State of New Jersey
DEPARTMENT OF HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CATHLEEN D. BENNETT
Commissioner

November 10, 2016

Hazim Elsamani
X-Port Medical Service
134 Evergreen Place, Suite 702
East Orange, NJ 07018

Re: **Notice of Assessment of Proposed Revocation and Penalties: Mobility Assistance Vehicle / Basic Life Support Service Provider Investigation Control # 2016-0109V**

Dear Mr. Elsamani:

The New Jersey Department of Health (the 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-2b, health care services include pre-hospital basic life support (BLS) 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. Even more, the New Jersey Medical Assistance and Health Services Act, N.J.S.A. 30:4D-1, et seq., requires the Department to establish the requirements for the equipment, supplies, and vehicles of providers of mobility assistance vehicle services. See N.J.S.A. 30:4D-6.4. In furtherance of each of the aforementioned statutory objectives, the Department adopted regulations that govern the licensure and inspection of ambulance and mobility assistance vehicle (MAV) service providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1 et seq.

On August 26, 2016, the Department's Office of Emergency Medical Services (OEMS) received notification of an X-Port Medical Services (X-Port) vehicle striking a pedestrian in Newark, possibly resulting in the death of the pedestrian. Consistent with regulatory authority and OEMS policy, the OEMS opened an investigation in response to this notification.

Upon opening the investigation, the OEMS investigator confirmed that X-Port is currently licensed to provide Mobility Assisted Vehicle and Basic Life Support (BLS) services in the State of New Jersey and operates a total of twelve vehicles (four MAVs, eight BLS vehicles). Your licensure file also shows that during an unrelated vehicle spot check on August 22, 2016, OEMS placed X-Port vehicle #19 on a Department Initiated

Out of Service (DIOOS) for major safety violations, including bald tires and an inoperable portable suction unit.

On August 29, 2016, OEMS investigators arrived at the address you have listed as X-Port's principal place of business in the EMS Licensing System and were told that X-Port had moved. The OEMS investigators contacted you, and you advised that the business moved a few months earlier to 134 Evergreen Place, #702 in East Orange. OEMS investigators then proceeded to the new location so that they could conduct an audit of your operations.

Upon arriving at the new location, a parking lot with multiple X-Port vehicles in varying levels of disarray and with obvious safety concerns were discovered. Investigators met with office staff and someone who identified himself as a supervisor. Investigators questioned the office staff as to which vehicles were in use. The supervisor stated that all of the vehicles were in service and operational with the exception of Vehicle # 19, which was placed on a DIOOS, and Vehicle # 07, which was being repaired at a repair shop. At this time, Vehicle #01 was about to go in service with MAV Technician D.A.2 operating the vehicle. When asked for his credentials, he stated he was still waiting to receive his card as he had taken the course approximately a week ago. OEMS investigators then inspected Vehicle #01 and discovered multiple violations, including:

1. The fire extinguisher was completely discharged, inoperable and unsecured;
2. Expired vehicle inspection sticker as of June 2016;
3. No manual bar to operate the lift in case of hydraulic failure;
4. Passenger side mirror was broken and held on with duct tape;
5. The interior was unsanitary with an oily soaked rag laying in the patient compartment creating a health hazard.

As a result of the multiple violations found, OEMS investigators placed Vehicle #01 on a DIOOS, and then inspected the remaining vehicles on X-Port's lot. The inspections revealed multiple, serious violations resulting in the vehicles being placed on DIOOS. Specifically, the inspections revealed the following:

Vehicle # 18 (BLS):

1. Expired vehicle inspection sticker as of May 2015;
2. Broken bench seat latch making the items stored underneath not crashworthy;
3. Multiple unsecured oxygen cylinders laying in the rear of the vehicle;
4. No fire extinguisher in the vehicle;
5. The interior was unsanitary creating a health hazard.

Vehicle # 22 (BLS):

1. The main oxygen cylinder was empty and inoperable and unable to be secured in the installed bracket;
2. The portable suction unit was inoperable;
3. Multiple tears were found on the bench seat making it pervious to blood borne pathogens;
4. Rear radio was inoperable;
5. Multiple loose oxygen cylinders strewn about the rear of the vehicle;
6. Numerous missing items such as oropharyngeal airways, obstetric kits and glucose;
7. Multiple expired items including expired nasopharyngeal airways, nasal cannulas, and suction tubing;
8. The interior was unsanitary creating a health hazard.

OEMS investigators also requested that all of your remaining vehicles be returned on a rotating schedule to the office so they may be inspected. Investigators were told the vehicles would be on the way back as they free up from transporting patients.

While waiting for the return of the remaining vehicles to the office for inspection, OEMS investigators requested multiple items, including patient care reports, personnel files, certificate of liability insurance and the standard operating procedures manual, in order to conduct the agency audit. Some personnel files were produced, which were disorganized with multiple staff not having current credentials available for OEMS investigators. An employee who reported that he was responsible for maintaining the credentials stated they were current but not in the appropriate folder and he would work on getting them to investigators. These credentials were never produced. Below is a table identifying the individual and the certifications that were either expired or missing.

Personnel	***Missing/Expired Credentials***
D.A.	No EMT certification found in file
A.P.	No CPR credentials on file.
S. B.	No EMT or CPR credentials on file
J.D.	No EMT or CPR credentials on file
J.F.	No MAVT, CPR or Driver's License on file
L.H.	No CPR credential on file
R.H.	No EMT or CPR credentials on file
R.H2.	Expired Driver's License
K.H.	No EMT credential on file.
J.F2.	No CPR credential on file
J.W.	No EMT or CPR credentials on file.
D.A2	No MAVT credentials on file; No file found.

Investigators also questioned the office manager about the incident involving an X-Port vehicle striking a pedestrian. It was understood by OEMS that the pedestrian

was critically injured and expected to succumb to his/her injuries. But, updated information regarding the patient indicated that the patient is recovering and currently in rehabilitation. When the incident report was requested, the manager stated the driver was too distraught to write any reports and has since disappeared and is unable to be located. Furthermore, when asked why no notification was made to OEMS as required by N.J.A.C. 8:40-3.7, no answer was furnished.

Investigators continued to request the status of the remaining vehicles needing to be inspected. The supervisor stated that he was trying to free the vehicles up and that a number of them would arrive shortly. After another thirty minutes (totaling two hours), OEMS investigators advised that all of the vehicles needed to return. At this point, the supervisor stated that all of the vehicles were on their way back with the exception of two that would be slightly delayed because they were transferring patients. However, when speaking with the person who identified himself as the office manager, investigators were told that the vehicles were not on their way back to the office.

After a total of two and a half hours, one BLS vehicle arrived and was inspected. Below is a list of violations found resulting in the vehicle being placed on a DIOOS.

Vehicle # 20 (BLS):

1. The portable suction was inoperable;
2. The rear bumper was severely damaged and hanging off the left rear side of the vehicle;
3. The rear door sticks, requiring multiple attempts to gain entry;
4. Multiple unsecured oxygen bottles were found in the outside cabinet behind the main oxygen cylinder compartment;
5. The air conditioner in the rear of the vehicle was inoperable;
6. The latch on the bench seat was inoperable making all of the equipment stored underneath not crashworthy;
7. Multiple pieces of equipment were expired including nasopharyngeal airways, obstetric kits, and extension tubing;
8. Numerous missing items such as oropharyngeal airways and bag valve masks;
9. The interior of the vehicle was unsanitary creating a health hazard.

Investigators asked if any other vehicles would be arriving, to which you stated they were coming from across the county. Due to the significant violations found with the vehicles that OEMS investigators were able to inspect, which posed a risk to public health and safety, and the fact that an X-Port vehicle struck a pedestrian without any notification to OEMS as required by N.J.A.C. 8:40-3.7, investigators advised you that the remaining X-Port vehicles (vehicles # 3, 7, 8, 19, 21, 23, 24, 25) were being placed on a DIOOS and would need re-inspection to ensure a safe environment for both patient and crew in accordance with the regulations. At that time, you stated that you understood and that there were no other vehicles in the area to be inspected at that time.

Despite your representations to the contrary, OEMS investigators found X-Port vehicle #08 idling with a driver and passenger on Evergreen Place when they were leaving the X-Port parking lot. Investigators approached the vehicle and noticed the driver duck into a driveway and attempt to run away. The driver, D.A2, eventually returned to the vehicle and stated that he was looking for his certifications. It was questioned as to how D.A2. could be on this vehicle when he was at the office when Vehicle # 01 was placed out of service. He stated that he was told to take the vehicle and continue with patient transports. The individual who accompanied D.A2 first stated they were coming from transporting patients. When questioned why they didn't return to be inspected, he stated they had just picked the vehicle up from the garage after being serviced. OEMS investigators then inspected the vehicle and found multiple violations resulting in the vehicle being placed on a DIOOS. Specifically, the inspection revealed the following:

Vehicle # 8 (MAV):

1. The left rear tire was bald;
2. The fire extinguisher was improperly stored;
3. There was no manual bar for the lift in case of hydraulic lift failure;
4. The interior of the vehicle was unsanitary creating a health hazard.

On August 31, 2016, you presented vehicles 8, 19, 20, and 22 for re-inspection in Trenton, New Jersey. The inspection was halted after a number of critical failures were found. Specifically, the inspection revealed the following:

Vehicle #8 (MAV):

1. The back door could not be opened. This caused the inspection to be stopped since it is a critical failure.

Vehicle #19 (BLS):

1. Multiple tears in the stretcher mattress making it pervious to blood borne pathogens;
2. The oxygen cylinders in the oxygen holder were unable to be secured;
3. Expired pediatric bag valve mask (5/2011), adult bag valve mask (3/2011), extension tubing (5/14), pediatric nasal cannula (6/2015), adult nasal cannula (12/2015);
4. The engine indicator light was lit on the dashboard.

Vehicle #20 (BLS):

1. Inoperable portable suction unit;
2. Expired adult nasal cannula (4/15), all nasopharyngeal airways (9/2015);
3. Advanced life support equipment found on the vehicle, namely an AirLife Nebulizer and Venturi Mask, when the vehicle is prohibited from carrying such equipment, pursuant to N.J.A.C. 8:40-6.5(c).

Vehicle #22 (BLS):

1. The sidewall of the right rear tire has a hole in it;

2. Velcro used to restrain the portable oxygen cylinder;
3. Missing seatbelt on the front of the bench seat;
4. Missing multiple pieces of equipment including obese sphygmomanometer and triage tags.
5. All of the suction tubing was expired as of 3/2014.

As a result, you were informed that you did not pass inspection and were prohibited from using the vehicles to transport patients. At this time, you were given a copy of the inspection form that OEMS uses when conducting the re-inspections. You were advised to go through the vehicles and ensure they meet all of the criteria on the form. You stated you understood what you needed to do in order to come into compliance and would not use the vehicles until you had done so.

On September 29, 2016, OEMS investigators conducted another audit of your agency in attempt to place your vehicles back in service. As part of the audit, your standard operating procedures (SOP) manual, certificate of liability insurance, patient care reports, staff roster, personnel records were reviewed, and your vehicles were inspected. Yet, you remained out of compliance. Specifically, the investigators found the following deficiencies for the vehicles that were inspected:

MAV Vehicle #1 (MAV):

1. The fire extinguisher was too small (1A10BC) for the vehicle;
2. Rear door sticks and required multiple pulls to open;
3. Wheelchair legs and manual bar for the lift unsecured in the rear of the vehicle;
4. Door gasket on the rear door was ripped;
5. The lift did not deploy properly, needing adjustment.

MAV Vehicle #3 (MAV):

1. The manual bar for the lift left unsecured in the rear of the vehicle;
2. Multiple holes in the rear seats making them pervious to blood borne pathogens.

MAV Vehicle #8 (MAV):

1. The manual bar for the lift was left unsecured in the rear of the vehicle;
2. Velcro was holding the door to the storage bin down;
3. The interior of the vehicle was unsanitary creating a health hazard;
4. Multiple holes in the rear seats making them pervious to blood borne pathogens.

Vehicle #19 (BLS):

1. Missing an external automatic defibrillator;
2. Missing equipment including medical adhesive tape and occlusive dressings;
3. Improperly functioning portable suction unit;

4. The interior cabinets of the vehicle were extremely disorganized making it difficult to find equipment.

Vehicle #20 (BLS):

1. Missing automatic external defibrillator;
2. The sidewall on the right rear tire was pulling away from the tread;
3. The right front tire had a large piece out of the sidewall;
4. The bench seat was not secured via a positive action latch;
5. There was no wrench attached to the portable oxygen cylinders.

Vehicle #21 (BLS):

1. Missing automatic external defibrillator;
2. The right rear tire has a large piece out of the sidewall;
3. The fender flare of the right rear tire was hanging off of the body;
4. An outside cabinet behind the right rear tire was filled with water with equipment sitting in the water;
5. There was a hole in the bench seat making it pervious to blood borne pathogens;
6. When the vehicle was in drive, all of the emergency lights would work. When the vehicle was placed in park, only the lights on the left side of the vehicle worked. The light bar, right top and right grill lights turn off;
7. Missing equipment including seatbelt cutter and five-point harness.

Vehicle #22 (BLS):

1. Missing automatic external defibrillator.

Vehicle #24 (BLS):

1. Missing automatic external defibrillator.

The review of the requested documents still showed a number of personnel files with expired certifications and missing credentials. In addition, your SOP manual revealed a section titled "II. Special Requirements for Emergency Response". The section reads:

1. "We are a licensed ambulance provider to do **Emergency Response**, or to bid on a contract for **Emergency Response and in compliance with our license requirements:**

2. We **shall have** a semi-automatic defibrillator available for use in our vehicle **at all times.** It cannot be brought by the MICU provider."

During the initial audit, you advised investigators that you did not provide emergency response and would therefore, by regulation, not be required to carry semi-automatic defibrillators. However, on September 29th, when you were asked whether you provide emergency response, you stated that you do not perform 911 responses but will respond emergently to some of your clients. Due to the fact that your SOP

manual states that your vehicles must be equipped with semi-automatic defibrillators and you admit to responding to emergencies to some clients, you are required to have semi-automatic defibrillators on your vehicles, pursuant to N.J.S.A. 8:40-6.15(b)(1).

During the second audit on September 29th, investigators also noticed a significant difference in some of the mileage on the vehicles between when they were initially taken out of service and when they were re-inspected. For example, on August 29, 2016, vehicle #1 had a mileage of 255324 but on September 28, 2016 it had a mileage of 255907 resulting in a difference of 583 miles. In addition, on August 29, 2016, vehicle #8 had a mileage of 273421 and on September 28, 2016 had a mileage of 273980 resulting in a difference of 559 miles. This caused OEMS to contact the Center for Medicare Services (CMS) and Logisticare to inquire as to whether the vehicles had been used while they were placed on a DIOOS. According to CMS, twenty patients were identified as being billed by your company for services for dates between August 30, 2016 and September 5, 2016. To recount, investigators removed all of your vehicles from service on August 29, 2016 for being unsafe to operate. At that time, and again on August 31, 2016, you stated that you understood that you could not use the vehicles and would work on getting them into compliance. Additionally, OEMS requested the patient care reports for these twenty patients that received care between August 30th to September 5th. You advised through your counsel that there were no patient care reports because you did not provide any transports during this time.

Based upon OEMS' site visit and audits, OEMS has found that X-Port is in violation of the following violations:

1. Failure to notify OEMS of the change in location of X-Port Medical Services principal place of business, in violation of N.J.A.C. 8:40-3.2;

2. Failure to complete patient care records, as required by N.J.A.C. 8:40-3.6 & 8:40-6.4(a)(13).

3. Failure to produce documentation requested by OEMS investigators for inspection, in violation of N.J.A.C. 8:40-2.6(c);

4. Failure to maintain full, complete and accurate records, as required by N.J.A.C. 8:40-3.9;

5. Hindering an OEMS investigation, in violation of N.J.A.C. 8:40-2.6(c);

6. Failure to cease utilization of DIOOS vehicle(s), in violation of N.J.A.C. 8:40-7.2(a)(2).

7. Failure to maintain vehicles in a safe, clean, properly equipped and properly functioning manner, as required by N.J.A.C. 8:40A-4.4, 4.5 and 4.6; and

8. Failure to report a vehicular accident, in violation of N.J.A.C. 8:40-3.7(a).

Based upon the above cited deficient practices, which are not only numerous and serious, but also continuing violations that X-Port has failed to correct after multiple warnings and deficiency findings issued to it by OEMS, OEMS **hereby proposes an assessed penalty against X-Port in the amount of $31,000.00**, in accordance with N.J.A.C. 8:40-7.2(e). The assessed penalty amount for each violation is as follows:

Violation	***Regulation***	***Penalty***
Failure to report an accident	8:40-3.7(a)	$250.00
Severely injuring a patient	8:40-7.2(e)1	$2,500.00
Failure to Notify OEMS of Change of address	8:40-3.2	$250.00
Failure to Produce documentation requested by OEMS	8:40-2.6(c)	$250.00
Incomplete files	8:40-3.9	$250.00
Hindering an investigation	8:40-2.6(c)	$250.00
Improperly using DIOOS vehicles for patient transports (6 days x $1,000 per day)	8:40-7.2(e)5	$6,000.00
Failure to complete patient care reports (20 patients without care reports x. $250 per patient)	8:40-3.6 & 8:40-6.4(a)(13)	$5,000.00
Vehicle 01: Inoperable fire extinguisher	8:40-4.4(h)2	$250.00
Vehicle 01: Expired inspection sticker	8:40-4.3(b)	$250.00
Vehicle 01: No manual bar for lift	8:40-5.7(c)	$250.00
Vehicle 01: Passenger side mirror broken	8:40-4.7(a)	$250.00
Vehicle 01: Unsanitary conditions of vehicles	8:40-4.5(a)	$250.00
Vehicle 01: Unsafe transport	8:40-7.2(e)4	$1,000.00
Vehicle 18: Expired inspection sticker	8:40-4.3(b)	$250.00
Vehicle 18: Broken bench seat	8:40-4.4(e)5	$250.00
Vehicle 18: Multiple unsecured oxygen cylinders	8:40-6.6(a)6	$250.00
Vehicle 18: No fire extinguisher	8:40-4.4(h)2	$250.00
Vehicle 18: Unsanitary conditions	8:40-4.5(a)	$250.00
Vehicle 18: Unsafe transport of patients	8:40-7.2(e)4	$1,000.00
Vehicle 22: Main oxygen cylinder empty	8:40-6.6(a)4	$250.00
Vehicle 22: Main oxygen cylinder unable to be secured	8:40-6.6(a)6	$250.00
Vehicle 22: Inoperable portable suction unit	8:40-6.7(a)3	$1,000.00
Vehicle 22: Multiple tears in bench seat	8:40-4.5(b)	$250.00
Vehicle 22: Inoperable rear radio	8:40-6.13(a)3	$250.00
Vehicle 22: Multiple loose oxygen cylinders	8:40-6.6(a)6	$250.00
Vehicle 22: Numerous missing items	8:40-6.5	$250.00
Vehicle 22: Numerous expired items	8:40-6.5(f)	$250.00
Vehicle 22: Unsanitary conditions	8:40-4.5(a)	$250.00

Vehicle 22: Unsafe transport of patients	8:40-7.2(e)4	$1,000.00
Vehicle 20: Inoperable portable suction	8:40-6.7(a)3	$1,000.00
Vehicle 20: Damage to rear bumper	8:40-4.7(a)	$250.00
Vehicle 20: Rear door sticks and difficult to open	8:40-6.10(c)4	$250.00
Vehicle 20: Multiple unsecure oxygen cylinders	8:40-6.6(a)6	$250.00
Vehicle 20: No AC in rear of vehicle	8:40-4.6(a)	$250.00
Vehicle 20: Inoperable bench seat latch	8:40-4.4(e)5	$250.00
Vehicle 20: Expired equipment	8:40-6.5(f)	$250.00
Vehicle 20: Missing equipment	8:40-6.5	$250.00
Vehicle 20: Unsanitary conditions	8:40-4.5(a)	$250.00
Vehicle 20: Unsafe transport of patients	8:40-7.2(e)4	$1,000.00
Vehicle 08: Bald tire	8:40-4.7(c)	$250.00
Vehicle 08: Improperly stored fire extinguisher	8:40-4.4(h)2	$250.00
Vehicle 08: No manual bar for the lift	8:40-5.7(c)	$250.00
Vehicle 08: Unsanitary conditions	8:40-4.5(a)	$250.00
Vehicle 08: Unsafe transport of patients	8:40-7.2(e)4	$1,000.00
Vehicle 23: Unsanitary conditions	8:40-4.5(a)	$250.00
Vehicle 23: Malfunctioned passenger side door	8:40-6.10(c)4	$250.00
Vehicle 23: Expired inspection sticker	8:40-4.3(b)	$250.00
Vehicle 23: unsafe transport of patients	8:40-7.2(e)4	$1000.00
TOTAL		**$31,000.00**

And, because X-Port actions demonstrate a gross and serious disregard for OEMS' regulations and, as a result, presents a risk and threat to the public's health, safety and welfare, **the Department also proposes to revoke the Mobility Assistance Vehicle and Basic Life Support service provider license held by X-Port Medical Service. Please note that the summary suspension of X-Port Medical Service's MAV/BLS license shall remain in full force and effect until the license revocations becomes final.**

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:41-12.4, you may request a hearing before the Office of Administrative Law to contest the proposed revocation and penalties. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the deficiencies noted above. In the event that you request a hearing, the proposed revocation and penalties shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered. However, because X-Port Medical Service's MAV/BLS operating license has been summarily suspended, it shall remain in summary suspended status even if a hearing has been requested to contest this Notice of Proposed Revocation and Penalty.

Your request for a hearing must be submitted within 30 days from the date of this Notice. Please include the control number **2016-0109V** on your correspondence and forward your request to:

New Jersey Department of Health
Office of Legal & Regulatory Compliance
P.O. Box 360, Room 805
Trenton, NJ 08625-0360
Attn: Ms. Tamara Roach

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 license revocations shall become effective and the penalty amount due and owing without further Notice. If you have any questions concerning this matter, please contact Dr. Jo-Bea Sciarrotta, OEMS Compliance Officer, at (609) 633-7777.

Sincerely,

Nancy Kelly-Goodstein, M.A.S.
Acting Director, Emergency Medical Services

c: Eric Hicken, OEMS
Timothy Seplaki, OEMS
James Sweeney, OEMS
Dr. Jo-Bea Sciarrotta, Compliance Officer
Tamara Roach, Office of Legal & Regulatory Compliance

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