and in violation of the ASA Plan; the EMS Advisory Committee’s determination; and the Health District’s responsibility to administer the Plan in a way that ensures the citizens of Morrow County have access to an efficient, safe and effective ambulance service, in spite of this being a remote and sparsely populated area.

4-27-22

Donna Sherman, Morrow County EMS Advisory Committee Chair

Date

4/27/22

John Murray, Morrow County Health District Board Chair

Date

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07-26-22

Boardman Fire Rescue District
 300 SW Wilson Ln
 Boardman, OR 97818

This NOTICE is sent to you pursuant to the Morrow County Ambulance Service Area Plan (ASA Plan) guidelines relating to matters involving Quality Assurance and Patient Safety. Enclosed is a copy of the Morrow County Health District (MCHD) DETERMINATION of April 27, 2022.

The purpose of this notice is to inform you that the Boardman Fire & Rescue District (BFRD) has been operating outside of the guidelines set out in this Determination and the ASA Plan with respect to how calls for medical services are to be responded to safely and in keeping with the goals and responsibilities maintained by the Morrow County Health District and the EMS Advisory Committee in administering the ASA Plan. Those BFRD activities include the following:

- (1) Operating emergency vehicles at unsafe speeds in an effort to race MCHD ambulances to non-emergency medical calls;
- (2) Obstructing access of MCHD ambulance vehicles and personnel at emergency and non-emergency medical scenes;
- (3) Making unprofessional and derogatory statements to patients and in the community relating to MCHD ambulance personnel medical care;
- (4) Violating patient confidentiality by making comments about specific calls when no longer on scene and rendering care;
- (5) Continuing to insist that the Morrow County Sheriff's Office dispatch the BFRD to all medical calls, despite the Determination made by the MCHD and EMS Advisory Committee that this procedure is unsafe;
- and (6) Continuing to ignore and violate the ASA Plan and Determination made by the MCHD and EMS Advisory Committee that this new dispatch procedure is unsafe by continually responding to all calls, including non-emergency calls, resulting in the violations described above.

All ambulance services in Morrow County are specifically governed under the enclosed ASA Plan, which was unanimously approved by the County Commissioners and the State of Oregon Health Authority. The Morrow County Health District was assigned the responsibility of monitoring the ASA Plan, administering it through the EMS Advisory Committee and assuring county emergency medical services are appropriately utilized on a county-wide basis.

Following a public meeting, held on March 31, 2022, the MCHD entered the enclosed Determination, informing the BFRD that its new method of responding to all medical calls of any kind should cease. In spite of this Determination, following a review of all patient safety issues brought to light by these recent changes to dispatch procedures involving BFRD, the BFRD has ignored the MCHD Determination and continued following its new practice of responding to all medical calls of any kind.

As a result, the Quality Assurance Subcommittee (QA Subcommittee) procedures under the ASA Plan were triggered, and the matter was reviewed. The BFRD was given multiple opportunities to present evidence and respond to these allegations. The QA Subcommittee is responsible for investigating violations of the ASA Plan. When the QA Subcommittee identifies a problem involving compliance with the ASA Plan or conduct that fails to conform to established protocols, the QA Subcommittee shall: (1) Request any additional information necessary to establish whether a violation or failure occurred; (2) Contact the non-compliant organization in writing and identify the specific

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facts, laws, rules or protocols concerning the violation or failure to conform; and (3) Request that within thirty (30) days the non-compliant organization submit a written response and a plan to correct the deficiencies.

Please consider this NOTICE the ASA Plan QA Subcommittee's request for your written response and plan to address these deficiencies within 30 days from the date of this Notice. Upon receipt of these materials, the QA Subcommittee will review the BFRD's response and written plan for resolution of the deficiency. Upon findings of compliance, the QA Subcommittee will monitor the plan for resolution of the deficiencies. Upon findings of non-compliance, the QA Subcommittee and the MCHD will need to take further action as described in the ASA Plan.

Thank you for your cooperation. Feel free to forward any questions or concerns you may have.



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9/2/2022

Chief Michael Hughes
 Boardman Fire Rescue District

This NOTICE is to inform you that the EMS Advisory Committee for the Morrow County Ambulance Service Area Plan met on August 31, 2022, to review the response and proposed plan that was to be submitted by the Boardman Fire Rescue District (BFRD) no later than August 25, 2022. Nothing was received from the Fire District explaining why BFRD was in violation of the Determination order and ASA Plan that was attached to the July 26, 2022, Notice of Violation sent to the BFRD. No plan for resolution was submitted by BFRD as required by the ASA Plan.

Therefore, as a result of BFRD’s failure to respond to the Notice, the EMS Advisory Committee has elected to move on to the next step within the quality assurance process. The rule allows the BFRD to come into compliance with the Determination order and ASA Plan within 10 days from the date responsive documents were due. The EMS Advisory Committee has elected to provide BFRD the opportunity to come into compliance by September 10, 2022, which is 10 days from the date of the EMS Advisory Committee meeting. If the BFRD fails to come into compliance with the ASA Plan and Determination order within that time, the ASA Plan procedure requires the parties to meet and discuss resolution between September 11 and September 20, 2022. If the BFRD fails to schedule that meeting or if such a meeting fails to accomplish a resolution of compliance, the matter will then be scheduled for a full hearing before the Morrow County Health District Board.

Please contact Donna Sherman in writing at donnas@moco hd.org and advise whether the BFRD will agree to comply with the ASA Plan and the MCHD Determination order of April 27, 2022. Alternatively, if the BFRD refuses to comply with the ASA Plan and MCHD Determination order, please provide dates for a meeting with the EMS Advisory Committee to be held between September 11 and September 20, 2022.

Sincerely,

Donna Sherman, EMS Advisory Committee Chair

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