



Inside this issue

State Of Our Union 1
The Evidence Is Clear 1
Community..... 2
Just Cause In Discipline.....3-4

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Heartbeat

NEMSA Updates From Around The Nation

NEMSA Fort Wayne, IN

Members are settling back down to work after they overwhelmingly ratified their NEMSA negotiated contract. Additional Shop Stewards are being elected.

NEMSA NorthEast

Members are enjoying their new NEMSA negotiated contract. AMR is adjusting to NEMSA style representation and contract enforcement. Special recognition and thanks to the hard working shop stewards and local leadership as the transition to NEMSA style representation has occurred.

NEMSA N. Hollywood

Wage settlement amounts have been administered and current/former members are receiving settlement checks. Members reportedly are enjoying the benefits, wages, and working conditions of their new contract.

Happy Holidays From NEMSA! State Of Our Union 2007

By Torren Colcord, NEMSA President

First allow me to welcome you to the Heartbeat, a national newsletter designed to communicate and inform NEMSA members from around the nation.

Next I would like to give you what some have jokingly referred to as a “State of the Union” address. 2007 has been a very busy year with organizing, contract enforcement, negotiations and our hallmark charity work all over the U.S.

NEMSA has continued its unprecedented growth with the additions of bargaining units in San Diego, Ca, Dartmouth, Ma, and Tacoma, Wa.

2007 has also been a year of heavy negotiations. We’ve completed contracts in Ft. Wayne, In, North Hollywood, Ca, Boston, Ma, and Tacoma, Wa. We expect San Diego, Ca to be completed by Christmas.

Contract enforcement has also been

a staple for NEMSA. Not only have NEMSA shop stewards been hard at work keeping their employers “honest” with grievances; scores of NLRB charges, DOL complaints, and arbitrations have been filed for and prosecuted by NEMSA. NEMSA has also defended members against State and county EMS agencies seeking actions against member’s certifications and licenses.

1000 NEMSA members in New England were just hours from striking when AMR relented to the pressure put on them by the membership and key strategic community allies. NEMSA forged strong relationships with Northeast communities, Fire/Police/Nurse unions and influential politicians, which brought to bear an unprecedented force that moved AMR from a 1% wage cut to a 14% - 18% raise.

North Hollywood members saw

[Continued on next page](#)

NEMSA: The Evidence Is Clear

by Jeff Misner, Labor Relations Representative

The evidence is clear. The state of EMS in the USA today and the trends looking towards the future show that private EMS is growing. The private industry was once dominated with small “mom and pop” operations that have since been swallowed up by larger private EMS providers. Two publicly traded corporations and a handful of larger sized privately owned companies today dominate the industry. The era of the small community based private

ambulance service is fading away.

The evidence is clear. Private EMS providers simply do not get the same pay, compensation, and retirements that public paid EMS providers receive. Most public paid providers work for fire agencies or “third service” agencies. They receive far superior pay, healthcare, and retirements for doing the same work.

The evidence is clear. Working

[continued on page six](#)

National Updates Cont...

NEMSA Tacoma

NEMSA finished strong in Tacoma securing among other items, raises ranging from 17-21%, annual pay steps with 3 additional steps, 6 weeks PTO and decreased health premiums.

NEMSA San Diego

Negotiations are nearing conclusion in San Diego with wages and health benefits being the primary issues left to work out. AMR appears to be intentionally delaying additional bargaining sessions.

NEMSA Staton MA

NEMSA has begun negotiations at Staton Ambulance, Negotiations are expected to proceed quickly.

NEMSA NorCal

NEMSA officially "demands to bargain" health care premium changes with AMR after unilateral premium changes that increase health premiums 100% to 140% per member. NorCal members are outraged at the premium increases.

State of Our Union... (continued from page 1)

NEMSA pick up SEIU's dropped ball on a five year old arbitration and turn it into a significant back pay award.

NEMSA continued our charity work throughout the year as well. We helped raise over \$84,000 during our 4th year for the Make-A-Wish foundation, many heads were shaved clean at the St. Baldrics fund raiser to help fight children's cancer and everyone had a ball watching our 4 year old that we sponsored for the St. Jude's "Trike-A-Thon". In all NEMSA helped raise over \$100,000.00 for children's and other charities.

NEMSA has grown in number and strength across the U.S.; that growth has also brought with it some growing pains. Steps are being taken now to give increasing support to our local areas. Increased preparation prior to beginning contract negotiations has in many cases shortened negotiations or placed NEMSA in better bargaining positions. Shop steward training has been standardized across the country resulting in better locally based

representation. Local structures are being reinforced and resources committed on the ground for member benefits.

2008 is an exciting time for NEMSA members. I am proud to announce that NEMSA recently concluded negotiations with AFLAC, which has resulted in the best coverage plans and prices of ANY labor union in the U.S. We have already started to roll out AFLAC coverage in California. In 2008 we will continue the roll out nationwide. AFLAC disability insurance is just another benefit of being a NEMSA member and offers many insurance products that will better member's lives.

Finally, as the holiday season approaches please accept the warmest Christmas and New Year wishes from NEMSA. May your holidays be filled with family, fun, prosperity and joy. May you find time to relax and enjoy the things in life that are truly important. Whatever holiday you may celebrate, may you find peace and happiness coming into the year 2008.

Why Community Is A Cornerstone Of NEMSA

By: Jason J. Herring, Editor

NEMSA is based on a simple concept: the best and most aggressive representation possible accompanied with superior contract negotiation services. However the third leg of the NEMSA stool is charitable giving and community involvement and sometimes it's importance is overlooked.

Community involvement, sponsorship of softball teams, school supply drives. All of these are examples of how NEMSA locals give back to their communities. Why you may ask? The answer may surprise you.

Charity has many definitions in the dictionary. However the most important definition is also the simplest: Benevolence or generosity toward others.

Charity is simply being

generous towards the communities you serve, kind to people in need. Charity is a great way to show that your NEMSA local is not just "the people in the ambulances" but rather a part of the communities you serve.

As EMS professionals every one of us meets people in all different stages of life and all different socio-economic situations. We see those without healthcare struggling to decide if they can afford the ambulance bill when they desperately need treatment. We see the indigent, homeless, and needy. We see community groups with substandard facilities and equipment trying to provide much needed services or recreation. Having seen the need we are in a unique place to act on it.

WHAT IS “JUST CAUSE” FOR DISCIPLINARY ACTION?

by Tim Talbot, Attorney Talbot Law Group

Everyone knows that employers must have “just cause” to discipline unionized employees covered by a collective bargaining agreement (CBA). But what must the employer actually prove to establish “just cause” for discipline? While arbitrators have developed different tests for determining the existence or non-existence of just cause for discipline, seven tests have been widely applied to evaluate whether there was just cause for discipline in a particular case. Under the seven tests for just cause, the employer must satisfy all seven tests to establish just cause. If anyone one of the seven tests is not satisfied, the employer lacks just cause for discipline. Of course nothing is that cut and dried, and a variety of other factors may affect the ultimate outcome of any particular disciplinary case.

The seven tests for just cause can be summarized as follows:

Test 1

Is there a work rule, policy or established practice governing the conduct at issue?

The answer is usually “yes” to this question. The employer has a policy and procedure manual containing the work rules, policies and procedures governing day to day work activities. Rules governing employee conduct also appear in the CBA, EMS Agency policies and protocols, state and federal law, and common societal notions of what is acceptable and unacceptable conduct.

Test 2

Did the employee know, or should have known, the rule, policy or practice governing the conduct at issue?

Employees must be aware of the rules and policies they are expected to follow before they can be disciplined for violating them. This is why employers distribute policy and procedures manuals to new employees and make them acknowledge receipt of the manuals. Training records are also used to establish that employees knew or should have known about work rules and policies.

Test 3

Did the employee know the disciplinary consequences of violating the rule, policy or practice?

The CBA contains provisions relating to employee discipline and corrective action. Employees are presumed to be aware of those provisions and the possible consequences for violating rules and policies. When employees receive comparatively minor discipline they are usually advised that “further violations may lead to additional discipline up to and including termination.” This is done to ensure employees are aware of the disciplinary consequences for violating the rule, policy or practice.

Test 4

Did the employer conduct a thorough, fair and objective investigation?

The employer must actually investigate allegations and cannot rely on rumor and innuendo. The investigation must reflect a good faith effort to learn the facts and

Fall 2007 NEMSA National Officer and Director Election Results

NEMSA elects national office holders on an odd/even year schedule. In odd years the offices of President and Secretary are elected. In even years the offices of Vice President and Treasurer are elected.

Election results for 2007 are as follows:

NEMSA President

Torren Colcord

NEMSA Secretary

Alis Shapiro

Regional Director positions are elected from the membership of a region of NEMSA that may contain more than one local.

Regional Director's have a position and vote on the NEMSA Board Of Directors and are the regional voices for members. Regional Director's serve for three years. Election results for Fall 2007 are as follows:

CA Valley Director

Steve Murdock

CA Bay Director

Steve Lucy

Congratulations to all elected candidates.

NEMSA Members have rights! In the event that you are being investigated with the possibility of discipline, you have the right to have a NEMSA Shop Steward present during the investigation.

Simply tell your supervisor this:

"I believe that this discussion could lead to me being disciplined. I therefore request that my NEMSA representative or officer be present to assist me at the meeting. I further request reasonable time to consult with my NEMSA representative regarding the subject and purpose of this meeting. Please consider this a continuing request; without representation I will not participate in the discussion. I shall not consent to any searches or tests affecting my person, property, or effects without first consulting with my NEMSA representative."

determine what happened. This means interviewing witnesses, reviewing documents and attempting to resolve conflicts in the evidence.

Test 5

Did the investigation provide substantial evidence of guilt?

Substantial evidence is real evidence upon which people can actually rely to establish a fact. Hearsay alone does not establish a fact. The employer has the burden of proof in disciplinary cases, so the employer must establish that the employee actually committed the misconduct. Most of the time the employer is only required to prove the allegations by a preponderance of the evidence" which simply means more likely than not. The highest standard "beyond a reasonable doubt" is typically not used in disciplinary cases.

Test 6

Did the employer apply the rules, policies or practices and the disciplinary penalties evenly and consistently to all employees?

Lax and inconsistent enforcement of rules and policies can reasonably lead employees to believe the rules need not be followed. This is sometimes called negative notice of the rules (meaning they do not apply). Employers frequently fail this test. However, the employer must also know the rules are not being followed, or have reason to know the rules are not being followed. With respect to disciplinary penalties, similar misconduct does not always mean similar penalties. An employee's disciplinary record, prior warnings and other factors may allow the employer to implement different discipline for different employees.

Test 7

Does the penalty imposed reasonably relate to the proven misconduct?

The penalty must fit the crime. Punishment for the sake of punishment is not appropriate. This is also a fundamental concept of progressive discipline. Most employees support a disciplinary system based on correcting misconduct and helping employees to improve their work performance. Terminating a long term employee with no prior discipline for wearing the wrong color T-shirt under their uniform would not satisfy this test. On the other hand, reporting to work legally intoxicated requires more than a verbal warning.

Each test has its own nuances that must be considered in light of the particular facts giving rise to the discipline when evaluating whether the employer has met its burden. Employees who are subjected to disciplinary action should contact their shop steward immediately if they suspect the employer did not have just cause for the action.

This column is for information and education purposes only and is not legal advice. Should you have a question regarding Labor Law that you wish to see addressed in future Heartbeat issues, please email your questions to heartbeat@nemsausa.org.

AMR Settles North Hollywood Wage Case With NEMSA

After over four years of lackluster efforts by SEIU, NEMSA steps in and takes over the case on behalf of the members. In only a matter of months, NEMSA negotiated a back pay settlement that will return substantial sums to current and former members of the bargaining unit.

The backpay case arose from a contract dispute dating back to SEIU Local 250's representation of the North Hollywood members. The dispute was over a "favored nations" wage clause in a prior contract. The case began as a grievance, moved to court, then back to arbitration where SEIU ultimately prevailed, but failed to deliver any back pay to the members.

When NEMSA was certified as the representative for North Hollywood, the priorities were to secure a new contract and obtain the back pay that was long overdue.

The North Hollywood members were extremely pleased when NEMSA announced it had achieved both objectives. NEMSA recently reached agreement with AMR on a new contract and finalized a back pay settlement.

Although the back pay case was ultimately SEIU's responsibility, shortly after NEMSA's North Hollywood certification, NEMSA President Torren Colcord authorized NEMSA's attorneys to pursue a resolution. NEMSA's chief legal counsel Timoty Talbot, and his firm of dedicated attorneys and labor representatives, logged numerous hours building a compelling case for a substantial back pay settlement. "We could not be happier with NEMSA, they have hit the ground running and have been working their tails off for us since the first day they became our union." Said North Hollywood EMT and Shop Steward Carlos Osorio. EMT Joe Whyrick had this to say about the settlement, "I'm not sure what all my wo-workers received, but NEMSA won for me enough money that I can go buy a brand new truck!"

The current and former North Hollywood members expressed similar sentiments regarding the back pay case.

Behind The Scenes In New England

NEMSA was able to call in favors and use the influence of friends in high places during contract negotiations at AMR NorthEast based in Boston, Massachusetts in 2006. The well publicized contract dispute came within hours of a full fledged strike as NEMSA pushed AMR from a 1% pay cut to a 14% pay increase.

However behind the scenes NEMSA was able to gather additional support to push AMR from their unreasonable position. The International Association of Fire Fighters (IAFF) offered strong support including instructions to honor all NEMSA picket lines whenever possible and not act as replacement workers for striking NEMSA members. These orders came from the Washington D.C. office of the IAFF as instructions to all IAFF members should NEMSA be forced to strike. This action by the IAFF severely limited AMR's ability to find replacement workers and pushed them towards settlement.

However equally as important was a letter sent to AMR by Senator Edward Kennedy of Massachusetts. In this letter, Senator Kennedy urges AMR to treat employees with "dignity and respect" as well as to return to the bargaining table and negotiate a settlement with NEMSA. Senator Kennedy urged William Sanger, AMR CEO and David Banelli, Vice President of Labor Relations to "remain at the bargaining table until you reach an equitable agreement that gives these hard-working men and women the fair wages and affordable health benefits they deserve."

Labor negotiations do not occur in a vacuum. New England's labor dispute is no exception to that rule and NEMSA was able to rely on the influence of local communities, fire fighters and their union, and influential politicians to secure a contract for New England members.

NEMSA Mission Statement

The objectives of NEMSA shall be to elevate Emergency Medical Service (EMS) providers and related services as a profession, by the fostering and encouragement of a high degree of skill and efficiency, by the cultivation of friendships and cooperation among its members, public officials, members of governmental agencies and citizens of our community, by the elevation and continual improvement of the physical, spiritual, moral, intellectual, social and economic conditions of its members and fellow workers, by developing harmonious relationships with other crafts and professions, by striving to maintain a good public relations program and activities at all times, by promoting proper remuneration commensurate with duty performed and services rendered, to promote and foster a spirit of helpfulness and cooperation among the members, fellow citizens, merchants, and the Employers of its members.



NEMSA Heartbeat is a monthly publication of the National Emergency Medical Services Association. Information and/or article submissions can be made to heartbeat@nemsausa.org

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Evidence... (cont. from page 1)

conditions for private EMS providers are far different than public EMS providers. Seldom found in private EMS are nice stations with furnishings, bunk rooms, meeting rooms, kitchens, etc... Most private EMS providers spend their entire shift in an ambulance, eating sack lunches or fast food, and seldom getting opportunities for exercise, relaxation, or training.

The evidence is clear. Labor unions around the USA have had a difficult time effectively representing EMS workers. Our jobs are unlike most others and a pipefitter, busdriver, or even other healthcare providers just don't understand most aspects of EMS.

The evidence is also clear that in areas where NEMSA represents its members pay, benefits, and working conditions are better than in other union shops or non-union areas. The evidence is clear that NEMSA members are more aggressively represented, treated more fairly by employers, and generally better off than other private EMS providers.

NEMSA is changing the face of private EMS. Over 5,000 members and growing strong! Requests for NEMSA representation are now being received not only from all around the USA but from other countries EMS providers. The Evidence is Clear: NEMSA Works. Come join us and make NEMSA work for you.

Community... (cont. from page 2)

And the efforts need not be great. Just a small amount of time and planning can yield a great result.

But why be involved in the community? Why focus on giving? Why put in the time and effort? The rewards of involvement in the community and charitable giving far outweigh the costs.

When negotiating contracts the strongest position to have at the bargaining table is to have the community 100% behind you. Influential community members can sway politicians and your employer on issues that you may not be able to.

But beyond negotiating contracts is the simple fact that community involvement, charity, and good deeds are simply the right thing to do. It is following the golden rule of "Treat Others As You Would Want To Be Treated."

Canned food drives, giving trees, sports team sponsorships, school supply drives, charity raffles, clothing drives... just a few examples of what NEMSA locals have done to be involved in their communities. What will your local do?

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