

STATE OF MAINE  
DEPARTMENT OF PUBLIC SAFETY  
MAINE EMERGENCY MEDICAL SERVICES  
152 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

JANET T. MILLS  
GOVERNOR

MICHAEL SAUSCHUCK  
COMMISSIONER

J. SAM HURLEY  
DIRECTOR

BOARD OF EMS MEETING  
SEPTEMBER 2, 2020  
9:30 AM  
VIA ZOOM  
MINUTES

Members Present: Nate Allen, Tim Beals, Joe Conley, Heidi Cote, Laura Downing, Amy Drinkwater, Judy Gerrish, Joe Kellner, Rich Kindelan, Brent Libby, John Martel M.D., Julie Ontengco, Dennis Russell, Steve Smith, Scott Susi, Matt Sholl M.D. (ex-officio), Kate Zimmerman D.O. (ex-officio)

Staff: Christopher Azevedo, Sam Hurley, Marc Minkler, Jason Oko, Melissa Adams, Jessica Ricciardelli, Griffin Bourassa, Darren Davis, Katie Johnson (Assistant Attorney General)

Stakeholders: Janet Sortor, Joe Cassidy, Don Sheets, Tim, Andrew Gagnon, Lisa Larson, Eric Wellman, Joanne Lebrun, Lisa Larson, Elizabeth Stivers, Rick Petrie, Matt Siviski, Benjy Lowry, Aiden Koplovsky, L'easa Blaylock, Paul Hughes, Brian Chamberlin, Debbie Morgan, Jay Bradshaw, Chief MacDonnell, Stephanie Cordwell, Benjamin Zetterman, Sean Tuemmler, Lisa Larson, Mike Senecal, Travis Noseworthy

Call to order 9:30

1. Introductions
2. Disclosure of any conflicts of interest  
Dennis Russell recuses himself from the I/C discussion  
  
Steve Smith recuses himself from the I/C discussion.
3. Modifications to the agenda  
Waiver of license expiration date
4. Meeting Minutes  
*MOTION: To accept the August 5<sup>th</sup> Board meeting minutes as amended.  
Made by: Russell Seconded by: Libby*

● Excellence ● Support ● Collaboration ● Integrity ●

PHONE: (207) 626-3860

TTY: (207) 287-3659

FAX: (207) 287-6251

With offices located at the Central Maine Commerce Center, 45 Commerce Drive, Suite 1, Augusta, ME 04330

*Roll Call Vote: (Yes): Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*  
*No: (0)*

5. Director's Report

Mr. Hurley

a. Staffing

Mr. Hurley states that there are no staffing changes or updates at this time.

b. Budget

There was an ask from the Governor's office for a 10% curtailment. The office was able to move some expenses on to grant funding from other sources with new provisions which allowed us to meet our curtailment.

c. Legislation

We have some draft department bills that we're working on.

Act to Enhance Access to Healthcare through Community Paramedicine- Some home health care organizations have reached out regarding the utility of using paramedics to expand their capacity with Community Paramedicine. This will allow organizations to become EMS agencies even if they don't provide 911 services specifically to offer Community Paramedicine service.

Act to Enable Emergency Temporary Suspensions- This is to safeguard public safety. As of right now there is no mechanism in place to suspend a vehicle, agency or individual if they commit a crime or do something that threatens public safety. This act would allow the Commissioner of the Department of Public Safety to issue a temporary suspension of a license or entity covered under Maine EMS for a period of no longer than 15 days. It will require that we schedule a hearing with the Board within five days.

An Act to License a person who is operating EMS vehicles- This is to ensure that the persons operating the vehicle have been properly trained to do so.

An Act Concerning Reporting and Healthcare Information. This is a continuation of LD 1996, this was not heard on the floor of the legislature prior to them adjourning in March. Therefore, it needs to be presented again to a new Legislature.

The last piece of legislation is codifying Maine EMS or the Boards ability to designate healthcare facilities as Time Sensitive Emergency Treatment Centers. Currently under our trauma plan we have the ability to designate level one and level two trauma centers throughout the state. This act would give us the authority to designate these facilities and we would be coming into alignment with most other states that have robust trauma systems.

6. Public Comments

Mr. Petrie (Director of Atlantic Partners EMS, and Chair of the State Trauma Advisory Committee) He requests that the board thoroughly vet the legislation

that the Maine EMS Office is putting out. He agrees with the proposed legislation regarding the drivers, however he wants to make sure the Board is careful regarding legislation that would inadvertently not allow the emergency driving situations that are sometimes encountered

Mr. Petrie requests the Board consider a thorough vetting of the Trauma Center legislation with the interested parties. He is requesting that all the stakeholder groups be contacted so that they can be a part of this process. Trauma centers; asking the board to consider a thorough vetting of that with interested parties, there are national processes in place to

Joe Cassidy (President of SMCC) He respectfully requests that the Board table the IC agenda item. He states that he would like an opportunity to have a conversation with the Board and to work together on IC requirements

7. Medical Directors Report

a. MDPB- Dr. Sholl

The MDPB continues to meet on the third Wednesday of each month as well as the second and fourth Monday of each month.

MDPB continues to work protocols. At this point we they have finished the brown, grey, black and blue sections. They have starting the red section and the upcoming topics are gold, green, pink and orange.

We have initiated protocol discussion forums including one on August 6<sup>th</sup> where we had 5-10 participants and we have another one September 10<sup>th</sup>.

We have a plan in place to address the Jackman Pilot project. We are actively with Dr. Busko and we are awaiting some information from him.

b. TAC- Dr. Zimmerman

TAC is working on disseminating mild traumatic brain injury guidelines

We are also looking at our process of recruiting membership and possibly drafting some bylaws.

Mr. Kindelan requests that the Board observe a moment of silence for Firefighter/Paramedic Chris Fabian from Portland Fire who passed earlier in the week. Moment of silence is observed.

Mr. Kellner request that the Instructor Coordinator agenda item is addressed out of order due to the the amount of people from SMCC that have joined the meeting today.

Mr. Azevedo presents:

The Education Committee has been discussing the depth and definition of supervision regarding the Instructor Coordinator position. There are two perspectives regarding the term supervision in the Maine EMS rules and the training center documents, stating that all EMS courses leading to licensure must be supervised by a licensed instructor/coordinator.

The historic interpretation of the Maine EMS office is that it is a requirement that a Maine licensed I/C be present, either in the class or available immediately in the facility during course hours when any EMS course is being conducted.

The second interpretation is that the verbiage reads “supervision” and there are many different levels of supervision and it is not specifically delineated which level of supervision that entails.

The Office is asking the Board to provide some clarification and put a definition to supervision.

*MOTION: To table the I/C coordinator supervision agenda item.*

*Made by: Beals; Seconded by: Conley*

*Roll Call Vote: (Yes:12): Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Martel, Ontengco, Susi*

*No: (1) Libby*

*Recusals (2): Russell, Smith*

d. Committee Updates

Data Committee – Jason Oko

Ran into some technical issues last month; we are actively working to get interviews for the Data Committee positions rescheduled and we’ll hope to have recommendations at next meeting.

We’ve been working on several items for the swabbing campaign. We have been working on an application so that services can apply online.

QA/QI Committee

The Newsletter is almost ready for distribution.

Darren and Sam are working on the next QI newsletter, which is a cardiac arrest themed newsletter. There are components in this that also incorporate EMD centers as well.

The QI Committee is requesting that the Board authorize the QI Committee to use 2019 EMD data reports which should be submitted by September 18<sup>th</sup>, 2020

*MOTION: To authorize the QI Committee to use 2019 EMD data reports which should be due by September 18<sup>th</sup>, 2020*

*Made by: Libby; Seconded by: Russell*

*Roll Call Vote (15): Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No:0*

#### CP Committee

The Community Paramedicine Committee has been working on guidelines, they are almost completed the next step is formatting them.

The goal is to have a completed product by October. We would like to present the finished product to MDPB by January, 2021.

Exam Committee- Chris Azevedo

The Exam Committee did not meet last month, they will meet again in September.

Education- Brian Chamberlin

The last meeting was spent working on reviewing who is working on what with the protocols in conjunction with the MDPB.

Moving forward the Committee is hoping to dive into the training center document as well as other Maine EMS programs that have not been revised for some time.

EMD- Melissa Adams

EMD- The EMD Committee has not met, have not met; we have had a change in membership; the committee has posted an advertisement for PSAP position and the application deadline is September 18<sup>th</sup>.

Investigations – Tim Beals

Amy Drinkwater has filled the investigations committee void that Brad Chicoine has left.

LD2105- Joe Kellner

There is a survey that has been released and we are currently trying to get that data together.

We will likely have several more meetings and he encourages any interested stakeholders to participate with the goal to report out to the legislature when they are back in session.

EMSC- Marc Minkler

The EMSC Committee has not met since the last Board meeting. The EMSC program has submitted it's final annual report to HRSA as well as an update on our progress and activities over the last year.

We submitted a request for carryover, 17,000 in funds that were not utilized last year. We have requested to use that for pediatric education coordinator programs

Joe Kellner (Chair) proposes a break for the Board from 11:05 to 11:10

1. Investigations

Mr. Kellner would like to indicate that on case 20-120 the purpose for the decision was racially disparaging remarks, however, the real issue at hand was the threats to do harm to patients in the future.

Mr. Kellner also case 20-122 the minutes should reflect that the committee voted to issue an emergency suspension of the licensees' license

*MOTION: To approve the minutes from the August 24<sup>th</sup>, 2020*

*Investigations Committee meeting as amended.*

*Made by: Beals Seconded by: Gerrish*

*Roll Call Vote: Yes: Beals, Conley, Gerrish, Kellner*

*No: (0)*

*Abstention: (1): Downing*

Informal Review- Case 20-113

**Summary 20-113:** Applicant with criminal conviction for OUI in 2019

***The investigation committee's recommendation is to issue the applicants license with a letter of guidance, citing the importance of conduct becoming of an EMS clinician.***

***The letter of guidance will remain on file for two licensing cycles.***

*MOTION: To accept the Investigation Committee's recommendation.*

*Made by: Russell Seconded by: Smith*

*Roll Call Vote: (Yes:15): Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*(No):0*

Informal Conference- Case 20-114

**Summary 20-114:** Licensee alleged to have lied on the licensing application, denying action taken against their EMS license in another jurisdiction. Review of the investigations and action taken against the clinician's license in Indiana for performing invasive skills beyond their current scope of practice, and Massachusetts for impersonating an EMT and altering patient care reports.

***The Investigations Committees recommendation is to resolve the case by offering a consent agreement revoking the license, citing violations of Maine EMS Rules Chapter 118 1.1., Chapter 118 1.5, and Chapter 118 1.14. As well as an emergency suspension by the Board.***

*MOTION: To offer a consent agreement for revocation of the licensees' license.*

*Made by: Libby; Seconded by: Kindelan*

*Roll Call Vote: (Yes: 14): Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Smith, Susi*

(No): 0  
(Recusal): (1) Russell

Informal Review- Case 20-120

**Summary 20-120:** Applicant allegedly posted a racially charged rant on social media with threats of doing harm to patients.

***The Investigations Committees recommendation is to issue a preliminary denial on the grounds of Maine EMS rules Chapter 11§1.5 and Chapter 1 §1.14***

*MOTION: To enter executive session pursuant to 1. M.R.S § 405(6)(E) & (F) for the purpose of reviewing confidential material and receive advice from our attorney.*

*Made by: Kindelan; Seconded by Ontengco*

*Roll Call Vote: (Yes:15) Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*NO: (0)*

**Enter executive session at 11:38 AM**

*MOTION: To exit executive session.*

*Made by: Libby; Seconded by: Drinkwater*

*Roll Call Vote: (Yes: 15) Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No: (0)*

**Exit executive session at 11:52 AM**

*MOTION: To accept the Investigation Committees recommendation.*

*Made by: Kindelan Seconded by: Susi*

*Roll Call Vote: (Yes:13): Allen, Beals, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Smith, Susi*

*(No)2: Conley, Russell*

Informal Review- Case 20-117

**Summary 20-117:** Applicant disclosed a 2013 criminal conviction for misdemeanor indecent exposure stemming from an incident with a coworker while on duty in the relevant profession. Review of disciplinary action taken against the applicant's license related to this incident in Texas, and in New Hampshire for non-disclosure of this incident during the licensing process.

***The Investigations Committees recommendation is to issue a preliminary denial on the grounds of Maine EMS Rules Chapter 11§ 1.4 and Chapter 11§ 1.5 without evidence of sufficient rehabilitation to warrant the public trust.***

*MOTION: To accept the Investigation Committee's recommendation.*

*Made by: Cote Seconded by: Drinkwater*

*Roll Call Vote: (Yes:15) Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No:(0)*

Informal Conference- Case 20-116

**Summary 20-116:** Licensee allegedly failed to care for and treat a patient.

*The Investigations Committees recommendation is to offer a consent agreement issuing the licensee a reprimand; citing violations of Maine EMS Rules Chapter 11 (ss) 1.14, (ss)1.21, (ss)1.22.a, (ss)1.22.b, (ss)1.37; requiring the licensee to complete an approved educational course on documentation within three months and submit a certificate to the Maine EMS office; requiring the licensee to prepare and instruct a CEH program for personnel at her service, approved by the Maine EMS Education Coordinator, developed within three months and delivered within six months; and requiring a 100% QA/QI review of all the licensee's PCRs for a period of one year, conducted by a qualified individual not related to a service where the licensee is employed. The reviewer must be approved by Maine EMS staff, and the reviewer will report to the EMS office monthly and provide a final summary at the end of the one year review period. All associated costs will be the burden on the licensee.*

*MOTION: To accept the Investigations Committee's recommendation with the addition of a 90 day suspension of the individuals license. 12 months of QA/QI review would begin after the suspension.*

*Made by: Libby Seconded by: Martel*

*Roll Call Vote: (Yes:13) Allen, Beals, Conley, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Smith, Susi*

*No: (0)*

*Recusals: (2) Cote, Russell*

#### Criminal Delegation Matrix

The Investigations Committee submitted a new draft for consideration of criminal convictions and the licensing process. The new delegation matrix was the recommendation of the investigations committee to redefine the matrix and bring everything to investigations rather than delegating the authority to issue a letter of guidance or issue a license.

Within the new matrix, delegation to Maine EMS to issue licenses or letters of guidance is reserved only for convictions greater than ten years which also doesn't have related conduct that can be considered.

***The Investigations Committee made a motion to present the new criminal conviction delegation to the Board for approval***

*MOTION: To accept the Investigation Committee's recommendation.*

*Made by: Beals; Seconded by: Smith*

*Roll Call Vote: (Yes:15) Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No: (0)*

#### Case 20-097

**Summary 20-097:** Licensed first responder agency stopped response to all medical calls without notifying the public.



Mrs. Johnson reviewed the case with the Board reminding them that in June the Board offered a consent agreement with a reprimand to the service and a \$1,500 fine for each of the 32 incidents, for a total of \$48,000.

The Agency has now requested reconsideration noting that the agency has not had any previous violations and that the town made the decision in order to keep its fire department intact. The town request of the Board is to reduce the fine to \$100 per violation for a total of \$3,200. Mrs. Johnson stated that if that change is made the town will enter into a consent agreement.

*MOTION: To reconsider the fine levied against the town.*

*Made by: Beals; Seconded by: Kindelan*

*Roll Call Vote: (Yes:13) Allen, Beals, Conley, Cote, Downing, Drinkwater, Kellner, Kindelan, Libby, Martel, Russell, Smith, Susi*

*No: (0)*

Mr. Kellner makes a motion to counteroffer.

*MOTION: To offer a \$250 fine per incident for the 32 incidents for a total of \$8,000 in addition to any other terms in the original motion.*

*Made by: Kellner; Seconded by: Susi*

*Roll Call Vote: (Yes:15) Allen, Beals, Conley, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No: (0)*

Case 20-122

1. **Summary Case 20-122:** A licensee allegedly violated Maine EMS Pre-Hospital Treatment Protocols regarding physical restraint and administration of controlled substances.

Mrs. Johnson presented the case.

This case concerns a paramedic, and we are bringing it to the Boards attention because it might warrant consideration for potential emergency suspension.

The paramedic has two prior consent agreements with the Board. In September 2015 he signed a consent agreement for a reprimand after he administered fentanyl to a patient when he had not completed the training and licensing requirements to practice at the paramedic level.

In April 2017 he entered into a second consent agreement in which he surrendered his paramedic license for not following protocols in administering a sedative to a patient and not properly documenting the administration of that medication. The consent agreement allowed him to work at the Advanced EMT level until he completed paramedic training program and the Boards cognitive exam and PSE. In January of 2020 he was relicensed as a paramedic.

The Licensee responded to a motor vehicle crash for a male patient complaining of back pain. The provider documented that the patient became combative, but he failed to assess the patient for this acute change in mental status or to follow protocol in providing treatment for this condition. The provider failed to use or document de-escalation techniques, utilize law enforcement, or to notify online medical control (OLMC), before

physical restraint of the patient and then administration of Medazolam as a means of chemical restraint. The provider failed to contact online medical control, despite several indicators that the patient was unstable, prior to multiple administrations of Fentanyl for pain control. When inconsistent administration of Fentanyl failed to control the patient's pain, the provider administered Ketamine without consulting OLMC. The provider failed to recognize or act on the patient's history of suboxone use as another indicator for careful consideration of and/or contacting OLMC prior to administering any one of these three respiratory depressing medications.

*MOTION: To proceed with an emergency suspension of his license which will be active for 30 days.*

*Made by: Libby; Seconded by: Beals*

*Roll Call Vote: (Yes: 11) Allen, Beals, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Russell, Susi*

*No: (2) Conley, Downing*

*Abstention: (2) Ontengco, Smith*

Mrs. Johnson states that if the Board chooses, they can consider a consent agreement to offer the licensee in an effort to resolve this case.

*MOTION: To offer a consent agreement, citing violation of Maine EMS Rules Chapter 3 §11(1)14 and §11(1)22.a., that would permanently reduce the Licensee's level to EMT.*

*Made by: Libby; Seconded by: Susi*

*Roll Call Vote: Yes:(11) Allen, Beals, Cote, Downing, Drinkwater, Gerrish, Kellner, Kindelan, Libby, Martel, Susi*

*No: Conley, Russell*

## 2. Old Business

## 3. New Business

### a. Maine EMS Bulletins

MR. Kellner states that there was a request by a few members of the Board to discuss the process by which bulletins are released; specifically related to the timing of such bulletins

Mr. Libby requests that that if bulletins need to go out, that they are disseminated to the Board and service leadership before it goes out to the licensees. Mr. Russell & Mr. Kindelan echoed the same sentiments.

Director Hurley states that the bulletin was released as soon as the Maine EMS Office received approval from the CDC; the bulletin was not withheld purposefully withheld until late in the day on a Friday.

Director Hurley stated that the Maine EMS office an use a tiered approach to future bulletins where a message goes to the Board and service chiefs before it is disseminated to licensees.

The Board agrees that thirty minutes is enough time for them to receive the bulletins ahead of licensees.

- b. Instructor Requirements- taken out of turn; after MDPB Report
- c. Waiver Request for Matt Siviski  
Mr. Siviski presents his request. He is requesting a license renewal waiver pursuant to Chapter 584. He is requesting a licensure extension to the End of September or October.

Mr. Kellner reviews the waiver with the Board

- 1) Whether the person seeking the waiver took reasonable steps to ascertain the rule and comply with it? Finding: No Does this weigh in favor of granting the waiver? No
- 2) Whether the person seeking the waiver was given inaccurate information by an agent or employee of the State EMS Program. Finding: no Does this weigh in favor of granting the waiver? No
- 3) Whether the person seeking the waiver or any other individual or group would be significantly injured or harmed if the rule is not waived. Finding: yes Does this weigh in favor of granting the waiver? No
- 4) Would the waiver of the rule in this particular case pose a health or safety risk to the public at large, or a particular individual or community? Finding: no Does this weigh in favor of granting the waiver? no
- 5) Would waiver of the rule in this particular case establish a precedent that would unduly hinder the Board or Office of EMS in its administration of Maine's EMS system? Finding: yes Does this weigh in favor of granting the waiver? No

*MOTION: To deny the waiver.*

*Made by: Russell; Seconded by: Conley*

*Roll Call Vote(Yes: 13) Allen, Beals, Conley, Downing, Drinkwater, Gerrish, Kellner, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No: (0)*

Statement on Discrimination- Mr. Hurley

Mr. Hurley is asking that the Board direct the Office to develop a statement on Maine EMS anti-discrimination stance. He is asking the Board to direct the office to write this statement for consideration at the next Board meeting

*MOTION: To allow the Maine EMS Office to construct an anti-discrimination statement for consideration by the Board at the next meeting.*

*Made by: Russell; Seconded by: Beals*

*Roll Call Vote: (Yes:13) Allen, Beals, Conley, Downing, Drinkwater, Gerrish, Kellner, Libby, Martel, Ontengco, Russell, Smith, Susi*

*No: (0)*

- 4. Other
  - a. Items for next meeting agenda
    - i. Review Draft Legislation

- b. Next meeting date (October 7, 2020@ 9:30 AM)
- 5. Adjourn 12:41
  - MOTION: To adjourn.*
  - Made by: Russell; Seconded by: Smith*

Meeting End time: 2:46