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MAINE EMERGENCY MEDICAL SERVICES
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**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, FEBRUARY 9, 2011
CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON MARCH 2, 2011**

MEETING MINUTES

Members Present: Rick Doughty, Paul Knowlton, Robert Hand, and Steve Leach (11:30)

Staff: Dawn Kinney, Alan Leo, Drexell White (9:00 – 11:30), and Jay Bradshaw (12:30 – 3:00)

Office of Attorney General: Laura Yustak Smith, AAG

1. CASE # 10-52- 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 10-52. (Doughty; second by Knowlton) Unanimous.

Entered executive session at 9:10.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 9:30 a.m.

Summary: Licensee allowed an unlicensed emergency medical dispatcher to provide emergency medical dispatch service on their behalf during a period of time from October 1, 2010 to October 18, 2010. Specifically, the unlicensed dispatcher provided emergency medical dispatch service on behalf of the Licensee on twelve calls.

Aggravating Circumstances: Number of calls unlicensed dispatcher provided emergency medical dispatch services.

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Mitigating Circumstances: Licensee was forthright and cooperative with the Committee; developed a policy to prevent reoccurrence and will further revise policy to add a section on how the dispatchers will be notified of anticipated license expiration; Licensee self-reported to Maine EMS; and dispatcher was licensable at the time the license was expired.

MOTION: To recommend that the Board resolve case # 10-52 by dismissing the complaint and issuing a Letter of Guidance, to be maintained in Licensee's file for three years, based upon the Center allowing an emergency medical dispatcher to perform without a license for twelve calls. The Board could find the Center in violation of Maine EMS Rules (dated October 1, 2009); Chapter 11§(1)(3), Violating any of the provisions of 32 M.R.S.A., Chapter 2-B; Chapter 11 §(1)(13), Engaging in conduct prohibited by law: and 32 M.R.S.A. §82 (1) License required [emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter]. (Hand; second by Doughty) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-52 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

2. CASE # 10-31– 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 10-31. (Doughty; second by Knowlton) Unanimous.

Entered executive session at 9:50 a.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 10:15 a.m.

Summary: Licensee allowed an unlicensed emergency medical dispatcher to provide emergency medical dispatch service on its behalf from February 1, 2010 to March 24, 2010. Specifically, the unlicensed Dispatcher provided emergency medical dispatch service on behalf of the Licensee on two calls.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee was forthright and cooperative with the Committee; is implementing a revised policy to prevent reoccurrence; and is current with licensing and record keeping.

MOTION: To recommend that the Board resolve case # 10-31 by dismissing the complaint with a Letter of Guidance, to be maintained in Licensee's file for three years, based upon the Center allowing an emergency medical dispatcher to perform without a license for twelve calls. The Board could find the Center in violation of Maine EMS Rules (dated October 1,

2009); Chapter 11§(1)(3), Violating any of the provisions of 32 M.R.S.A., Chapter 2-B; Chapter 11 §(1)(13), Engaging in conduct prohibited by law: and 32 MRSA §82 (1) License required [emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter]. Doughty; second by Hand) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-31 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

3. CASE # 10-51 – 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 10-51. (Doughty; second by Hand) Unanimous.

Entered executive session at 10:35 a.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 10:50 a.m.

Summary: Licensee allowed an unlicensed emergency medical dispatcher to provide emergency medical dispatch service on its behalf from August 1, 2010 to September 7, 2010. Specifically, the unlicensed dispatcher provided emergency medical dispatch service on behalf of the Licensee on twenty-eight calls.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee was forthright and cooperative with committee and has implemented a policy to prevent reoccurrence.

MOTION: To recommend that the Board resolve case # 10-51 by dismissing the complaint and issuing a Letter of Guidance, to be maintained in Licensee's file for three years, based upon the Center allowing an emergency medical dispatcher to perform without a license on twenty-eight calls. The Board could find the Center in violation of Maine EMS Rules (dated October 1, 2009) Chapter 11§(1)(3), Violating any of the provisions of 32 M.R.S.A., Chapter 2-B; Chapter 11 §(1)(13), Engaging in conduct prohibited by law: and 32 MRSA §82 (1) License required [emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter]. Doughty; second by Hand) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-51 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

4. Tanya Bailey– Informal Review of new application– Applicant 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 11-02. (Doughty; second by Hand) Unanimous.

Entered executive at 11:02 a.m.

MOTION: To exit executive session. (Doughty; second by Hand) Unanimous.

Executive session ended at 11:07 a.m.

NOTE: Committee erroneously believed this matter was scheduled for informal conference, but recognized that this is a new application. Executive session is not required for review of a new application, which is conducted in public session.

Summary: On January 2, 2011, Maine EMS received an application from Tanya Bailey, who disclosed a conviction for theft in 2004. The Maine SBI Criminal History Report confirms that on February 16, 2005, Ms. Bailey was convicted of Theft by Unauthorized Taking or Transfer (Class D) and Theft by Unauthorized Taking or Transfer (Class E).

Aggravating Circumstances: None

Mitigating Circumstances: Applicant has accepted responsibility and expressed remorse; was cooperative; self-reported the conviction; and submitted several letters of recommendation.

MOTION: Given the applicant's activities over the years since the convictions, applicant has been sufficiently rehabilitated to warrant the public trust. The Committee recommends that, upon receipt by the staff of two additional letters of recommendation, the Board issue the license with a Letter Guidance, to be maintained in the file for seven years. (Doughty; second by Hand) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to this application complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

5. CASE # 09-22 – Licensee not present

MOTION: To enter executive session pursuant to 32 M.R.S.A. §92 and 1 M.R.S.A. §405(6)(E) & (F), to receive legal advice and review of confidential material concerning case numbers 09-22, and 10-41. (Doughty; second by Hand) Unanimous.

Entered executive session at 11:35 a.m.

MOTION: To exit executive session. (Doughty; second by Hand) Unanimous

Executive session ended at 11:50 a.m.

Summary: This case was reviewed by the Investigations Committee on September 1, 2010. The Board ratified the Committee's recommendation on November 3, 2010 to resolve case # 09-22 by offering the licensee a consent agreement for voluntary revocation of the license. The licensee did not sign and return the consent agreement, which had been received by licensee on December 7, 2010. The licensee has a current Maine EMS license with an expiration date of January 31, 2012.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION- To recommend to the Board to summarily revoke the license under Title 5, subsection 10004 based upon the licensee's August 2, 2010 conviction for Theft by Unauthorized Taking or Transfer. The conviction violates 32 M.R.S.A. § 90-A (5)(G), Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty. (Doughty; second by Leach) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 09-22 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

6. CASE # 10-41 – Licensee not present

Summary: On November 4, 2010, Licensee was sent a notice of a complaint regarding a pending charge of Possession of a Firearm by a Prohibited Person (Class C). During the investigation Licensee sent Maine EMS a letter and enclosed licensee's Maine EMS license. The letter indicated that licensee would like to relinquish the license. The license expires on December 31, 2012.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: To recommend that the Board accept the voluntary surrender of license in lieu of expending further resources on investigation at this time. Staff should notify Licensee that the investigation will be reopened should a new application for licensure be submitted. (Doughty; second by Knowlton) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-41 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

7. CASE 10-35 - 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 10-35. (Doughty; second by Hand) Unanimous.

Entered executive session at 12:35 p.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 1:45 p.m.

Summary: Licensee relied upon the representation of an instructor in October 2007 indicating that a 48-hour continuing education certificate was valid, despite the participants not being required to attend the class for 48 hours. After an investigation in New Hampshire, the course and certificate were deemed invalid. Licensee is currently appealing the disciplinary action proposed by the state of NH. Licensee used this certificate to renew his Maine EMS license in March 2008. NH has not provided its investigation materials to Maine EMS, will only state that it is an invalid certificate. In 2009, Licensee accepted an Advanced Cardiac Life Support card from the same instructor, again without attending a complete course, knowing the card was not valid. Licensee was disciplined by the State of Massachusetts Office of EMS (45 day suspension). Licensee used the ACLS card to support his MA licensure, but did not use it in Maine. Massachusetts EMS provided its investigatory materials to Maine EMS. Licensee submitted: a certificate of completion of a NH Department of Transportation (DOT) approved 48 hour Paramedic Refresher dated July 6, 2010; a certificate of completion of a MA (DOT) approved 48 hour Paramedic Refresher dated November 19, 2010; a certificate of completion of a 3 hour Ethics for EMS dated December 3, 2010; and certificates for 12 hours of on-line CEH's approved by the Continuing Education Coordinating Board for Emergency Medical Services dated November and December 2010.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee was cooperative with committee and staff; expressed remorse and accepted responsibility; lost employment; experienced significant financial loss; and has submitted four letters of recommendation.

MOTION: To recommend that the Board resolve case # 10-35 by entering into a consent agreement based upon the Licensee's conduct of knowingly accepting an invalid Advanced Cardiac Life Support card (MA course) in violation of Maine EMS Rules (dated October 1, 2009) Chapter 11 §(1)(14), Violation of any standard established in the profession; and losing certification required for licensure Chapter 11 §(1)(14), Losing certification, when the certification is a necessary condition of licensure (NH course). Recommended terms include: 1) A Reprimand and 2) Two consecutive sixty- day suspensions, to be served (retroactively) beginning October 19, 2010 to March 1, 2011. If Licensee does not accept the consent agreement, the committee recommends that the Board pursue disciplinary action and that Licensee be notified of the right to hearing. (Doughty; second by Knowlton) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-35 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

8. CASE 10-53 - Licensee not 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; second by Hand) Unanimous.

Entered executive session at 1:45 p.m.

MOTION: To exit executive session. (Knowlton; second by Doughty) Unanimous.

Executive session ended at 2:00 p.m.

Summary: This case was tabled in December 2010 to allow the service to come into compliance with the requirement to submit run reports within three (3) business days and to develop a policy to prevent reoccurrence. At this time, the service is 100% in compliance with run reporting and has a policy in place.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: To recommend that the Board resolve case # 10-53 by dismissing the complaint with a Letter of Guidance to be maintained in Licensee's file for three years. The complaint was based upon the service's non compliance with run reporting and could be found to be in violation of Maine EMS Rules (dated October 1, 2009) Chapter 3 § (9) - For each request for service, or for each patient when more than one patient is involved in a call, a service must complete and submit an electronic Maine EMS patient care report, as specified by Maine EMS, within three business days.(Doughty; second by Knowlton) Unanimous with one abstention (Leach)

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-53 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

9. CASE 10-59 – Licensee not 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 numbers 10-59 and 10-60. (Doughty; second by Hand) Unanimous.

Entered executive session at 2:00 p.m.

MOTION: To exit executive session. (Knowlton; second by Doughty) Unanimous.

Executive session ended at 3:00 p.m.

Summary: Former licensee's license expired on January 31, 2009, and the individual did not seek to renew or otherwise practice EMS. The individual was listed on one run report as having assisted the service on April 27, 2010. Individual applied for a new license November 2010.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: To recommend that this case be dismissed as there was no violation, because the individual does not routinely provide EMS care. (Leach: second by Knowlton) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-59 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

10. CASE # 10-60 – Licensee not present.

Summary: Service requested the assistance of an individual, formerly a licensed provider, to assist on one run on April 27, 2010.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: To recommend that this case be dismissed as there was no finding of any Maine EMS Rules violation. (Leach: second by Knowlton) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-60 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

Adjourned at 3:15 p.m. – next meeting will be April 6, 2011.