

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, MARCH 17, 2010
GAMBLING BOARD CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON MAY 5, 2010
MEETING MINUTES**

Present: Paul Knowlton, Rick Doughty, and Bob Hand

Staff: Dawn Kinney and Alan Leo

Board: Tim Beals

AAG: Dennis 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 #09-50, #09-33, #10-06, #10-08, and #10-09 and made the recommendations outlined below.
3. **Additions to agenda:** None
3. **Application:** The Committee conducted a review of the initial license applications of David Rudolph and Jeff Smith, and made the recommendations outlined below.
4. **Other:** None
5. **Next Meeting:** The next meeting is scheduled for Wednesday, April 7, 2010 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 3:45 p.m.

COMPLAINT/INVESTIGATIONS CASE:

1. **None**

INFORMAL CONFERENCES:

1. **CASE # 09-50- Licensee present.**

The committee entered executive session for the purpose of reviewing investigation and discussing case #09-50. **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 # 09-50. (Doughty; Knowlton – motion carried). The committee entered executive session at 09:10 a.m. and returned to public session at 9:30 a.m. During executive session, the committee met with the Licensee and discussed options for disposition of case # 09-50.

Case Summary and Rules Violation: After discussion, Hand moved to recommend that the Board resolve case # 09-50 by dismissing the complaint with a letter of guidance. The complaint was based upon the service allowing an unlicensed provider to respond on their behalf and provided emergency medical treatment at a time when his license was expired (the Licensee's license expired on December 31, 2008) 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:

- Developed a very adequate SOG to prevent this from happening in the future;
- Licensee had the required training to renew his license prior to expiration and the chief thought he was licensed;
- This was a single event; and
- There were other licensed providers on the scene.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal with a letter of guidance to be maintained in Licensee's file for seven (7) years.

The Committee will consider case # 09-50 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Hand; Knowlton - motion carried).

2. CASE # 09-33 - Licensee present. Paul Knowlton and Rick Doughty disclosed that they knew the Licensee, 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. Licensee had no objections to their participation.

The committee entered executive session for the purpose of reviewing investigation and discussing case #09-33. 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 # 09-33. (Doughty; Hand – motion carried). The committee entered executive session at 9:55 a.m. and returned to public session at 10:55 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-33.

Case Summary and Rules Violation: After discussion, Hand moved to recommend that the Board resolve case # 09-33 by dismissing the complaint with a letter of guidance regarding interaction with patients and to reinforce his professional obligations.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee lost 14 months of employment;
- Licensee had no prior training in dealing with combative patients
- Licensee had counseling through the city;
- The evidence did not display anger or loss of control; and
- The patient was very difficult and challenging.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal with a letter of guidance to be maintained in Licensee's file for three (3) years.

The Committee will consider case # 09-33 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Hand; Knowlton - motion carried).

3. CASE # 10-06 - Licensee present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-06. **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 # 10-06. (Doughty; Knowlton – motion carried). The committee entered executive session at 11:10 a.m. and returned to public session at 12:00 p.m. During executive session, the committee discussed options for disposition of case # 10-06.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-06 by dismissing the complaint with a letter of guidance that, as an Instructor/Coordinator and licensee of the Board, the Licensee is responsible for submission of documents to the Board that accurately reflect the actual continuing education hours completed. In addition, the Licensee should communicate with the Board staff regarding any questions about category credits.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee had sufficient training to renew prior to notification of the complaint; and
- Licensee has not been an Instructor/Coordinator of record for a program for 3 years.

RECOMMENDED ACTION:

Due to the above mitigating circumstances, the Investigation Committee recommended that this case be resolved by dismissal with a letter of guidance to be maintained in Licensee's file for three (3) years.

The Committee will consider case # 10-06 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Doughty; Hand - motion carried).

4. CASE # 10-08 – Licensee present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-08. 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 # 10-08. (Doughty; Knowlton – motion carried). The committee entered executive session at 2:10 p.m. and returned to public session at 2:50 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-08.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-08 and grant the Licensee's renewal application by offering the Licensee a consent agreement based upon her unlicensed practice for responding to two calls in February, 2010, and providing emergency medical treatment at a time when her license was expired (the Licensee's license expired on January 31, 2010) in violation of Maine EMS Rules (dated October 1, 2009) 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.

Aggravating Circumstances:

- Did not have the required hours to renew her license when she provided emergency medical treatment.

Mitigating Circumstances:

- Licensee forthright and remorseful with committee;
- Licensee had a higher level provider on both calls; and
- Licensee is a student who provides volunteer service.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by granting the Licensee's renewal application by offering a consent agreement, which includes the following specific conditions:

- 1) The Licensee shall pay a fine of \$50.00 per violation for a total of \$100.00; and
- 2) The fine will be due at the time of execution of the consent agreement.

The committee will consider case # 10-08 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 her 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; Hand - motion carried).

5. CASE # 10-09 - Licensee present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-09 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 # 10-09. (Doughty;

Knowlton – motion carried). The committee entered executive session at 3:05 p.m. and returned to public session at 3:30 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 10-09.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board resolve case # 10-09 by entering into a consent agreement based upon the service allowing an unlicensed provider to respond on their behalf and provided emergency medical treatment at a time when her license was expired (the Licensee’s license expired on January 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:

- Licensee did not have a policy in place to prevent this from happening.

Mitigating Circumstances:

- Licensee has taken steps to prevent re-occurrence; and
- Licensee was forthright with committee.

RECOMMENDED ACTION:

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

- 1) The Licensee shall pay a fine of \$100.00 per violation for a total of \$200.00.
The fine will be due at the time of execution of the consent agreement; and
- 2) A Reprimand.

The committee will consider case # 10-09 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; Hand - motion carried).

APPLICATIONS:

1. David Rudolph – Informal Review

Application for Initial Licensure: After discussion, Hand moved to recommend that the Board grant Mr. Rudolph's application for initial licensure and issue him a letter of warning based upon the Licensee's criminal conviction for Operating Under the Influence (Class D), 29-A M.R.S.A. § 2411(1-A)(A), which violates Maine EMS Rules (dated October 1, 2009) Chapter 11 §(1)(5) – "Acting in ways that are dangerous or injurious to the licensee or other persons", and which constitutes grounds for the denial of licensure.

Aggravating Circumstances:

- Should have known better – criminal justice major in college and fire department employee.

Mitigating Circumstances:

- Applicant accepted responsibility was remorseful and honest;
- Applicant immediately informed the Fire Chief of the OUI;
- Applicant has shown that he has been sufficiently rehabilitated to warrant the public trust;
- Applicant has three letters of recommendation;
- Applicant has since been hired full-time as a firefighter;
- Applicant has abstained from use of alcohol; and
- There was no personal injury.

RECOMMENDED ACTION:

The Investigation Committee recommends that the case be dismissed without discipline by issuing the license with a Warning 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. (Hand; Knowlton - motion carries).

2. Jeff Smith – Informal Review

Application for Initial Licensure: After discussion, Doughty moved to recommend that the Board grant Mr. Smith's application for initial licensure by offering him a Consent Agreement for conditional licensure based upon the Applicant's criminal conviction for Operating Under the Influence (Class D), 29-A M.R.S.A. § 2411(1-A)(A), which violates Maine EMS Rules (dated October 1, 2009) Chapter 11 §(1)(5) – "Acting in ways that are dangerous or injurious to the licensee or other persons" and constitutes grounds for the denial of licensure.

Aggravating Circumstances:

- The criminal conviction itself.

Mitigating Circumstances:

- Applicant shows remorse and acceptance of the conviction;
- Applicant attended alcohol counseling program;
- Applicant has a letter of recommendation from his counselor; and
- Applicant has made lifestyle changes that were attested to by an officer of a police department.

RECOMMENDED ACTION:

The Investigation Committee recommends that the case be resolved by issuing the license with a Consent Agreement for conditional licensure to be maintained in Applicant's licensing file for (5) five years and to include the following specific condition:

The Applicant will notify Maine EMS within 10 days if he is charged in any state or federal court with any criminal violation. 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 recommended consent agreement and its execution by all 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 Rules, Chapter 12, § 1 (4)(B) (Doughty; Knowlton - motion carried).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent