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DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
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AUGUSTA, MAINE
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**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY MARCH 6, 2013
GAMBLING BOARD ROOM, AUGUSTA,
RATIFIED BY THE MAINE EMS BOARD ON APRIL 3, 2013
MEETING MINUTES**

Members Present: Paul Knowlton (10:00 to 2:30), Tim Beals, Judy Gerrish (in at 10:00), Mike Senecal, Lori Metayer (left at 2:30), Laura Downing (left at 12:00).

Maine EMS Board Member: Nathan Contreras

Staff: Alan Leo, Dawn Kinney, Drexell White

Office of Attorney General: Lauren LaRochelle, AAG

1. CASE #12-045 – 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 12-045 (Senecal; second by Metayer) Unanimous.

Entered executive session at 9:06 a.m.

MOTION: To exit executive session. (Senecal; second by Metayer) Unanimous.

Executive session ended at 9:45 a.m.

Summary: On October 29 2012, Maine EMS received a renewal application for an EMT license. In that application the Licensee listed convictions of Negotiating a Worthless Instrument in October 2011 and of Violating a Protective Order and Violating Conditions of Release in December 2011.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee submitted two letters of recommendation; licensee had recent stress in her personal life, and licensee was cooperative with the Committee.

MOTION: The Committee recommends that the Board resolve case # 12-045 by dismissing the case with a Letter of Guidance as it does not rise to a level warranting disciplinary action. Letter of Guidance will be maintained in the file for three (3) years. (Senecal; second by Metayer) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 12-045 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

CASE 12-052 - Supervisor and Director present. Tim Beals recused himself due to a professional conflict.

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 12-052 (Senecal; second by Metayer) Unanimous.

Entered executive session at 10:00 a.m.

MOTION: To exit executive session. (Senecal; second by Downing). Unanimous.

Executive session ended at 10:45 a.m.

Summary: Maine EMS initiated a complaint concerning a licensed EMD Center. The complaint is based upon information received that alleges that a dispatcher provided Emergency Medical Dispatch (EMD) Services on sixty three (63) calls on behalf of the Center without a valid Maine EMS EMD license during the period of time between March 9, 2012, and October 30, 2012. In June 2010 this licensee entered into a Consent Agreement with the Board for a reprimand because the licensee was using an unlicensed dispatcher.

Aggravating Circumstances: Existing Consent Agreement from June 2010 for the same conduct; number of calls processed and length of time unlicensed; and the application of the policy changes that were put into effect in 2010 failed to prevent future unlicensed dispatchers.

Mitigating Circumstances: The Licensee was cooperative and accepted responsibility.

MOTION: To recommend that the Board resolve case # 12-052 by offering the Licensee a consent agreement based upon allowing an unlicensed dispatcher to provide emergency medical dispatch services on behalf of the center, in violation of Maine EMS Rules (dated October 1, 2009) 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"; Chapter 11 §(1)(13) "Engaging in conduct prohibited by law"; and 32 M.R.S.A. § 82 (1) "An...emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services Board pursuant to the chapter." (See also 32 M.R.S.A. § 85-A(3)A)). Recommended terms include a a fine of \$6,300.00 (\$100 per incident of unlicensed practice) with all but \$500.00 suspended and requiring the Center to submit a copy of the Center's policy and the checklist used to prevent unlicensed practice in the future. The fine, policy and checklist are due at the time of execution of the consent agreement. 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 a hearing. (Metayer; second by Downing) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 12-052 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

2. **CASE #12-031 – Licensee present.** Tim Beals disclosed that he knows the EMD provider that processed the Emergency Medical call on a professional basis, but stated that this knowledge would not affect his ability to decide the matter impartially based only on the information provided by EMS staff or the Licensee. Licensee had no objection to his participation. Lauren LaRoche disclosed that she was immediate family of the Judge in this case, but stated that she has not spoken of this case.

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 12-031 (Senecal; second by Metayer) Unanimous.

Entered executive session at 11:00 a.m.

MOTION: To exit executive session. (Senecal; second by Metayer). Unanimous.

Executive session ended at 11:35 a.m.

Summary: Licensee breached confidentiality on May 21, 2012, while employed as an emergency telecommunicator and emergency medical dispatcher for a Maine licensed EMD Center. On September 12, 2013 Licensee pleaded guilty to and was convicted of Disclosing Confidential, E-9-1-1 Information in violation of 25 M.R.S.A. § 2929(2).

Aggravating Circumstances: Impact on the victim by disclosing confidential information to victim's employee.

Mitigating Circumstances: Accepted responsibilities, no prior EMS violations, loss of employment, and costs associated with conviction.

MOTION: To recommend that the Board resolve case # 12-031 by offering the Licensee a consent agreement, with the following terms: 1.) A strongly worded Reprimand regarding professionalism and ethics, 2.) The conditions that if Licensee ever applies for any type of license issued by the Maine Board of EMS in the future, Licensee will provide 3 letters of reference to show that he has been sufficiently rehabilitated to warrant the public trust and proof of completing 4 hours of Privacy Protection education within 6 months of the application. The basis for the consent agreement is the licensee's conduct and conviction of Disclosing Confidential, E-9-1-1 Information. This conduct and conviction violates Chapter11 §1(2). "Violating a lawful order, rule or consent agreement of the Board"; Chapter11 §1(5). "Acting in ways that are dangerous or injurious to the licensee or other persons"; Chapter11 §1(13). "Engaged in conduct prohibited by law"; Chapter11 §1(14). "Violation of any standard established in the profession"; Chapter 11 §1(22). "Incompetent practice. A licensee or applicant shall be deemed incompetent in the practice if the licensee or applicant has:

- A. **Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client, patient, or the general public";**

32 M.R.S.A. § 90-A (5)(E) [Incompetent professional practice],(F) [violation of reasonable standard of professional behavior, conduct or practice], (G) [conviction of a crime that relates directly to the practice for which the licensee is licensed], and (H) [violation of any rule]; and 5 M.R.S. § 5301(2)(B) “Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation” for which the license is licensed. 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 a hearing. (Gerrish; second by Metayer) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 12-031 complete upon ratification by the Board of the Committee’s recommendation or other final action by the Board.

3. CASE # 12-049 – Representative of 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 12-049 (Senecal; second by Metayer) Unanimous.

Entered executive session at 12:30 p.m.

MOTION: To exit executive session. (Senecal; second by Metayer). Unanimous.

Executive session ended at 1:00 p.m.

Summary: The issue involved allowing an unlicensed provider to respond on behalf of the service to one ambulance call on September 24, 2012.

Aggravating Circumstances: Licensee had received a Letter of Guidance on January 6, 2011 for the same matter of allowing unlicensed provider to respond on their behalf.

Mitigating Circumstances: The service was cooperative and forthright, and the service understands the severity of the complaint.

MOTION: To recommend that the Board resolve case # 12-049 by offering the Licensee a consent agreement based upon allowing the practice of emergency medical treatment by a person who is not licensed, in violation of Maine EMS Rules (dated October 1, 2009) Chapter11 §1(2). Violating a lawful order, rule or consent agreement of the Board; Chapter11 §1(3). Violating any of the provisions of 32 M.R.S.A Ch. 2-B; Chapter11 §1(34) Aiding the practice of emergency medical treatment by a person who is not licensed or qualified to perform said practice, skills or treatment; and 32 M.R.S.A. § (82) which prohibits unlicensed practice, 32 M.R.S.A. § 90-A(H) [violation of rule]. Recommended terms include a Reprimand and a fine of \$100.00. Licensee will submit an updated policy for approval by Maine EMS staff to prevent reoccurrence of unlicensed practice by its providers in the future. The fine and policy will be due at the time of execution of the consent agreement. 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 a hearing. (Senecal; second by Metayer) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 12-049 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

4. CASE # 12-038- 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 12-038. (Senecal; second by Metayer) Unanimous.

Entered executive session at 1:25 p.m.

MOTION: To exit executive session. (Metayer; second by Gerrish) Unanimous.

Executive session ended at 2:25 p.m.

MOTION: To recommend that this case be tabled to the next Committee meeting to allow staff to request additional information and documentation. A recommendation for resolution of case # 12-038 will be made at that time. (Metayer; second by Gerrish) Unanimous.

5. CASE # 12-054 – 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 12-054 (Senecal; second by Gerrish) Unanimous.

Entered executive session at 2:45 p.m.

MOTION: To exit executive session. (Senecal; second by Metayer). Unanimous.

Executive session ended at 3:25 p.m.

Summary: The licensee submitted a renewal application and listed an August 25, 2009, conviction for Reckless Conduct that resulted in injury to another person. There was also some question about whether the licensee had failed to disclose this information on a prior application.

Aggravating Circumstances: None.

Mitigating Circumstances: Licensee submitted five letters of recommendations, and Licensee was remorseful, cooperative and forthright with the Committee.

MOTION: Licensee has made lifestyle changes as attested to in the five letters of recommendation, to support that Licensee has been sufficiently rehabilitated to warrant the public trust. The Committee recommends that the Board issue the renewal license with a

Letter of Guidance, to be maintained in the file for three years, that references Maine EMS's expectations of professional behavior/conduct. (Senecal; second by Gerrish) Unanimous

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 12-054 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

The Committee adjourned at 3:15 p.m.

The next Investigations Committee meeting will be on May 1, 2013 at 9:00 a.m.