

**MAINE EMS  
INVESTIGATIONS COMMITTEE MEETING  
WEDNESDAY, JUNE 2, 2010  
GAMBLING BOARD CONFERENCE ROOM, AUGUSTA  
RATIFIED BY THE MAINE EMS BOARD ON JULY 7, 2010  
MEETING MINUTES**

Present: Rick Doughty, Paul Knowlton, Bob Hand (left at 12:30 pm), Lori Metayer, and Steve Leach (arrived at 12:00 pm)

Staff: Dawn Kinney and Alan Leo

Board:

AAG: Dennis Smith, AAG

1. **Call To Order:** The meeting was called to order at 9:00 a.m.
2. **Business:** The Committee reviewed cases # 09-25 and # 10-23 and held informal conferences on cases # 09-28, # 09-29, # 09-30, # 09-48, and # 10-21, and made the recommendations outlined below.
3. **Additions to agenda:** None
3. **Application:** The Committee conducted a review of the initial license application of Adam Villalpando, and made the recommendation outlined below.
4. **Other:** None
5. **Next Meeting:** The next meeting is scheduled for Wednesday, August 4, 2010 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 4:00 p.m.

**COMPLAINT/INVESTIGATIONS CASE:**

1. **CASE # 09-25 – Licensee not present.** Licensee knew of review, and informed staff to continue.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-25. Motion: To enter executive session pursuant to 32 M.R.S.A. §92 and 1 M.R.S.A. §405(6)(E) & (F) concerning case # 09-25. (Doughty; Leach – motion carried). The committee entered executive session at 1:45 p.m. and returned to public session at 2:00 p.m. During executive session, the committee discussed options for disposition of case # 09-25.

**Case Summary and Rules Violation:** After discussion, Doughty moved to recommend that the Board resolve case # 09-48 by offering a consent agreement to the licensee. The complaint was based upon the service's alleged non compliance with run reporting 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 (3) business days"), and Chapter 11 § 1(2) ("Violating a lawful order, rule or consent agreement of the Board.").

**Aggravating Circumstances:**

- Service was out of compliance for seventeen (17) months;
- Service's failure to comply when notified of the deficiency; and

- Service's failure to comply with Investigation Committee's request in February 2010 to immediately start entering run reports into the MEMSRR system.

**Mitigating Circumstances:**

- None

**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) A Reprimand; and
- 2) A fine of \$100.00 to be paid at the time of signing.

The committee will consider case # 09-25 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; Leach - motion carried).

**2. CASE # 10-23 – Licensee not present.** Licensee knew of review, and informed staff to continue.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-23. Motion: To enter executive session pursuant to 32 M.R.S.A. §92 and 1 M.R.S.A. §405(6)(E) & (F) concerning case # 10-23. (Doughty; Leach – motion carried). The committee entered executive session at 3:25 p.m. and returned to public session at 3:45 p.m. During executive session, the committee discussed options for disposition of case # 10-23.

**Case Summary and Rules Violation:** After discussion, Doughty moved to recommend that the Board resolve case # 10-23 by offering a consent agreement to the licensee. The complaint was based upon the licensee's alleged violation of his current consent agreement by failing to list a previous conviction for Disorderly Conduct in 2005 on his renewal application, 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.").

**Aggravating Circumstances:**

- None

**Mitigating Circumstances:**

- None

**RECOMMENDED ACTION:**

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

- 1) A Reprimand;
- 2) A Fine of \$ 250.00; and
- 3) Continue the provision of section 8 (a) (i) and (ii) of the original consent agreement until 2017.

The committee will consider case # 10-23 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; Knowlton - motion carried).

**INFORMAL CONFERENCES:****1. CASE # 09-28- Licensee present.**

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-28. 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 # 09-28. (Doughty; Knowlton – motion carried). The committee entered executive session at 09:01 a.m. and returned to public session at 9:55 a.m. During executive session, the committee met with the Licensee and discussed options for disposition of case # 09-28.

**Case Summary and Rules Violation:** After discussion, Doughty moved to recommend that the Board resolve case # 09-28 by offering the licensee a consent agreement. The complaint was based upon the licensee allegedly performing Prehospital Interfacility Transfers (PIFT) skills, without having a current PIFT certification, 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”)].

**Aggravating Circumstances:**

- Multiple incidents – sixteen (16) transfers in a thirteen (13) month period.

**Mitigating Circumstances:**

- Licensee was forthright and cooperative with the Committee;
- Licensee was remorseful;
- Licensee self reported to the service;
- Licensee immediately stopped providing PIFT until certified; and
- Licensee obtained PIFT certification as soon as possible.

**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 will write an article, approved by Kerry Pomelow, Maine EMS, Education Coordinator, for the EMS Journal within a period of six (6) months following the execution of the consent agreement regarding PIFT certification requirements; and
- 2) A Reprimand.

The committee will consider case # 09-28 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).

**2. CASE # 09-29 - Licensee present.**

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-29. 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 # 09-29. (Doughty; Knowlton – motion carried). The committee entered executive session at 10:05 a.m. and returned to public session at 10:40 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-29.

**Case Summary and Rules Violation:** After discussion, Metayer moved to recommend that the Board resolve case # 09-29 by offering the licensee a consent agreement. The complaint was based upon the Service allegedly allowing a provider without a current PIFT certification to perform Prehospital Interfacility Transfers (PIFT) on their behalf, in violation of Maine EMS Rules (dated October 1, 2009) Chapter 11 §(1)(35)(“ Delegation of practice, skills or treatment to a person who is not licensed or qualified to perform said practice, skills or treatment.”).

**Aggravating Circumstances:**

- Service did not obtain a copy of the provider’s PIFT certificate; and
- Service did not have a system in place to prevent this from happening.

**Mitigating Circumstances:**

- Service was forthright and cooperative with the Committee;
- Service was remorseful;
- Service self-reported to Maine EMS;
- Service immediately stopped provider from PIFT until certified; and
- Service has a new system in place to prevent this from recurring in the future.

**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 Service will return insurance overpayment for PIFT calls;
- 2) A Reprimand;
- 3) Fine of \$50.00 per violation for a total of \$250.00 to be paid at the time of signing; and
- 4) The Service will provide Maine EMS with a copy of the policy in place to prevent re-occurrence.

The committee will consider case # 09-29 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) (Metayer; Knowlton - motion carried).

**3. CASE # 09-30 - Licensee and Attorney present.** Lori Metayer recused herself as she knew the Licensee.

The committee entered executive session for the purpose of reviewing and discussing case # 09-30. 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 # 09-30. (Doughty; Hand – motion carried). The committee entered executive session at 11:00 a.m. and returned to public session at 12:00 p.m. During executive session, the committee discussed options for disposition of case # 09-30.

**Case Summary and Rules Violation:** After discussion, Hand moved to recommend that the Board resolve case # 09-30 by offering the licensee a consent agreement. The complaint was based upon the Service allegedly allowing a provider without a current PIFT certification to perform Prehospital Interfacility Transfers (PIFT) on their behalf, in violation of Maine EMS Rules (dated October 1, 2009) Chapter 11 §(1)(35)(“ Delegation of practice, skills or treatment to a person who is not licensed or qualified to perform said practice, skills or treatment.”).

**Aggravating Circumstances:**

- Service allowed this to continue for 13 months;
- The number of instances a non-certified individual performed as a PIFT while working for the Service;
- Service did not have a system in place to prevent this from happening; and
- Service was slow in response for additional information from Maine EMS.

**Mitigating Circumstances:**

- Service self- reported to Maine EMS;

- Service immediately re-billed third party payers appropriately; and
- Service has a new system in place to prevent this from recurring in the future.

### **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) A Reprimand;
- 2) Fine of \$100.00 per violation for a total of \$900.00 to be paid at the time of signing; and
- 3) The Service will provide Maine EMS with a copy of the policy in place to prevent re-occurrence.

The committee will consider case # 09-30 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) (Hand; Knowlton - motion carried).

#### **4. CASE # 09-48 – Licensee present.**

The committee entered executive session for the purpose of reviewing and discussing case # 09-48. 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 # 09-48. (Doughty; Knowlton – motion carried). The committee entered executive session at 1:10 p.m. and returned to public session at 1:30 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-48.

**Case Summary and Rules Violation:** After discussion, Leach moved to recommend that the Board resolve case # 09-48 by dismissing the complaint with a letter of guidance. The complaint was based upon the service's non compliance with run reporting 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.”).

#### **Aggravating Circumstances:**

- None

#### **Mitigating Circumstances:**

- Service took steps to bring the run reports into current compliance;
- Service was cooperative with committee and Board staff;
- Service made an effort to locate and report backlog of reports; and
- Service established policies to ensure that run reports are timely reported to Maine EMS.

## **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 violation does not rise to the level to warrant disciplinary action. Letter of guidance to be maintained in Licensee's file for three (3) years.**

The Committee will consider case # 09-48 resolved and closed upon the ratification by the Board of its dismissal and the issuance of a letter of guidance. (Leach; Doughty - motion carried).

### **5. CASE # 10-21 - Licensee present.**

The committee entered executive session for the purpose of reviewing and discussing case # 10-21 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 # 10-21. (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 # 10-21.

**Case Summary and Rules Violation:** After discussion, Leach moved to recommend that this case be tabled until August 2010 in order to afford the department the opportunity: (1) to come into full compliance regarding run reporting of “old data”; and (2) to immediately commence compliance with reporting all new run reports within three (3) business days in accordance with Maine EMS Rules, Chapter 3 § 9, (dated October 1, 2009). (Leach; Doughty – motion carried).

## **APPLICATIONS:**

### **1. Adam Villalpando– Informal Review**

**Application for Initial Licensure:** After discussion, Leach moved to recommend that the Board grant Mr. Villalpando's application for initial licensure and issue him a letter of guidance based upon his criminal convictions for Operating Under the Influence in 2001 and 2002 and Operating After Suspension in 2006 and 2007, which violate 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:**

- None

### **Mitigating Circumstances:**

- Applicant was forthright with committee;
- Applicant has shown that he has been sufficiently rehabilitated to warrant the public trust;
- Applicant has four letters of recommendation;
- Applicant has community involvement as pastor of a church; and
- Applicant has abstained from use of alcohol for eight years.

**RECOMMENDED ACTION:**

**The Investigation Committee recommends that the license be issued together with a letter of guidance regarding the need to disclose the criminal convictions on all applications filed with the Board 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. (Leach; Knowlton - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P  
Licensing Agent