



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
152 STATE HOUSE STATION
AUGUSTA, MAINE
04333



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**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY SEPTEMBER 2, 2015 2015
GAMBLING BOARD ROOM, AUGUSTA,
AMENDED AND RATIFIED BY THE MAINE EMS BOARD ON OCTOBER 7, 2015
MEETING MINUTES**

Members Present: Lori Metayer, Judy Gerrish, Tim Beals, Paul Knowlton, Mike Senecal,
Laura Downing (9:00 am -10:00 am)

Staff: Alan Leo, Jason Oko, Drexell White (9:00 am -10:00 am)

Office of Attorney General: Lauren LaRochelle, AAG

1. CASE #15-049 – 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 15-049. (Knowlton; second by Gerrish) Unanimous.

Executive session entered at 9:05 a.m.

MOTION: To exit executive session. (Metayer; second by Downing) Unanimous.

Executive session ended at 9:40 a.m.

Summary: Maine EMS initiated a complaint concerning a licensed EMD Center. The complaint is based upon information received that alleges that a dispatcher provided Emergency Medical Dispatch (EMD) Services on forty-nine (49) calls on behalf of the Center without a valid Maine EMS EMD license during a time period between February 1, 2015 and May 28, 2015.

Licensee has been the subject of two previous investigations in 2010 and 2013 regarding unlicensed practice of an employee:

- Allowed the unlicensed practice of a dispatcher from September 2007 to February 2009. Case resolved consent agreement with the Board on June 10, 2010 that included a reprimand, as disciplinary action
- Allowed the unlicensed practice of a dispatcher for a period of time from March 9, 2012 to October 30, 2012. Case resolved by consent agreement with the Board on April 25, 2013 that included a reprimand and fine of \$6300 - all but \$500.00 suspended - as disciplinary action.

Aggravating Circumstances: Existing Consent Agreements from June 2010 and April 2013 and Licensee was aware of dispatcher's unlicensed status, but failed to prevent practice.

Mitigating Circumstances: The Licensee was cooperative and has taken some steps to implement a new policy to prevent unlicensed practice.

MOTION: To recommend that the Board resolve case # 15-049 by offering the Licensee a consent agreement based upon allowing an unlicensed dispatcher to provide emergency medical dispatch services on behalf of the center, in violation of Maine EMS Rules (dated May 1, 2013) Chapter 11 § (1)(2) "Violating a lawful order, rule or consent agreement of the Board" (see Chapter 3-A §6(1)); Chapter 11 § (1)(3) "Violating any of the provisions of 32 M.R.S.A., Chapter 2-B"; Chapter 11 §(1)(13) "Engaging in conduct prohibited by law"; and 32 M.R.S.A. § 82 (1) "An...emergency medical dispatch center or emergency medical dispatcher may not operate or practice unless duly licensed by the Emergency Medical Services Board pursuant to the chapter." (See also 32 M.R.S.A. § 85-A(3)(A)). Recommended terms include a fine of \$4900.00 (\$100 per incident of unlicensed practice); a condition that the Center provide a plan/ policy to ensure that unlicensed practice does not occur in the future; and a requirement that the Center submit to random monthly licensing audits/reviews by Maine EMS for a period of six months to evaluate policy implementation and effectiveness . The fine and policy are due at the time of execution of the consent agreement, and the audits/reviews may begin at that time. 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 a hearing. (Downing; second Metayer) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-049 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

2. CASE # 14-034 – Licensee Not Present

Summary: In 2014, MEMS staff received information that a licensed medical dispatcher had been arrested for unlawful sexual contact, domestic violence assault, and unlawful sexual touching. In September 2014, the dispatcher was convicted of domestic violence assault and the other charges were dismissed. His EMD license expired on January 31, 2015. On February 20, 2015, MEMS staff sent a notice of complaint. In response, the licensee sent an email stating that he did not intend to renew his EMD license because he was no longer employed by an EMS agency and wished to surrender his license. Based on this representation, MEMS staff sent the dispatcher a consent agreement for voluntary surrender based on violations of 32 M.R.S.A. § 90-A(5)(H), Rule Ch. 11 §1(5), and Rule Ch. 11 §1(13). The dispatcher returned the consent agreement with the following language: "My signature below does not constitute an agreement or admission of the investigation findings or conclusion but is an agreement to voluntarily surrender my Maine EMS license."

MOTION: To send the licensee a letter accepting the voluntary surrender and notifying him that the complaint will be reopened if he applies in the future. (Downing, second Metayer) Unanimous.

3. CASE #15-068 – 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 15-068. (Senecal; second by Knowlton) Unanimous.

Executive session entered at 10:00 a.m.

MOTION: To exit executive session. (Senecal; second by Gerrish) Unanimous.

Executive session ended at 10:20 a.m.

Summary: On August 11, 2015 MEMS received an upgrade to paramedic application. During the review process MEMS determined that the applicant's MEMS license had expired on March 31, 2015 and that he continued to provide patient care on 13 emergency calls. He was immediately placed on suspension by his service. The runs were reviewed by MEMS Staff and there was no patient harm.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: The Committee recommends that the Board resolve case # 15-068 by granting the upgrade license and issuing a Letter of Guidance to be on file for 3 years from the date of the upgrade, as any misconduct does not rise to a level of discipline. The letter to emphasize the importance of having a valid license when providing patient care. . (Senecal; second by Metayer) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-068 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

4. Case # 15-069-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 15-069. (Senecal; second by Gerrish) Unanimous.

Executive Session entered at 10:30 a.m.

MOTION: To exit executive session. (Metayer; second by Senecal) Unanimous.

Executive Session ended at 10:50 a.m.

Summary: On August 11, 2015 MEMS determined that an Advanced EMT employee of York Ambulance had been providing patient care with an expired license. The service immediately suspended the employee and is developing a policy to prevent this from happening again.

Aggravating Circumstances: No policy in place to track staff license expirations

Mitigating Circumstances: Cooperative and have drafted a new policy to track license expiration dates

MOTION: The Committee recommends that the Board resolve case # 15-069 by offering the Licensee a Consent Agreement that contains a warning and a condition that the service develop a robust policy to monitor license expiration dates, which must include the course of action that will be handed out to any provider who violates it, and submit the policy to MEMS staff for review and approval within six months of the execution of the consent agreement. Violation of Rule Ch. 11 §1(35), (Metayer; second by Knowlton) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-069 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

5. Case #15-062 -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 15-062. (Senecal; second by Gerrish) Unanimous.

Executive Session entered at 11:05 a.m.

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

Executive Session ended at 11:45 a.m.

Summary: MEMS initiated a complaint against an AEMT who treated and transported two patients on two separate calls after Duo-Neb was administered by a Paramedic and then the Paramedic drove the ambulance to the hospital.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: The Committee recommends that the Board resolve case # 15-062 with a Letter of Guidance to be on file until October 31, 2021, as any misconduct does not rise to the level of discipline. The LOG should remind the provider of the importance of advocating for patients, providing care only within the scope of their license, and thorough and accurate documentation.(Senecal; second by Gerrish) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-062 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

6. Case #15-061 -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 15-061. (Senecal; second by Gerrish) Unanimous.

Executive Session entered at 11:50 a.m.

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

Executive Session ended at 12:10 p.m.

Summary: MEMS initiated a complaint against a Paramedic who administered Duo-Neb to two patients on two separate calls and then allowed an AEMT to continue treating and transporting the patients while the Paramedic drove the ambulance to the hospital.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: The Committee recommends that the Board resolve case # 15-061 with a Letter of Guidance to be on file until October 31, 2021, as any misconduct does not rise to the level of discipline. The LOG should remind the provider to be aware of the license level and scope of practice of his partner, and of protocols regarding Paramedic care, including that if a Paramedic level medications is administered then the Paramedic must continue the treatment of that patient. (Metayer; second by Contreras) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-061 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

7. Case #15-025 -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 15-025. (Senecal; second by Knowlton) Unanimous.

Executive Session entered at 1:10 p.m.

MOTION: To exit executive session. (Senecal; second by Gerrish) Unanimous.

Executive Session ended at 1:50 p.m.

Summary: MEMS initiated a complaint against a MEMS I/C who allegedly taught a CPR class and did not follow the guidelines for instruction yet still issued the CPR card to the student. The I/C offered to voluntarily surrender his I/C license as he feels he may not be ready to teach for licensure classes.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: Pending review by the Attorney General's Office, the Committee recommends that the Board resolve case # 15-025 by issuing a Letter of Guidance to be on file for a seven year period, as the conduct alleged does not violate any EMS rule or statute and to accept the voluntary surrender of his I/C license. (Metayer; second by Beals) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-025 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

7. Case #15-052 -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 15-052. (Senecal; second by Knowlton) Unanimous.

Executive Session entered at 2:00 p.m.

MOTION: To exit executive session. (Senecal; second by Gerrish) Unanimous.

Executive Session ended at 2:20 p.m.

Summary: MEMS initiated a complaint against an AEMT based on patient care reports showing the AEMT treated and transported three patients on three separate calls after Zofran was administered by a Paramedic.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: The Committee recommends that the Board resolve case # 15-052 with a Letter of Guidance to be on file until October 31, 2021, as any misconduct does not rise to the level of discipline. The LOG should remind the provider of the importance of advocating for patients and providing care only within the scope of his license.(Senecal; second by Gerrish) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 15-052 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

8. Case # 13-043 & 13-051 – Licensee Not 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 13-043 & 13-051. (Beals; second by Gerrish) Unanimous.

Executive Session entered at 3:30 p.m.

MOTION: To exit executive session. (Beals; second by Senecal) Unanimous.

Executive Session ended at 3:35 p.m.

Summary: The committee heard from staff that a provider who had been offered a consent agreement sent in a letter expressing a desire to surrender and terminate his MEMS Paramedic license rather than enter into a consent agreement for prior convictions involving theft of narcotics from a service. The Committee voted to require that the surrender be accomplished through a consent agreement.

Aggravating Circumstances: None

Mitigating Circumstances: None

MOTION: The Committee recommends that the Board resolve case # 13-043 & 13-051 with a consent agreement for a surrender. (Beals; second by Senecal) Unanimous.

Unless otherwise directed by the Board, the Committee will consider its duties with respect to Case # 13-043 & 13-051 complete upon ratification by the Board of the Committee's recommendation or other final action by the Board.

NEW APPLICATION REVIEWS

1. Ralph Haley Case # 15-067 - Review of new application - Applicant present.

Summary: On July 8, 2015 MEMS received a new application for an EMT license. Included with that application was a list of criminal convictions that included the following: Violating Conditions of Release on 5/23/2011, 9/06/2011, 10/03/2011, and 2/03/2012, and Operating Under the Influence on 2/03/2012.

MOTION: The Committee recommends that MEMS issue the license with a Letter of Guidance for one 3 year license period as long as three positive professional letters of reference from different organizations are received by MEMS staff by October 7, 2013. The Letter of Guidance should emphasize the importance of good judgment and conduct, even in nonprofessional settings. (Metayer; second by Senecal) Unanimous.

The Committee adjourned at 3:40 p.m.

The next meeting will be on November 4, 2015 at 9:00 a.m.