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5
6 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

7) Docket 2021-EMS-0228-DHS
8) (EMS No. 00368)
9 In the Matter of:)
10) **Unopposed Motion to Intervene by Life**
11) **Priority Ambulance Yavapai, LLC dba**) **Line Ambulance Service, Inc. (Holder of**
12) **Priority Ambulance**) **CON 62)**
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26)
Applicant.

12 Life Line Ambulance Service, Inc. (“Life Line”), is a certificated provider of
13 ground ambulance service and holds CON 62. Pursuant to A.R.S. §36-2234
14 (providing for the hearing in this matter), Arizona Administrative Code §§R2-19-
15 102(C) and R2-19-106, and Ariz.R.Civ.P. Rule 24, Life Line hereby moves for entry
16 of an order allowing Life Line intervening party status in this matter. Undersigned
17 counsel conferred with counsel for the Applicant, James Belanger, who voiced no
18 objection to the intervention. Specifically, the Applicant, Priority Ambulance,
19 understands that Life Line has an identifiable interest in the substance of this CON
20 hearing. Therefore, to avoid any unnecessary expense litigating this issue, Priority
21 Ambulance does not oppose the intervention.

22 Because Life Line’s legal interests will not be represented by any other party
23 to the hearing in this matter and may be substantially affected by that hearing, it
24 should be allowed intervening party status. A true and accurate copy of Life Line’s
25 CON #62 is attached hereto as Exhibit A and incorporated by reference herein.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 AAC R2-19-102(C) states that if no statute or administrative rule provides a
3 procedure, an administrative law judge may issue an order using the Arizona Rules
4 of Civil Procedure for guidance. Here, other than providing that a ruling from an
5 administrative law judge should be sought by way of a motion (R2-19-106), neither
6 the applicable administrative rules nor the applicable statutes address intervention
7 in a CON application proceeding.

8 However, the Arizona Rules of Civil Procedure recognize intervention, both as
9 a matter of right and by way of court permission. *See* Ariz.R.Civ.P. Rule 24.
10 Intervention as a matter of right is required when the moving party “claims an
11 interest relating to the property or transaction which is the subject of the action and
12 the [moving party] is so situated that the disposition of the action may as a practical
13 matter impair or impede the [moving party’s] ability to protect that interest, unless
14 the [moving party’s] interest is adequately represented by existing parties. *Id.*, Rule
15 24(a).

16 Life Line is entitled to intervention as a matter of right. Life Line has been
17 issued CON #62 which required a finding that public necessity requires the
18 operation of its ambulance transportation service within its service area in Yavapai
19 County. Life Line operates 24 hours a day, 7 days a week providing immediate
20 response transports, inter-facility transports and convalescent transports. Pursuant
21 to the Notice of Hearing in this matter, the Applicant’s proposed service area is
22 virtually identical to that covered by CON #62. The Applicant also proposes to
23 provide the same scope of services as Life Line (immediate response transports,
24 scheduled inter-facility and convalescent transports).

25 Life Line obviously has a legal interest in the ambulance transports existing
26 within its current service area. For this reason, when the “public necessity” factor

1 that A.R.S. §36-223(B)(2) requires be established prior to the issuance of a new CON
2 is examined, one of the factors the Director of ADHS is to consider is whether issuing
3 a CON to more than one ambulance service within the same service area is in the
4 public's best interest, based upon a number of factors including the existence of
5 ground ambulance service (currently) to the subject service area. See R9-25-903(A).
6 Likewise, in deciding whether to issue a CON to more than one ground ambulance
7 service for convalescent or inter-facility transports for the same area or overlapping
8 service area, the Director is also to consider the financial impact on existing
9 certificate holders in the same area, the need for additional convalescent or inter-
10 facility transports, and whether a certificate holder in the service area has
11 demonstrated substandard performance. *Id.*; R9-25-903(B).

12 No other party appearing in this matter will be able to protect Life Line's
13 interests in these critical issues underlying the public necessity determination. As
14 an existing CON holder with a service area that is essentially identical to the
15 proposed service area by the Applicant, and as an existing CON holder who is
16 already providing the precise type and level of ambulance transport services to that
17 area, Life Line's interest in its existing CON would be affected by the addition of an
18 overlapping CON holder. Note that Life Line is not proposing that it has any sort of
19 property right by virtue of its CON, which would be contrary to
20 A.R.S. §36-2236(A). However, the interest required under Rule 24(a)(2) is not limited
21 to a "property right". It cannot be disputed that by virtue of CON 62, Life Line has
22 an interest in the Applicant's proposed service area and scope of services.

23 ADHS/BEMSTS has historically taken the position that if the proposed service
24 area for a new CON application overlaps the current service area of an existing CON
25 holder, then that existing CON holder has the right to intervene. Likewise,
26 ADHS/BEMSTS has historically not acted to represent any existing CON holder's

1 interests in a hearing being held on an application for a new, overlapping CON. Life
2 Line expects these positions to remain consistent in this matter.

3 CONCLUSION

4 Life Line requests that the Court permit intervention. This motion is
5 unopposed by the Applicant. Additionally, this day a separate motion is filed to vacate
6 the current hearing dates of February 24-26, 2021 and schedule a prehearing
7 conference in order to determine a discovery schedule, the exchange of witness and
8 exhibit lists, and select a new date for the hearing.

9 Dated this 22nd day of January, 2021.

10 SHORALL McGOLDRICK BRINKMANN

11 By: /s/ Paul J. McGoldrick
12 Paul J. McGoldrick, Esq.
13 Counsel for Life Line Ambulance Service, Inc.

14 Foregoing filed through the
15 OAH website <https://portal.azoah.com/submission/>
16 with copies provided via mail as follows:

17 Clerk of the Department
18 Arizona Department of Health Services
19 150 N. 18th Ave., Suite 200
20 Phoenix, Arizona 85007

21 Jenna Clark, Administrative Law Judge
22 Office of Administrative Hearings
23 1400 W. Washington, Suite 101
24 Phoenix, Arizona 85007

25 Kathy Steadman
26 Coppersmith Brockelman PLC
2800 N. Central Ave., Suite 1900
Phoenix, Arizona 85004

///

1 Todd Jaramillo, Regional Director, Arizona
2 **American Medical Response of Maricopa, LLC**
3 dba American Medical Response, dba AMR,
4 dba SW General, Inc., dba Southwest Ambulance
5 dba Southwest Ambulance of Casa Grande, Inc.,
6 dba Southwest Ambulance and Rescue of Arizona
7 617 W. Main Street
8 Mesa, Arizona 85201

9 Terry Keller, Fire Chief
10 **Copper Canyon Fire & Medical District**
11 26B Salt Mine Road
12 Camp Verde, Arizona 86322-0386

13 Vince Martinez, Director
14 Flagstaff Medical Center
15 dba **Guardian Medical Transport**
16 PO Box 1905
17 Flagstaff, Arizona 86001

18 John Valentine, Regional Director
19 **Life Line Ambulance Service, Inc.**
20 617 W. Main Street
21 Mesa, Arizona 85201
22 Mike McGhee, Fire Chief
23 **Mayer Fire District Ambulance Service**
24 11975 S. State Route 69
25 Mayer, Arizona 86333

26 Robert Biscoe, Fire Chief
27 **North County Fire & Medical District**
28 18818 N. Spanish Garden Drive
29 Sun City West, Arizona 85375

30 James Roeder, Compliance Manager
31 Ed Armijo, Director of Compliance
32 **Life Line Ambulance Service, Inc.**
33 8465 N. Pima Road
34 Scottsdale, Arizona 85258

35 ///

36 ///

1 James J. Belanger, Esq.
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3 **Db Priority Ambulance**
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5 PO Box 447
6 Tempe, Arizona 85280

7 Thomas Abbott, Fire Chief
8 **Surprise Fire-Medical Department**
9 14260 W. Statler Plaza, Suite 101
10 Surprise, Arizona 85374

11 Kim Moore, EMS Chief
12 **Verde Valley Ambulance Company, Inc.**
13 PO Box 1477
14 Cottonwood, Arizona 86326

15 Bryan Smith, Fire Chief
16 **Williamson Valley Fire District**
17 15450 N. Williamson Valley Road
18 Prescott, Arizona 86305

19 Jessica Rigler, Assistant Director
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21 150 N. 18th Ave., Suite 500
22 Phoenix, Arizona 85007

23 Kevin Ray, Assistant Attorney General
24 **Office of the Attorney General**
25 1275 W. Washington
26 Phoenix, Arizona 85007

Taylor Pike, Ambulance Services Program Manager
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By: /s/Roselyn Mosbrucker
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ARIZONA DEPARTMENT OF HEALTH SERVICES

STATE OF ARIZONA

CERTIFICATE NO. - 62 -

) ss

County of Maricopa

DOCKET NO. EMS 00808

THE ARIZONA DEPARTMENT OF HEALTH SERVICES has found, under the authority of A.R.S. § 36-2232 et seq and Pursuant to Department of Health Services rules, that public necessity requires the operation of

LIFE LINE AMBULANCE SERVICE, INC.

as a ground ALS and BLS ambulance service in the State of Arizona for the transportation of individuals who are sick, injured, wounded or otherwise incapacitated or helpless within the following service area, with the following central operations station and response times:

1. Service Area:

- a. *City of Prescott and the area encompassed by the following points: Starting at Iron Springs Road west to Hillside on state route 96 to milepost 22, including the communities of Highland Pines, Skull Valley, Kirkland, and Hillside; travel north to the point of Campwood, including Campwood, Williamson Valley Road and the community of Simmons; travel northeast to the point of the Drake Railroad Overpass on U.S. Alternative Highway 89, including the communities of Paulden, Chino Valley; travel southeast to the point of milepost 340 on U.S. Highway 89A; travel south to the point of the intersection of U.S. Highway 169 and Interstate 17 including the community of Cherry; travel south to the point of the intersection of U.S. Highway 69 and Interstate 17 including the communities and towns of Diamond Valley, Prescott Valley, Prescott Country Club, Dewey, Humboldt, Mayer, Spring Valley; travel west to the point of Goodwin on Senator Highway (35 miles from Prescott) including the communities of Groom Creek, Walker and Goodwin; travel south to milepost 11 on SR-74 then travel southwest on U.S. 60 to milepost 138, including the towns of Yarnell, Congress, Peoples Valley, Wickenburg, Wittmann, Morristown, Circle City and Aguila, then travel west to U.S. 60 milepost 75, the Maricopa/La Paz county line; then travel north along the La Paz county line to Yavapai county until*

Now, therefore, by virtue of the authority vested in the Arizona Department of Health Services, under the constitution and laws of the State of Arizona, does hereby grant this

RENEWAL

CERTIFICATE OF NECESSITY

authorizing the operation of the aforesaid ambulance service for a period ending September 30, 2021 unless for cause sooner amended, suspended, revoked or terminated subject to the decisions and orders, and rules of the Department.

PROVIDED, that this certificate shall not be assigned nor transferred unless authorized by the Arizona Department of Health Services.



BY THE ORDER OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES, IN WITNESS WHEREOF, I CARA M. CHRIST, MD. the Director of the Arizona Department of Health Services, have hereunto set my hand and caused the official seal of the Arizona Department of Health Services to be affixed at Phoenix, Arizona on July 28, 2020


DIRECTOR'S DESIGNEE

ARIZONA DEPARTMENT OF HEALTH SERVICES

STATE OF ARIZONA

) ss

County of Maricopa

CERTIFICATE NO. - 62 -

DOCKET NO. EMS 00808

1. a. *(continued)*

the La Paz county line intersects with the Santa Maria River, then east along the Santa Maria River to U.S. 93 milepost 160 (Santa Maria Bridge); then west to the starting point west to Hillside, to state route 96 to milepost 22.

b. Excluding the legal boundaries of the Town of Peoria as of the date of October 25, 2004.

c. Excluding the Town of Buckeye.

d. Excluding interfacility, convalescent transfers within U.S. 60 milepost 138, north to SR-74 milepost 11, north to Maricopa county line, west one mile and then back south to SR-74 milepost 10, then southeast to milepost 138 on U.S. 60 to the starting point.

e. Excluding the legal boundaries of the City of Surprise as of the date of October 25, 2004.

f. Starting at State Highway 89 milepost marker 348 (Drake Railroad Overpass) southwest to Campwood, then travel northwest to Interstate 40 milepost marker 109; travel to a point on the Hualapai Indian Reservation that is approximately 33.5 miles northeast of the intersection of the Hualapai Indian Reservation and Yavapai/Mohave county line, following this border east to the Grand Canyon National Park; continue east to State Highway 64, travel southeast to US Highway 180 milepost 252, travel south to Interstate 40 milepost 178, then travel due south to the Coconino/Yavapai county line, southwest to State Highway 89A milepost 340, then northwest to beginning at State Highway 89 milepost 348. Including the communities of Williams, Parks, Valle, Ash Fork, Seligman, Tusayan and transfers from the Grand Canyon National Parks Clinic.

g. Beginning at Milepost 161 on US Hwy 93, approximately N34°22'04.18" W113°10'47.29," then East/Northeast to the point just South of Hillside at approximately N34°24'43.30" W112°53'33.61," then Northeast to the Yava Bridge crossing at Kirkland Creek, approximately N34°28'23.84" W112°53'18.52" to include the Town of Hillside and State Hwy 96/County Road 15 between the Yava

CERTIFICATE OF NECESSITY

(CONTINUATION PAGE TWO)

EXPIRES September 30, 2021

ARIZONA DEPARTMENT OF HEALTH SERVICES

STATE OF ARIZONA

) ss

County of Maricopa

CERTIFICATE NO. - 62 -

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1. g. (continued)

Bridge and the Town of Hillside, then Northwest to the intersection of Lindahl Rd. and Sunburst Dr. at approximately N34°36'10.33" W113°08'29.54" to include all of the Sycamore Mobile Home Park, then West to a point where Boulder Creek and Niagra Creek join approximately N34°36'24.92" W113°13'52.80," then Southwest to the Mohave/Yavapai County line on US Hwy 93 at approximately N34°28'41.86" W113°19'56.41," then Southwest along US Hwy 93 back to the point of origin at Milepost 161 on US Hwy 93.

2. Central Operating Station: *Prescott, Arizona (915 Hinman).*

3. Response Times:

- a. *Ten (10) minutes on seventy (70) percent of all emergency 911 calls.*
- b. *Fifteen (15) minutes on ninety (90) percent of all emergency 911 calls.*
- c. *Thirty (30) minutes on ninety-five (95) percent of all emergency 911 calls.*
- d. *Seventy-five (75) minutes on one hundred (100) percent of all emergency 911 calls.*
- e. *Ten (10) minutes on ninety (90) percent of all emergency 911 calls within the city limits of Williams Arizona.*
- f. *Twenty (20) minutes on ninety-nine (99) percent of all emergency 911 calls within the city limits of Williams, Arizona.*
- g. *Fifty-five (55) minutes on seventy (70) percent of all emergency 911 calls in service area north of milepost 348 (Drake Railroad Overpass) on Highway 89 excluding the town of Williams, Arizona.*
- h. *Ninety-five (95) minutes on ninety-five (95) percent of all emergency 911 calls in service area north of milepost 348 (Drake Railroad Overpass) on Highway 89, except when responding to certain parts of the Grand Canyon and mileposts 109.5 thru 125 on I-40, which may take an additional twenty-five (25) minutes; excluding the town of Williams, Arizona.*
- i. *Ninety-five (95) minutes on ninety-five (95) percent of all emergency 911 calls in the Williamson Valley Fire District C.O.N. service are; except when response is impacted by inclement weather, which may take an additional twenty-five (25) minutes.*

4. Type of Service: *Immediate dispatch/response transports, interfacility and convalescent transports.*

5. Hours of Operation: *24 hours per day – 7 days per week*

CERTIFICATE OF NECESSITY

(CONTINUATION PAGE THREE)

EXPIRES September 30, 2021