

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
THURSDAY SEPTEMBER 13, 2007
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON OCTOBER 3, 2007**

MEETING MINUTES

Present: Rick Doughty, Bill Montejo (in at 10:35), Carol Pillsbury, (left at 10:35), Paul Knowlton

Staff: Dawn Kinney, Alan Leo

Maine EMS Investigator: Karen Packard

AAG: Laura Yustak Smith

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

A. Additions/Deletions to the Agenda – Case 07-09

2. Complaint/Investigation Case 07-09.

The committee entered executive session for the purpose of reviewing investigation and discussing case 07-09.

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 07-09. (Doughty; Knowlton - motion carries)

The committee entered executive session at 4:00 p.m. and exited at 4:10 p.m.

During executive session, the committee discussed options for disposition of case 07-09.

Motion: In case 07-09, the Committee directed staff to send a letter to Licensee that the investigation is terminated due to the expiration of Licensee's license and the investigation will be reopened if Licensee should reapply for another Maine EMS license. This notice will remain on file indefinitely. (Doughty; Knowlton – motion carries).

3. Informal Conference – Cases 07-22, 07-24, 07-20, 07-07, 07-32 and 07-09

A. Case # 07-22

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 07-22. (Doughty; Knowlton – motion carries)

The committee entered executive session at 09:40 a.m. and exited at 10:25 a.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-22.

Motion: In case 07-22, The Committee finds that Licensee did not violate any Maine EMS Rules for his failure to disclose on his January 12, 2007 and February 28, 2007 applications the fact that Administrative Court Judge had suspended his license for 290 days on May 20, 2000 for practicing EMS patient care without a license from January 1, 1997 to October 17, 1997. This finding was based on Licensee's statement that he had moved and did not receive notification of the suspension of his license in 2000 and the fact that the court records reflect that a default judgment had been issued and Licensee had not appeared in the court proceeding or received notice of the result. The Committee directed staff to issue a Letter of Guidance to Licensee to remind him to list the above action on each subsequent renewal application. This Letter of Guidance will be kept on file for five years. The Committee considers Investigation 07-22 resolved and closed. (Doughty; Knowlton – motion carries).

B. Case # 07-24

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 07-24. (Doughty; Knowlton - motion carries).

The committee entered executive session at 10:55 a.m. and exited at 12:00 p.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-24. Bill Montejo disclosed that he did not know Licensee, however he does work for the same ambulance service. Licensee did not object to his participation

Motion: In case 07-24, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(5) Acting in ways that are dangerous or injurious to the licensee or other persons. The Committee finds that the violation is based on Licensee's June 2005 conviction for Violating Protective Order (Class D) in violation of 19-A M.R.S.A. § 4011(1)(A). The Committee found mitigating circumstances in that the Licensee took responsibility and was forthright with Committee; voluntarily attended counseling; former partner and complainant in Protection from Abuse Order supports licensure and support from employer. In consideration of the mitigating factors the Committee proposes to table for 90 days and to allow staff to extend for good cause, to allow Licensee the opportunity to obtain a fitness for duty evaluation from a counselor approved by Maine EMS at his cost. If the evaluation shows that he is fit for duty, to resolve this investigation with 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 Licensee will report if a permanent Protection From Abuse order is issued; that if charges are filed against Licensee in any State or Federal court, or a permanent Protection From Abuse order is issued, 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. This Consent Agreement will be for seven years. Investigation 07-24 will be resolved and closed with the execution of the Consent Agreement by all parties. (Doughty; Knowlton – motion carries).

C. Case # 07-20

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 07-20. (Doughty; Montejo – motion carries)

The committee entered executive session at 12:20 p.m. and exited at 1:15 p.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-20.

Motion: To table for 90 days and to allow staff to extend for good cause, to allow licensee to provide additional information. If no response in 90 days to recommend to the board to deny renewal application. (Montejo; Knowlton – motion carries)

D. Case # 07-07

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 07-07. (Knowlton; Montejo – motion carries)

The committee entered executive session at 3:00 p.m. and exited at 3:15 p.m.

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

Motion: In case 07-07, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(30) [Providing treatment at a level for which a person is not licensed.] and 32 M.R.S.A. §82 (1) License required [emergency medical services person may not operate or practice unless duly licensed by the Emergency Medical Services Board]. This violation is based on the Licensee providing patient care with an expired license on 11 ambulance calls during a period from August 1, 2006 to November 21, 2006. The Committee found mitigating circumstances in; Licensee was forthright and accepted responsibility; Licensee ceased practice until license was renewed; Licensee had notified the EMS office at time of renewal and license was issued with no action taken at that time; the service developed a policy and procedure for to prevent this from happening again; and there was no patient harm. In consideration of the mitigating factors the Committee found that these violations did not warrant disciplinary action and will resolve this investigation case # 07-07 with a Letter of Guidance to emphasize the importance of notifying the MEMS office of any change of address. The Letter of Guidance will be kept of file for 3 years. (Montejo; Knowlton – motion carries).

E. Case # 07-32

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 07-32. (Knowlton; Montejo – motion carries)

The committee entered executive session at 3:20 p.m. and exited at 3:50 p.m.

During executive session, the committee met with Licensee and discussed options for disposition of case 07-32.

Motion: In case 07-32, The Committee finds that Licensee violated Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(30) [Providing treatment at a level for which a person is not licensed.] and 32 M.R.S.A. §82 (1) License required [emergency medical services person may not operate or practice unless duly licensed by the Emergency Medical Services Board]. This violation is based on the Licensee providing patient care with an expired license on 30 ambulance calls during a period from April 1, 2007 to July 24, 2007. The Committee found aggravating circumstances due to the volume of ambulance calls. The Committee found mitigating circumstances: Licensee was forthright and accepted responsibility; Licensee ceased practice with a loss of income from an EMS stipend; Licensee had received the required training and was eligible for licensure prior to providing patient care; Licensee submitted application immediately upon notice; and there was no patient harm. In consideration of the mitigating factors the Committee proposed to resolve this investigation with a Consent Agreement to include the following conditions: Licensee agrees to a suspension retroactive to July 24, 2007 to September 22, 2007 and Licensee agrees to a \$300.00 fine with all \$300.00 suspended in consideration for the loss of EMS income. Investigation 07-32 will be resolved and closed with the execution of the Consent Agreement by all parties. (Montejo; Knowlton – motion carries).

4. Applications

A. Chad Tracy – Informal Review

Motion: The Committee finds that Applicant violated Maine EMS Rules (dated September 1, 2006) Chapter 11 § (1)(4) Any criminal conviction, subject to the limitations of Maine statute; Chapter 11§ (1)(5) Acting in ways that are dangerous or injurious to the licensee or other persons; Chapter 11 § (1)(14) Violation of any standard established in the profession. The Committee finds that the violation is based on Licensee's August 21, 2003 convictions for Assault (Class D) in violation of 17-A M.R.S.A. § 207(1)(A); Criminal Restraint (Class D) in violation of 17-A M.R.S.A. § 302(1)(B)(1) and Terrorizing (Class D) in violation of 17-A M.R.S.A. § 201(1)(A). The Committee found mitigating circumstances in that the Licensee took responsibility and was forthright with Committee; voluntarily attended counseling; completed substance abuse counseling; completed the Batters Intervention Program; is a member of the Glenburn Fire Department; and is the Treasurer of Board of Directors for G & H Ambulance Service. In consideration of the mitigating factors the Committee proposes, upon receipt by staff a letter from counselor regarding successful completion of counseling for chemical dependency, to resolve this investigation with a Consent Agreement to include the following conditions: Applicant will submit to drug testing at the request of MEMS staff if there is reasonable suspicion of illegal use of drugs; Applicant will report any criminal charges filed against Applicant in any state or Federal Court within 10 days of charges being docketed; that if charges are filed against Applicant in any State or Federal court, or Applicant has a positive drug test, 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 why license should continue pending this investigation. This Consent Agreement will be for nine years due to the recency of the convictions. (Montejo; Doughty; – motion carries).

5. Next Meeting

The next meeting is scheduled for Thursday, September 20, 2007 at 09:15 a.m.

6. Adjourn

Adjourn – The meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent