LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Angie Grove, Deputy Legislative Auditor

CC: Anna Whiting Sorrell, Director, Department of Public Health and Human Services
Jane Smilie, Administrator, Public Health and Safety Division
Todd Harwell, Chief, Chronic Disease Prevention and Health Promotion Bureau
Jim DeTienne, Supervisor, EMS and Trauma System Section
Keith Kelly, Commissioner, Department of Labor and Industry
Jack Kane, Acting Administrator, Business Standards Division
Maggie Conner, Chief, Health Care Licensing Bureau
Jean Branscum, Executive Director, Board of Medical Examiners

DATE: September 2009

RE: Performance Audit Follow-up 10SP-03: Emergency Medical Services

Attachment: Original EMS Performance Audit Summary, 07P-11

Introduction

In June 2008, we issued our performance audit of the Emergency Medical Services (EMS). The audit made 12 recommendations to the Department of Public Health and Human Services (Department) and three recommendations to the Board of Medical Examiners (BOME). In July 2009, we began gathering information from the Department and BOME on progress in implementing the recommendations. This memo summarizes the results of our follow-up work in addition to presenting background information on the audit.

Overview

Through our analysis of information provided by the Department, we found the EMS program has varying levels of success in the implementation of audit recommendations. The Department has fully implemented some of the recommendations, while partially implementing others. The following explains the implementation status of each of the recommendations.

Implementation Status – DPHHS		Implementation Status - BOME	
Implemented	4	Implemented	3
Being Implemented	7	Being Implemented	0
Not Implemented	1	Not Implemented	0

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Background

EMS is defined in statute as prehospital care and transportation furnished by a combination of persons licensed by BOME and resources that are licensed by the Department. Other sources define EMS as a service providing out-of-hospital acute care and transport to definitive care for patients with illnesses and injuries, which they believe constitute a medical emergency. National standards for EMS are established by the Office of EMS of the National Highway Traffic and Safety Administration (NHTSA). At the state level, the Department's Emergency Medical Services and Trauma Systems Section (section) includes an EMS program and is responsible for regulatory oversight of EMS in Montana.

Additionally, EMS ambulance licensing laws list the powers and duties of the Department, such as general authority to supervise and regulate EMS in Montana. The laws give authority to prescribe and enforce rules for EMS, including requirements necessary and appropriate to assure the quality, safety, and proper operation and administration of emergency medical services. BOME is responsible for regulatory oversight of emergency medical technicians (EMTs), who are individuals who provide emergency prehospital patient care.

Follow-up Audit Findings

Recommendation #1

We recommend the Department establish criteria for the basic life support with advanced life support endorsements license level in the Administrative Rules of Montana to clearly define the capabilities of emergency medical services units licensed to provide care at this level.

Implementation Status – Being Implemented

The Department is having legal staff review proposed rule changes to Title 37, Chapter 104, of the Administrative Rules of Montana, which will clarify how basic life support (BLS) services are authorized to provide limited advanced life support (ALS) endorsements. The Department anticipates these changes will be made by the end of year.

Recommendation #2

We recommend the Department:

A. **Collect coverage area and staffing activity information of emergency medical services units during the licensing process.**

B. **Identify service availability issues.**

C. **Determine reasons for lack of advanced life support in areas and ways to improve advanced life support availability.**

D. **Work with governance entities and stakeholders to address service gaps and assure statewide delivery of emergency medical services.**

A) Implementation Status – Being Implemented

Through a survey conducted by the section from fall 2008 through June 2009, 180 EMS units stated their service's coverage area, staffing activities, service availability, incident response times, and the reason for the lack of ALS services. The section will map this coverage data when it collects information from the remaining 73 units in September 2009. The Department hopes to distribute this map to stakeholders by the end of the year.

B) Implementation Status – Being Implemented

The survey listed above also explains why units are having issues with service availability. The main concerns regard staffing for calls, especially having enough staff during the daytime. In addition, long transport times, especially with inter-facility transfers, have created staff availability issues.

C) Implementation Status – Being Implemented

The survey found the main reason for the lack of ALS services is because BLS services with an interest in becoming an ALS service or receiving ALS endorsements do not have the initial and ongoing time commitment necessary for training requirements. In addition, other barriers noted are a lack of a medical director, lack of medical director support and/or interest, and a lack of available trainers.

The complete survey results will be brought before the Emergency Care Committee (ECC), which is a newly formed EMS committee within the Department, and other stakeholders to determine if there are strategies which can be implemented to resolve these issues.

D) Implementation Status – Being Implemented

The complete survey results will be brought before the ECC and other stakeholders in December 2009 to determine if there are strategies which can be implemented to resolve service gaps and to improve the delivery of statewide emergency medical services.

Recommendation #3

We recommend the Department improve collection and analysis of emergency medical services incident response time data by:

A. **Establishing and evaluating emergency medical services response time benchmarks in Montana for urban, rural, and super-rural areas as part of quality improvement efforts.**

B. **Revising ARM 37.104.212 to require emergency medical services providers to record and report "at patient" times.**

C. **Enforcing compliance with ARM 37.104.212.**

A) Implementation Status – Not Implemented

An interview with Department personnel found they do not plan on implementing response time benchmarks in program rules. Personnel also stated that benchmarks are not a best practice being implemented in other states because of the possibility it could compromise EMT safety. However, they anticipate using the new Online Prehospital Information (OPHI) Licensing system to study response times for trends and anomalies (OPHI is discussed in detail in recommendation #7). They plan on addressing these findings with the ECC to initiate discussions regarding response times and benchmarks that urban, rural, and super-rural services should aim for. It is not clear whether the Department will officially establish response time benchmarks or how these would be used as part of quality improvement efforts.

B) Implementation Status – Being Implemented

The Department hopes to revise ARM 37.104.212 to define the minimum data set to be submitted to the Department, which includes making "at patient" time a mandatory, reportable data point. This rule change, which is in draft form, will not be a part of the proposed rule changes being reviewed by the Department's legal staff as addressed in recommendation #1. The Department anticipates the changes to ARM 37.104.212 will be implemented by March 2010.

C) Implementation Status – Being Implemented

The proposed program rule discussed in part will mandate that all patient care record (PCR) data sent to the section must be uploaded electronically. This proposed rule is as follows:

> ARM 37.101.212(2) Ambulance services and nontransporting units shall submit the data to the Department electronically in the National Emergency Medical Services Information System (NEMSIS) format. For EMS services directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.

EMS units will be required to submit this data quarterly and enforcement will be part of EMS service licensure requirements.

Recommendation #4

We recommend the Department of Public Health and Human Services and the Board of Medical Examiners jointly address inconsistencies in medical direction for emergency medical services by consolidating and clarifying statutory definitions and provision parameters.

Implementation Status (DPHHS and BOME) – Implemented

The Department and BOME worked with the Children, Family, Health and Human Services Interim Committee to draft House Bill 93, which addressed provisions for medical direction, medical directors, and service directors. This bill was approved by the legislature and signed by the governor.

The Department is in the process of proposing changes to program rules referring to the requirements of offline and online medical directors and to the requirements for which types of services will require a medical director.

BOME has adopted a rule further defining the requirements and responsibilities of a medical director by identifying the required training for the medical director. This new rule (ARM 24.156.2732 – Medical Direction) gives a thorough position description for a unit's off-line medical director. This rule took effect in June 2009.

Recommendation # 5

We recommend the Board of Medical Examiners and the Department of Public Health and Human Services seek legislation to clarify statutory authority over emergency medical services complaints handling by:

A. **Removing references to the Department's authority over complaints relating to patient care and individual performance.**

B. **Granting initial review of all complaints to the board to determine appropriate jurisdiction.**

A) Implementation Status (DPHHS and BOME) – Implemented

The Department and BOME worked with the Children, Family, Health and Human Services Interim Committee to draft House Bill 93, which clarified the complaint collection process. The bill was approved and the Department is revising its policy in coordination with BOME. Section 50-6-203, MCA, was also changed to give the BOME the authority to adopt rules regarding the handling of complaints involving patient care provided by EMTs.

The Department has also created an internal complaints and investigations policy, which addresses the process Department personnel must follow when they receive a complaint.

B) Implementation Status (DPHHS and BOME) – Implemented

Under House Bill 93, the BOME now has the authority to create a screening panel that will initially receive all EMS complaints (§50-6-104(2)(a), MCA). The bill amended §50-6-323, MCA, so the Department can now only receive and investigate complaints relating to the operation of any EMS unit, including complaints concerning patient care provided by an emergency medical service, after the complaint has been reviewed by the BOME's screening panel.

Recommendation # 6

We recommend the Department work with emergency medical services stakeholder groups to develop an objective, data-driven system evaluation and quality improvement oversight approach and, where necessary, seek statutory authority to implement these changes.

Implementation Status – Being Implemented

The Department is in the process of implementing this recommendation through two processes: the recent creation of the ECC and the implementation of OPHI. The ECC will provide the Department with recommendations to improve the state's emergency care system using the strategic plan the ECC is creating (this is discussed in detail in recommendation #9). The plan will also have system indicators and benchmarks (i.e., average response times, types of incidents, etc.), which will show the section where they are now and trends. Based on these indicators, the Department will be able to determine where to focus its efforts and to improve operations. The committee will also assist the Department in further prioritizing issues within the plan, developing goals, and establishing of strategies to meet these goals.

The Department is also in the process of proposing program rule revisions that will require EMS services to submit PCR data quarterly via OPHI.

Recommendation #7

We recommend the Department take steps to complete and implement a comprehensive management information system.

Implementation Status – Being Implemented

The Department has recently implemented OPHI within the section. This system allows service managers to update their licensing information at anytime. The Department has real-time access to this information, which allows for better tracking of application changes, staffing, and other licensing information. Also, the electronic PCR system has been implemented and 24 EMS units are using it. Department personnel have drafted program rules changes in place that will make the uploading of 65 data points found in PCRs via OPHI mandatory.

The section also plans on making the following additions to OPHI over the next year:

- implement the data-reporting module, which will provide ten reports and access to individual reports with over 100 data elements in the database
- implement the billing module
- develop data import functionality, which will allow units that use other software to provide data to the section via OPHI

Recommendation #8

We recommend the Board of Medical Examiners and the Department of Public Health and Human Services ensure emergency medical services information systems data is shared to improve analysis and reporting of emergency medical services system issues.

Implementation Status (DPHHS) – Implemented

The Department and BOME entered into an inter-agency agreement March 2009 which will allow the Department to share the following information with BOME: EMS service names, names of medical directors, and the service rosters.

Implementation Status (BOME) – Implemented

Under the agreement above, BOME will share the following data with the Department: the EMT's name, address, phone number, date of birth, Montana EMT license number, license level, current license status, original date of licensure, license expiration date, and contested case information.

Recommendation #9

We recommend the Department develop and implement a strategic planning process to assist in development of the state's emergency medical services system and strengthen management activities.

Implementation Status – Being Implemented

The ECC is working to develop an EMS strategic plan for the state that will align with the ten components found within the NHTSA's Model EMS System Plan. According to Department personnel, the plan will be completed by December 2009. Upon completion of the plan, the committee will continue to assist the Department in further prioritizing issues in the plan, developing goals and timelines, and following implementation of strategies to meet these goals.

Recommendation #10

We recommend the Department revise the roles and responsibilities of staff within the Emergency Medical Services and Trauma Systems Section to better achieve its mission and meet national emergency medical services standards.

Implementation Status – Being Implemented

Department personnel stated the section reorganized staffing and responsibilities to better align with the ten components found within the NHTSA's Model EMS System Plan. We found that although some responsibilities do align with the ten components, the responsibilities will not be finalized until the ECC completes the strategic plan. As mentioned in recommendation #9, this plan will not be complete until the end of the year. According to Department personnel, development of this plan will provide clarity to staff relative to their duties, their relationship to the mission of the organization, and their performance expectations.

Recommendation #11

We recommend the Department strengthen the management controls of regulatory activities at the Emergency Medical Services and Trauma System Section relating to:

A. **Inspections**

B. **Vehicle permits**

C. Complaint documentation

D. Emergency medical services unit licensure fees

A) Implementation Status – Implemented

The Department has developed and implemented a written, internal EMS service inspection and corrective actions policy to assure better management of the inspection process. According to Department personnel, the EMS Systems manager reviews and signs off inspection reports upon completion.

B) Implementation Status – Implemented

The Department has also created a new policy regarding vehicle permits. Along with permit stickers being applied to vehicles, the service managers have the ability to add vehicle and permit information to the electronic licensing system. Department personnel stated the recent ability of services to upload vehicle information online via OPHI has helped decrease the discrepancies in the number of vehicles found between the Department and the EMS services. They also stated the service managers have been updating the types of vehicles they have, as well as the location of each vehicle (some units may have vehicles in several locations to cover a bigger area). Implementation of these procedures will be monitored annually by the EMS Systems manager.

C) Implementation Status – Implemented

The section has developed an internal complaints and investigations policy to reflect the changes made to the complaint handling process in House Bill 93. The Department has stated that the section supervisor will internally monitor progress of complaint investigations, generally as a standing agenda item during bi-weekly meetings with the EMS Systems Manager.

D) Implementation Status – Being Implemented

An analysis of actual costs for licensure and inspection activities was conducted in the fall of 2008. The Department will evaluate options for resolving the difference between the current license fee and actual costs associated with Department licensing personnel and overhead to determine if statutory changes are necessary. Likely options include assessing a cost-based fee to all services; applying a sliding scale, which is less for volunteer services and more for private services; or eliminating the fee all together. Each of these will be evaluated and the Department will make a decision on how to proceed before the 2011 Legislative Session.

Recommendation #12

We recommend the Department address emergency medical services system governance needs by forming an emergency medical services system governance entity to address components of the state's emergency medical services system through either:

A. Expanding the role and composition of the existing State Trauma Care Committee; OR

B. Establishing a separate emergency medical services advisory council.

A) Implementation Status – N/A

The Department decided to create a new EMS committee.

B) Implementation Status – Implemented

The Emergency Care Committee is a multidisciplinary, advisory group of stakeholders brought together to help the section undertake a number of activities to improve Montana's emergency care system and

achieve its mission. Examples of some goals in place for the ECC are to create a strategic plan, develop a comprehensive information management system, and improve workforce development and training.

In March 2009, 17 members were appointed for two-year terms by the director of the Department. Members include urban and rural service representatives, fire and police department personnel, a tribal representative, a medical director, a registered nurse, a legislator, etc. They met for the first time on May 2009 and will meet quarterly.

Potential Future Follow-up Work

Although we have a clear understanding of the implementation status of the recommendations made to both the Department and BOME, follow-up work might be necessary to ensure the Department is staying on track. Future follow-up work could determine if the Department has completed their strategic plan, if program rules have been implemented, and if a coverage map has been created. The Legislative Audit Division could review the implementation status of these recommendations in June 2010 and provide information to the Legislative Audit Committee, if necessary.

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