

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, OCTOBER 7, 2009
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON NOVEMBER 4, 2009
MEETING MINUTES**

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

Staff: Dawn Kinney and Alan Leo

AAG: Laura Yustak Smith, 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 #09-20, #9-19, #09-12, #09-32, #09-35, #09-26 and #09-38 and made the recommendations outlined below:
3. **Application:** The committee reviewed two new applications and made the recommendations outlined below:
4. **Other:** Laura Yustak Smith provided an overview of the format for Informal Conferences for the committee members.
5. **Next Meeting:** The next meeting is scheduled for Wednesday, November 18, 2009 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 3:30 p.m.

COMPLAINT/INVESTIGATIONS CASE:

1. NONE

INFORMAL CONFERENCES:

1. **CASE # 09-20 - Licensee present with attorney.**

The Committee entered executive session for the purpose of reviewing investigation and discussing case #09-20. 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) to receive legal advice and to conduct an informal conference concerning case # 09-20. (Doughty; Metayer – motion carries). The committee entered executive session at 09:15 a.m. and exited at 09:50 a.m. During executive session, the committee met with Licensee and attorney, and discussed options for disposition of case # 09-20.

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)(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 one call.

Aggravating Circumstances:

- The Service allowed a provider without a valid license to provide emergency medical treatment while aware that the provider did not have a valid EMS license.

Mitigating Circumstances:

- Licensee was cooperative and forthright with the committee; and
- Licensee had no malice or intent to violate the rules.

RECOMMENDED ACTION:

The Investigation Committee recommends that this case be resolved with a Consent Agreement, and conditions:

- 1) A reprimand;
- 2) The Licensee shall pay a fine of \$100.00 per violation for a total of \$100.00; and
- 3) The fine will be due at the time of execution of the Consent Agreement.

The Committee will consider case # 09-20 resolved and closed upon the ratification by the Board of the Consent Agreement and execution of the Consent Agreement 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) (Doughty; Hand - 3 – 1 motion carries).

In the alternative, the Committee authorized its AAG to negotiate stipulation of fact with licensee's counsel, to be presented to the full Board for the purpose of allowing the Board to address the issue of appropriate sanction.

2. CASE # 09-19 - Licensee was present with attorney.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-19. 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) to receive legal advice and to conduct an informal conference concerning case # 09-19. (Doughty; Leach – motion carries). The committee entered executive session at 10:05 a.m. and exited at 10:25 a.m. During executive session, the committee met with Licensee and attorney, and discussed options for disposition of case # 09-19.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on September 30, 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)(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 responded to one call and provided emergency medical treatment while Licensee's license was expired.

Aggravating Circumstances:

- The Licensee accepted a position from Fire Department as a driver knowing that it would put Licensee in a position of providing emergency medical treatment.

Mitigating Circumstances:

- Licensee did not intentionally violate the rules;

- Licensee did not violate the policy of Fire Department as Licensee was dispatched as a driver;
- Patient gave treating paramedic new information, which required the treatment at issue;
- The Maine EMS rule is clear, but the paramedic on the call did not feel that he was violating a rule by having the Licensee assist with emergency medical treatment;
- Shortened the length of time for patient to receive emergency medical treatment;
- There was no harm to the patient; and
- Licensee has taken steps to avoid similar situations in the future.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommends that this case be resolved with a Letter of Guidance to be maintained in Licensee's file for three years.

The Committee will consider case # 09-19 resolved and closed upon the ratification by the Board of the Letter of Guidance. (Metayer; Leach – 3 – 2 motion carries).

3. CASE # 09-32 - Licensee present. Paul Knowlton recused himself as he knows the Licensee on a professional and personal basis. Rick Doughty disclosed that he knew the Licensee, but stated that this knowledge would not affect his ability to decide the matter impartially based only on the evidence of record. Licensee had no objection to Mr. Doughty participating in the informal conference.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-32. **Motion:** To enter executive session pursuant to 1 M.R.S.A. §405(6)(E),(F) to receive legal advice and to conduct an informal conference. (Doughty; Leach – motion carries). The committee entered executive session at 10:35 a.m. and executed at 10:55 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-32.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on August 31, 2009 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)(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 responded to one call and provided emergency medical treatment while Licensee's license was expired.

Aggravating Circumstances:

- None.

Mitigating Circumstances:

- Licensee completed the renewal application and gave it to his supervisor who informed him that he would mail Licensee's renewal application to Maine EMS;
- Licensee's supervisor was informed by Maine EMS that the application needed to be postmarked by August 31, 2009, but did not inform the Licensee of this fact;
- Licensee immediately removed himself from duty; and
- Licensee had sufficient training to renew his license.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommends that this case be resolved with a Letter of Guidance to be maintained in Licensee's file for three years.

The Committee will consider case # 09-32 resolved and closed upon the ratification by the Board of the Letter of Guidance. (Metayer; Hand - motion carries).

4. CASE # 09-35 – Licensee present. Robert Hand recused himself as he knows Licensee personally.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-35. 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) to receive legal advice and to conduct an informal conference concerning case # 09-35. (Doughty; Knowlton – motion carries). The committee entered executive session at 11:10 a.m. and exited at 11:40 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-35.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on August 31, 2009 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)(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 responded to nine calls and provided emergency medical treatment to four patients while Licensee's license was expired.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- The service did not have a policy in place to prevent this from happening;
- Licensee completed and mailed his application in a timely manner, however it was returned to him for postage due;
- Licensee had more than the required training to renew his license prior to expiration; and
- Licensee was forthright and cooperative with the Committee.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, that includes a reprimand.

The Committee will consider case # 09-35 resolved and closed upon the ratification by the Board of the Consent Agreement and execution of the Consent Agreement 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) (Metayer; Leach – 3 – 1 motion carries).

5. CASE # 09-26 - Licensee present. Steve Leach disclosed that he knew the Licensee, but stated that this knowledge would not affect his ability to decide the matter impartially based only on the evidence of record. Licensee had no objection to Mr. Leach participating in the informal conference.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-26. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(F) to discuss matters confidential by statute and to conduct an informal conference concerning case # 09-26. (Doughty; Hand – motion carries). The committee entered executive session at 1:00 p.m. and exited at 1:20 p.m. During executive session, the committee discussed options for disposition of case # 09-26.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on August 31, 2009 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)(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 responded to seven calls and provided emergency medical treatment to five patients while Licensee's license was expired.

Aggravating Circumstances:

- Licensee did not self report.

Mitigating Circumstances:

- Licensee had sufficient training to renew at time of expiration;
- Licensee was forthright and cooperative with the Committee;
- Licensee assumed responsibility;
- Licensee was immediately removed from responding to calls; and
- There was a licensed Paramedic on every call.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, that included a reprimand.

The Committee will consider case # 09-26 resolved and closed upon the ratification by the Board of the Consent Agreement and execution of the Consent Agreement 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) (Metayer; Knowlton - motion carries).

6. CASE # 09-12 - Licensee not present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-12. **Motion:** To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(F) to discuss matters confidential by statute and to conduct an informal conference concerning case # 09-12. (Doughty; Knowlton – motion carries). The committee entered executive session at 2:20 p.m. and exited at 2:30 p.m. During executive session, the committee discussed options for disposition of case # 09-12.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Licensee's license expired on February 28, 2009 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)(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 responded to one call and provided emergency medical treatment while Licensee's license was expired.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee received a Massachusetts and Maine license from the same course. Because the Massachusetts license expired in March 2009, the Licensee assumed his Maine license would expire at the same time;
- This was the first renewal for this license;
- Licensee self-reported the violation;
- The violation would not have been detected by Maine EMS but for Licensee's self report;
- Licensee was licensable at the time of the incident;
- Licensee was remorseful and accepted responsibility;
- Licensee was honest and forthright with the committee;
- There was no known compromise of patient care; and
- Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommends that this case be resolved with a Letter of Guidance to be maintained in Licensee's file for six years.

The Committee will consider case # 09-12 resolved and closed upon the ratification by the Board of the Letter of Guidance. (Metayer; Hand - motion carries).

7. CASE # 09-38 - Licensee present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-38. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(F) to discuss matters confidential by statute and to conduct an informal conference concerning case # 09-38. (Leach; Knowlton – motion carries). The committee entered executive session at 2:55 p.m. and exited at 3:15 p.m. During executive session, the committee discussed options for disposition of case # 09-38.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on June 30, 2009 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)(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 emergency medical treatment to patients while Licensee's license was expired.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee self reported;
- Licensee forthright and cooperative with the Committee;
- Licensee assumed responsibility;
- This was Licensee's first renewal as a Basic EMT; and
- There are extremely limited resources for Licensee and Service.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement that includes a reprimand.

The Committee will consider case # 09-38 resolved and closed upon the ratification by the Board of the Consent Agreement and execution of the Consent Agreement 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) (Metayer; Knowlton - motion carries).

APPLICATIONS:**1. Wendy Enman – Informal Review**

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Applicant's failure to disclose on her application of May 28, 2009, convictions for Negotiating A Worthless Instrument from July 1990, March 1997, January 1999 and December 2001, violates Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(1) – Obtaining a license or certification by fraud, by deceit, by misrepresentation, or by concealing material facts.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Applicant was given a list of examples of convictions to disclose on her application at her Integrated Practical Exam. According to Applicant, the crime of Negotiating a Worthless Instrument was not listed on this list.

RECOMMENDED ACTION:

The Investigation Committee recommends that the case be resolved by issuing the license with a Letter of Guidance to be maintained in Applicant's licensing file for seven years.

The Committee will consider case resolved and closed upon the ratification by the Board. (Leach; Hand - 3 in favor, 1 opposed - motion carries).

2. James Norton – Informal Review

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board issue applicant's license subject to a Consent Agreement.

[Note from legal counsel: Need to clarify basis of violation.]

Aggravating Circumstances:

- Applicant's conduct underlying the convictions was alcohol related.

Mitigating Circumstances:

- Applicant submitted a letter of recommendation from the Safety Coordinator for the City of Lewiston., where Applicant is employed.

RECOMMENDED ACTION:

That this case be resolved by issuing Applicant a license subject to a seven year Consent Agreement, that includes the following terms and conditions:

- 1) The Applicant will report to Maine EMS any criminal charges filed against Applicant in any state or federal court within 10 days of charges being docketed. If criminal charges are filed against Applicant in any state or federal court, Applicant will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Applicant can show good cause as to why the license should continue pending the investigation.

The Committee will consider case resolved and closed upon the ratification by the Board of the Consent Agreement and execution of the Consent Agreement by the parties. (Doughty; Hand - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent