



# Arkansas Department of Health

---

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Asa Hutchinson

Nathaniel Smith, MD, MPH, Director and State Health Officer

## Emergency Medical Services (EMS) and the Trauma System

### Frequently Asked Questions (FAQ)

#### **1. Is the Arkansas Department of Health (ADH) going to create a new set of trauma triage guidelines?**

Yes. We have done so and it is now on the ADH website ([www.healthy.arkansas.gov](http://www.healthy.arkansas.gov)). It replaces the decision scheme in the *Arkansas Rules and Regulations for Trauma Systems*. The new document captioned *Field Triage Decision Scheme: The Arkansas Trauma Triage Protocol* was fully vetted through the Governor's Advisory Council on EMS and the EMS Subcommittee of the Governor's Trauma Advisory Council. It very closely resembles the recently released Centers for Disease Control's *Guidelines for Field Triage of Injured Patients*, which is based on recommendations from a panel of national experts. We believe this new document will answer many questions from EMS personnel regarding how to distinguish among the various levels of trauma and when to call the Arkansas Trauma Communication Center (ATCC). EMS should begin using the new Arkansas trauma triage guidelines immediately.

#### **2. If I have a trauma patient, do I have to call the ATCC?**

Yes. There is an important caveat, however. The ATCC has dealt with a tremendous number of calls in the approximately 15 months of its existence. About 60% of the calls relate to minor trauma patients. You do not have to call the ATCC for minor trauma. In fact, we do not want you to call for minor trauma. You do, however, have to call for major and moderate trauma from the scene. The new trauma triage guidelines will provide you with the guidance you need to make this decision. It is very important to understand there are two reasons you have to call the ATCC for major and moderate trauma. First, the ATCC can assist you in transporting the patients to the most appropriate hospital in the shortest time possible. Even if an ambulance is in an area close to a major trauma center and would normally take the patient there, the ATCC is in a position to tell the Emergency Medical Technician (EMT) or Paramedic if that facility is currently overwhelmed in a particular specialty area or other

information that would require transport to a different hospital. Second, it is critically important in System development that we have good data regarding EMS transports. The ATCC is well-positioned to give us this data, but must receive the calls in order to have the data for future analysis. The importance of the data aspect cannot be overstated. It should be clearly understood, however, that the ATCC is there to provide assistance to EMS. Even in minor cases, should you have a question with which you believe the ATCC can help, please feel free to call.

**3. Doesn't the "45 minute rule" preclude me from taking a patient to a higher level hospital if it is greater than 45 minutes by ground?**

No. The so-called "45 minute rule" can be found in the Arkansas *Rules and Regulations for Trauma Systems*. It has two parts. Section IV., D., 1., a., 1. states, in part, "If transport time to a Level I or Level II Facility is greater than 45 minutes by ground; transport the patient to a closer Level III Facility....." Section IV., D., 1., a., 2. states, in part, "If transport time to a Level I, II, or III Facility is greater than 45 minutes; transport the patient to a closer Level IV Facility....." However, both sections conclude with the following language: "unless the Section of EMS and Trauma Systems has approved a deviation from these guidelines." Based on the purpose of the System and the recent approval of the state's new trauma triage guidelines, both the Trauma and EMS Sections at ADH hereby approve "a deviation from these guidelines." Therefore, the "45 minute rule" should no longer be considered an impediment to transporting the patient to the most appropriate hospital in the shortest time possible per ATCC guidance.

**4. What about patient preference? Don't I have to take the patient to the facility of his/her choice?**

This is a very important question. The Arkansas statute governing this area (Act 553; Ark. Code Ann., Section 20-13-1003) changed in 2009. Since patient preference deals with all EMS scene calls and not just trauma, ADH's Section of EMS will disseminate a separate, detailed notification concerning this issue in the very near future. In short, although the new law does not preclude patient preference, it allows EMS the flexibility to transport the patient to the most appropriate hospital.

**5. What is the authority of the ATCC with respect to patient transport?**

As noted above, the Trauma System Act (Act 393) was passed during the 2009 legislative session. It can be located on the ADH website at [www.healthy.arkansas.gov](http://www.healthy.arkansas.gov). Section 20-13-817 (b) states as follows: "The call center shall direct patient transport of critical trauma patients to hospitals with the appropriate capability to provide optimum patient care." This language clearly supports the overall purpose of the System, which is to **ensure that patients with traumatic injuries are transported to the most appropriate hospital(s) to treat their specific injuries (definitive care) in the shortest time possible.** For major and moderate trauma, the new trauma triage guidelines advise ambulances to "contact the ATCC and transport to the most appropriate trauma center." It should be noted that there may be times when the

guidance furnished by the ATCC cannot be followed due to a change in patient condition (for example, see question 7. below). In addition to these airway and bleeding problems, there may be other unexpected situations that arise during transport. If EMS personnel have a good reason not to follow the guidance provided by the ATCC, this is acceptable. Please note that this type of deviation is tracked and recorded by the ATCC and will be addressed as a performance improvement issue at the Trauma Regional Advisory Council level. After taking all relevant factors into consideration, the ultimate responsibility for patient transport rests with EMS.

**6. What about liability? If I pass a nearby hospital to transport a patient to a higher level facility and the patient dies en route, can I be held liable?**

The question of liability is very difficult to answer. Every set of facts is different. Anyone can be sued at any time, regardless of the situation. The ultimate question is whether or not the lawsuit can be successful. We believe that with respect to EMS' interaction with the System, EMTs and Paramedics are backed by laws and rules that are clearly designed to ensure patients are transported to the most appropriate hospital to treat their specific injuries in the shortest time possible. The *Arkansas Trauma Triage Protocol* adopts a national and consistent standard of EMS care for trauma patients. If an EMS employee is doing the best he/she can for the patient, to include calling the ATCC and following its guidance regarding transport to the most appropriate hospital, this is really all the System can ask of that employee. Based on national statistics, if the patient is taken to a nearby facility that does not have the capability or capacity to treat the patient based on his/her injuries, the likelihood of a bad outcome increases.

**7. What if the patient is too unstable to transport to a higher level facility?**

The *Arkansas Rules and Regulations for Trauma Systems* specifically address this situation. Section IV., D., 1., a. states as follows: "Patients who meet the trauma criteria as outlined in IV. C. shall be transported to a Level I or Level II Facility unless: a. The prehospital care provider is unable to establish or maintain an adequate airway or control excessive hemorrhage; in this case, the patient should be transported to the nearest licensed facility to provide the appropriate care."

**8. What happens to an ambulance service if it is found to be in non-compliance with the rules or statutes?**

The EMS and Trauma Sections are in different Branches at ADH. The EMS Section is in the Health Systems Licensing and Regulation Branch, led by Renee Mallory. The Trauma Section is in the Injury Prevention and Control Branch, headed by Bill Temple. The EMS Section has regulatory responsibilities, and approaches violations of its rules from a licensing perspective. The Trauma Section, on the other hand, is not located in a regulatory Branch. It provides sub-grants to EMS, and if deliverables within the sub-grant are not met, funding will be withheld from a non-compliant grantee. An EMS provider will not be found to be out of compliance if it follows ATCC guidance. It should be noted that both the trauma and EMS rules referred to above have been revised.

**9. A question has come up about the potential liability of police officers and other non-medical first responders who give immediate medical aid at the scene to accident victims.**

The Good Samaritan law (Ark. Code Ann. Sec. 17-95-101) must first be discussed in this context. Section (a) of the law affords protection to “health care professionals”, which is defined in Section (d). Section (b) of this law says that any person who is not a health care professional who is present at an emergency or accident scene and 1. believes that an injured person could be aided by emergency procedures under the circumstances existing at the scene and 2. lends assistance in good faith to address the problem, shall not be held liable unless the action was not in good faith and was the result of gross negligence or willful misconduct. In 2007, Senator Barbara Horn asked the Arkansas Attorney General a couple of questions, one of which was “Does the Act extend to certified fire fighters, responders, etc. or only those health care professionals (EMTs, Paramedics, etc.) that are licensed?” Part of the AG’s opinion (No. 2007-285) states as follows: “With respect to your second question, it is unclear precisely which categories of certified or licensed professionals will qualify as “health care professionals” subject to the Good Samaritan Act. In this regard, however, it appears that subsection (b) of the statute affords equal protection to uncompensated individuals who are not “health care professionals” so long as they render emergency assistance in good faith and in the absence of gross negligence or willful misconduct. In addition, various statutory immunity provisions may apply to such first responders as fire fighters.” The opinion goes on to list some of the immunity statutes.

It thus appears that in the case of on duty police officers and other non-medical first responders (i.e., who are being compensated) who respond to such a scene and render assistance, they would not be covered by the Good Samaritan law. However, they may well be covered under applicable immunity laws, which would have to be determined on a case-by-case basis.

It is noted that Ark. Code Ann. Section 21-9-301 is one Arkansas law that should certainly be considered in this context. It is captioned “Tort liability – Immunity declared” and reads as follows:

“(a) It is declared to be the public policy of the State of Arkansas that all counties, municipal corporations, school districts, public charter schools, special improvement districts, and all other political subdivisions of the state and any of their boards, commissions, agencies, authorities, or other governing bodies shall be immune from liability and from suits for damages except to the extent that they may be covered by liability insurance.

(b) No tort action shall lie against any such political subdivision because of the acts of its agents or employees.”

There is one other statute pertaining to immunity that first responders should be aware of. Ark. Code Ann. Section 20-13-106 (c) (see Act 1222), promulgated during the 2015 legislative session, states as follows: “A law enforcement officer and a first responder is immune from civil liability, criminal liability, or professional sanctions for administering a mechanical tourniquet or

other tourniquet under this section if he or she is acting in good faith.” This is particularly important at this time (April 2015) as trauma system funding has been authorized to purchase tourniquets for use in the Tactical Combat Casualty Course.

**The above information is not meant to be legal advice. Should a question arise about a first responder’s liability in any given circumstance, legal guidance should be sought from an attorney.**