

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
THURSDAY FEBRUARY 12, 2009
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON MARCH 4, 2009
MEETING MINUTES**

Present: Paul Knowlton, Robert Hand, Steve Leach, Rick Doughty and Lori Metayer

Staff: Dawn Kinney and Alan Leo

AAG: Lara Nomani, AAG

1. **Call To Order:** The meeting was called to order at 9:05 a.m.
2. **Business:** The Committee held informal conferences on cases # 08-17, #08-18, #08-25, 08-31 and 09-05 and made the recommendations which are outlined below:
3. **Application:** There were no new applications reviewed.
4. **Other:** The Committee reviewed a matrix for resolution of specific types of unlicensed provider complaints; this matrix will be presented to the Maine EMS Board for discussion at the March 4, 2009 meeting.
5. **Next Meeting:** The next meeting is scheduled for Wednesday April 22, 2009 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 2:00 p.m.

COMPLAINT/INVESTIGATIONS CASES:

1. CASE # 08-31. Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-31. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-31. (Doughty; Knowlton– motion carries). The committee entered executive session at 9:05 a.m. and exited at 10:10 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-31.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Licensee was convicted of Operating Under the Influence on November 18, 2008, and was not in compliance with the terms of his existing Consent Agreement (as amended), in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(2)- Violating a lawful order, rule or consent agreement of the Board, and Chapter 11 § (1)(3) - Violating any of the provisions of 32 M.R.S.A, Chapter 2-B. Specifically, in 2006, MEMS issued the Licensee a license, subject to the terms of a Consent Agreement, based upon Licensee's prior convictions. In 2007, while still subject to the terms of the Consent Agreement, the Licensee notified MEMS that he had been summonsed for drinking in public. In May 2007, Licensee notified MEMS that he had been summonsed for providing a place for minors to consume alcohol. As a result of these new developments, the Licensee entered into a revised Consent Agreement, subject to additional conditions. Based upon the new developments and violation, in view of his history before MEMS, the Committee does not find that Licensee has shown just cause why the license should be reinstated at this time, as is required by the terms of his Consent Agreement as revised.

Aggravating Circumstances:

- That there were two violations to the Consent Agreement.

Mitigating Circumstances:

- The Licensee immediately notified Maine EMS and surrendered his license as required by his Consent Agreement.

RECOMMENDED ACTION:**That this case be resolved with a Consent Agreement, subject to the following conditions:**

- 1) To revise the Consent Agreement presently in place as follows: (a) To accept the voluntary surrender of the Licensee's current EMT-Basic EMS license number 23202 through its expiration date of October 31, 2009. (b) To terminate the Consent Agreement (as revised and amended) on October 31, 2009.

The Committee will consider case # 08-31 resolved and closed upon the ratification by the Board of the Consent Agreement. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Doughty - motion carries).

INFORMAL CONFERENCES:**2. CASE # 08-25; Licensee Present**

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-25. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-25. (Doughty; Leach – motion carries). The committee entered executive session at 10:20 a.m. and exited at 10:50 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-25.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(2)- Violating a lawful order, rule or consent agreement of the Board and Chapter 11§ (1)(34)- Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on eight calls.

Aggravating Circumstances:

- There was no plan in place to prevent this occurrence.

Mitigating Circumstances:

- The service self reported this violation to Maine EMS;
- The service assumed responsibility by immediately suspending the unlicensed provider;
- A licensed provider was present on all but one of the eight calls; and
- There were overtime expenses incurred by the service over a two month period in order to meet their obligations to provide a licensed provider during calls.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following conditions:

- 1) A reprimand;
- 2) The service shall develop a policy to prevent unlicensed providers from responding on the service's behalf;
- 3) The Licensee shall pay a fine of \$100.00 per violation for a total of \$800.00. All but \$100.00 of that fine amount shall be suspended, based on the mitigating factors;
- 4) The service shall submit to Maine EMS an affidavit which states that the service has reviewed its billing records for those eight calls, made any necessary corrections to reflect the unlicensed provider's billing status and certifies that these calls were billed in accordance with state and federal laws; and
- 5) The policy, fine and affidavit will be due at the time of execution of the Consent Agreement.

The Committee will consider case # 08-25 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

3. CASE # 08-18; Licensee Present

Rick Doughty and Paul Knowlton disclosed that they knew the Licensee for case #08-18 and case #08-17 and that the service they both work for may have a financial conflict. They stated that they believed they could be fair and impartial in their review of the case. The Licensee did not object to their continued participation in conference, despite their offer to recuse themselves.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-18 Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-18. (Doughty; Hand – motion carries).The committee entered executive session at 11:15 a.m. and exited at 12:15 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-18.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(2) - Violating a lawful order, rule or consent agreement of the Board and Chapter 11§ (1)(34) - Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on three calls.

Aggravating Circumstances:

- There was no plan in place to prevent this occurrence; and
- This was not self reported.

Mitigating Circumstances:

- A licensed provider was on every call;
- Hardship to the financial situation of a small non-transporting service; and
- The service does not bill for services.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following conditions:

- 1) A reprimand;
- 2) The service shall develop a policy to prevent unlicensed providers from responding on the service's behalf;
- 3) The Licensee shall pay a fine of \$100.00 per violation for a total of \$300.00. All but \$50.00 of that fine amount shall be suspended based on the mitigating factors; and
- 4) The policy and fine will be due at the time of execution of the Consent Agreement.

The Committee will consider case # 08-18 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

4. CASE # 08-17; Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-17. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-17. (Doughty; Hand – motion carries).The committee entered executive session at 12:30 p.m. and exited at 12:50 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 08-17.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Licensee's license expired on December 31, 2008 and that the Licensee continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(2) - Violating a lawful order, rule or consent agreement of the Board, Chapter 11 § (1)(3) Violating any of the provisions of 32 M.R.S.A., Chapter 2-B, and Chapter 11 §(1)(30) - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the Licensee continued to respond to four calls and provide patient care until March 24, 2008.

Aggravating Circumstances:

- Licensee was aware of being unlicensed and continued to provide patient care;
- This was not self reported; and
- Licensee was not licensable at the time of expiration of his EMS license.

Mitigating Circumstances:

- Licensee stated that he did not receive a notice warning him of his license expiration date as he had moved within the last 2 years.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1) A reprimand; and
- 2) The Licensee shall pay a fine of \$50.00 per violation for a total of \$200.00. All but \$50.00 of that fine amount shall be suspended based on the mitigating factors. The fine will be paid at the time of execution of the Consent Agreement.

The Committee will consider case # 08-17 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

5. CASE # 09-05; Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-05. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-05. (Doughty; Hand – motion carries). The committee entered executive session at 12:55 p.m. and exited at 1:20 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-05.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee disclosed a criminal conviction on his January 10, 2009 application in violation of Maine EMS Rules (dated September 1, 2006), Chapter 11 § (1)(4), Any criminal conviction, subject to the limitations of Maine statute. Specifically, the Licensee disclosed a June 22, 2008 conviction for Disorderly Conduct, Fighting (Class E) in violation of 17-A M.R.S.A, §501-A(1)(A)(3).

Aggravating Circumstances:

- None

Mitigating Circumstances:

- 1) Licensee was remorseful and forthright with the committee;
- 2) Licensee was aware of the seriousness of his behavior; and
- 3) Licensee submitted several references on his behalf by individuals who were well respected EMS providers.

RECOMMENDED ACTION:

The Committee found that the Licensee was sufficiently rehabilitated to warrant the public trust, and did not warrant disciplinary action, and recommended that this case be resolved with a Letter of Guidance to be kept on file for 3 years.

The Committee will consider case #09-05 resolved and closed upon the ratification by the Board of the Letter of Guidance. (Metayer; Leach - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent