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6 *Attorney for ABC Ambulance, LLC*

7 **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

<p>8 In the Matter of:</p> <p>9 RBR Management LLC, dba Community Ambulance</p> <p>10 Applicant.</p>	<p>Docket No. 2017-EMS-0104-DHS (EMS No. 0283)</p> <p>ABC AMBULANCE'S REQUEST FOR ISSUANCE OF SUBPOENAS DUCES TECUM</p> <p>(Assigned: The Hon. Tammy Eigenheer)</p>
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11 Pursuant to A.R.S. § 41-1092.07(c) and in accordance with Arizona Administrative Code
12 R2-19-113, ABC Ambulance, LLC ("ABC"), respectfully requests the Administrative Law Judge
13 issue subpoenas duces tecum to compel the production of documents from the Custodians of Record
14 for (1) Applicant RBR Management, LLC, dba Community Ambulance ("Applicant"); and
15 (2) Applicant's majority owner, Dignity Health ("Dignity").¹

16 These subpoenas seek the production of documents relevant to the ambulance service
17 proposed to be provided by Applicant, in particular to the factors set forth in A.R.S. § 36-2233 and
18 A.C.C. § R9-25-903, the burden of which is on Applicant to prove (A.C.C. § R2-19-119(B)).

19 Intervenor's are entitled to the requested documents from both Applicant and its parent
20 company, Dignity. Applicant relies heavily on its parent company, Dignity, in its Application to
21 ADHS, as supplemented ("Application"), through proposed testimony relating to "joint venture
22 partnerships" with Dignity, as well as Dignity's "experiences with interfacility ambulance
23 transportation ... in the proposed service area." No less than four of Applicant's listed witnesses,
24 including its first witness, Mr. Jeffrey O'Malley, are Dignity representatives.

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28 ¹ Applicant does not object to ABC's filing of a request for subpoenas today.

1 Applicant also relies on its relationship with Dignity to show that it is "fit and proper." Not
2 only do Dignity witnesses propose to testify to this factor, but Applicant's initial cover letter
3 attached to its Application to ADHS expounds on the size, reach and success of Dignity in Nevada,
4 California and Arizona, to support the Application. The financial fitness of Dignity itself is thus
5 relevant to these proceedings, because (1) Applicant is relying on Dignity's fitness to prove its own;
6 and (2) Dignity is a majority shareholder in Applicant.

7 Moreover, Intervenors are entitled to documents relating to Applicant's performance in
8 Nevada. Applicant has no track record in Arizona, but rather is a foreign limited liability company,
9 registered and doing business in Nevada (Applicant belatedly registered as a foreign limited
10 liability company in Arizona on or about October 5, 2017, using the fictitious name "Community
11 Ambulance, LLC). Applicant relies on its own experience in Nevada as Dignity's "contract provider
12 of ambulance service" in Clark County, Nevada (as stated in its cover letter attached to its
13 Application, and to which Mr. Rob Richardson proposes to testify). Therefore, because of
14 Applicant's reliance on the Nevada entity's business model and experience to show that it is "fit and
15 proper," the financial and other records of the Nevada's entity's business are relevant to these
16 proceedings.

17 As such, the documents sought through the subpoenas are relevant and necessary to both
18 assist the Administrative Law Judge in determining whether there is public necessity for a new non-
19 emergency ambulance service in Maricopa County, and whether Applicant and its majority owner
20 and sponsor are fit and proper to provide such service.

21 The subpoenas ABC seeks to have issued accompany this request. ABC respectfully
22 requests the Court issue the subpoenas.

23 RESPECTFULLY SUBMITTED this 11th day of May, 2018.

24 QUARLES & BRADY LLP
25 One South Church Avenue, Suite 1700
26 Tucson, Arizona 85701-1621

27 By /s/ Adriane J. Hofmeyr
28 Adriane J. Hofmeyr
Attorney for ABC Ambulance, LLC

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CERTIFICATE OF SERVICE

Original filed using the OAH electronic document filing system <https://portal.azoah.com/oedf> this 11th day of May, 2018 with copies provided to all parties on the approved mailing list this 11th day of May, 2018 by posting through the designated OAH website as <https://portal.azoah.com/oedf/documents/2015A-EMS-0190-DHS/index.html> in accordance with Case Management Order No. 1.

**PROPOSED SUBPOENAS DUCES TECUM
TO**

- 1. Applicant RBR Management, LLC, dba
Community Ambulance**
- 2. Dignity Health**

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Attorney for ABC Ambulance, LLC

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

<p>In the Matter of:</p> <p>RBR Management LLC, dba Community Ambulance</p> <p style="text-align: center;">Applicant.</p>	<p style="text-align: center;">Docket No. 2017-EMS-0104-DHS (EMS No. 0283)</p> <p>SUBPOENA DUCES TECUM TO RBR MANAGEMENT dba COMMUNITY AMBULANCE</p> <p style="text-align: center;">(Assigned: The Hon. Tammy Eigenheer)</p>
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To: RBR Management LLC dba Community Ambulance, Custodian of Records

c/o Jeffrey Meyerson The Meyerson Law Firm 2555 E. Camelback Road Suite 140 Phoenix, Arizona 85016	; or c/o Brendan Murphy Hendricks Murphy 3101 N. Central Avenue Suite 970 Phoenix, Arizona 85012	; or c/o William A. Robert 30600 North Pima Road Suite 75 Scottsdale, Arizona 85266
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YOU ARE HEREBY COMMANDED TO PRODUCE for inspection and copying the documents identified in the attached **Exhibit 1**. Said production shall take place at the earliest practical time, but in any event no later than seven (7) calendar days after service, at the offices of the attorneys for Intervenor ABC Ambulance, LLC:

Adriane J. Hofmeyr
Quarles & Brady LLP
One South Church Avenue
Suite 1700
Tucson, Arizona 85701

DATED this _____ day of _____, 2018.

By: _____
The Honorable Tammy Eigenheer

1 **EXHIBIT 1**

2 **The following definitions apply for the below items:**

- 3 A. "CON" means a Certificate of Necessity required to operate an ambulance service
4 as defined in A.R.S. § 36-2233.
- 5 B. "Applicant" and "Community Ambulance" and "RBR" means Applicant, RBR
6 Management, LLC, and includes its managers, members, employees, independent
7 contractors, agents, accountants, bookkeepers and/or attorneys.
- 8 C. "Records" or "records/data" are intended to be utilized in the broadest possible
9 sense, and specifically include records or data kept in electronic format, emails,
10 letters, photographs, memos (internal and external), any writing/recording/
11 photograph as defined in the Arizona Rules of Evidence Rule 1001, and any other
12 item, whether in paper/electronic/or other format, containing any information that
13 pertains to the below requests.
- 14 E. "ADHS" means the Arizona Department of Health Services.
- 15 F. "Dignity Health" refers to the entity that has an ownership interest in Applicant,
16 and includes its directors, officers, managers, members, employees, independent
17 contractors, agents, accountants, bookkeepers and/or attorneys. It also includes any
18 Dignity Health affiliate and/or subsidiary and/or parent company.
- 19 G. "You" or "Yours" is intended to refer to Dignity Health, including its principals,
20 managerial employees, consultants and attorneys.
- 21 H. "AMR" refers to those American Medical Response, Inc. affiliates that have been
22 allowed to intervene in these proceedings.

23 **PRODUCTION ITEMS**

24 1. All documents produced by Applicant and Dignity Health in response to any
25 subpoena duces tecum issued by any Intervenor or by ADHS in this administrative proceeding.
26 [To the extent that this question overlaps with the subpoena issued to Dignity Health, only one
27 response is requested.]

28 2. All pleadings and filings of record in case no. A-12-664477-C, filed on June 29,
2012 in the 8th Judicial District, Clark County, Nevada, by Dr. Mark Ferdowsian against *inter
alia* Dignity Health and RBR Management LLC. [To the extent that this question overlaps with
the subpoena issued to Dignity Health, only one response is requested.]

3. Any and all contracts, agreements, partnership documents, memoranda of
understanding and corporate documents between Applicant and Dignity Health in Nevada and
Arizona, including but not limited to an interfacility transport services agreement and joint
venture partnership agreement. [To the extent that this question overlaps with the subpoena
issued to Dignity Health, only one response is requested.]

1
2 4. Corporate documents of Applicant, reflecting ownership structure, members'
3 names, members' percentage interests, dates of membership changes, consideration given for
4 exchange of ownership, and documents showing the names of directors and officers (if a
5 member is an entity).

6 5. Documents evidencing the "success" of the partnership between Dignity Health
7 and Applicant in Nevada. [To the extent that this question overlaps with the subpoena issued to
8 Dignity Health, only one response is requested.]

9 6. Documents in Applicant's possession evidencing any alleged substandard
10 performance by ABC Ambulance.

11 7. Documents evidencing Applicant's plans to provide services to remote or rural
12 Maricopa County communities.

13 8. Any and all current business plans and/or financial forecasts or projections
14 prepared by Applicant, for both Applicant's Nevada operations and proposed Arizona operations,
15 and any drafts thereof.

16 9. Documents evidencing Applicant's communications with ABC Ambulance
17 regarding ambulance services in Arizona, and any experiences Applicant has had with ABC
18 Ambulance.

19 10. Documents evidencing any attempts by Applicant to reach out to any potential
20 customer in Maricopa County that is not owned by, or affiliated with, Dignity Health.

21 11. Documents evidencing any attempts Applicant has made to engage the services of
22 ABC Ambulance.

23 12. Documents evidencing any "negative patient experiences" at ABC Ambulance.
24 [To the extent that this question overlaps with the subpoena issued to Dignity Health, only one
25 response is requested.]

26 13. Copies of any and all drafts in Your possession (even if You were simply copied
27 on an email containing such draft) of any letters of support submitted by Applicant as an exhibit
28 to be used in these proceedings, including any emails to which such drafts were attached. [To the
extent that this question overlaps with the subpoena issued to Dignity Health, only one response
is requested.]

14 14. Documents evidencing that you have "fiscal competence, resources, financial
15 viability, and ability to expand [Your] resources" to conduct Your proposed operations in
16 Arizona.

17 15. Any and all federal, state and local tax returns for latest closed and all open years
18 for Applicant.

1 16. Any and all tax reviews and/or tax audits with all accompanying related
2 documents and communications.

3 17. Any and all documents or communications evidencing Applicant's employee
4 satisfaction scores and/or turnover reports from the first date Applicant began providing
ambulance service in Nevada to the present date.

5 18. Any and all documents or communications evidencing complaints received from
6 any source (including legal and regulatory) regarding Applicant's operations in Nevada, from the
date Applicant first began providing ambulance service in Nevada to the present date.

7 19. Any and all documents or communications evidencing the termination of any
8 contract with Applicant in Nevada, from the date Applicant first began providing ambulance
service in Nevada to the present date.

9 20. Any and all service contracts Applicant has with any entity other than a Dignity
10 Health entity or affiliate in Nevada.

11 21. With regard to the pro forma ARCR in Your application, as supplemented
12 ("ARCR"), any and all documents required to complete each line item *as it pertains to Your*
13 *operation in Nevada.* (This information is required to be provided in Arizona's regulated market,
even if the entity/applicant's operations are outside of Arizona.)

14 22. Any and all documents that would be necessary to respond to the requirements of
15 Arizona Administrative Code R9-25-910(A) for the past three years pertaining to Applicant's
Nevada operations.

16 23. Any and all documents reviewed by and upon which Robert Richardson based his
17 affirmation attached to the ARCR.

18 24. Any and all documents supporting the entries at ARCR page 1 lines 1, 2, 3
19 showing:

- 20 a. Source of numbers;
- 21 b. Agreements between any facility to provide transports requests to Applicant;
- 22 c. Documents that show information as to which ambulance provider is currently
providing any or all of the transports listed above in (a).

23 25. Any and all documents supporting the entries at ARCR page 4 line 9 showing the
number of overtime hours planned or expected for Paramedics.

24 26. Any and all documents supporting the entries at ARCR page 4 line 9 showing the
25 pay rate or pay scale used for determining the \$35,693 average cost per FTE.

26 27. ARCR page 4.1 requires a schedule of wages and the schedule shows that there are
27 no managers for Applicant's operations and Applicant will only have managers if a CON is
28 awarded.

- 1 a. Provide any organizational chart prepared by RBR or its consultants in the last
- 2 3 years.
- 3 b. Job description, names and salary of any non-exempt employee paid by RBR
- 4 in the past 3 years.
- 5 c. Any contracts with third parties to provide management functions over the past
- 6 3 years.
- 7 28. Any and all documents supporting the entry at ARCR page 16 line 28 showing
- 8 cash at beginning of year of \$708,779.
- 9 29. Any and all documents supporting the entries at ARCR page 16 line 12 showing
- 10 purchase of \$580,373 of equipment.
- 11 30. Any and all documents supporting the values at ARCR page 16 line 12 and for all
- 12 values included on page 12 under Depreciation Prior Years and Current Year Depreciation.
- 13 31. Any and all documents supporting the entries at ARCR page 16 showing net
- 14 change Accounts Receivable of -\$907,000, including any and all documents that show what
- 15 period of time this pro forma covered assuming operations start date is the date RBR would be
- 16 allowed to start operations.
- 17 32. All pro forma worksheets or schedules that include the first start-up months of the
- 18 Applicant's proposed operation in Arizona.
- 19 33. Any and all documents submitted to Western Alliance Bank for each of the two
- 20 loans listed on the ARCR, as well as any and all documents reported to these lenders subsequent
- 21 to and regarding the loans.
- 22 34. Any and all documents or reports from any third-party billing company showing
- 23 accounts receivable for each of the last 36 (thirty six) months.
- 24 35. Any and all documents or reports from any third-party billing company showing
- 25 amounts written off from gross billings for each of the last 36 (thirty six) months.
- 26 36. Any and all documents evidencing the source of funds used for funding the start-
- 27 up costs of Applicant's operation in Arizona.
- 28 37. Any and all documents relating to RBR ambulances, including:
 - a. List of all ambulances used by RBR for the past 36 months;
 - b. Copies of annual regulator inspections or proof ambulances were inspected by a regulatory body on an annual basis;
 - c. If no such document exists, copies of maintenance records for each ambulance listed for the past 36 months.
38. Copies of Applicant's national accreditation by CASS and/or NAMTA over the past 36 months (for its Nevada and Arizona operations).

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39. Any lease agreement for ambulances and/or ambulance equipment for the past 36 months (in Nevada and Arizona).

40. Documents identifying any loans made to RBR for the past 36 months.

41. Documents showing the legal entity name of any business that is related to RBR, that RBR has either provided services to or received services from that is related to RBR in either ownership, common management or control.

42. Any documents related to any transaction with any entity that is related to RBR in either common ownership, common management, or family relation.

43. Any and all documents evidencing that Dignity Health gave anything of value to AMR in consideration for AMR's agreement to the provisions of the contract currently being litigated between Dignity Health and AMR ("Dignity Litigation").

44. Any and all documents or records evidencing that the contested contractual provision in the Dignity Litigation does not constitute a violation of federal law and/or is not a "kick back" for referral of ambulance transports.

45. Any and all documents evidencing that Dignity Health had a "backup" plan if AMR refused to sign the amended agreement that is the subject of the Dignity Litigation.

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- 27 3. Any and all contracts, agreements, partnership documents, memoranda of
28 understanding and corporate documents between Applicant and Dignity Health in Nevada and
Arizona, including but not limited to an interfacility transport services agreement and joint
venture partnership agreement.
4. Corporate documents of Dignity Health, identifying the exact entity that has an
ownership interest in Applicant, and identifying the owners/members of that entity, and
documents reflecting how that entity relates to the "Dignity Health" affiliates that own the
proposed future customers of Applicant in Arizona, and the "Dignity Health" that has its
headquarters in San Francisco.

1 5. Documents evidencing Dignity Health's 50.1% membership interest in Applicant,
2 as well as the percentage owned by other members in Applicant.

3 6. Documents evidencing Dignity Health's business plans and/or intentions to acquire
4 an ownership interest in, or to create, Applicant in Nevada and/or Arizona. This includes any
5 board meeting minutes, and PowerPoint or other presentations delivered to any Dignity Health
6 entity regarding the purchase or acquisition of an interest in Applicant.

7 7. Documents evidencing the "success" of the partnership between Dignity Health
8 and Applicant in Nevada.

9 8. Documents evidencing any alleged substandard performance by ABC Ambulance.

10 9. Documents evidencing Dignity Health's plans to provide services, through
11 Applicant, to remote or rural Maricopa County communities.

12 10. Any and all current business plans and/or financial forecasts or projections
13 prepared by or on behalf of Dignity Health pertaining to Applicant, for both Applicant's Nevada
14 operations and proposed Arizona operations, and any drafts thereof.

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16 regarding ambulance services in Arizona, and any experiences Dignity Health has had with ABC
17 Ambulance.

18 12. Documents evidencing any attempts by Dignity Health to reach out to any
19 potential customer in Maricopa County that is not owned by, or affiliated with, Dignity Health.

20 13. Documents evidencing any attempts Dignity Health has made to engage the
21 services of ABC Ambulance.

22 14. Documents evidencing Dignity Health's financial, staffing, and other commitments
23 to Applicant to support Applicant's proposed operation in Arizona.

24 15. Documents evidencing any "negative patient experiences" at ABC.

25 16. Documents supporting Your claims that Your facilities have experienced
26 "interfacility ambulance transport issues."

27 17. Copies of any and all drafts in Your possession (even if You were simply copied
28 on an email containing such draft) of any letters of support submitted by Applicant as an exhibit
to be used in these proceedings, including any emails to which such drafts were attached.

 18. Documents evidencing any written performance measures or standards which You
expected from, and imposed upon, any interfacility transport service provider, including AMR,
in Arizona.