

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, JULY 7, 2010
GAMBLING BOARD CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON SEPTEMBER 1, 2010
MEETING MINUTES**

Present: Rick Doughty, Paul Knowlton, Bob Hand, Lori Metayer, and Steve Leach

Staff: Dawn Kinney and Alan Leo

Board:

AAG: Laura Yustak Smith, AAG

1. **Call To Order:** The meeting was called to order at 12:30 p.m.
2. **Business:** The Committee held an informal conference on case # 10-26, and made the recommendation outlined below.
3. **Additions to agenda:** None
3. **Applications:** The Committee conducted a review of the initial license applications of Richard Page and Franklin Barclay III, and made the recommendations 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 3:00 p.m.

COMPLAINT/INVESTIGATIONS CASE

1. NONE

INFORMAL CONFERENCES

1. **CASE # 10-26- Licensee present.**

The committee entered executive session for the purpose of reviewing investigation and discussing case # 10-26. **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 # 10-26. (Doughty; Knowlton – motion carried). The committee entered executive session at 12:35 p.m. and returned to public session at 1:55 p.m. During executive session, the committee met with the Licensee and discussed options for disposition of case # 10-26.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board resolve case # 10-26 by offering the licensee a consent agreement. The complaint was based upon the licensee's violations of a current consent agreement by excessive use of alcohol on more than one occasion, including while residing in a public safety building as part of a training program, 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) (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; Chapter 11 §

(1)(32) Habitual intemperance in the use of drugs, including alcohol, or other substances, the use of which has resulted or may result in the licensee performing his or her duties in a manner that endangers the health or safety of his or her patients; 32 MRSA § 90-A (5)(B-3), Any condition or impairment within the preceding 3 years, including, but not limited to, substance abuse, alcohol abuse or a mental, emotional or nervous disorder or condition, that in any way affects, or if untreated could impair, the licensee's ability to provide emergency medical services; and 32 MRSA § 90-A(5)(E), Incompetent professional practice as evidenced by: Demonstrated inability to respond appropriately to a client, patient or the general public; or Inability to apply principles, skills or knowledge necessary to successfully carry out the practice for which the licensee is licensed; 32 MRSA § 90-A (5)(F), Violation of any reasonable standard of professional behavior, conduct or practice that has been established in the practice for which the licensee is licensed.

Aggravating Circumstances:

- Chronic nature of substance abuse;
- Violation of consent agreement after only five (5) months from signing; and
- The incidents occurred in a facility where the public would expect to receive assistance.

Mitigating Circumstances:

- Licensee was forthright and cooperative with the Committee;
- Licensee was honest;
- Licensee attended substance abuse treatment; and
- Licensee understands the need of having public trust in EMS.

RECOMMENDED ACTION:

The Investigation Committee recommended that this case be resolved by offering the Licensee a consent agreement for six (6) years from September 1, 2010, which includes the following specific conditions:

- 1) The Licensee's EMS license will be suspended for a total of six months, effective September 1, 2010.
- 2) The Licensee will report to Maine EMS any criminal charges filed against Licensee in any State or Federal court within 10 days of charges being docketed.
- 3) The Licensee shall neither use nor possess illegal drugs or marijuana.
- 4) The Licensee shall refrain from excessive use of alcohol.
- 5) The Licensee shall take all medications as prescribed.
- 6) The Licensee shall sign any medical waivers or releases necessary for Maine EMS or its agents to confirm Licensee's compliance with the Consent Agreement.
- 7) The Licensee shall notify any EMS employers or supervisors (if licensee serves in a volunteer capacity) in Maine of the consent agreement and request the employer, supervisor to submit a quarterly report to Maine EMS regarding Licensee's job performance.

- 8) If Licensee is in counseling, Licensee will obtain a quarterly report from the counselor regarding Licensee's progress in counseling to submit to Maine EMS, and sign any release necessary to allow Maine EMS or its agents to communicate with the counselor regarding Licensee's treatment.
- 9) The Licensee shall notify Maine EMS of any changes to her contact information during the length of the consent agreement.
- 10) If Licensee violates any of the conditions of this consent agreement, Licensee will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Licensee can show good cause as to why the license should continue pending the investigation.

The committee will consider case # 10-26 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 the 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; Leach - motion carried).

APPLICATIONS

1. Richard Page– Informal Review

Application for Initial Licensure: After discussion, Doughty moved to recommend that the Board grant Mr. Page's application for initial licensure and issue him a letter of guidance based upon his failure to disclose a 2007 conviction for Violating Condition of Release (Class E) on his initial application, in response to the question: "Have you ever been convicted of any criminal offense?"

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Applicant was forthright, accepted responsibility, and disclosed other conviction information regarding older and minor convictions, cooperated with committee, and submitted several recommendations.

RECOMMENDED ACTION:

The Investigation Committee recommends that the Board find that this conduct did not rise to the level of misconduct sufficient to merit disciplinary action, as failure to disclose the subject conviction appears to have been an oversight and other criminal history is minor and/or further in the past, and recommends that the license be issued 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. (Doughty; Hand - motion carries).

1. Franklin Barclay III

Application for Initial Licensure: After discussion, Leach moved to recommend that the Board grant Mr. Mr. Barclay's application for initial licensure and issue him a letter of guidance based upon his failure to disclose 2005 convictions for Operating After Suspension and Illegal Attachment of Plates on his initial application, in response to the question: "Have you ever been convicted of any criminal offense?"

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Applicant was forthright and cooperative with committee.
- The convictions were minor and occurred five years ago.
- Letters of recommendation

RECOMMENDED ACTION:

The Investigation Committee recommends that the Board find that this conduct did not rise to the level of misconduct sufficient to merit disciplinary action, as failure to disclose the subject convictions appears to have been an oversight. The convictions at issue occurred in 2005 and were minor traffic convictions. The Committee recommends that the license be issued 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. (Doughty; Knowlton - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent