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13 *Attorneys for Intervenors – AMR CON Holders*

14 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

15 In the Matter of: )

16 **RBR Management LLC, dba Community** )  
17 **Ambulance** )

18 Applicant. )

19 Docket 2017-EMS-0104-DHS )  
20 (EMS No. 0283) )

21 **RESPONSE TO DIGNITY** )  
22 **HEALTH'S OBJECTIONS/MOTION** )  
23 **TO QUASH OR MODIFY** )  
24 **SUBPOENA DUCES TECUM** )  
25 **ISSUED AT THE REQUEST OF** )  
26 **AMR CON HOLDERS** )

(Assigned: The Hon. Tammy Eigenheer)

27 The AMR CON Holders, Intervenors herein, hereby respond to Dignity Health's  
28 Objections/Motion to Quash or Modify Subpoena Duces Tecum Issued at the  
29 Request of AMR CON Holders. Undersigned counsel has conferred with Dignity's  
30 counsel about the objections/responses and based upon the same, and the following

1 understandings, is not seeking any further affirmative relief from this Court.  
2 However, the subpoena should also not be quashed.

3 **SDT 1**(identification of all current Dignity affiliated healthcare entities in  
4 Maricopa County, with facility location). Dignity has provided a map showing all  
5 hospitals, urgent care facilities and freestanding emergency departments. Dignity's  
6 counsel represents there are no Dignity affiliated skilled nursing facilities that might  
7 be meaningful sources of ambulance transport facilities. Dignity has left open the  
8 possibility of identifying affiliated physician practices if those are determined to be  
9 meaningful.  
10

11 **SDT 2** (similar identification of Dignity affiliated healthcare entities anticipated  
12 to be present in Maricopa County during first through third year of Community  
13 Ambulance's operations, should it receive a CON ). Dignity has responded with two  
14 planned, publicly announced, facilities. The parties are in agreement that where  
15 discussions might be underway for future affiliations or development, the same would  
16 be too speculative/uncertain to be meaningful. However, with regard to future  
17 affiliations/development of Dignity Health facilities that are more certain or known,  
18 Dignity Health objects to production of this information on the grounds that it is  
19 proprietary and a trade secret, referring to the same body of law the AMR CON  
20 Holders referenced in their Motion to Quash the subpoena issued at RBR's request.  
21 The AMR CON Holders agree that body of law would be applicable to protect  
22 Dignity's proprietary/trade secret information. They were hopeful that Dignity would  
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1 be agreeable to finding a way to disclose information about anticipated future  
2 expansion of Dignity's footprint in Maricopa County, without Dignity producing trade  
3 secret/proprietary information, such that the AMR CON Holders would be able to  
4 more accurately calculate the potential impact of an order allowing RBR a CON, but  
5 Dignity's position is that the same is not possible. As such, the AMR CON Holders  
6 are not disagreeing with Dignity's objection and are not seeking an order from this  
7 Office requiring production of the same, but will instead assume that whatever impact  
8 they are able to calculate based upon Dignity's existing operations, and the two  
9 facilities that Dignity has disclosed, will represent a lesser impact than what is likely  
10 to ultimately be experience, as Dignity expands its Maricopa County presence  
11 through non-disclosed business affiliations/developments.  
12  
13

14 **SDT 3.** No objection was asserted.

15 **SDT 4** [requesting identification of the number of patient transports originating  
16 from Dignity affiliated facilities in Maricopa County, done by ambulance 2016 – 2018  
17 (to date)]. Dignity's counsel represents that Dignity does not track this information  
18 and currently has no ability to pull it from its other electronic records (such that in  
19 order to make a full response, Dignity would be required to look at all patient records,  
20 a task that would be unreasonable and burdensome). The AMR CON Holders  
21 accept that representation and are not requiring production.  
22  
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24 **SDT 5** [seeking identification of the number of patient transports originating  
25 from Dignity affiliated facilities where a patient was moved to another health care  
26

1 facility by non-ambulance transport (such as Uber) 2016 – 2018 (to date)]. As with  
2 SDT 4, Dignity represents that it does not specifically track this information, and does  
3 not have the capability to extract it from its electronic records. Essentially, a Dignity  
4 employee would have to look at patient records to determine if any patient was  
5 moved by non-ambulance transport, a task that would be unreasonable and  
6 burdensome. The AMR CON Holders accept this representation and are not looking  
7 to compel a response over the objections made.  
8

9 **SDT 6** (Dignity policies relating to transfer of patients between Dignity Health  
10 affiliated facilities). Dignity represents it has provided all such policies, which  
11 representation the AMR CON Holders accept.  
12

13 **SDT 7** [all records/data relating in any way to the September 14, 2017 letter of  
14 support from Arizona General Hospital (ADHS Ex. 22)]. Dignity Health has disclosed  
15 two transmittal emails. Their counsel represents that these are all the documents  
16 that can be located that are responsive to SDT 7, that any other emails would have  
17 been deleted pursuant to normal document retention policies, and that Dignity is not  
18 withholding anything that would be responsive. The AMR CON Holders accept this  
19 representation and are not requesting an order overruling the technical objection  
20 Dignity has asserted.  
21

22 Based upon the above stated productions, discussions, and representations  
23 made by Dignity Health's counsel, the AMR CON Holders understand that Dignity  
24 has produced all documents it is aware of that are responsive to the SDT other than  
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1 those relating to what Dignity states would be proprietary in response to SDT 2,  
2 above, and propose that further action by this Office is not required with regard to the  
3 SDT directed at Dignity Health.  
4

5 RESPECTFULLY SUBMITTED THIS 9<sup>th</sup> day of August, 2018.

6 **SHORALL MCGOLDRICK BRINKMANN**

**FLETCHER STRUSE FICKBOHM &  
7 WAGNER, PLC**

8 /S/PAUL MCGOLDRICK

/S/RONNA FICKBOHM

9 Paul McGoldrick  
10 *Attorneys for Intervenors-  
AMR CON Holders*

Ronna L. Fickbohm  
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11 Pursuant to Case Management  
12 Order No. 1, electronic filing and  
13 service of the foregoing through  
<https://portal.azoah.com/oedf/>,  
14 has been done this 9<sup>th</sup> day of August, 2018.

15 Copy also emailed this 9<sup>th</sup> day of  
16 August, 2018 to:

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19 Phoenix, AZ 85004  
*Attorneys for Dignity Health*

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21 By: /S/ Linda Clark  
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