

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
THURSDAY JULY 19, 2007
CHAMPLAIN BOARD ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON SEPTEMBER 5, 2007**

MEETING MINUTES

Present: Rick Doughty, Paul Knowlton, Oden Cassidy, Carol Pillsbury,
William Montejo

Staff: Dawn Kinney, Alan Leo

Maine EMS Investigator: Karen Packard (until 10:15 am)

AAG: Laura Yustak Smith; David Morin and Ben Ford, Law Student Interns

1. Call To Order: The meeting was called to order at 9:35 a.m.

A. Additions/Deletions to the Agenda – Case #07-23 was added to the agenda as a result of additional information obtained by the investigator.

2. Complaint/Investigation Cases 07-23.

The committee entered executive session for the purpose of reviewing the investigation in case 07-23.

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A), §92(3) and 1 M.R.S.A. §405(6)(E),(F) for receiving legal advice and the purpose of discussing case 07-23. (Doughty; Knowlton - motion carries)

The committee entered executive session at 9:35 a.m. and exited at 10:05 a.m.

During executive session, the committee reviewed the status of the investigation, including additional information obtained by Investigator Karen Packard. The Committee discussed options for disposition of case 07-23.

Motion: In case 07-23, the Committee moves to recommend to the Board that it modify the current Consent Agreement to clarify that the condition requiring surrender of license in the event that new charges are filed be for the period pending investigation (i.e., not permanent) and that the modified Consent Agreement include the following conditions: Licensee will continue substance abuse counseling and sign a waiver to allow MEMS staff to receive quarterly reports and receive a 1 year suspension with all but 60 days suspended. This Consent Agreement will be for five years. The investigation 07-23 will be resolved and closed with the execution of the Consent Agreement by all parties. (Doughty; Knowlton - motion carries). ***

3. Informal Conference – Cases 07-16, 07-21, 07-15, and 07-17

A. Case # 07-16

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A)(3), §92(3) and 1 M.R.S.A. §405(6(E))(F) to receive legal advice and for the purpose of conducting an informal conference concerning case 07-16. (Doughty; Cassidy – motion carries)

The committee entered executive session at 10:15 a.m. and exited at 10:45 a.m.

During executive session, the committee met with the Licensee and discussed options for disposition of case 07-16.

Motion: In case 07-16, The Committee finds that Licensee did not violate Maine EMS Rules (dated September 1, 2006) or statute. The Committee moved to dismiss case 07-16. The Committee considers investigation 07-16 resolved and closed. (Doughty; Cassidy – motion carries).

B. Case # 07-21

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A)(3), §92(3) and 1 M.R.S.A. §405(6)(F)(E) for receiving legal advice and for the purpose of conducting an informal conference concerning case 07-21. (Doughty; Cassidy - motion carries).

The committee entered executive session at 11:05 a.m. and exited at 11:45 a.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-21.

Motion: In case 07-21, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 9§ (5)(B) Violating a lawful order, rule or consent agreement of the Board and Chapter 9§ (5)(O) Providing instruction at a level for which a person or training entity is not certified to provide. This violation is based on the Licensee providing instruction as the lead Instructor/Coordinator for an EMT-First Responder program sponsored by Aroostook Region EMS with an expired Instructor/Coordinator certification. The Committee found mitigating circumstances in that the Licensee took responsibility and had a current Instructor/Coordinator at the last class; The original Instructor/Coordinator of record for the First Responder Course, attested that Licensee's Instructor/Coordinator certification was in good standing with MEMS; that the Region did not verify the status of the Licensee's Instructor/Coordinator certification and that the MEMS Board approved the course as equivalent to a course leading to licensure. In consideration of the mitigating factors the Committee recommends resolving this investigation by offering Licensee a Consent Agreement to include the following conditions: Licensee will be fined \$400.00* and receive a sixty day suspension of his IC certification. This Consent Agreement will be for six years. Investigation 07-21 will be resolved and closed with the execution of the Consent Agreement by all parties. (Montejo; Doughty; Pillsbury opposed; Cassidy abstained – motion carries).

C. Case # 07-15

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A)(3), §92(3) and 1 M.R.S.A. §405(6)(F)(E) for receiving legal advice and for the purpose of conducting an informal conference concerning case 07-15. (Doughty; Cassidy - motion carries).

The committee entered executive session at 12:42 p.m. and exited at 1:40 p.m.

During executive session, the committee met with Licensee discussed options for disposition of case 07-15. During the executive session, the committee requested legal advice.

Motion: To enter executive session pursuant to 1 M.R.S.A. §405(6)(E) for receiving legal advice. (Pillsbury; Doughty – motion carries)

The committee entered executive session at 1:10 p.m. and exited at 1:20 p.m.

During executive session, the committee received legal advice regarding dispositional alternatives.

Motion: In case 07-15, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 9§ (5)(B) Violating a lawful order, rule or consent agreement of the Board and Chapter 9§ (5)(O) Providing instruction at a level for which a person or training entity is not certified to provide. This violation is based on the Licensee providing instruction as the lead Instructor/Coordinator for three EMT-Basic programs sponsored by Southern Maine EMS with an expired Instructor/Coordinator certification. The Committee found aggravating circumstances in that the Licensee did not seek renewal of his Instructor/Coordinator certificate; the violation had a far-reaching effect on the EMS system, including numerous staff hours to resolve; and that the Licensee continued to instruct classes after he knew that his Instructor/Coordinator certification was expired. The Committee found mitigating circumstances in that the Licensee took responsibility: Licensee had all the required training to renew his Instructor/Coordinator certification prior to all three programs and that the quality of the instruction was attested to by the Region, evaluations and that the MEMS Board found that the courses were equivalent to a course leading to licensure. In consideration of the mitigating factors the Committee recommends resolving this investigation by offering Licensee a Consent Agreement to include the following conditions: Licensee will be fined \$960.00** (representing approximate compensation earned after Licensee was notified of the lapse in IC status and continued to teach) and receive a six month suspension of his IC certification**. This Consent Agreement will be for six years. Investigation 07-15 will be resolved and closed with the execution of the Consent Agreement by all parties. (Montejo; Doughty – motion carries).

D. Case # 07-17

Motion: To enter executive session pursuant to 32 M.R.S.A. §90(A)(3), §92(3) and 1 M.R.S.A. §405(6)(F)(E) for receiving legal advice and for the purpose of conducting an informal conference concerning case 07-15. (Doughty; Cassidy - motion carries). William Montejo recused himself due to his personal relationship to the Licensee.

The committee entered executive session at 1:50 p.m. and exited at 2:15 p.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-17.

Motion: In case 07-17, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 9§ (5)(B) Violating a lawful order, rule or consent agreement of the Board and Chapter 9§ (5)(O) Providing instruction at a level for which a person or training entity is not certified to provide. This violation is based on the Licensee providing instruction as the lead Instructor/Coordinator for an EMT-Basic program sponsored by Southern Maine EMS with an expired Instructor/Coordinator certification. The Committee finds this violation to be de minimus in that the Committee accepts Licensee's assertions that he mailed the renewal application to Maine EMS prior to the expiration of his IC status. Licensee's assertions were corroborated by staff telephone interview with the Education Coordinator for the region. The Committee found mitigating circumstances in that the Licensee had all the required training to renew his Instructor/Coordinator certification prior to the expiration of his Instructor/Coordinator certification and that the quality of the instruction was attested to by the Region and evaluations, and that the MEMS Board found that the course was equivalent to a course leading to licensure. In consideration of the mitigating factors the Committee found the violation did not warrant disciplinary action and requests staff to issue a Letter of Guidance to resolve this investigation. The Letter of Guidance will direct Licensee to be more diligent in the renewal process and to follow-up on the application and acknowledge the impact to the EMS system that is caused by instructing a course with an expired Instructor/Coordinator certification. (Doughty; Cassidy – motion carries)

4. Applications

A. Chad Tracy

The Committee reviewed the Applicant's license application and documents. ***Motion: The Committee directed staff to schedule an Informal Review for August. (Pillsbury; Doughty – motion carries).***

B. Michael Nicholas

The Committee reviewed the Applicant's license application and documents. ***Motion: The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11 §1(4) Any criminal conviction, subject to the limitations of Maine statute and Chapter 11§1(5) Acting in ways that are dangerous or injurious to the licensee or other persons. The violations are based on a June 1999 Criminal Damage to Property (Kansas), an October 2001 Operating Under the Influence (Maine), a December 2001 Unlawful Possessions of Scheduled Drugs (Maine) and an August 2004 Driving While Intoxicated (Texas). The Committee finds the conduct underlying the Texas and Maine Operating Under the Influence offense violates the rule prohibiting Licensees from acting in ways that are dangerous or injurious. The Committee found mitigating circumstances in that the Licensee took responsibility; Licensee has stable employment that includes random drug testing; Licensee has support from his Fire Chief and his probation officer; Licensee attests to the stability of his personal life, citing his spouse, children, and newly acquired home. In consideration of the mitigating factors the Committee has determined that Mr. Nicholas has demonstrated rehabilitation sufficient to warrant the public's trust subject to the conditions outlined in the Consent Agreement described herein. The Committee recommends that Mr. Nicholas be offered a Maine EMS license subject to a Consent Agreement to include the following conditions: Licensee will report any criminal charges filed against Licensee in any state or Federal Court within 10 days of charges being docketed; that if charges are filed against Licensee in any State or Federal court, Licensee will immediately***

surrender any license issued by Maine EMS pending investigation, unless good cause is shown. This Consent Agreement will be for six years. (Doughty; Knowlton – motion carries).

5. Next Meeting

The next meeting is scheduled for Thursday, August 16, 2007 at 09:30 a.m.

6. Adjourn

Adjourn – The meeting was adjourned at 3:45 p.m.

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent

*** At the August 1, 2007 MEMS Board meeting a motion was made recommending that the fine be reduced to \$50.00.**

**** At the September 5, 2007 MEMS Board meeting a motion was made recommending that the fine be reduced to \$100.00 and that the 6 month suspension be retroactive to March 27, 2007.**

***** At the November 07, 2007 MEMS Board meeting a motion was made recommending that the 60 day suspension be retroactive to September 5, 2007.**