

BEFORE THE MORROW COUNTY HEALTH DISTRICT

In Re: The Matter of Boardman Fire  
Rescue District

ENTRY OF DEFAULT AND ISSUANCE  
OF FINAL ORDER

**ENTRY OF DEFAULT**

The relevant exhibits documenting the repeated and continued efforts of the Morrow County EMS Advisory Committee and QA Subcommittee to achieve safety and procedural compliance with the ASA Plan from the Boardman Fire Rescue District (BFRD) were reviewed. It is clear that despite continued efforts at ensuring compliance with the ASA Plan to protect the health and welfare of Morrow County residents and visitors, BFRD refuses to comply. As a result, a hearing was requested before this MCHD Board.

In response to the request, a hearing was scheduled and moved to accommodate BFRD on two occasions. Assurances were then provided by BFRD counsel that BFRD was willing to mediate the issues in good faith to seek resolution through an amicable process utilizing the experience of a veteran Oregon State Judge and the senior compliance specialist, retired, from the Oregon Health Authority. Despite these assurances and despite The QA Subcommittee's and Advisory Committee's good faith efforts, BFRD unilaterally cancelled the mediation and sent the attached correspondence and position statements regarding the hearing at issue, delivered through its counsel. Exhibit 13. Those statements speak for themselves but confirm BFRD's inaccurate belief that the EMS Advisory Committee is without authority and MCHD is also without authority to do anything about BFRD's reckless, unsafe and unlawful behavior.

Per the Morrow County Commissioners' determination, its representatives have stated the 2021 ASA Plan, despite having been publicly presented and accepted by the Board of Commissioners, is ineffective. They now contend the 1998 ASA Plan is the effective Plan. Regardless of this, both the 2021 and 1998 ASA Plans provide for the same or substantially similar complaint and hearing procedure and process utilized by the duly-appointed QA Subcommittee and EMS Advisory Committee. That process is contained on pages 13-16 of the 1998 ASA Plan and pages 15-17 of the 2021 ASA Plan.

Having completed all preliminary steps required in the ASA Plan's Quality Assurance processes (for both the 1998 and 2021 Plans), this matter was forwarded to the MCHD Board for hearing. After due notice and scheduling conferral, the BFRD has repeatedly confirmed in writing that it refuses to participate in or attend any hearing. BFRD has refused to provide a written response to the charges made, refused negotiation and conferral, refused mediation, and refused to comply with the safety directives and determinations made by the MCHD, as it was commissioned to evaluate and investigate pursuant to the law and Plans contained in both the 1998 and 2021 ASA Plans. Exhibits 1 and 2.

Now, therefore, pursuant to the Complaint Review Process contained in both ASA Plans, a hearing was to be "conducted by the Board's chairperson or vice-chairperson in accordance with the Attorney General's Model Rules of Procedures" set out in OAR Chapter 137. Following this, in the event of non-compliance with the Board's Order, the Board has the option of petitioning and requesting relief from the Oregon Health Division, the Oregon Medical Board or the Morrow County Circuit Court.

### **FINAL ORDER**

The QA Subcommittee exhausted its remedies and forwarded this matter to the MCHD Board in due course. Following further discussion and consideration of all evidence contained in the attached exhibits in Executive Session, the scheduled hearing was removed from the MCHD Board docket per the requests made by the BFRD and this Final Order is entered, confirming certain findings and determinations per OAR 137-003-0075(1)(d). That Rule provides that the MCHD may issue an Order of Default "when the agency notified the party of the time and place of the hearing in a matter in which only one party is before the agency and that party subsequently notifies the agency that the party will not appear at the hearing." There is now no just or reasonable cause for delay and, due to the imminent risk to the health and welfare of Morrow County residents and visitors, this FINAL ORDER is HEREBY ENTERED with the following Findings of Fact and Conclusions:

1. BFRD was afforded every opportunity to present evidence and appear for a hearing.
2. All attached exhibits were admitted, with the qualification that Exhibits 5-10 be sealed from public viewing as they contain Protected Health Information that is privileged under state and federal privacy laws.
3. The time afforded to BFRD to respond and present evidence or argument has long since expired.
4. BFRD affirmatively and preemptively waived its right to a hearing under the ASA Plans and associated Model Rules per the attached exhibits.
5. BFRD is in DEFAULT and the Board finds BFRD has failed to protect the public health and safety of the residents of Morrow County and its visitors, as it is The MCHD's obligation to ensure.
6. BFRD has failed to comply in any respect with the MCHD "DETERMINATION" published 4/27/2022, attached within the Hearing Notices.

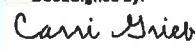
7. BFRD must pay Penalties set out under the ASA Plans and MC-C-4-98. As these events occurred separately and on separate days and times, each offense is punishable by a fine in the amount of up to \$500 per occurrence. Therefore, considering the number of violations, together with the administrative costs and related fees associated with pursuing compliance, a fine in the amount of \$169,000.00, to be used for EMS services, is hereby set and shall be paid by BFRD no later than 10 days from the date of this Order. The fine amount was calculated in consideration of 338 violations at \$500 per violation, administrative time, and associated expenditures.
8. Furthermore, BFRD is actively engaged in a Nuisance per MC-C-4-98. The MCHD Board finds that BFRD must cease and desist in this behavior. A finding of legal nuisance entitles the Board to seek enforcement through injunction issued by either the Oregon Health Authority or the Morrow County Circuit Court. BFRD shall immediately comply with this directive immediately. If BFRD fails to comply, injunctive relief will be sought pursuant to the ASA Plans and MC-C-4-98.

DATED this 2nd day of May, 2023.


MORROW COUNTY HEALTH DISTRICT

  
 Marie Shimer, Board Chair

  
 Diane Kilkenny, Vice Chair

DocuSigned by:  
 5/3/2023  
 Carri Grieb, Board Member

  
 John Murray, Board Member

  
 Aaron Palmquist  
Digitally signed by Aaron Palmquist  
 DN: cn=Aaron Palmquist, o=City of Irigon, ou=City Manager,  
 email=manager@ci.irigon.or.us, c=US  
 Date: 2023.05.03 13:19:17 -0700'  
 Aaron Palmquist, Board Member

## CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the foregoing **Entry of Default and Issuance of Final Order** on the date indicated below,

- Via First-Class Mail with postage prepaid
- Via Email
- Via Hand Delivery
- Via Overnight Delivery

to the following person(s) a true copy thereof, addressed to said person(s) at the following address(es):

Jack L. Caynon, III  
Sussman Shank, LLP  
1000 SW Broadway, Suite 1400  
Portland, OR 97205  
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*Of Attorneys for Boardman Fire Rescue  
District*

DATED this 3<sup>rd</sup> day of May, 2023.



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Troy S. Bundy, OSB No. 942574