

RESOLUTION NO. 11-001

RESOLUTION OF THE SOLANO COUNTY EMERGENCY MEDICAL SERVICES COOPERATIVE REQUIRING OPERATORS OF EMERGENCY AMBULANCES TO OBTAIN AUTHORIZATION TO OPERATE IN SOLANO COUNTY

WHEREAS, the Solano County Emergency Medical Services Cooperative (“SEMSC”) serves as the local EMS agency for Solano County; and

WHEREAS, as the local EMS agency for Solano County, SEMSC has the authority to regulate the operation of emergency ambulances, defined as any ambulances capable of providing emergency medical services, including basic life support (“BLS”), limited advanced life support (“LALS”), and advanced life support (“ALS”); and

WHEREAS, critical care transport (“CCT”) ambulances are capable of providing ALS, LALS, and BLS services and are thus emergency ambulances; and

WHEREAS, SEMSC has, through a competitive process, awarded an exclusive agreement for all ALS ambulance services throughout the EOA, including all 911 requests (but excluding those requests originating from within the City of Vacaville and Travis Air Force Base) and all ALS interfacility requests in the County of Solano and which prohibits any other person or entity from providing ALS ambulance service in Solano County; and

WHEREAS, the California Health & Safety Code permits SEMSC to establish policies and procedures to ensure medical control of the EMS system and makes any such policies and procedures binding upon operators of emergency ambulances; and

WHEREAS, to facilitate its medical control of the EMS system, SEMSC seeks to require all operators of emergency ambulances to obtain authorization from SEMSC to provide such services in the County by entering into an authorization agreement with SEMSC; and

WHEREAS, SEMSC seeks to require all operators of emergency ambulances to satisfy SEMSC’s medical control requirements as a condition of receiving and maintaining authorization to operate.

NOW, THEREFORE, IT IS RESOLVED that:

1. For purposes of this Resolution, “Emergency Ambulance” includes any ambulance capable of providing CCT, ALS, LALS, or BLS services. Emergency Ambulance includes both ground ambulances and air ambulances.

2. No individual or entity may originate any Emergency Ambulance services within Solano County unless that individual or entity has obtained written authorization from SEMSC and entered into a written authorization agreement with SEMSC in a form acceptable to SEMSC. Individuals and entities that operate emergency ambulances (“Operators”) and which seek to obtain authorization to originate service and operate one (1) or more Emergency Ambulances within Solano County must complete an application on a form to be provided by SEMSC.
3. Each Operator applying for authorization to originate services and operate one (1) or more Emergency Ambulances within Solano County (governmental agencies are exempt) is required to pay an application fee of one thousand five hundred dollars (\$1,500.00). The application fee covers the reasonable cost of the staff time necessary to review and process the authorization application and review performance on an ongoing basis.
4. Each Operator who has received authorization and entered into an authorization agreement may renew that authorization annually by completing a renewal application on a form to be provided by SEMSC and by paying a renewal fee of one thousand five hundred dollars (\$1,500.00). The renewal fee covers the reasonable cost of the staff time necessary to review and process the renewal application and review performance on an ongoing basis.
5. As a condition to receiving authorization to originate services and operate one (1) or more Emergency Ambulances within Solano County, an Operator must agree in writing to comply with SEMSC’s medical control requirements as set forth in SEMSC’s EMS Plan and policies, as amended.
6. Each Operator who has received authorization and entered into an authorization agreement must register each emergency vehicle (governmental agencies are exempt) with Solano County EMS. The registration form shall be completed for each vehicle and the vehicle inspected by authorized Solano County EMS staff. Upon completion of registration form and inspection, an authorization decal will be provided by Solano County EMS and must be affixed to the lower RIGHT FRONT window of each vehicle.
7. The inspection fee is set at the rate of one hundred dollars (\$100) per BLS ambulance and two hundred dollars (\$200) per CCT ambulance and will be collected on an annual basis (governmental agencies are exempt).
8. In the event SEMSC finds that an Operator is operating one (1) or more Emergency Ambulances to originate service within Solano County without authorization or without signing an authorization agreement with SEMSC, the operator shall be prohibited from operating Emergency Ambulances within the County until the Operator completes an application, pays the application fee, receives authorization, and enters into an authorization agreement with SEMSC.

9. In the event SEMSC finds that an authorized Operator has violated any of SEMSC's medical control requirements, or any applicable federal, state, or local law or regulation, or SEMSC resolution, regulation, or policy, or has violated the exclusivity rights awarded by the SEMSC to the exclusive ALS provider under the terms of the master agreement, the SEMSC Agency Administrator will implement the following process:

If the Local Emergency Medical Services Agency (LEMSA) investigation concludes that an infraction has occurred, then it will be determined if the infraction was an administrative infraction or clinical / systems infraction. The nature of the infraction will be determined based upon whether the infraction placed a patient or members of the general public at unreasonable risk or caused unreasonable risk of disruption to the EMS system. Any determination by SEMSC relating to infractions may be appealed by the Operator as outlined more fully below. The violation decision process may be accelerated (i.e., an infraction may be treated as a higher level offense; e.g., a first offense may be treated as a second or third offense) at any time when there are preliminary findings that indicate such action is necessary to protect public health, safety, and welfare. (Refer to Attachment A, Violation Decision Diagram.)

All correspondence associated with violations, citations, and/or fines will be provided to the affected Operator via electronic mail as well as US Postal Service, Certified Mail, Return Receipt Requested.

A. Administrative Infraction

If it is determined that the violation did not create an unreasonable risk of injury or disruption, then the violation will be processed as an administrative infraction. The following process will be used to address administrative infractions.

1. First Offense: SEMSC will issue a warning letter to the Operator and may levy a fine of up to \$1,500.00 at the discretion of the EMS Agency. The fine will be paid to the SEMSC within 45 days of receipt of the warning letter. The warning letter shall include the following information:
 - a. The name of the operator;
 - b. A statement that an infraction has occurred;
 - c. The rule violated;
 - d. A description of the violation and the factual basis for finding the violation(s) have occurred;
 - e. A statement that a fine is being imposed on the operator pursuant to this resolution;
 - f. The amount of the fine and the procedure for paying the fine;
 - g. Procedure for challenging the imposition of the fine.
 - h. The warning letter may further state that failure to remedy noted violations may result in the suspension or revocation of the Operator's authorization to operate Emergency Ambulances within Solano County.

2. Second Offense: In the event an Operator commits a second violation, SEMSC shall issue a notice of intent to cite violation and will levy a fine of no less than \$1,500.00.
3. Third Offense: In the event an Operator commits a third violation, SEMSC will issue a violation citation and will levy a fine of up to \$5,000.00, at the discretion of the EMS Agency.
4. Fourth Offense: In the event an Operator commits a fourth violation, SEMSC will issue a violation citation and notice of intent to suspend. SEMSC will levy a fine of no less than \$5,000.00.
5. Fifth Offense: In the event an Operator commits a fifth violation, SEMSC will impose a suspension of at least 30 days and may levy a fine up to \$10,000.00 at the discretion of the EMS Agency. Upon the suspension becoming final, the EMS Agency will notify all affected hospitals and healthcare facilities. Authorization to resume operations is contingent upon compliance with all terms and conditions stipulated in the suspension notice and payment of all outstanding fines.
6. For sixth and subsequent offenses SEMSC will impose a suspension for a period of at least 30 days to one-year and will levy a fine of \$10,000.00 at the discretion of the EMS Agency. Upon the suspension becoming final, the EMS Agency will notify all affected hospitals and healthcare facilities. Authorization to resume operations is contingent upon compliance with all terms and conditions stipulated in the suspension notice and payment of all outstanding fines.

Records associated with Administrative Infractions will be maintained by the EMS Agency permanently; however, at the EMS Agency's discretion a subsequent violation may be considered a lesser offense than the next offense in numerical order (e.g. as a first or second offense rather than a third offense) if an Operator has provided continuous service for a period of 24 months without citation of any administrative or clinical/systems infractions.

B. Clinical / Systems Infraction

If it is determined that the violation did create an unreasonable risk of injury or disruption, then the violation will be processed as a clinical / systems infraction. Clinical / Systems infractions will be considered administrative infractions as well for the purposes of imposing the sanctions outlined herein; and the greater of the two penalties shall apply. The following process will be used to address clinical / systems infractions.

1. First Offense: In the event an Operator commits a first offense, SEMSC shall issue a notice of intent to cite violation and levy a fine of between \$1,500.00 and \$2,500.00, at the discretion of the EMS Agency.

2. Second Offense: In the event an Operator commits a second violation, SEMSC will issue a violation citation and levy a fine of no less than \$5,000.00, and may suspend an Operator for up to 30 days at the discretion of the EMS Agency. Upon the suspension becoming final, the EMS Agency will notify all affected hospitals and healthcare facilities. Authorization to resume operations is contingent upon compliance with all terms and conditions stipulated in the suspension notice and payment of all outstanding fines.
3. Third Offense: In the event an Operator commits a third violation, SEMSC will impose a suspension of between 30 days and one-year and will levy a fine of no less than \$10,000.00, at the discretion of the EMS Agency. Upon the suspension becoming final, the EMS Agency will notify all affected hospitals and healthcare facilities. Authorization to resume operations is contingent upon compliance with all terms and conditions stipulated in the suspension notice and payment of all outstanding fines.
4. Fourth Offense: In the event an Operator commits a fourth violation, SEMSC will revoke the Operator's authorization to operate Emergency Ambulances within Solano County for a period of at least one year, at the discretion of the EMS Agency. SEMSC shall provide the Operator with written notice of the revocation. The notice shall explain the violation and the factual basis for finding that the violation has occurred. (Refer to Attachment A, Violation Decision Diagram.) At the conclusion of the revocation period the Operator may reapply for an operating license.

Records associated with Clinical/Systems Infractions will be maintained by the EMS Agency permanently; however, at the EMS Agency's discretion a subsequent violation may be considered a lesser offense than the next offense in numerical order (e.g. as a first or second offense rather than a third offense) if an Operator has provided continuous service for a period of 18 months without citation of any administrative or clinical/systems infractions.

10. Appeal Process

Appealing to the Public Health Officer

Filing an appeal with the Public Health Officer is the first stage of the appeal process. An Operator may appeal any fine levied or any suspension or revocation of Operator's authorization to provide ambulance services in Solano County by filing a notice of appeal, on an appeal form to be provided by the SEMSC, with the EMS Agency within 15 calendar days of the notice of fine, suspension, or revocation.

(Refer to Attachments C and D. Appeal forms can be found on the Solano County EMS website.)

Failure to submit an appeal form within 15 calendar days will prohibit the Operator from continuing with the appeal process.

Notices of fine, suspension, or revocation shall be deemed received three calendar days after they are mailed. The appeal shall be based on the factual basis used by the LEMSA in finding that a violation has occurred and/or the application of the requirement allegedly violated. It shall include any information that the Operator desires the Public Health Officer, or his/her designee, to consider. Upon request, Operator will be provided with copies of all materials upon which decisions have been based.

Notice of Hearing

The Public Health Officer, or his/her designee, shall hold a hearing to consider the appeal within 30 calendar days of receipt of the notice of appeal. The Public Health Officer, or designee, shall notify Operator of the date, time, and location of the hearing by first class mail at least 15 days prior to the hearing date.

Absence of Operator Requesting the Hearing

The hearing will proceed as normal whether the Operator requesting the hearing is present or not. An Operator's failure to appear at the hearing will forfeit its opportunity to present information at the hearing.

Scope of Hearing

The scope of the hearing will consist of the issues raised by the Operator contesting conditions it deems inappropriate or the terms of an enforcement action(s).

Burden of Proof

The Operator requesting relief has the burden of proof. The Operator must prove by a preponderance of the evidence every fact necessary to support its claim for relief. Merely supplying a larger quantity of witnesses is not sufficient. The Public Health Officer, or his/her designee, measures the quality of witnesses, documents, exhibits, etc., and the focus is on that which is more credible and convincing.

Conduct of the Hearing

The hearings shall not be open to the public. The hearing does not need to be conducted with a strict adherence to the technical rules relating to evidence and witnesses. The Public Health Officer, or his/her designee, shall consider all evidence related to the challenged decision by the Operator. Relevant information may include the authority and action of the LEMSA, written and oral arguments submitted by the parties, and any other relevant information that, in the judgment of the Public Health Officer, or his/her designee, should be considered to effectuate and implement laws and SEMSC regulations. The hearing should flow in an orderly fashion. The Public Health Officer, or his/her designee, may require a list of witnesses to be provided in advance of the hearing.

The following may be used as a guideline in conducting a hearing:

To begin the hearing, the Operator requesting the hearing will present the facts of its case including testimony and documents.

Each witness must swear or affirm to the Public Health Officer, or designee, to tell the truth. This can be done collectively before any testimony is taken.

After each witness has been questioned on direct examination, the other parties (including the LEMSA and the Operator) are permitted to question the witness regarding statements or answers given during direct examination. This process is known as cross-examination.

After cross-examination of a witness, the Public Health Officer, or his/her designee, may ask questions of the witness.

In some instances, the Operator initiating the hearing may ask the witness additional questions relating to the questions asked during cross-examination. This is known as redirect examination. The other parties may ask additional questions relating to the answers given to the redirect examination. This is known as re-cross examination.

After the Operator initiating the hearing has presented all of its witnesses and exhibits, it will rest its case. Then, the other party or parties, one at a time, will follow the same procedures.

The parties will be given an opportunity to present a closing statement that highlights the important facts and testimony of the case.

The hearing is then concluded.

Information associated with violations, citations, and/or fines will not be publically released by the LEMSA until the appeal process outlined in this resolution is exhausted or waived.

Findings and Decisions

Upon conclusion of the hearing, the Public Health Officer, or his/her designee, shall issue a written decision regarding the underlying challenged decision by the Operator. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the length of suspension and penalty amount, if any. The Public Health Officer, or designee, shall issue the written decision within ten calendar days of the hearing.

Appeal of Hearing Panel Decisions

If the hearing decision by the Public Health Officer, or his/her designee, is not accepted by the Operator, the Operator may appeal the decision only if the Public Health Officer, or his/her designee, failed to follow the appeal process outlined above. If the Public Health Officer, or his/her designee, followed the appeal process then the Operator cannot file an appeal with the SEMSC.

Appealing to the SEMSC

If the Public Health Officer, or his/her designee, failed to follow the appeal process contained in this Resolution the Operator may submit a written request for appeal to the Clerk of the Board within ten calendar days of date of the decision by the Public Health Officer. If the Operator does not file within ten calendar days of date of the decision by the Public Health Officer the Operator cannot appeal to the SEMSC.

Once the SEMSC Chair receives the appeal an acknowledgement letter will be mailed to the Operator within 30 days.

Notice of SEMSC Hearing

The SEMSC shall hold a hearing to consider the appeal within 60 calendar days of receipt of the notice of appeal if determined to be a procedural issue. The SEMSC shall notify the Operator of the date, time, and location of the hearing by first class mail at least 30 days prior to the hearing date.

Absence of Operator Requesting the Hearing

The hearing will proceed as normal whether the Operator requesting the hearing is present or not. An Operator's failure to appear at the hearing will forfeit their opportunity to present information in the hearing.

Scope of Hearing

The scope of the hearing will be limited to procedural issues identified in the appeal filed by the Operator.

Burden of Proof

The Operator requesting relief has the burden of proof. The Operator must prove by a preponderance of the evidence every fact necessary to support its claim for relief. Merely supplying a larger quantity of witnesses is not sufficient. The SEMSC measures the quality of witnesses, documents, exhibits, etc., and the focus is on that which is more credible and convincing.

Conduct of the Hearing

The hearings shall be open to the public. The hearing does not need to be conducted with a strict adherence to the technical rules relating to evidence and witnesses. The SEMSC shall consider all evidence related to the procedural challenges raised by the appeal. The hearing should flow in an orderly fashion. The SEMSC may require a list of witnesses and written evidence to be provided in advance of the hearing.

The following may be used as a guideline in conducting a hearing:

To begin the hearing, the Operator requesting the hearing will present the facts of its case including testimony and documents.

Each witness must swear or affirm to the SEMSC to tell the truth. This can be done collectively before any testimony is taken.

After each witness has been questioned on direct examination, the other parties (including the LEMSA and the Operator) are permitted to question the witness regarding statements or answers given during direct examination. This process is known as cross-examination.

After cross-examination of a witness, the SEMSC may ask questions of the witness.

In some instances, the Operator initiating the hearing may ask the witness additional questions relating to the questions asked during cross-examination. This is known as redirect examination. The other parties may ask additional questions relating to the answers given to the redirect examination. This is known as re-cross examination.

After the Operator initiating the hearing has presented all of its witnesses and exhibits, it will rest its case. Then, the other party or parties, one at a time, will follow the same procedures.

The parties will be given an opportunity to present a closing statement that highlights the important facts and testimony of the case.

Those not parties to the action may not comment or present evidence at the hearing.

The hearing is then concluded.

Information associated with violations, citations, and/or fines will not be publically released by the LEMSA until the appeal process outlined in this resolution is exhausted or waived.

Findings and Decisions

Upon conclusion of the hearing, the SEMSC shall issue a written decision regarding the underlying challenged decision by the Operator. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the length of suspension and penalty amount, if any. The SEMSC shall issue the written decision within 30 calendar days of the hearing. The decision of the Governing Board of the SEMSC shall be final. (Refer to Attachment B, Appeal Process Diagram.)

If the Board sustains the appeal and determines a procedural error has occurred the Board may direct the matter back to the Public Health Officer for re-hearing.

The LEMSA shall have the right to issue additional infractions, along with their associated penalties, including fines and/or suspensions, during the period of time any appeal by an operator is pending for any previously issued infractions.

11. The SEMSC Board of Directors delegates to the Medical Director and the Agency Administrator the power and authority to make rules and regulations consistent with this Resolution for the purpose of facilitating the regulation of Emergency Ambulances within Solano County.

Passed and adopted by the Board of Directors of the Solano County Emergency Medical Services Cooperative on October 13, 2011, by the following vote:

AYES: 5

NOES: 0

ABSENT: 2

ABSTAIN: 0



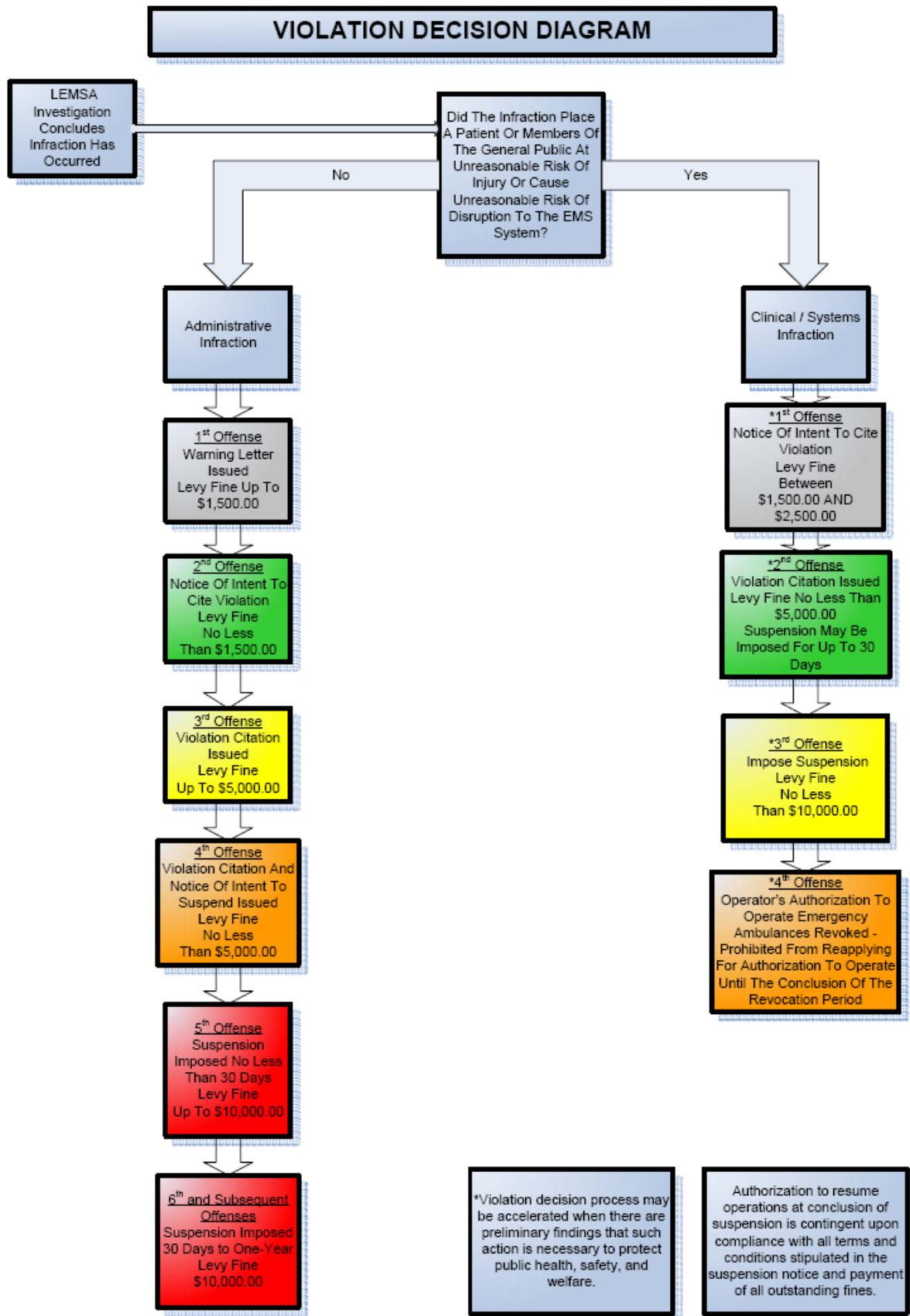
Birgitta Corsello
Chair of the SEMSC Board of Directors

Attest:

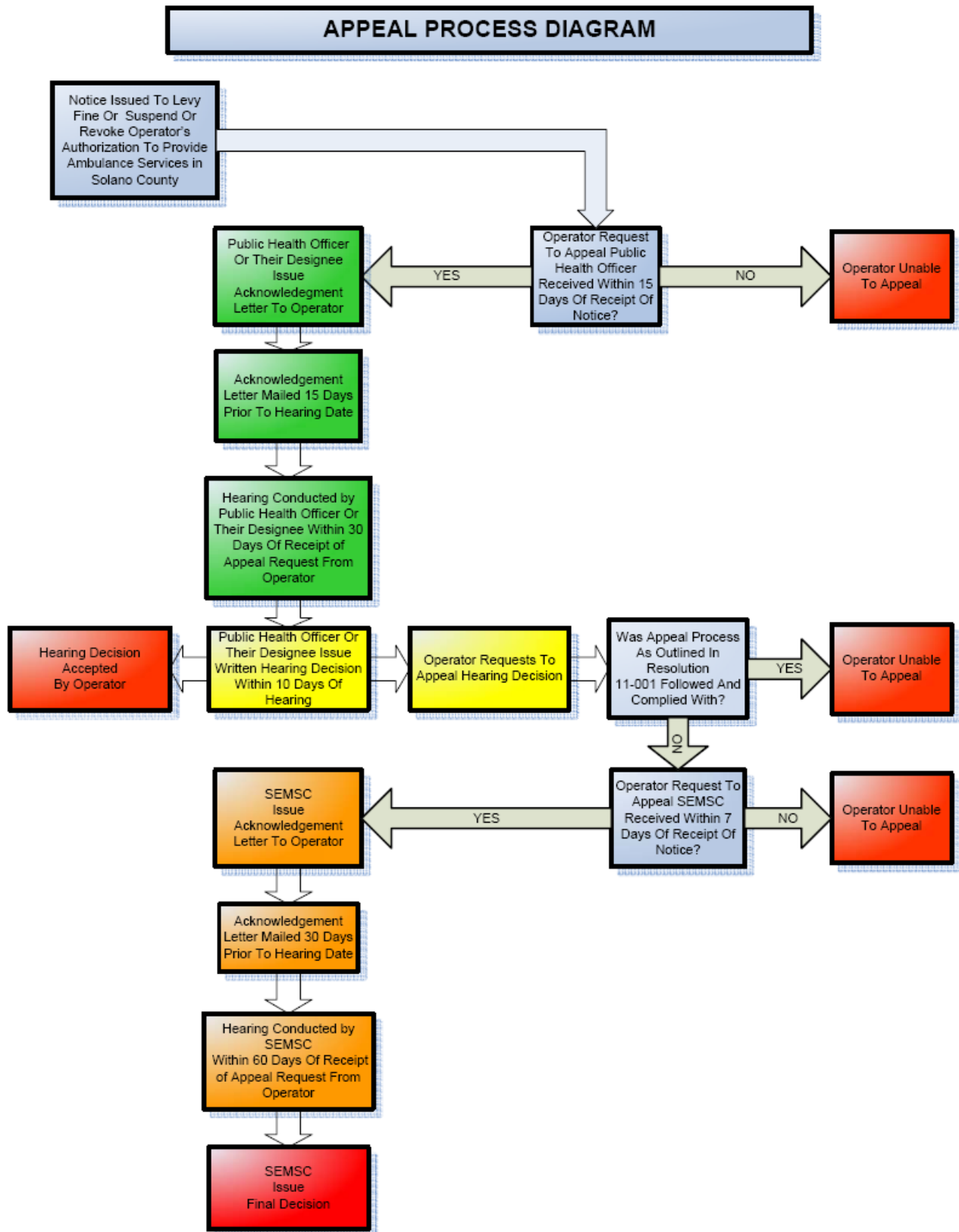


Jan Homer
SEMSC Secretary

ATTACHMENT A



ATTACHMENT B



ATTACHMENT C

**SOLANO EMERGENCY MEDICAL SERVICES COOPERATIVE (SEMSC)
PUBLIC HEALTH OFFICER APPEAL FORM**

Complete this form and submit to:
Solano County Emergency Medical Services Agency
275 Beck Avenue, Fairfield, CA 94533
707-784-8155

DATE:	
ORGANIZATION:	
ADDRESS:	
CITY:	STATE/ZIP:
PHONE:	
EMS ACTION APPEALED:	
PROVIDE BASIS FOR APPEAL (ATTACH SEPARATE SHEET, IF APPLICABLE):	
PROVIDE ALTERNATE RECOMMENDATION/COURSE OF ACTION:	
OFFICIAL USE ONLY	
PUBLIC HEALTH OFFICER RESOLUTION:	
DATE:	

COMMENTS: _____

PUBLIC HEALTH OFFICER SIGNATURE

DATE



ATTACHMENT D

SOLANO EMERGENCY MEDICAL SERVICES COOPERATIVE (SEMSC) BOARD OF DIRECTORS APPEAL FORM

Complete this form and submit to:
Solano County Emergency Medical Services Agency
275 Beck Avenue, Fairfield, CA 94533
707-784-8155

DATE:		
ORGANIZATION:		
ADDRESS:		
CITY:	STATE/ZIP:	
PHONE:		
EMS ACTION APPEALED:		
PROVIDE BASIS FOR APPEAL (ATTACH SEPARATE SHEET, IF APPLICABLE):		
PROVIDE ALTERNATE RECOMMENDATION/COURSE OF ACTION:		
OFFICIAL USE ONLY		
SEMSC RESOLUTION:		
DATE:		
COOPERATIVE VOTE:	AYES:	NAYS:

COMMENTS: _____

SEMSC SIGNATURE _____ DATE _____

