

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, DECEMBER 1, 2010
CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON JANUARY 5, 2011
MEETING MINUTES**

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

Staff: Dawn Kinney and Alan Leo

Board:

AAG: Laura Yustak Smith, AAG

1. **Call To Order:** The meeting was called to order at 09:10 a.m.
2. **Business:** The Committee held informal conferences on case numbers 10-53, 10-29, 10-45, 10-44, 10-61, 10-47, and 10-24, and made the recommendations outlined below.
3. **Additions to agenda:** The Committee reviewed case numbers 10-28 and 08-10 and made the recommendations outlined below.
3. **Applications:** The Committee held informal review on an application for Kevin Fogarty and made the recommendation outlined below.
4. **Other:** None
5. **Next Meeting:** The next meeting is scheduled for Wednesday, February 2, 2011 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 3:00 p.m.

COMPLAINT/INVESTIGATIONS CASE

1. CASE # 10-28 – Licensee not present

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board resolve case # 10-28 by dismissing the complaint as there was no violation of any of the Maine EMS Rules. The complaint was based upon information Maine EMS received concerning an ambulance call that the service responded to.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Service was cooperative with regional quality assurance review of the ambulance call; and
- Service provided additional training to the provider of the ambulance call; Prehospital Trauma Life Support, Pediatric Education for Prehospital Professionals, Maine Instructor/Coordinator Intermediate Course and in-service education on how to handle the same situation, if it should occur in the future.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal.

The Committee will consider case # 10-28 resolved and closed upon the ratification by the Board of its dismissal. (Metayer; Knowlton - motion carried).

2. CASE # 08-10 – Licensee not present

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that Maine EMS Staff send a letter to Licensee, stating that if she were ever to reapply or submit a new application for licensure that this case would be reopened. This Licensee was sent a consent agreement on September 10, 2010, stipulating that the Licensee never apply for any type of Maine EMS license. The Licensee sent an e-mail to staff stating that she was advised not to sign the consent agreement, does not plan to appeal the decision of the board, and she has no intention of ever applying for another license. (Metayer; Knowlton - motion carried).

INFORMAL CONFERENCES**1. CASE # 10-53- Licensee present**

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 number 10-53. (Doughty; Knowlton – motion carried). The committee entered executive session for the purpose of reviewing investigation and discussing case 10-53. The committee entered executive session at 9:10 a.m. and returned to public session at 9:30 a.m. During executive session, the committee discussed options for disposition of case number 10-53.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that this case be tabled until February 2011 in order to afford the department: (1) Until Jan 1, 2011 to start being compliant with reporting all new run reports within three (3) business days in accordance with Maine EMS Rules, Chapter 3 § 9, (dated October 1, 2009), (2) Until February 1, 2011, to work with staff to enter all old data; and (3) Until February 1st to develop a policy to assure future compliance of run reporting. (Doughty; Hand – motion carried).

2. CASE # 10-29 – Licensee present.

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 number 10-29 (Doughty; Knowlton – motion carried). The committee entered executive session for the purpose of reviewing investigation and discussing case 10-29. The committee entered executive session at 9:35 a.m. and returned to public session at 10:40 a.m. During executive session, the committee discussed options for disposition of case number 10-29.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-29 by offering the licensee a consent agreement with conditions. The complaint was based upon the licensee's abandonment or neglect of a patient requiring emergency medical treatment in violation of Maine EMS Rules: Ch.11§ 1(5) "Acting in ways that are dangerous or injurious to the licensee or other persons"; Chapter 11 § 1(14) "Violation of any standard established in the profession"; Chapter 11 § 1 (21) "Acting negligently or neglectfully when caring for or treating a patient"; and Chapter 11 § 1 (36) "Abandonment or neglect of a patient requiring emergency medical treatment".

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee was forthright and remorseful with the Committee;
- Licensee completed the following courses; Prehospital Trauma Life Support; Pediatric Education for Prehospital Professionals; Maine Instructor/Coordinator; Instructed to the service the importance of patient assessment and dealing with minors; and a Maine Intermediate Course. Licensee will send copies of all course completion certificates to Maine EMS staff; and
- Licensee submitted one letter of recommendation.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by offering a consent agreement which includes the following specific condition:

- 1) The Licensee shall have a ten (10) day suspension which will start after ratification of the Board and execution of the Consent Agreement by all parties.

The committee will consider case # 10-29 resolved and closed upon the ratification by the Board of the recommended consent agreement and its execution by all parties. If these conditions are not met, the committee recommends that the Licensee be notified of its right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rules, Chapter 12, § 1 (4)(B) (Doughty; Metayer - motion carried).

3. CASE # 10-45 – Licensee present. Rick Doughty recused himself

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 # 10-45. (Metayer; Hand-motion carried).The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-45 The committee entered executive session at 10:45 a.m. and returned to public session at 11:10 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-45.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board resolve case # 10-45 by dismissing the complaint with a Letter of Guidance, based upon the service allowing an unlicensed provider to respond on their behalf and provided emergency medical treatment on one call at a time when the Licensee's license was expired (the Licensee's license expired on July 31, 2010). The Board could find the Service in violation of Maine EMS Rules (dated October 1, 2009) 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.”

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee was forthright and cooperative with committee;
- Licensee will update their policy approved by Maine EMS staff to prevent reoccurrence;
- Licensee does not bill; and
- Single incident; and

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal with a letter of guidance as the conduct does not rise to the level of disciplinary action to be maintained in Licensee’s file for three (3) years.

The Committee will consider case # 10-45 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Metayer; Hand; - motion carried).

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 # 10-44 and 10-61. (Doughty; Knowlton – motion carried). The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-44 and 10-61. The committee entered executive session at 11:20 a.m. and returned to public session at 11:50 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-44 and 10-61.

4. **CASE 10-44 - Licensee present.** Rick Doughty and Paul Knowlton both disclosed that they know the Licensee on a professional basis, but stated that this knowledge would not affect their ability to decide the matter impartially based only on the information provided to them by EMS staff.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-44 by entering into a consent agreement based upon the service allowing an unlicensed provider to respond on their behalf and provided emergency medical treatment on twenty eight (28) calls at a time when the Licensee’s license was expired (the Licensee’s license expired on July 31, 2010) in violation of Maine EMS Rules (dated October 1, 2009) 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”.

Aggravating Circumstances:

- Length of time of the unlicensed provider; and
- The amount of calls with an unlicensed provider.

Mitigating Circumstances:

- Licensee was forthright and cooperative with committee;
- Licensee self reported;
- Licensee reimbursed all amounts billed, which was a substantial amount;
- Licensee lost considerable finances for overtime expense; and
- Licensee has a very proactive policy to prevent further occurrence.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by offering a consent agreement which includes the following specific conditions:

- 1) A fine of \$100.00 per violation for a total of \$2,800.00 with all but \$100.00 suspended. The fine will be due at execution of the consent agreement.
- 2) A Reprimand.

The committee will consider case # 10-44 resolved and closed upon the ratification by the Board of the recommended consent agreement and its execution by all parties. If these conditions are not met, the committee recommends that the Licensee be notified of its right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rules, Chapter 12, § 1 (4)(B) (Doughty; Metayer - motion carried).

5. **CASE 10-61 - Licensee present.** Rick Doughty and Paul Knowlton both disclosed that they know the Licensee on a professional basis, but stated that this knowledge would not affect their ability to decide the matter impartially based only on the information provided to them by EMS staff.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-61 by entering into a consent agreement based upon the service allowing an unlicensed provider to respond on their behalf and provided emergency medical treatment on one (1) call at a time when the Licensee's license was expired (the Licensee's license expired on July 31, 2010) in violation of Maine EMS Rules (dated October 1, 2009) 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."

Aggravating Circumstances:

- Length of time of the unlicensed provider; and

Mitigating Circumstances:

- Licensee was forthright and cooperative with committee;
- Licensee self reported;
- Licensee reimbursed the amounts billed;
- This is a single incident; and
- Licensee has a proactive policy to prevent further occurrence.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by offering a consent agreement that includes a reprimand.

The committee will consider case # 10-61 resolved and closed upon the ratification by the Board of the recommended consent agreement and its execution by all parties. If these conditions are not met, the committee recommends that the Licensee be notified of its right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rules, Chapter 12, § 1 (4)(B) (Doughty; Metayer - motion carried).

6. CASE 10-47 – Licensee present.

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 # 10-47. (Doughty; Knowlton – motion carried). The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-47. The committee entered executive session at 12:05 p.m. and returned to public session at 1:05 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-47.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board resolve case # 10-47 by dismissing the complaint with a Letter of Guidance, based upon the underlying conduct of the 2009 conviction for Reckless Conduct (Class D) in violation of 17-A M.R.S.A. § 211 (1).

Aggravating Circumstances:

- Extent of injuries; and
- The operation of a water craft as reflected in reports and statements.

Mitigating Circumstances:

- Licensee was cooperative with staff and Committee; and
- Licensee was already sanctioned by the Criminal Justice System.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal with a letter of guidance as the conduct does not rise to the level of disciplinary action to be maintained in Licensee's file for three (3) years.

The Committee will consider case # 10-47 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Metayer; Hand; - motion carried).

7. CASE # 10-24 – Licensee present.

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 # 10-24. (Doughty; Knowlton – motion carried). The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-24. The committee entered executive session at 2:15 p.m. and returned to public session at 2:30 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-24.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board resolve case # 10-24 by issuing the license and offering the licensee a consent agreement. The complaint was based upon the March 2010 conviction for Operating Under the Influence and a March 2009 Harassment by Telephone that was disclosed on the upgrade to Paramedic application dated October 20, 2010. The conduct underlying the OUI conviction violates Chapter 11 §1(5) (“Acting in ways that are dangerous or injurious to the licensee or other persons”).

Aggravating Circumstances:

- Blood Alcohol level was twice the legal limit.

Mitigating Circumstances:

- Licensee was forthright and cooperative with the Committee;
- Licensee was remorseful;
- Licensee participated in counseling; and
- Licensee provided (2) two positive references.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by issuing the license and offering the Licensee a consent agreement for (6) six years, which includes the following specific conditions:

- 1) Licensee will notify Maine EMS within (10) ten days if there are criminal charges filed in any state or federal court. If criminal charges are filed against Licensee in any state or federal court, Licensee will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Licensee can show good cause as to why the license should continue pending the investigation; and
- 2) A Reprimand.

The committee will consider case # 10-24 resolved and closed upon the ratification by the Board of the recommended consent agreement and its execution by all parties. If these conditions are not met, the committee recommends that the Licensee be notified of its right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rules, Chapter 12, § 1 (4)(B) (Metayer; Knowlton - motion carried).

APPLICATIONS:**1. Kevin Fogarty– Informal Review – Applicant present.**

Application for Initial Licensure: After discussion, Metayer moved to recommend that the Board grant Mr. Fogarty's application for initial licensure and issue him a letter of guidance based upon his 2006 Operating After Suspension (OAS) and Leaving the scene of a Motor Vehicle Accident, and a 2008 and 2009 OAS that applicant disclosed on his application for a new license.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Applicant was forthright, accepted responsibility, and cooperated with the committee.

RECOMMENDED ACTION:

The Investigation Committee recommends that the Board find that this conduct did not rise to the level of misconduct sufficient to merit disciplinary action, and recommends that the license be issued with a letter of guidance to be maintained in Applicant's licensing file for three years.

The Committee will consider case resolved and closed upon the ratification by the Board. (Metayer; Hand - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent