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STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
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**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, APRIL 6, 2011
CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON MAY 4, 2011
MEETING MINUTES**

Members Present: Rick Doughty, Paul Knowlton, Robert Hand, and Steve Leach

Staff: Dawn Kinney, Alan Leo, and Drexell White (12:15 – 12:45)

Office of Attorney General: Laura Yustak Smith, AAG

1. CASE # 11-020- Licensee present

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 number 11-020. (Doughty; second by Hand) Unanimous.

Entered executive session at 8:40 a.m.

MOTION: To exit executive session. (Doughty; second by Hand) Unanimous.

Executive session ended at 9:00 a.m.

Summary: Licensee provided emergency medical treatment to seven (7) patients from April 1, 2011 to April 4, 2011 With an expired license. (the Licensee's license expired on March 31, 2011).

Aggravating Circumstances: Number of calls unlicensed licensee provided emergency medical treatment as the primary care giver.

Mitigating Circumstances: Licensee was remorseful, forthright and cooperative with the Committee; self-reported to Maine EMS; was licensable at the time the license was expired; and submitted two letters of recommendation.

MOTION: To recommend that the Board resolve case # 11-020 and grant the Licensee's renewal application by offering the Licensee a consent agreement based upon unlicensed practice for providing emergency medical treatment to seven patients at a time when license was expired (the Licensee's license expired on March 31, 2011) 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." Recommended terms include a reprimand. The Committee is recommending that any fine be waived due to the short period of time Licensee was licensed (8 months,) and the possibility that Licensee did not receive a reminder notice. If Licensee does not accept the consent agreement, the committee recommends that the Board pursue disciplinary action and that Licensee be notified of the right to hearing. (Doughty; second by Hand) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 11-020 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

2. CASE # 10-67– Licensee present.

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 number 10-67 (Doughty; second by Knowlton) Unanimous.

Entered executive session at 9:10 a.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 10:15 a.m.

Summary: Licensee responded to a call as the primary caregiver to assist an elderly man who had fallen. There were questions regarding the circumstances under which the wife of the patient and the patient declined transport. According to the Office of Chief Medical Examiner the patient died the next morning, as a result of acute right subdural hematoma due to blunt force trauma sustained in the fall. According to the run report, the patient was taking Coumadin. There is evidence to indicate that Licensee did not request a list of medications or obtain a medical history at the call.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee was remorseful, forthright and cooperative with the Committee and is developing a training program regarding transport and patient refusals/sign-offs.

MOTION: To recommend that the Board resolve case # 10-67 by offering the Licensee a consent agreement based upon Licensee not obtaining a medical history or a medication list in violation of Maine EMS Rules (dated October 1, 2009) Chapter 11 § (1)(14) "Violation of any standard established in the profession." Recommended terms include: 1) a reprimand and 2) the Licensee will develop a training program regarding the nature and extent of patient

assessment and documentation that is required when a patient indicates that the patient may decline transport. Licensee has three (3) months to complete the training program and have it approved by the regional medical director, or state medical director, or his designee. Licensee will work with the regional coordinator to find opportunities for this program to be presented and will have six (6) months to present at least one (1) time and is encouraged to present it several times. If Licensee does not accept the consent agreement, the committee recommends that the Board pursue disciplinary action and that Licensee be notified of the right to hearing. (Leach; second by Knowlton) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-67 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

3. CASE # 11-008 – Licensee present.

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 number 11-008. (Doughty; second by Hand) Unanimous.

Entered executive session at 10:20 a.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 10:50 a.m.

Summary: Licensee responded to a call as the secondary caregiver to assist an elderly man who had fallen. There were questions regarding the circumstances under which the wife of the patient and the patient declined transport. According to the Office of Chief Medical Examiner, the patient died the next morning, as a result of acute right subdural hematoma due to blunt force trauma sustained in the fall.

Aggravating Circumstances: None

Mitigating Circumstances: Licensee was forthright and cooperative with committee. Licensee had minimal patient contact.

MOTION: To recommend that the Board resolve case # 11-008 by dismissing the complaint and issuing a Letter of Guidance ,and strongly suggest the Licensee to participate in the training program developed in case # 10-67. The Letter of Guidance to be maintained in Licensee's file for three years. (Leach; second by Knowlton) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 11-008 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

4. Benjamin Clark–Review of new application– Applicant present.

Summary: On February 4, 2011, Maine EMS received an application from Benjamin Clark, who disclosed a conviction for theft in 2004 and a conviction for criminal mischief in 2005. The Maine SBI Criminal History Report confirms that on November 23, 2004, Mr. Clark was convicted of theft by unauthorized taking or transfer (Class D) and on December 12, 2005 was convicted for criminal mischief (Class D).

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: Given the applicant's activities over the years since the convictions; joined the Army in 2006 and was honorably discharged in 2009; served two tours in Iraq; received the rank of Sergeant and upon discharge immediately started working and going to Southern Maine Community College, applicant has been sufficiently rehabilitated to warrant the public trust. The Committee recommends that, upon receipt by the staff of two additional letters of recommendation, the Board issue the license. (Leach; second by Doughty) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to this application complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

5. James Parker–Review of new application– Applicant not present.

Summary: On March 28, 2011, Maine EMS received an application from James Parker, who disclosed 1991 convictions for theft and OUI, and a 2005 conviction for assault. Mr. Parker provided Maine EMS with court and police records for the assault and a letter from the DA's office indicating that that office did not keep police records after 10 years. Mr. Parker provided the court records for the theft and OUI. He submitted a letter from his probation officer who stated he was in compliance with probation and had completed counseling. He also provided letters of support from Cory Morse, Chief of Searsport EMS, where Mr. Parker has been working as a driver for over a year; Debby Health, EMT-P QI coordinator Waldo County; Roy Stone, Fire Chief of West Frankfort; Adrian Stone, Training Officer of Frankfort FD; Richard LaHaye Jr., Chief of Police for Searsport; and Scott Baker, Pastor, Little River Church, where last year, Mr. Parker coordinated a Back to School Safety Fair. This matter was presented to the Investigation Committee to find out if the matter warranted review, or staff could issue, as staff recommended, on the basis that the applicant had established that he had been sufficiently rehabilitated to warrant the public trust. After review of his application packet, the Committee advised staff to issue the license as staff had recommended.

Aggravating Circumstances: None

Mitigating Circumstances: None

Unless otherwise directed by the Board, the Committee will consider its duties with respect to this application complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

6. CASE # 11-018 – Licensee present

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 number 11-018. (Doughty; second by Hand) Unanimous.

Entered executive session at 12:20 p.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 12:55 p.m.

Summary: On March 24, 2011, Maine EMS received an Emergency Medical Dispatch license renewal application. Staff contacted the Emergency Medical Dispatch Center and was provided information that Licensee provided emergency medical dispatch services on behalf of the Center on approximately twenty-six (26) calls during a period of time from March 1, to March 31, 2011 with an expired Maine EMS EMD license.

Aggravating Circumstances: The number of calls to which licensee responded and provide emergency medical dispatch and the number of shifts for which the licensee was scheduled for emergency medical dispatch on behalf of a licensed center.

Mitigating Circumstances: Acceptance of responsibility; the absence of any prior action imposed by Maine EMS or an out-of-state equivalent; and the length of time that licensee has been unlicensed.

MOTION- To recommend that the Board issue the license with a consent agreement, based upon the Licensee providing emergency medical dispatch services without a license for twenty-six calls in violation of 32 M.R.S.A. §82 (1), License required [emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter] and Maine EMS Rules Chapter 11 §1) (3) Violating any of the provisions of 32 M.R.S.A. Chapter 2-B. Recommended terms include 1) a reprimand and 2) a \$50.00 fine per violation for a total of \$1,300.00 with all but \$200.00 suspended. If Licensee does not accept the consent agreement, the committee recommends that the Board pursue disciplinary action and that Licensee be notified of the right to hearing (Doughty; second by Leach) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 11-018 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

7. Deanna Widdecomb – Review of application – Applicant present.

Summary: On March 16, 2011, Maine EMS received an application from Deanna Widdecomb, who disclosed civil violations for minor transporting liquor in May 2006 and February 2007 a civil violation for minor consuming liquor in and Class E conviction for disorderly conduct in March 2007. District Court records confirm these adjudications. The civil violations and the conviction for disorderly conduct are not actionable under EMS statutes.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: Given the length of time since these adjudications and applicant's subsequent activities and letters of recommendation, applicant appears to have addressed past misuse of alcohol and warrants the public trust. The Committee recommends that, the Board issue the license with a Letter of Guidance to be maintained on file for three (3) years. The Letter of Guidance should counsel applicant to avoid future similar conduct and to avoid excessive use of alcohol. (Hand; second by Leach) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to this application complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

8. CASE 11-014 - Licensee present.

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 number 11-014. (Doughty; second by Hand) Unanimous.

Entered executive session at 1:35 p.m.

MOTION: To exit executive session. (Doughty; second by Knowlton) Unanimous.

Executive session ended at 1:50 p.m.

Summary: Maine EMS has initiated a complaint based upon information received on March 8, 2011 from the Maine Emergency Medical Service Run Report system. The information provided to Maine EMS suggests that Licensee responded on March 7, 2011 on one call on behalf of an ambulance service and provided emergency medical treatment with an expired license. Maine EMS received her renewal application on March 8, 2011. Licensee's license expired January 31, 2011.

Aggravating Circumstances: Licensee was aware of the status of her license at the time she responded to the call.

Mitigating Circumstances: Licensee was cooperative with committee and staff; expressed remorse and accepted responsibility; had mailed the completed application prior to responding to the call; had the required training; and only responded to one call during the time that the license was expired.

MOTION: To recommend that the Board resolve case # 11-014 and grant the Licensee's renewal application by offering the Licensee a consent agreement based upon unlicensed practice for providing emergency medical treatment to one patient at a time when license was expired (the Licensee's license expired on January 31, 2011) 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." Recommended terms include: 1) a reprimand and 2) a fine of \$50.00. If Licensee does not accept the consent agreement, the committee recommends that the Board pursue disciplinary action and that Licensee be notified of the right to hearing. (Doughty; second by Leach) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 11-014 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

9. Steve Funkhouser - New Application – Applicant present

Summary: On January 24, 2011, Maine EMS received an application from Steven Funkhouser, who disclosed a conviction for OUI in 2007 and theft by unauthorized taking in 2008. The OUI was in New Jersey and involved a multiple vehicle accident. The Maine SBI Criminal History Report reflects that on October 6, 2008, Mr. Funkhouser was convicted of theft by unauthorized taking or transfer (Class E).

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: Given the applicant's activities over the years since the convictions; a combat medic in the military for four years, including a tour in Iraq in 2007/2008, applicant has established that he has been sufficiently rehabilitated to warrant the public trust. The Committee recommends that, upon receipt by the staff of two additional letters of recommendation, the Board issue the license with a Letter of Guidance to be maintained on file for 3 years. The Letter of Guidance will encourage the Licensee to refrain from excessive use of alcohol. (Leach; second by Doughty) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to this application complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

10. CASE 10-62 - Licensee present.

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 number 10-62. (Doughty; second by Hand) Unanimous.

Entered executive session at 2:20 p.m.

MOTION: To exit executive session. (Knowlton; second by Doughty) Unanimous.

Executive session ended at 2:45 p.m.

Summary: Maine EMS staff received information that Licensee was placed on unpaid administrative leave due to an active Protection from Abuse Order issued by Maine Portland District Court. The Maine order was dismissed by the plaintiff. Licensee is currently subject to an active protection order issued by a New Hampshire court. The same individual sought the Maine and NH orders. Licensee has obtained an active protection order issued by Maine Portland District Court against the individual who sought the above-described Maine and NH orders. At the time of Informal Conference, the individual (who initiated the Maine and NH orders) had not provided documentation in response to staff requests regarding the conduct underlying the complaint. Licensee states that the same allegations that were made to obtain the Maine order were made in support of the NH order. Licensee is involved in contentious divorce/custody litigation with the other party to the protection orders.

Aggravating Circumstances: Not applicable.

Mitigating Circumstances: Four (4) letters of recommendation.

MOTION: To recommend that the Board issue the license and dismiss this case based on the information available to the Board at the current time, due to insufficient evidence to support a rule or statutory violation. New evidence could support a different investigation. (Doughty; second by Leach) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 10-62 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

Adjourned at 3:15 p.m. – next meeting will be May 4, 2011.