King County Superior Court Case No. 21-2-15364-6

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

MICHAEL J. LANG, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF FRANK E. COSTA, ON BEHALF OF THE ESTATE AND ALL STATUTORY BENEFICIARIES,

Plaintiffs/Respondents,

v.

PLATINUM NINE HOLDINGS, LLC, DOING BUSINESS AS NORTHWEST AMBULANCE,

Defendant/Appellant.

APPELLANT'S PETITION FOR REVIEW

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I. IDENTITY OF PETITIONER

The Petitioner, Platinum Nine Holdings, LLC, dba Northwest Ambulance (hereinafter "NWA"), is a licensed Washington ambulance service.

II. COURT OF APPEALS' DECISION

NWA seeks review of the unpublished decision by Division One of the Court of Appeals in *Lang v. Platinum Nine Holdings, LLC*, No. 86205-7-I, dated July 28, 2025, attached as Appendix A ("Opinion").

III. ISSUE PRESENTED FOR REVIEW

NWA's petition presents a legal issue of first impression about the scope of qualified immunity of first responders under RCW 18.71.210 (or "Section 210"), namely:

Whether, when the Legislature extended qualified immunity for good-faith actions by first responders "while rendering medical services" to patients who have "suffered illness or bodily injury," it intended to create a double standard that treats immunity differently depending on whether the

patient being transported by ambulance to a medical facility is receiving care for a mental as opposed to physical health emergency.

IV. STATEMENT OF THE CASE

This wrongful death and survival action below was brought by Michael J. Lang, as a Personal Representative of the Estate of Frank E. Costa. CP 1. Mr. Costa was 78 and suffered from metastatic breast cancer. CP 138. He resided at Genesis Care Center in Everett. *Id.* NWA, a Washington limited liability company, is a licensed ambulance service provider in the State of Washington, under license number AMB.ES6147440. CP 2, 138, 150-151.

On November 18, 2020, Genesis Health Care Center requested an ambulance transfer for Mr. Costa to Providence Medical Center due to some concerning lab work. CP 22, 138. NWA employees Jack Wilson (an EMT), Henry Shaw (the ambulance driver), and Kat Averill (an EMT trainee) responded to the call. CP 138, 154 ("NW26 was dispatched non-code,

normal speed to genesis Living Facility, for a 78y/o male pt with CC of abnormal [labs].”). The ambulance crew moved Mr. Costa from his bed to the ambulance stretcher and secured him with two lap belts and guardrails. CP 139, 154. No shoulder belt was used. Mr. Wilson testified that shoulder restraints were for “specific patients” who “weren’t able to control their upper body.” CP 139.

During transport Mr. Costa’s condition deteriorated and Mr. Wilson called an emergency code. Mr. Shaw turned on ambulance lights and sirens. CP 139-140, 154 (“Pt was transported CODE due to possible abnormal heart rhythm.”). The ambulance was driving east on Highway 526, in the left lane, towards the exit to I-5 North, on the left. CP 140. A garbage truck was in front of the ambulance. Mr. Shaw saw that the garbage truck began to move to the right to yield and began passing it on the left. Then the garbage truck moved back into the left lane and slowed down. Mr. Shaw hit the

brakes to avoid a collision and swerved to the right, hitting a freeway exit divider on the right. CP 140, 154.

Mr. Costa slid out of the stretcher and hit the ambulance wall, sustaining injuries. *Id.* The EMT trainee was launched from the bench seat to a side wall and was slightly injured. Mr. Costa was transported to the hospital by another ambulance. He died later that day. CP 140.

The complaint stated that NWA was "negligent" and that its negligence proximately caused Mr. Costa's death. It did not plead that NWA was grossly negligent, failed to act in good faith, or acted willfully. CP 4, 18. In its answer, NWA asserted the defense of qualified immunity under RCW 18.71.210. CP 12.

NWA subsequently admitted that "its employees while operating an ambulance within the course and scope of their employment with Platinum Nine, failed to exercise ordinary care by not securing Frank Costa onto the gurney with all available straps and by not avoiding an accident with a freeway-

exit divider." CP 338. NWA further admitted that "because of its negligence, Frank Costa suffered injuries including: closed nondisplaced fracture of the second cervical vertebra, laceration on the forehead, abrasion on the left upper extremity, closed fracture of multiple ribs, and closed fracture of thoracic vertebra," CP 341; and that NWA's "ordinary negligence proximately caused Frank Costa's accident-related injuries and death," CP 345. NWA denied gross negligence and reiterated its defense of qualified immunity under RCW 18.71.210. CP 341, 345. NWA also preserved its right to assert the affirmative defense of qualified immunity under RCW 18.71.210. *Id.*

The trial court addressed the defense in the orders on the parties' motions for summary judgment. CP 309-315, 316-320. The Plaintiff's motion asserted that RCW 18.71.210 "has no application to the facts of this case" because "NW Ambulance employees' failure to properly secure Mr. Costa was not part of any 'actual emergency medical procedures' .... Neither driving nor buckling seatbelts are medical procedures nor within any

'field of medical expertise' …. *See* RCW 18.71.210(2)." CP 36.

NWA opposed the motion, arguing, *inter alia*, that "the statute provides immunity to EMTs and ambulance service providers for acts or omissions done or omitted in good faith while rendering ***emergency medical service***. RCW 18.71.210," a concept distinct from "emergency medical procedures." CP 294 (bold emphasis in original; italics added). NWA further argued that operating an ambulance to transport patients to an appropriate medical facility in an emergency is an "integral part" of the emergency medical service "provide[d] to the public, something that its [crew] are specifically trained to do." *Id*. Similarly, "[a] stretcher, as specifically defined by statute, is an essential piece of equipment used by EMTs. Just like operation of an ambulance, safely and appropriately operating a stretcher is a skill that is reserved for specially certified persons, such as WEMTs." *Id.*; *see also* CP 249-250 (the NWA team "utilize[ed] the skills and tools … that they were trained and

authorized by the State to use when the accident occurred.... Driving an ambulance with the lights and sirens running and securing the patient to a stretcher are skills that are performed within the scope of EMS practice.").

The trial court rejected NWA's interpretation of Section 210. CP 311-312. It ruled, as a matter of law, that "driving an ambulance is not emergency medical service" and "thus Platinum Nine is not immune from suit." CP 312. The trial court reiterated its ruling in the order denying NWA's motion for summary judgment. CP 317-319.

The issue of noneconomic damages was tried to a jury. CP 347-348. The jury awarded $2,000,000 and $300,000, respectively, to Mr. Costa and Ms. Marianne Long, his niece. *Id*. NWA appealed and the Court of Appeals affirmed, in an unpublished decision. App. 4-23. This petition followed.

V. ARGUMENT

A. The Court of Appeals Misconstrued RCW 18.71.210

The Court of Appeals correctly stated that "[t]he goal of statutory interpretation is to discern and implement the legislature's intent." App. 13 (citation omitted). It further correctly stated that the courts "presume that the legislature did not intend absurd results." *Id.* But the Court of Appeals did not do the work these rules require. It failed to meaningfully engage with the statute's full text (including, critically, RCW 18.71.210(4), which was cited without any discussion), the statute's structure, or the statutes and regulations *in pari materia*.

This resulted in precisely the absurd result the Court of Appeals pledged to avoid. Under its approach, an ambulance crew that transports and provides care for a patient who suffers from a drug overdose or a mental health crisis to the nearest facility is immune for acts of ordinary negligence, but the same ambulance crew that does its best to stabilize a patient who

suffers from cancer while rushing to the nearest hospital—the undisputed facts in the case below—is not. This double standard is so patently illogical that the Court of Appeals offered no rationale for it. The Legislature did not intend to create a double standard for immunity under Section 210. The Court of Appeals decision warrants review and reversal.

The Legislature extended qualified immunity to providers of "licensed ambulance service[s]" among other categories of trained personnel involved in delivering emergency medical services or trauma care (EMS/TC):

> (1) No act or omission of any physician's trained advanced emergency medical technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030,[1] done or omitted in good faith ***while rendering emergency medical service*** … ***to a person who has suffered illness or bodily injury*** shall impose any liability upon:
>
> ….
>
> (f) ***Any licensed ambulance service.***
>
> ….

[1] "'First responder' means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081." RCW 18.73.030(15).

> (4) This section ***shall apply also,*** as to the ***entities and personnel described in subsection (1) of this section***, to any act or omission committed or omitted in good faith by such entities or personnel ***involved in the transport of patients to mental health facilities or chemical dependency programs***, in accordance with applicable alternative facility procedures adopted under RCW 70.168.100.

RCW 18.71.210 (emphasis added), App. 25-26.

There is no dispute that NWA is a licensed ambulance service within subsection (f). There is also no dispute that Mr. Costa was suffering from an "illness" or that the NWA ambulance team acted in good faith. The key question is whether Mr. Costa was receiving "emergency medical services" when the accident occurred.

The definition is found in RCW 18.73.030 and other statutes addressing the statewide EMS/TC system:

> "Emergency medical service" means medical treatment and care which ***may*** be rendered at the scene of ***any*** medical emergency or while transporting ***any*** patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

RCW 18.73.030(11) (emphasis added), App. 28-29; *see also* RCW 70.168.015(6) (statewide emergency medical services and trauma care system act, defining "emergency medical service"), App. 31-35; RCW 18.71.010(2) (emergency medical care/emergency medical service).

The definition is intentionally broad and dynamic. The patient may receive "emergency medical service" in a variety of scenarios. The ambulance may be dispatched to assist "any patient" in a medical or other emergency ("any emergency") and deliver treatment and care without transporting the patient to a hospital or other medical facility ("at the scene"). If the patient's condition deteriorates, the ambulance team may continue delivering treatment and care "while transporting" the patient to the hospital or other "appropriate medical facility." Or, the ambulance team may find that the patient has severe injuries or other condition beyond the team's training and expertise, *see* RCW 18.71.210(2), and conclude that the best course is to rush the patient to the nearest emergency room or

other "appropriate medical facility." The permissive "may" and the broad terms "any patient," "any medical emergency," and the non-exclusive "an appropriate medical facility" demonstrate that ambulance transportation is an integral part of "emergency medical care" across all EMC/TC scenarios, regardless of whether the patient's condition is physical or mental.

The Court of Appeals failed to give meaning to these expansive terms. Instead, it focused solely on the phrase "while transporting" in isolation from the rest of the definition and concluded that "emergency medical service … is a distinct act from the transporting itself," thus excluding emergency transportation from the acts to which immunity applies. App. 15. But "while" does not mean "different from." It means simultaneously, "during the time that." *While*, Merriam-Webster's Online Dictionary, www.merriam-webster.com/dictionary/while (last accessed Aug. 23, 2025). To illustrate, the phrase "using a cellphone while driving is dangerous" conveys the hazard of using a cellphone and driving

simultaneously. So interpreted, the definition of "emergency medical service" broadly includes a range of non-exclusive scenarios that involve patient care and/or transportation depending on the specific emergency.

"Related statutory provisions are interpreted in relation to each other and all provisions harmonized." *C.J.C. v. Corp. of Cath. Bishop of Yakima*, 138 Wn.2d 699, 708, 985 P.2d 262 (1999). The Court of Appeals failed to do so. Its narrow (and mistaken) focus on "while transporting" is in direct conflict with the explicit mandate in RCW 18.71.210(4), added in 2015, that "***this section shall apply also***" to good-faith acts by "***entities or personnel involved in the transport of patients to mental health facilities or chemical dependency programs***." (emphasis added). The reference to the preceding parts of Section 210 ("this section") and the mandatory phrase ("shall apply also") demonstrate that the Legislature extended immunity to emergency transportation of patients throughout the entirety of Section 210, regardless of the nature of their

illness. The entities and personnel of licensed ambulance services who in good faith care for and transport patients suffering from physical illness or injury are immune under RCW 18.71.210(1)(f). In subsection (4) the Legislature clarified that the same "entities and personnel" are not treated any worse when they assist patients who suffer from drug-related conditions or mental illness.

In other words, the Legislature stated in mandatory terms ("shall apply also") that there is no double standard. The immunity of licensed ambulance service teams who care for and transport patients in medical emergencies is already covered in RCW 18.71.210(1). Subsection (4) clarified that the same immunity applies regardless of the patient's diagnosis. Lest there be any doubt, the 2015 Washington House Bill No. 1721, titled, "An act relating to the transport of patients by ambulance to facilities other than hospitals," stated in no uncertain terms that "[i]mmunity from liability that generally applies to emergency medical services providers is ***extended*** to

acts or omissions by those providers when transporting a patient to a mental health facility or chemical dependency treatment program[.]" Staff of Wash. House, 64th Leg., 2015 2d Special Sess., Final Bill Report, H.B. No. 172 (2015) (emphasis added), App. 37-39.[2]

But this direct statement of legislative intent was hardly necessary because the Legislature and responsible agencies consistently ***included*** ambulance transportation as an essential part of the emergency medical service/trauma care the patient receives. Instead of construing these definitions in related statutes and regulations *in pari materia*, the Court of Appeals ignored them:

- "'Ambulance' means a ground or air vehicle designed and used to transport the ill and injured ***and to provide personnel, facilities, and equipment to treat patients***

[2] To be sure, all legislative history is not of equal weight. Different documents in the legislative process reflect a hierarchy, with "stray statements of legislators on the floor" at the bottom and final bill reports at issue here at the top. *See* Robert A. Katzmann, *Judging Statutes*, at 54 (2016).

before and during transportation." RCW 18.73.030(4) (emphasis added);

- "'***Emergency medical services and trauma care system plan***' means a statewide plan that identifies statewide emergency medical services and trauma care objectives and priorities and ***identifies equipment, facility, personnel, training, and other needs required to create and maintain a statewide emergency medical services*** and trauma care system." RCW 70.168.015(8) (emphasis added);

- "'Emergency medical services and trauma care (EMS/TC) system' means an ***organized approach to providing personnel, facilities, and equipment*** for effective and coordinated medical treatment of patients with a medical emergency or injury requiring immediate medical or surgical intervention to prevent death or disability." WAC 246-976-010(34) (emphasis added);

- "'Trauma care system' means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care.… [It] includes prevention, ***prehospital care***, hospital care, and rehabilitation." RCW 70.168.015(31) (emphasis added);

- "'Prehospital' means emergency medical care ***or transportation rendered to patients prior to hospital admission*** or during interfacility transfer[.]" RCW 70.168.015(26) (emphasis added);

- "'EMS provider' means an individual certified by the secretary or the University of Washington School of Medicine under chapters 18.71 and 18.73 RCW to

provide prehospital emergency response, patient care, ***and transport.***" WAC 246-976-010(38) (emphasis added); and

- "The following ***EMS services*** may be verified [by the Secretary of the Department of Health]: … (b) ***Ground ambulance service*** … ; (c) Air ambulance service." WAC 246-976-390(3) (2024).

These definitions speak for themselves. An ambulance transporting a patient who is experiencing a health emergency or trauma is not just a taxi that offers a ride to the hospital or other medical facility. It is, by legislative definition, a form of "prehospital care" that provides "personnel, facilities, and equipment" to treat patients before and during transportation.

The Court of Appeals also appeared to conflate "emergency medical service" to which immunity attaches under RCW 18.71.210(1) with "emergency medical procedures" referenced in RCW 18.71.210(2). App. 14, 15. But subsection (2) does not address ambulance transportation at all, which, as discussed, is covered by subsections (1) and (4). Subsection (2), in contrast, deals with the scope of immunity by EMTs and paramedics, which is limited to acts and omissions "within the

field of [their] medical expertise." RCW 18.71.210(2). Subsection (2) does not extend immunity to EMTs or paramedics for performing complex procedures, like surgery, that are beyond their training and expertise. *Id*.

Plainly, the use of a gurney and gurney restraints is not such a procedure. A "[g]urney, wheeled, collapsible, with a functional restraint system per the manufacturer" is mandatory equipment used by EMTs, paramedics, and first responders. WAC 246-976-300 (Table A). "Licensed and verified ground ambulance, aid services, and emergency services supervisory organizations (ESSO) must provide equipment listed in Table A of this section on each licensed vehicle or to their on-site EMS providers for the service levels they are approved by the department to provide when they are available for service." WAC 246-976-300(1); *see also* WAC 246-976-290(5)(e), (f) ("Restraints must be provided [for all stretchers, gurneys,

etc.].… [These] restraints must permit quick attachment and detachment for quick transfer of a patient[.]").[3]

The Court of Appeals failed to give meaning to all parts of Section 210. If, as is suggested, subsection (2) stripped immunity for emergency transportation of patients simply because ambulance drivers are not trained and licensed to perform medical procedures in the same way as EMTs and paramedics, then subsections (1) and (4), which explicitly grant immunity for transporting patients in emergencies, would be nullities.

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[3] The ambulance that transported Mr. Costa was equipped with a gurney and restraints and the ambulance crew were trained to use them. CP 253-254, 280:14-24 (Jack Wilson deposition) ("I had two types of training … the specific kind of Monday through Friday … and then I also had … field training. … We had specific training on … loading stretchers in and out of ambulances, driving to hospitals."); CP 292:11-15 (deposition of Michael Kirkman, NWA's corporate designee) (Mr. Shaw was trained in the proper use of restraints "in the new hire class[.] [P]roper restraining of a patient … was also covered in field training as well with the field training officers.").

This was not the Legislature's intent. An "ambulance service" provides both patient care and transportation. Both components are essential. RCW 18.73.030(4) ("'Ambulance' means a ground or air vehicle designed and used to transport the ill and injured ***and*** to provide personnel, facilities, and equipment to treat patients before and during transportation." (emphasis added)). Ambulance teams are licensed to deliver both care and transportation and must have personnel trained to perform both tasks. RCW 18.73.130, .150.[4] As such, the ambulance driver is a "first responder" for the purposes of RCW 18.71.210. *See* RCW 18.73.030(15).

And under Section 210, both patient care and transportation are covered by immunity. Here, RCW 18.71.210(1)(f) and (4) apply to the emergency transportation

[4] *See* RCW 18.73.150(1)(a) (an ambulance service "shall operate with sufficient personnel for adequate patient care," including at least one emergency medical technician "in command of the vehicle … in the patient compartment and in attendance to the patient"); *see also* RCW 18.73.150(1)(b) ("the driver of the ambulance shall have at least a certificate of advance first aid qualification recognized by the secretary pursuant to RCW 18.73.120").

of Mr. Costa and RCW 18.71.210(2) applies to the use of the gurney restraints by the EMTs. While both acts were negligent, because the NWA ambulance team acted in good faith, it is immune from suit under Section 210. *See Marthaller v. King Cnty. Hosp. Dist. No. 2*, 94 Wn. App. 911, 916, 973 P.2d 1098 (1999).

B. NWA's Petition Should Be Granted

To "promote the delivery of quality health care," the Legislature granted limited immunity for qualifying acts and omissions during emergency services. RCW 18.71.002. In the case of first impression, the Court of Appeals misconstrued the legislative grant of immunity in RCW 18.71.210 to licensed ambulance services in Washington, depriving them of immunity for essential elements of the public service they provide. For the reasons discussed above, the Opinion creates a double standard for the delivery of emergency services depending on the nature of the patient's illness and, as a result, jeopardizes the delivery of prompt emergency services to all

Washington residents on an equal basis. The Court of Appeals' Opinion involves an issue of substantial public interest that should be determined by the Washington Supreme Court. RAP 13.4(b)(4).

VI. CONCLUSION

For the reasons stated, the Court of Appeals Opinion warrants review under RAP 13.4(b)(4) and reversal.

I certify that this document contains 3,474 words, pursuant to RAP 18.17.

DATED this 26th day of August, 2025.

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/s/ Rita Latsinova

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on this date I caused the foregoing document to be efiled with the Court of Appeals, Division I, which will send notification of this filing to all counsel of record.

DATED at Seattle, Washington, this 26th day of August, 2025.

/s/Debbie Dern
Debbie Dern
Legal Practice Assistant

APPENDIX

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FILED
7/28/2025
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MICHAEL J. LANG, individually, and as Personal Representative of the ESTATE OF FRANK E. COSTA, on behalf of the Estate and all statutory beneficiaries,

Respondent/Cross-Petitioner,

v.

PLATINUM NINE HOLDINGS, LLC, a Washington Limited Liability Corporation, doing business as NORTHWEST AMBULANCE, a company; NORTHWEST AMBULANCE CRITICAL CARE TRANSPORT, a company, and XYZ, a fictitious entity or company,

Petitioners/Cross-Respondents,

and

RUBATINO REFUSE REMOVAL, INC.; RUBATINO REFUSE REMOVAL, LLC, a Washington Limited Liability Corporation; RUBATINO REFUSE, LLC, a Washington Limited Liability Corporation; RUBATINO REFUSE REMOVAL HOLDINGS, LLC, a Washington Limited Liability Corporation; RUBATINO LITTER SOLUTIONS, INC., a Washington Corporation; RUBATINO HOLDING COMPANY, INC., a Washington Corporation; and RUBATINO

No. 86205-7-I

DIVISION ONE

UNPUBLISHED OPINION

ENGINEERING, LLC, a Washington Limited Liability Corporation; and XYZ Corporation,

Defendants.

SMITH, J. — In 2020, an ambulance operated by Platinum Nine Holdings, LLC (NWA) crashed while transporting Frank Costa to the hospital. Costa died as a result. Costa's estate, through Michael Lang, sued NWA for negligence. NWA moved for summary judgment, claiming they were immune from liability under RCW 18.71.210. Lang also moved for summary judgment, contending RCW 18.71.210 was not relevant to the facts of the case and requesting dismissal. The court denied NWA's motion for summary judgment and granted Lang's motion in part.

After a trial, the jury ruled in Costa's favor and awarded Costa's estate 2.3 million dollars in noneconomic damages. After NWA submitted payment, they served Lang with notice of appeal. A dispute arose between the parties about NWA's ability to appeal. Lang moved to deny the appeal, contending an accord and satisfaction created a settlement agreement precluding either party's ability to appeal. The court denied the motion.

NWA appeals, asserting the trial court erred in granting Lang's summary judgment motion in part because the trial court misconstrued RCW 18.71.210. Lang cross-appeals, claiming the trial court erred in denying a motion to enforce the settlement agreement because the parties reached an accord and satisfaction.

Finding no error, we affirm.

FACTS

Background

In November 2020, Platinum Nine Holdings, LLC (NWA), picked up Frank Costa to transport him to the hospital for lab testing. NWA is a Washington limited liability company doing business as Northwest Ambulance. Costa was 78 years old and suffered from metastatic breast cancer. He resided at Genesis Care Center (Genesis) in Everett.

Genesis requested an ambulance transfer after concerning bloodwork. NWA employees Jack Wilson, Henry Shaw, and Kat Averill responded to the call.[1] The ambulance crew moved Costa from his bed to the ambulance stretcher and secured him with two lap belts and guardrails. NWA did not use shoulder straps to secure Costa to the gurney. Wilson later testified that shoulder straps were for "specific patients" who "weren't able to control their upper body;" that he had rarely seen anyone use shoulder straps; and that he could not recall being trained on how to use them.

During transport, Costa's condition deteriorated and Wilson called an emergency code. Shaw, driving the ambulance, turned on the lights and sirens. Driving in the left lane of Highway 526, the ambulance came up on a garbage truck. When the garbage truck started to move to the right, Shaw accelerated to pass on the left. But as the ambulance sped up, the garbage truck merged back

[1] Averill was in training at the time of this call.

left. Hitting the brakes, Shaw swerved to the right of the garbage truck, aiming for a shoulder to have more room to slow down. He did not see the highway divider to the right of the garbage truck. The ambulance hit the highway divider head-on at 53 miles per hour.

During the crash, Costa came off the gurney and hit the ambulance wall. He sustained injuries to his head and neck. Radioing for help, Shaw triaged Costa as "code red," meaning "you will die momentarily." Another ambulance transported Costa to the hospital and he died later that day of blunt force trauma.

Summary Judgment Proceedings

Michael Lang, as representative for Costa's estate, sued NWA for wrongful death. In his complaint, Lang alleged that NWA was negligent and that that negligence caused Costa's death. In its answer, NWA asserted that RCW 18.71.210 rendered it immune from liability. Both parties moved for summary judgment addressing NWA's claimed immunity.

NWA subsequently admitted negligence, stating that its employees failed to exercise ordinary care by not securing Costa to the gurney with all available straps and by not avoiding an accident. NWA further admitted that Costa suffered serious injuries as a result of that negligence, expressly stating that NWA's "negligence proximately caused Frank Costa's accident-related injuries and death." NWA maintained, however, that it was not grossly negligent and therefore still immune from liability under RCW 18.71.210.

NWA moved for summary judgment based on its claim that RCW 18.71.210 provides qualified immunity because NWA was a licensed ambulance service whose emergency medical technicians (EMTs) were performing emergency transport services at the time of the crash. NWA reiterated that it was not *grossly* negligent and that in operating the ambulance and stretcher, the EMTs were performing actual emergency medical procedures.

Lang's motion for partial summary judgment asserted that RCW 18.71.210 had no application to the facts at issue because NWA's failure to properly secure Costa was not part of any actual emergency medical procedure. Lang continued on to state that neither driving nor buckling seatbelts are medical procedures within any field of medical expertise. Lang also pointed out that the statute defined "emergency medical services" as distinct from transportation.

The trial court rejected NWA's interpretation of RCW 18.71.210 and ruled, as a matter of law, that "driving an ambulance is not emergency medical service." Determining that NWA was, thus, not immune from suit, the court granted Lang's motion for partial summary judgment and denied NWA's motion.

The issue of noneconomic damages continued to trial. And although NWA moved for revision, again asking for summary judgment on its immunity claim, the court did not hear the motion until after trial.

Motions in Limine

Lang moved *in limine* to exclude the testimony of Dr. Linda Ding from trial because NWA failed to disclose the nature and extent of its communications with Dr. Ding. Dr. Ding cared for Costa immediately following the crash.

When NWA provided a declaration stating that a paralegal at the firm representing NWA had repeatedly sent Dr. Ding copies of Costa's emergency room medical records, Lang argued that the behavior constituted impermissible *ex parte* communication. Lang further argued that the behavior resulted in prejudice because NWA gave Dr. Ding biased and incomplete information. The trial court denied Lang's motion.

Trial

At trial, NWA relied heavily on Dr. Ding's testimony. In opening arguments, NWA stated that Dr. Ding recommended a comfort-based approach to Costa's care based on illnesses and injuries unrelated to the crash. Dr. Ding then confirmed that she had no recollection of Costa outside the records NWA provided. Based on the records NWA provided, Dr. Ding testified to Costa's progressive decline. During closing statements, NWA claimed Dr. Ding essentially testified that "Costa was not likely to leave the hospital, even if he had arrived without incident."

Using NWA's proposed verdict form, the jury found the Costa estate suffered $2,300,000 in noneconomic damages. The NWA verdict form did not

differentiate between the negligent driving and the failure to use all available restraints.

Before entering judgment on the jury verdict, the trial court heard NWA's motion for revision concerning summary judgment. After oral argument, the court denied NWA's motion for revision. The trial court then entered judgment on the jury verdict.

Post Judgment Payment

Following the entry of judgment on the verdict, NWA provided Lang with a letter stating it included three checks, totaling $2,318,131.13, "in full satisfaction of the judgment entered on February 22, 2024." Signed by NWA's attorney, the letter also requested a satisfaction of judgment to be executed and filed.

Two of the three enclosed checks noted that they were for "full and final settlement for any and all claims." The third check stated it was for "Post Judgment Interest adjustment." And the proposed satisfaction of judgment form provided that the judgment had been fully satisfied.

In March 2022, Lang informed NWA that the checks sent did not cover all 27 days of interest owed on the judgment debt and therefore could not be deposited with the full and final settlement language. NWA responded that only 26 days were owed. Lang then deposited the checks that same day.

Once Lang deposited the checks, NWA served the estate with a notice of appeal. Lang contended that a settlement agreement, documented in the letter

and checks, did away with all potential appellate claims. NWA, expressing confusion, argued no such settlement agreement existed.

Lang contended that the language from the letter and checks, stating that they were in "full and final settlement of any and all claims" settled any appellate claim and pointed out that NWA's attorney signed the letter. Lang continued on to assert that the Costa estate gave up its right to the 27th day of interest in exchange for all parties giving up their appellate claims. NWA again disagreed, stating no such settlement agreement existed and that NWA only owed 26 days of interest. Lang then moved to enforce the settlement agreement.

The trial court refused to enforce a settlement agreement, concluding no meeting of the minds occurred and that the debt was undisputed. The trial court also ruled, however, that the judgment had not been satisfied because NWA owed Lang 27 days of interest.

Lang moved for reconsideration, noting the trial court found the judgment debt to be undisputed while simultaneously resolving a dispute over that debt. In the alternative, Lang requested that the court enter a direct entry of judgment on its decision denying enforcement of the settlement agreement. Requesting a response only on the latter issue, the trial court certified that its denial of the motion to enforce the settlement constituted a final order ripe for appeal.

ANALYSIS

Summary Judgment

NWA asserts that the trial court erred in granting Lang's motion for summary judgment and denying NWA's motion for summary judgment because the trial court misconstrued RCW 18.71.210. Because, under the facts of this case, RCW 18.71.210 does not extend qualified immunity to ambulance transportation or the use of gurney restraints, we conclude that the trial court acted appropriately in granting Lang's motion in part and denying NWA's motion.

We review a trial court's grant of summary judgment de novo, engaging in the same inquiry as the trial court. *Keck v. Collins*, 184 Wn.2d 358, 370, 357 P.3d 1080 (2015). We consider the evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party. *Keck*, 184 Wn.2d at 370. Summary judgment is appropriate when no genuine issue exists as to any material fact and the moving party is entitled to judgment as a matter of law. Civil Rule (CR) 56(c).

1. Qualified Immunity under RCW 18.71.210

NWA contends that the trial court misconstrued RCW 18.71.210 in denying its motion for summary judgment because ambulance transportation of patients receiving treatment and care to a medical facility is part of "emergency medical service" as a matter of law. Because the statute differentiates between emergency medical service and transportation, we disagree.

We review statutory interpretation de novo. *Thurman v. Cowles Co.*, 4 Wn.3d 291, 296, 562 P.3d 777 (2025). "The goal of statutory interpretation is to discern and implement the legislature's intent." *Thurman*, 4 Wn.3d at 296. In interpreting a statute, we look first to the plain language. *Thurman*, 4 Wn.3d at 296. This includes examining the plain language of the specific statutory provision, as well as the meaning of that language in the context of the whole statute and related statutes. *Thurman*, 4 Wn.3d at 296. We presume that the legislature did not intend absurd results. *Thurman*, 4 Wn.3d at 297.

To "promote the delivery of quality health care," the Washington legislature enacted Chapter 18.71 RCW to grant limited immunity for qualifying acts and omissions during emergency medical services. RCW 18.71.002.

RCW 18.71.210 provides:

> (1) No act or omission of any physician's trained advanced emergency medical technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:
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> (a) [t]he physician's trained advanced emergency medical technician and paramedic, emergency medical technician, or first responder;
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> . . . [or]
>
> (f) any licensed ambulance service.
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> (2) This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained advanced emergency medical technician and paramedic,

> emergency medical technician, or first responder, as the case may be.
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> (4) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel involved in the transport of patients to mental health facilities or chemical dependency programs, in accordance with applicable alternative facility procedures adopted under RCW 70.168.100.

Chapter 18.71 RCW does not define "emergency medical service," but instead incorporates the definition in Chapter 18.73 RCW. RCW 18.71.010(2). RCW 18.73.030(11) defines emergency medical services as "medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility."

RCW 18.71.210 also references "emergency medical procedures" as distinct from "emergency medical service." Under the Washington Administrative Code (WAC), "emergency medical procedures" include only skills performed within the scope of EMS personnel's practice. WAC 246-976-010(33). RCW 18.71.210 does not provide immunity "in the commission or omission of an act which is not within the field of medical expertise of the [EMT]."

Former WAC 246-976-182 (2011), in effect during the trial proceedings below, then defines the scope of practice. Former WAC 246-976-182(1)(c) states, "[c]ertified EMS personnel are only authorized to provide patient care. . . [w]ithin the scope of care that is: (i) [i]ncluded in the approved instructional guidelines/curriculum for the individual's level of certification; or (ii) [i]ncluded in approved specialized training; and (iii) [i]ncluded in state approved county [medical program director] codes."

RCW 46.61.035(1) describes emergency transportation, separate from emergency medical services or procedures, stating "the driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section."

a. Ambulance Transportation

NWA alleges that the legislature intended ambulance transportation to be an essential element of emergency medical services rather than a distinct act. But the plain language of the statute and its surrounding context indicate otherwise. As stated, RCW 18.71.210 provides immunity for any act or omission done or omitted in good faith "while rendering emergency medical service." And as defined by RCW 18.73.030(11), emergency medical service means medical treatment and care provided at the scene of a medical emergency "or while transporting" a patient in an ambulance. Because emergency medical service is an act that can be done "while transporting" a patient, it is a distinct act from the transporting itself. As a result, transportation alone does not constitute an "emergency medical service."

NWA references an Illinois statute, maintaining that this court should interpret RCW 18.71.210 similarly to the applicable case law. But the Illinois statute immunizes both emergency and non-emergency services. And the statute's definition of non-emergency services explicitly includes "the provision of

. . . any and all acts necessary" taken "before, after, or during transportation."[2] Because driving an ambulance is an act necessary during transportation, it is necessarily a non-emergency medical service under the Illinois statute.

In contrast here, RCW 18.71.210 provides qualified immunity only to those "rendering emergency medical service." It does not grant immunity for non-emergency services. And because RCW 18.73.030 differentiates transportation from an emergency medical service, the Washington statute does not provide similar immunity to the non-binding Illinois statute.

Additionally, driving an emergency vehicle does not constitute medical expertise and is therefore not immune under the statute. As shown by the language of RCW 46.61.035(1), ambulance drivers share emergency vehicle driving expertise with law enforcement officers and firefighters. But law enforcement officers and firefighters do not necessarily have any medical training. Therefore, driving an emergency vehicle within the privileges outlined by RCW 46.61.035 does not constitute medical expertise within the field of expertise of an EMT. And RCW 18.71.210 does not provide immunity for an act not within the field of expertise of an EMT.

We conclude that RCW 18.71.210 does not provide qualified immunity for ambulance transportation.

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[2] 210 ILCS 50/3.10 (Illinois).

b. Use of Gurney Restraints

NWA next claims that EMTs' use of a gurney and gurney restraints is clearly an "emergency medical procedure" to which immunity applies. Lang asserts that we need not address this issue because NWA did not raise it below. We conclude that NWA did raise the issue but determine that NWA is not immune because, given the facts of this case, the use of shoulder straps does not fit into the scope of EMS practice.

Generally, a party may not raise an issue for the first time on appeal. RAP 2.5(a).

Here, Lang asserts that NWA did not argue below that the use of shoulder straps constitutes an emergency medical procedure as defined by RCW 18.71.210(2). Rather, NWA argued only that the failure to use all straps did not constitute gross negligence to overcome immunity. But both arguments, regardless of the specific wording, assert that NWA should be immune from liability in this case. As a result, NWA did raise the issue below and we continue on to address it.

NWA maintains, without authority, that licensed ambulance service crews are trained to use restraints and seat belts as part of their medical training. Because NWA provides no citation for this statement, we disregard this assertion; especially given NWA's EMT testimony. Wilson testified that he had no recollection of being trained to use the shoulder restraints and that he had rarely seen other EMTS use the shoulder restraints. RCW 18.71.210 (2)

provides that the statute shall not apply "in the commission or omission of an act which is not within the field of medical expertise of the. . . emergency medical technician or first responder," using "the" rather than "a" or "an" to modify the emergency provider. Thus, the plain language indicates that the specific EMT's training is at issue, not an EMT in general. Therefore, NWA's unsupported claim about how EMTs are usually trained is irrelevant. The EMT at issue testified that he was not trained on how to use shoulder straps. As a result, the use of shoulder straps under these facts is not an act within the field of medical expertise of the EMT. Accordingly, the statute does not extend immunity in the present case.

2. Gross Negligence

NWA then asserts that the court erred in granting Lang's motion in part because Lang failed to plead or offer evidence of gross negligence by the ambulance crew. But because the statute does not provide qualified immunity for the behavior at issue and NWA conceded negligence, Lang did not need to plead or offer evidence of gross negligence.

As noted above, RCW 18.71.210 does not provide qualified immunity for ambulance transportation or the use of gurney restraints. Therefore, no immunity to overcome exists and a party need only plead negligence. Because NWA conceded its negligence, the trial court acted appropriately in granting Lang's motion for summary judgment in part and denying NWA's motion.

CROSS APPEAL

Settlement Agreement

On cross-appeal, Lang alleges that the trial court erred in denying his motion to enforce the settlement agreement because the parties reached an accord and satisfaction as to that settlement agreement. Therefore, because the agreement precludes any further claims, this court should dismiss NWA's appeal. NWA maintains that the court did not err because no meeting of the minds occurred and the parties never signed or agreed to a binding settlement agreement as required by CR 2A. We agree with NWA.

We review a trial court's denial of a motion to enforce a settlement agreement de novo. *Lavigne v. Green*, 106 Wn. App. 12, 16, 23 P.3d 515 (2001).

An accord and satisfaction is a new contract, complete within itself. *Paopao v. Dep't of Soc. & Health Servs.*, 145 Wn. App 40, 46, 185 P.3d 640 (2008). The principle allows for parties to agree to "settle a claim by some performance different from that which is claimed due." *Pugh v. Evergreen Hosp. Med. Ctr.*, 177 Wn. App. 348, 358, 311 P.3d 1253 (2013). To do so, it requires "a bona fide dispute, an agreement to settle the dispute for a certain sum, and performance of the agreement." *Pugh*, 177 Wn. App. at 358. An accord and satisfaction also requires consideration. *Kibler v. Frank L. Garrett & Sons, Inc.*, 73 Wn.2d 523, 525, 439 P.2d 416 (1968).

When parties dispute the amount owed, a court may imply an accord and satisfaction from surrounding circumstances. *U.S. Bank Nat. Ass'n v. Whitney*, 119 Wn. App. 339, 351, 81 P.3d 135 (2003). For example, "if the amount of a debt is unliquidated or disputed, then the tender of a certain sum in full payment, followed by acceptance and retention of the amount tendered, establishes an accord and satisfaction." *Whitney*, 119 Wn. App. at 351. This does not apply, however, to amounts that are liquidated or certain and due. *Whitney*, 119 Wn. App. at 351. And "before the acceptance of a lesser sum than may be owed on a disputed account . . . will give rise to an accord and satisfaction, the party contending for that result must prove there was a meeting of the minds and that both parties understood that such would be the result." *Gleason v. Metropolitan Mortg. Co.*, 15 Wn. App. 481, 498, 551 P.2d 147 (1976).

CR 2A then further governs the enforcement of a settlement action. *Morris v. Maks*, 69 Wn. App. 865, 868, 850 P.2d 1357 (1993). CR 2A requires out of court agreements, such as an accord and satisfaction, to be both in writing and signed by the attorney for the party denying the agreement. As a result, CR 2A " 'precludes enforcement of a disputed settlement agreement not made in writing or put on the record, whether or not common law requirements are met.' " *In re Patterson*, 93 Wn. App. 579, 582-83, 969 P.2d 1106 (1999) (quoting *In re Marriage of Ferree*, 71 Wn. App. 35, 39-40, 856 P.2d 706 (1993)).

1. Accord and Satisfaction

Lang claims that the parties met all accord and satisfaction elements because the parties disputed the debt by disagreeing on the interest calculation, the release of all claims constituted additional consideration, there was a meeting of the minds between the parties, and Lang performed the agreement. NWA does not dispute the existence of a bona fide dispute or of Lang's performance. But NWA does maintain that no meeting of the minds occurred on the alleged "accord" to preclude any appeal. We conclude Lang fails to establish an accord and satisfaction because no "meeting of the minds" exists.

"An accord [and satisfaction] requires a 'meeting of the minds,' an intention on the part of both parties to create an accord and satisfaction as a matter of law." *Whitney*, 119 Wn. App. at 351 (quoting *Kibler*, 73 Wn.2d at 525). The creditor must understand that the money is tendered on the condition that its acceptance constitutes satisfaction. *Whitney*, 119 Wn. App. at 351. " 'The mere fact that the creditor receives less than the amount of [their] claim, with knowledge that the debtor claims to be indebted to [them] only to the extent of the payment made, does not necessarily establish an accord and satisfaction.' " *Whitney*, 119 Wn. App. at 351 (internal quotation marks omitted) (quoting *Kibler*, 73 Wn.2d at 527).

Here, Lang fails to establish a meeting of the minds that the money was offered only on condition of accord and satisfaction. In fact, the record is clear that NWA's intent in tendering the payments it made to Costa's estate was to

satisfy the judgment, rather than to propose a compromise. NWA and Lang did dispute the amount of interest owed. But as a result of that dispute, the letter included with the checks simply states NWA's intent to satisfy the judgment and stop post-judgment interest from accruing. The full and final satisfaction language that Lang references, both in the letter and on the checks, did not in and of itself create an agreement for Lang to accept less than the full amount of the judgment owed in exchange for NWA dismissing its right to appeal. And the mere fact that Lang received less than the amount he believed owed to him, knowing from NWA's correspondence that NWA believed it had paid the entirety owed, does not establish an accord and satisfaction.

NWA and Lang did not create an accord and satisfaction limiting NWA's ability to appeal.

2. CR 2A

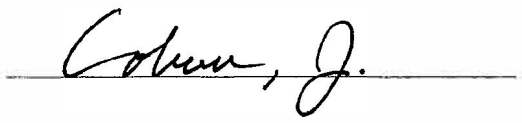
Lastly, Lang claims that the purported settlement agreement satisfied CR 2A's requirements. We disagree.

CR 2A precludes enforcement of an alleged settlement agreement that is genuinely disputed. *In re Patterson*, 93 Wn. App. 579, 582-83, 969 P.2d 1106 (1999). A party moving to enforce a settlement agreement must prove "there is no genuine dispute over the existence and material terms of the agreement." *Brinkerhoff v. Campbell*, 99 Wn. App. 692, 696-97, 994 P.2d 911 (2000). We consider the record "in the light most favorable to the nonmoving party." *Brinkerhoff*, 99 Wn. App. 692 at 697.

Here, as noted above, the parties clearly dispute the existence and material terms of the agreement. The parties did not agree to a binding settlement agreement under CR 2A limiting either party's ability to appeal.

We affirm.

WE CONCUR:



B

RCW 18.71.210 Physician's trained advanced emergency medical technician and paramedic—Liability. (1) No act or omission of any physician's trained advanced emergency medical technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(a) The physician's trained advanced emergency medical technician and paramedic, emergency medical technician, or first responder;

(b) The medical program director;

(c) The supervising physician(s);

(d) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(e) Any training agency or training physician(s);

(f) Any licensed ambulance service; or

(g) Any federal, state, county, city, or other local governmental unit or employees of such a governmental unit.

(2) This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained advanced emergency medical technician and paramedic, emergency medical technician, or first responder, as the case may be.

This section shall apply also to emergency medical technicians, advanced emergency medical technicians, paramedics, and medical program directors participating in a community assistance referral and education services program established under RCW 35.21.930.

(3) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service personnel for certification or recertification pursuant to this chapter.

(4) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel involved in the transport of patients to mental health facilities or chemical dependency programs, in accordance with applicable alternative facility procedures adopted under RCW 70.168.100.

(5) This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct. [2015 c 157 s 5; 2015 c 93 s 4; 1997 c 275 s 1; 1997 c 245 s 1. Prior: 1995 c 103 s 1; 1995 c 65 s 4; 1989 c 260 s 4; 1987 c 212 s 502; 1986 c 68 s 4; 1983 c 112 s 3; 1977 c 55 s 4; 1971 ex.s. c 305 s 3.]

Reviser's note: This section was amended by 2015 c 93 s 4 and by 2015 c 157 s 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1995 c 103: "This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and shall take effect immediately [April 19, 1995]." [1995 c 103 s 3.]

C

RCW 18.73.030 **Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in this chapter.

(7) "Collaborative medical care" means medical treatment and care provided pursuant to agreements with local, regional, or state public health agencies to control and prevent the spread of communicable diseases which is rendered separately from emergency medical service.

(8) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(9) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

(10) "Department" means the department of health.

(11) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(12) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(13) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081, under the responsible supervision and direction of an approved medical program director, which may include participating in an emergency services supervisory organization or a community assistance referral and education services program established under RCW 35.21.930, or providing collaborative medical care if the participation or provision of collaborative medical care does not exceed the participant's training and certification.

(14) "Emergency services supervisory organization" means an entity that is authorized by the secretary to use certified emergency medical services personnel to provide medical evaluation or initial treatment, or both, to sick or injured people, while in the course of duties with the organization for on-site medical care prior to any necessary activation of emergency medical services. Emergency services supervisory organizations include law enforcement agencies, disaster management organizations, search and rescue operations, diversion centers, and businesses with organized industrial safety teams.

(15) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

(16) "Organ transport service" means an organization that operates one or more organ transport vehicles.

(17) "Organ transport vehicle" has the same meaning as in RCW 46.04.371.

(18) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

(19) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

(20) "Secretary" means the secretary of the department of health.

(21) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts. [2023 c 290 s 11; 2022 c 136 s 1; 2021 c 69 s 1; 2015 c 93 s 5. Prior: 2010 1st sp.s. c 7 s 25; 2005 c 193 s 2; 2000 c 93 s 16; 1990 c 269 s 23; 1988 c 104 s 3; 1987 c 214 s 2; 1983 c 112 s 5; 1979 ex.s. c 261 s 1; 1973 1st ex.s. c 208 s 3.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Finding—2005 c 193: "The legislature finds that requiring all patients who need to travel in a prone or supine position but are medically stable, to be transported by ambulance can be overly restrictive to individuals with disabilities. These individuals frequently travel by means of reclining wheelchairs or devices commonly referred to as banana carts. Expanding travel options for these individuals will give them greater opportunities for mobility and reduce their costs of travel." [2005 c 193 s 1.]

D

RCW 70.168.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Cardiac" means acute coronary syndrome, an umbrella term used to cover any group of clinical symptoms compatible with acute myocardial ischemia, which is chest discomfort or other symptoms due to insufficient blood supply to the heart muscle resulting from coronary artery disease. "Cardiac" also includes out-of-hospital cardiac arrest, which is the cessation of mechanical heart activity as assessed by emergency medical services personnel, or other acute heart conditions.

(2) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(3) "Department" means the department of health.

(4) "Designated trauma care service" means a level I, II, III, IV, or V trauma care service or level I, II, or III pediatric trauma care service or level I, I-pediatric, II, or III trauma-related rehabilitative service.

(5) "Designation" means a formal determination by the department that hospitals or health care facilities are capable of providing designated trauma care services as authorized in RCW 70.168.070.

(6) "Emergency medical service" means medical treatment and care that may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(7) "Emergency medical services and trauma care planning and service regions" means geographic areas established by the department under this chapter.

(8) "Emergency medical services and trauma care system plan" means a statewide plan that identifies statewide emergency medical services and trauma care objectives and priorities and identifies equipment, facility, personnel, training, and other needs required to create and maintain a statewide emergency medical services and trauma care system. The plan also includes a plan of implementation that identifies the state, regional, and local activities that will create, operate, maintain, and enhance the system. The plan is formulated by incorporating the regional emergency medical services and trauma care plans required under this chapter. The plan shall be updated every two years and shall be made available to the state board of health in sufficient time to be considered in preparation of the biennial state health report required in *RCW 43.20.050.

(9) "Emergency medical services medical program director" means a person who is an approved program director as defined by RCW 18.71.205(4).

(10) "Facility patient care protocols" means the written procedures adopted by the medical staff that direct the care of the patient. These procedures shall be based upon the assessment of the patients' medical needs. The procedures shall follow minimum statewide standards for trauma care services.

(11) "Hospital" means a facility licensed under chapter 70.41 RCW, or comparable health care facility operated by the federal government or located and licensed in another state.

(12) "Level I-pediatric rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities

providing level I-pediatric rehabilitative services provide the same services as facilities authorized to provide level I rehabilitative services except these services are exclusively for children under the age of fifteen years.

(13) "Level I pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level I services shall provide definitive, comprehensive, specialized care for pediatric trauma patients and shall also provide ongoing research and health care professional education in pediatric trauma care.

(14) "Level I rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level I rehabilitative services provide rehabilitative treatment to patients with traumatic brain injuries, spinal cord injuries, complicated amputations, and other diagnoses resulting in functional impairment, with moderate to severe impairment or complexity. These facilities serve as referral facilities for facilities authorized to provide level II and III rehabilitative services.

(15) "Level I trauma care services" means trauma care services as established in RCW 70.168.060. Hospitals providing level I services shall have specialized trauma care teams and provide ongoing research and health care professional education in trauma care.

(16) "Level II pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level II services shall provide initial stabilization and evaluation of pediatric trauma patients and provide comprehensive general medicine and surgical care to pediatric patients who can be maintained in a stable or improving condition without the specialized care available in the level I hospital. Complex surgeries and research and health care professional education in pediatric trauma care activities are not required.

(17) "Level II rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level II rehabilitative services treat individuals with musculoskeletal trauma, peripheral nerve lesions, lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area, with moderate to severe impairment or complexity.

(18) "Level II trauma care services" means trauma care services as established in RCW 70.168.060. Hospitals providing level II services shall be similar to those provided by level I hospitals,although complex surgeries and research and health care professional education activities are not required to be provided.

(19) "Level III pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level III services shall provide initial evaluation and stabilization of patients. The range of pediatric trauma care services provided in level III hospitals are not as comprehensive as level I and II hospitals.

(20) "Level III rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level III rehabilitative services provide treatment to individuals with musculoskeletal injuries, peripheral nerve injuries, uncomplicated lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area but with minimal to moderate impairment or complexity.

(21) "Level III trauma care services" means trauma care services as established in RCW 70.168.060. The range of trauma care services

provided by level III hospitals are not as comprehensive as level I and II hospitals.

(22) "Level IV trauma care services" means trauma care services as established in RCW 70.168.060.

(23) "Level V trauma care services" means trauma care services as established in RCW 70.168.060. Facilities providing level V services shall provide stabilization and transfer of all patients with potentially life-threatening injuries.

(24) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with minimum statewide standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility, mental health facility, or chemical dependency program to first receive the patient, and the name and location of other trauma care facilities, mental health facilities, or chemical dependency programs to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures required in chapter 70.170 RCW.

(25) "Pediatric trauma patient" means trauma patients known or estimated to be less than fifteen years of age.

(26) "Prehospital" means emergency medical care or transportation rendered to patients prior to hospital admission or during interfacility transfer by licensed ambulance or aid service under chapter 18.73 RCW, by personnel certified to provide emergency medical care under chapters 18.71 and 18.73 RCW, or by facilities providing level V trauma care services as provided for in this chapter.

(27) "Prehospital patient care protocols" means the written procedures adopted by the emergency medical services medical program director that direct the out-of-hospital emergency care of the emergency patient which includes the trauma patient. These procedures shall be based upon the assessment of the patients' medical needs and the treatment to be provided for serious conditions. The procedures shall meet or exceed statewide minimum standards for trauma and other prehospital care services.

(28) "Rehabilitative services" means a formal program of multidisciplinary, coordinated, and integrated services for evaluation, treatment, education, and training to help individuals with disabling impairments achieve and maintain optimal functional independence in physical, psychosocial, social, vocational, and avocational realms. Rehabilitation is indicated for the trauma patient who has sustained neurologic or musculoskeletal injury and who needs physical or cognitive intervention to return to home, work, or society.

(29) "Secretary" means the secretary of the department of health.

(30) "Trauma" means a major single or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

(31) "Trauma care system" means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma care system shall: Identify facilities with specific capabilities to provide care, triage trauma victims at the scene, and require that all

trauma victims be sent to an appropriate trauma facility. The trauma care system includes prevention, prehospital care, hospital care, and rehabilitation.

(32) "Triage" means the sorting of patients in terms of disposition, destination, or priority. Triage of prehospital trauma victims requires identifying injury severity so that the appropriate care level can be readily assessed according to patient care guidelines.

(33) "Verification" means the identification of prehospital providers who are capable of providing verified trauma care services and shall be a part of the licensure process required in chapter 18.73 RCW.

(34) "Verified trauma care service" means prehospital service as provided for in RCW 70.168.080, and identified in the regional emergency medical services and trauma care plan as required by RCW 70.168.100. [2015 c 157 s 2. Prior: 2010 c 52 s 2; 1990 c 269 s 4.]

***Reviser's note**: RCW 43.20.050 was amended by 2011 c 27 s 1, eliminating the "state health report."

Findings—Intent—2010 c 52: "(1) The legislature finds that:

(a) In 2006, the governor's emergency medical services and trauma care steering committee charged the emergency cardiac and stroke work group with assessing the burden of acute coronary syndrome, otherwise known as heart attack, cardiac arrest, and stroke and the care that people receive for these acute cardiovascular events in Washington.

(b) The work group's report found that:

(i) Despite falling death rates, heart disease and stroke were still the second and third leading causes of death in 2005. All cardiovascular diseases accounted for thirty-four percent of deaths, surpassing all other causes of death.

(ii) Cardiovascular diseases have a substantial social and economic impact on individuals and families, as well as the state's health and long-term care systems. Although many people who survive acute cardiac and stroke events have significant physical and cognitive disability, early evidence-based treatments can help more people return to their productive lives.

(iii) Heart disease and stroke are among the most costly medical conditions at nearly four billion dollars per year for hospitalization and long-term care alone.

(iv) The age group at highest risk for heart disease or stroke, people sixty-five and older, is projected to double by 2030, potentially doubling the social and economic impact of heart disease and stroke in Washington. Early recognition is important, as Washington demographics indicate a significant occurrence of acute coronary syndromes by the age of fifty-five.

(c) The assessment of emergency cardiac and stroke care found:(i) Many cardiac and stroke patients are not receiving evidence-based treatments;

(ii) Access to diagnostic and treatment resources varies greatly, especially for rural parts of the state;

(iii) Training, protocols, procedures, and resources in dispatch services, emergency medical services, and hospitals vary significantly;

(iv) Cardiac mortality rates vary widely depending on hospital and regional resources; and

(v) Advances in technology and streamlined approaches to care can significantly improve emergency cardiac and stroke care, but many people do not get the benefit of these treatments.

(d) Time is critical throughout the chain of survival, from dispatch of emergency medical services, to transport, to the emergency room, for emergency cardiac and stroke patients. The minutes after the onset of heart attack, cardiac arrest, and stroke are as important as the "golden hour" in trauma. When treatment is delayed, more brain or heart tissue dies. Timely treatment can mean the difference between returning to work or becoming permanently disabled, living at home, or living in a nursing home. It can be the difference between life and death. Ensuring most patients will get lifesaving care in time requires preplanning and an organized system of care.

(e) Many other states have improved systems of care to respond to and treat acute cardiac and stroke events, similar to improvements in trauma care in Washington.

(f) Some areas of Washington have deployed local systems to respond to and treat acute cardiac and stroke events.

(2) It is the intent of the legislature to support efforts to improve emergency cardiac and stroke care in Washington through an evidence-based coordinated system of care." [2010 c 52 s 1.]

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HOUSE BILL REPORT
HB 1721

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to the transport of patients by ambulance to facilities other than hospitals.

Brief Description: Concerning the transport of patients by ambulance to facilities other than hospitals.

Sponsors: Representatives Robinson, Schmick, Cody, Harris, Riccelli and Van De Wege.

Brief History:
Committee Activity:
Health Care & Wellness: 2/13/15, 2/18/15 [DPS].

Brief Summary of Substitute Bill

- Establishes a work group to adopt guidelines for the appropriate transport of patients to chemical dependency treatment programs or mental health facilities by ambulance services.
- Directs the Health Care Authority to develop a reimbursement methodology for ambulance services that transport patients to a mental health facility or chemical dependency treatment program in accordance with regional alternative facility procedures.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Jinkins, Johnson, Moeller, Robinson, Rodne, Short, Tharinger and Van De Wege.

Staff: Chris Blake (786-7392).

Background:

Ambulance services provide transportation services for the ill and injured according to patient care procedures. Patient care procedures are written guidelines adopted by regional

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This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

emergency medical services and trauma care councils that identify several elements necessary to coordinate the provision of emergency services, including the type of facility to receive the patient.

Medicaid covers ambulance transportation in several different cases. Generally, these services are covered when it is medically necessary based on the client's condition at the time of the trip, it is appropriate to the client's actual medical need, and it is to a destination that is a contracted Medicaid provider or the appropriate trauma facility.

Summary of Substitute Bill:

The Department of Health and the Department of Social and Health Services must convene a work group to establish alternative facility guidelines for the development of protocols, procedures, and applicable training for ambulance services to transport patients in need of mental health or chemical dependency services. The guidelines must establish when transport to a mental health facility or chemical dependency treatment program is required as indicated by the presence of a medical emergency, the severity of the patient's behavioral health needs, the training of emergency medical service personnel, and the risk posed by the patient to himself or herself or to others. The work group must include members of the Emergency Medical Service and Trauma Care Steering Committee, mental health providers, ambulance services, firefighters, and chemical dependency treatment programs. The guidelines must be completed by July 1, 2016, and be distributed to regional emergency medical services and trauma care councils for inclusion in their regional plans.

Ambulance services are given specific authority to transport patients to nonmedical facilities, such as mental health facilities and chemical dependency treatment programs. Immunity from liability that generally applies to emergency medical services providers is extended to acts or omissions by those providers when transporting a patient to a mental health facility or chemical dependency treatment program in accordance with regional alternative facility procedures.

The Health Care Authority is directed to develop a reimbursement methodology for ambulance services in cases when they transport Medicaid clients to a mental health facility or chemical dependency treatment program in accordance with regional alternative facility procedures.

Substitute Bill Compared to Original Bill:

The substitute bill adds firefighters to the participants in the Department of Health work group that must establish alternative facility guidelines. The work group's guidelines must also develop applicable training appropriate to the level of emergency medical service provider.

The substitute bill adds references to mental health facilities and chemical dependency programs to the definition of "patient care procedures."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will help transport patients to triage centers when somebody is having behavioral health issues. This will help hospital emergency departments across the state, allowing ambulances to divert low-risk patients to a more appropriate facility. Low-risk patients could be better served if there were improved access to and coordination of services to address their mental health or chemical dependency issues in a community setting. This provides a tool for preventing readmissions to hospitals and assuring appropriate care. This bill will allow the option to offer a better course of treatment by taking the patients to a mental health triage center.

The emergency department is a very expensive place to receive subacute services. The development of a reimbursement method for these transports will eliminate a roadblock. This will save money by reducing ambulance trips and emergency department charges. Many times people who need behavioral health services do not want to accept a transport because of the cost of an emergency department visit.

This bill aligns multiple community systems and eliminates liability and reimbursement barriers to get people in the right systems. This bill brings all of the stakeholders together to set the parameters so that patient safety is the deciding factor in making appropriate diversions.

There are many community members who suffer from mental illness and chemical dependency who are known to local public safety officials and who need frequent services. These people need services in mental health facilities, not in an emergency department.

This bill helps keep law enforcement resources on the street for 911 emergency calls for service. When a deputy is taking a person to a triage facility, it takes officers off of the street, but this bill will allow for ambulance services to do that instead.

(Opposed) None.

Persons Testifying: Representative Robinson, prime sponsor; TJ LaRocque, Providence St. Peter Hospital; Brian Enslow, Washington State Association of Counties; Bob Berschauer, Washington Ambulance Association; and John Flood and David Crandall, Snohomish Police Department.

Persons Signed In To Testify But Not Testifying: None.

STOEL RIVES LLP

August 26, 2025 - 9:01 AM

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Appellate Court Case Title:	Michael Lang, Res/Cross-App.. v. Platinum Nine Holdings, LLC, et al., Apps/Cross-Res.

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