



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
152 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0152



JOHN ELIAS BALDACCI
GOVERNOR

ANNE H. JORDAN
COMMISSIONER

JAY BRADSHAW
DIRECTOR

BOARD OF EMS MEETING
AUGUST 1, 2007
9:30 AM
DECHAMPLAIN CONFERENCE ROOM

MINUTES (FINAL)

Members: Wayne Werts, Chair, Steve Leach, Bob Ashby, Alan Azzara, Carol Pillsbury, Jim McKenney, Oden Cassidy, Roy Woods, Richard Doughty, Ron Jones, Paul Knowlton, Bill Montejo, Joe Conley, Steve Diaz (ex officio)

Staff: Jay Bradshaw, Dawn Kinney, Alan Leo, Ben Woodard

Regional Coordinators: Steve Corbin, Joanne LeBrun, Rick Petrie, Bill Zito

Guests: Jeff Regis, Steve Bunker, Paul Perron, Tammy Perron, Ben Ford, Rufus Brown, Esq., Bob Silcott

Assistant Attorney General: Laura Yustak Smith, Esq.

1. Introductions – Those present introduced themselves and were welcomed to the meeting.
2. Approval of the June 5 & 6, 2007, Board meeting minutes.

MOTION: To accept the minutes of the June 5 & 6, 2007, as presented (Chagrasulis; second by Montejo). Unanimous

3. Public Comments

- a. Jay asked that Joanne share with the Board some information about Allan Parsons, EMT-P, who was killed in an ambulance crash on July 5. Allan was trained through the Tri-County EMS Paramedic program and was working for Med-Care Ambulance, caring for a trauma patient when the ambulance was involved in a crash on Route 4 in Turner. The driver of the ambulance, Arlene Greanleaf, was seriously injured, but is making good progress in her recovery. Both the patient in the ambulance and the operator of the other vehicle were also injured.

Joanne described Allan as a compassionate, caring person who enjoyed the opportunity to care for patients. He left behind 3 children, and many friends and colleagues.

A funeral service for Allan was held on Thursday, July 12, at the Farmington Fairgrounds and was very well attended, with EMS providers from across Maine, in addition to Boston EMS, NH, and Canadian services. Participating in the service was the Maine EMS Honor Guard, Jay Bradshaw (bagpiper), and Commissioner Anne Jordan. Joanne expressed her appreciation for the support provided by other regional coordinators, Maine EMS staff, and Commissioner Jordan.

Jay is working with Dean Milligan, Med-Care Director, and Allan's family on the death benefits that are provided by the State of Maine.

4. Committee Reports – because of the extensive agenda, regular committee reports will be postponed until September. However, Jay reported that the Department has recently received a request from the Appropriations Committee to identify reductions in General Funds that could be made during FY09. Target amount for DPS is ~ \$1 million. Jay has met with Commissioner Jordan and explained the significant impact of any additional cuts to MEMS.
5. Investigation Committee
 - a. Meeting Minutes – Laura requested that when minutes are presented for approval that this take place in two parts; the first being the approval of the Investigations Committee with regard to the accuracy of the minutes, and the second being the ratification by the Board of EMS for the Committee's actions.

MOTION: For the Investigations Committee to approve the minutes of July 18, 2007, as amended by Attorney Yustak Smith regarding the Consent Agreement in Case # 07-12. (Doughty; second by Knowlton). Passed

MOTION: To enter Executive Session to discuss Case # 06-16 in accordance with 1 MRSA § 405.6(E)(1) and 32 MRSA § 92. (Doughty; second by Leach) Unanimous

Executive session started at 9:54 AM

Dr. Chagrasulis recused herself from this session because of her connection to the case and having obtained information outside of the Board.

Bill Montejo disclosed that he knows the subject but did not feel that would affect his ability to remain objective. There were no objections to Bill's participation.

MOTION: To exit Executive Session (Doughty; second by Cassidy). Unanimous

Executive session ended at 10:10

Dr. DiPientratonio and Penny Kneeland joined the Board meeting at this time.

MOTION: To direct Attorney Yustak Smith to work with Attorney Brown on terms of a consent agreement in Case # 06-16. (Doughty; second by Cassidy) Unanimous.

MOTION: For the Board of EMS to ratify the July 18, 2007, minutes of the Investigations Committee with the changes previously described in Case # 07-12. (Doughty; second by Cassidy). Unanimous.

MOTION: To table discussion of other Investigation Committee minutes until later in the meeting (Leach; second by McKenney). Unanimous

b. Appeals of Staff Decisions

i. Bob Silcott

Introductions by Board:

Bob Silcott

No question issues.

Staff exhibit A was presented to the Board, which contains documents that were received subsequent to the receipt of the license application.

Following testimony, the Board deliberated.

MOTION: To pursue a Consent Agreement with Mr. Silcott that includes the Board's finding that Mr. Silcott's willfully failed to disclose his previous criminal conviction, which constitutes a violation of MEMS Rules, Chapter 11.1.1 and 11.1.29, and 32 MRSA § 90-A (J-A). That for a term of 6 years, in the event any criminal charges are docketed against Applicant in any state or Federal court or if the Board determines Applicant has committed a violation of EMS laws or rules during the 6 year term of this Consent Agreement, Applicant will - in the case of charges being docketed against him - notify the Maine Emergency Medical Services Board within 10 days of the charges being docketed, and in any of the instances cited above, immediately surrender to the Board any license he may possess or that has been issued to him. If the Board receives notification of criminal charges from someone other than Applicant, it may demand the immediate surrender of Applicant's license upon confirmation from the court or charging authority that criminal charges are pending against Applicant, and Applicant shall immediately surrender his license. Except as otherwise provided in this Agreement, the surrender will continue pending an Informal Conference on this matter, unless the Board earlier determines that no further sanction or a lesser sanction is warranted, Applicant waives informal conference, or unless Applicant earlier agrees that the surrender of his license will be permanent. The Investigations Committee shall attempt to hold an Informal Conference within 30 days of the voluntary surrender or as soon thereafter as practicable or agreed by the parties, taking into consideration the Board's schedule and the availability of the Board members. Applicant shall have the right to show cause why his license should be reinstated. After Informal Conference, the Committee may negotiate the permanent surrender of Applicant's license; order the surrender to continue pending resolution of proceedings to discipline Applicant or to suspend or revoke Applicant's license; restore the license pending resolution of disciplinary proceedings; restore the license; or take such other action against the Applicant's license as authorized by law. The Agreement shall also include a 90 day suspension, time served based on when MEMS received his application on January 28, 2007.

Mitigating factors considered in this decision are Mr. Silcott's support of both his department and the town manager. (Montejo; second by Ashby) Passed 10/3

MOTION: To offer Mr. Silcott 30 days to accept the terms of the consent agreement, and failing that acceptance to uphold the staff recommendation and deny his license application. (Montejo; second by Cassidy) Failed 4/7 with 2 abstentions.

Jay explained that if Mr. Silcott refused the terms of the Consent Agreement the matter would be brought back before the Board. Mr. Silcott stated that he would accept the terms and appreciated the Board's decision in this matter.

- ii. Appeal of staff decision: Wally Lowe

Introductions by Board;

Walter Lowe

George Merrill, Assistant Chief, Lewiston Fire Department

Question 3 – Wayne Werts stated that he has a working relationship with the Lewiston Fire Department, with whom the applicant is employed. He stated that the relationship would not affect his ability to make an impartial decision

Staff Exhibit A was entered on the record and the July 6, 2007 letter from Alan Leo to Walter Lowe was added as Chair Exhibit A.

Following testimony, the Board deliberated.

Motion: That applicant Walter Lowe violated Maine EMS Rules section 11.1.1 and 11.1.29 and 32 M.R.S.A. section 90-A.5, that the violations are based upon the applicant's failure to disclose a criminal conviction on his November 30, 2006 Maine EMS license application, that the board proposes to resolve the matter by consent agreement, that the conditions of the consent agreement include that the applicant will surrender any Maine EMS license issued to him should charges be filed in any state or Federal court during the term of the Consent Agreement or if the Applicant is found to have violated any Maine EMS Rules; that the applicant receive a 90 day license suspension; and that the term of the consent agreement shall be 6 years. (Montejo; second by Kneeland)

Amendment: That the above motion be amended to delete the 90 day license suspension (Amendment accepted – Montejo; second by Kneeland)

Vote: Motion, as amended, fails. 4-8-0.

Motion: That applicant Walter Lowe violated Maine EMS Rules section 11.1.1, that the violations are based upon the applicant's failure to disclose a criminal conviction on his November 30, 2006 Maine EMS license application, that the board proposes to resolve the matter by consent agreement, and that the conditions of the consent agreement include that the applicant will be licensed and will receive a Letter of Reprimand, which is considered disciplinary action. (Chagrasulis; second by Azzara)

Amendment: That aggravating circumstances exist in that the Applicant had two separate opportunities to disclose the conviction and that Applicant had the opportunity to contact Maine EMS, but did not; that mitigating circumstances exist in that the applicant received advise from

his employers that was not consistent with Maine EMS requirements, that the applicant disclosed his convictions to his employer; that the conviction serving as the basis of the failure to disclose was not a material fact that would have necessarily prevented licensure had the convictions been disclosed. (Amendment by Leach accepted by Chagrasulis and Azgara)

Motion Passes as amended 10-1-1 (Woods opposed; Conley abstains)

iii. Appeals of Staff Decisions: Delores Adams

Introductions by Board;

Delores Adams
Stephen Packard, legal counsel for Ms. Adams
Brian Mullis, Service Chief, Mayo EMS

No question issues.

The information packet sent to the Board was entered into the record as Staff Exhibit A. The July 6, 2007 *Notice of Board Review of Preliminary Denial* from Alan Leo to Stephen Packard was added as Staff Exhibit B, an undated memo authored by Alan Leo concerning a telephone conversation between Alan Leo and Delores Adams, email correspondence between Alan Leo and Delores Adams dated March 16, 2007 and notes of a meeting between Alan Leo and Delores Adams were entered as Staff Exhibit C.

Following testimony, the Board deliberated.

Motion: That Delores Adams be granted a license with a Letter of Guidance (Chagrasulis; second by Conley) Motion Fails 4/8

That applicant Delores Adams violated 32 M.R.S.A. section 90-A.5, that the violations are based upon the applicant's failure to disclose a criminal conviction on her February 26, 2007 Maine EMS license application, that aggravating circumstances exist in that Licensee's failure to disclose is a second offense and Licensee had received a letter of guidance from the Board for the first offense, and that Licensee had two opportunities to disclose the criminal conviction on her application; that mitigating circumstances exist in that the conviction serving as the basis of the failure to disclose was not a material fact that would have necessarily prevented licensure had the conviction been disclosed and that Licensee has numerous letter of support from her service, hospital and community, that the Board proposes to resolve the matter by consent agreement, that the conditions of the consent agreement include that the applicant will be licensed and will receive a Letter of Reprimand, which is considered disciplinary action (Leach; second by McKenney) Passed: 8/5

iv. Appeals of Staff Decisions: Aaron Riley

Introductions by the Board

Aaron Riley
Brent Libby, Standish Fire and Rescue
Martin Jordan, Chief, Standish Fire Department
Gordon Billington, Standish Town Manager

Question 3 – Joe Conley stated that Mr. Riley had been an applicant for employment at the ambulance service Mr. Conley manages. He indicated that the relationship would not prevent him from being impartial;

Roy Woods indicated a casual relationship with Martin Jordan, but stated that the relationship would not prevent him from being impartial;

Alan Azzara stated that Martin Jordan had been an employee of the ambulance service with which Mr. Azzara is employed, but stated that the relationship would not prevent him from being impartial

The information packet sent to the Board was entered into the record as Staff Exhibit A. Correspondence marked 3-1 and 3-2 from Donnie Carroll and Dick Brobst, respectively, to Alan Leo was entered as Staff Exhibit B and the July 6, 2007 *Notice of Board Review of Preliminary Denial* from Alan Leo to Aaron Riley was entered as Staff exhibit C.

Motion: That Licensee Aaron Riley violated Maine EMS Rules §11.1.1, that the violations are based upon the applicant's failure to disclose a criminal conviction on his April 21, 2007 Maine EMS license application, that aggravating circumstances exist in that Licensee had received a letter of warning and a letter of guidance from the Board on two previous occasion for failure to disclose his history of a criminal conviction, that mitigating circumstances exist in that Licensee received inaccurate information from a Maine EMS test administrator, that the Board proposes to resolve the matter by consent agreement, that the conditions of the consent agreement include that the applicant will be licensed at the Paramedic license level, that licensee's Paramedic license will be suspended for 90 days; that the 90 days since Licensee applied for Paramedic licensure be credited toward the suspension time; that Licensee must agree to report his criminal conviction history on all future applications; that Licensee be notified that failure to disclose his criminal conviction history on future applications may lead to more severe disciplinary action being taken against his Maine EMS license; and that the term of the consent agreement is six years (Chagrasulis; second by Woods) Passed: 12/1

d. Waiver Request : Joshua Frances

Joshua Frances appeared before the Board requesting a waiver of Maine EMS rules to allow him to use refresher training in order to establish current EMT-Intermediate training, even though his out-of-state EMT-Intermediate license expired more than three years ago.

Staff presented information and Mr. Frances gave an overview of his continued EMS involvement at the Federal level.

The Board reviewed Chapter 13 §2 of the Maine EMS Rules and considered the questions contained therein, to wit:

1. Whether the person seeking the waiver took reasonable steps to ascertain the rule and comply with it;

The Board found that Mr. Frances took reasonable steps to ascertain the Maine EMS rules and comply with them.

2. Whether the person seeking the waiver was given inaccurate information by an agent or employee of the State EMS program;

The Board found that Mr. Frances might have received inaccurate information from a former member of the Maine EMS staff.

3. Whether the person seeking the waiver, or any other individual or group, would be significantly injured or harmed if the rule were not waived;

The Board was neutral regarding question 3

4. Whether waiver of the rule in the particular case would pose a health or safety risk to the public at large or a particular individual or community; and

The Board found that waiver of the rule would not pose a significant health or safety risk to the aforementioned parties

5. Whether waiver of the rule in the particular case would establish a precedent that would unduly hinder the Board or office of EMS in its administration of Maine's EMS system.

The Board found that waiver of the rule would not establish a precedent that would unduly hinder the Board or Maine EMS in the administration of the system.

Motion: To Grant Joshua Frances a waiver of Maine EMS Rules § 5.4.5.B.1 to the extent that he may use refresher training to establish current training at the EMT-Intermediate level, which would make him eligible to sit for the Maine EMS written and practical exam (Leach; seconded by Woods) Passed 10/2 [Montejo, Conley]

e. Sterling Ambulance

Alan Azzara recused himself from the discussion because of his employment with Northeast Mobile Health, a direct competitor of Sterling Ambulance Service.

Bill Montejo also recused himself because he is an employee of Northeast Mobile Health.

The Board reviewed an application by Sterling Ambulance to add primary service areas to its license. The Board reviewed the application as well as letters in support and against approval of the application.

Discussion ensued in the following areas:

- Sterling's compliance with its Consent Agreement with the Board,
- Adequacy of dispatch for the type of service proposed
- Sterling's ability to provide appropriate response given its base location and proposed primary service areas

Following lengthy discussion, the Board opted to table consideration of the application until the applicant could appear before the Board to provide additional information.

Motion: To table consideration of the Sterling Ambulance Service application pending further information and appearance before the Board of the applicant (Chagrasulis; second by Woods) Passed: 8/1

Investigation Committee Minutes

The Board reviewed the May 17, 2007 Investigation Committee minutes. Laura Yustak Smith pointed out corrections.

Motion: To approve the May 17, 2007 Investigation Committee minutes as amended to correct case 6-17 to "preliminary denial of renewal license" and to include wording regarding final action concerning licensee Paul Bean as suggested by the Assistant Attorney General (Montejo; second by McKenney) Unanimous

The Board then reviewed the June 21, 2007 Investigation Committee minutes.

Motion: To approve the June 21, 2007 Investigation Committee minutes. (Chagrasulis; second by McKenney) Unanimous).

The Board considered the July 19, 2007 Investigation Committee minutes and revisited case #07-21. Investigation committee members had intended to revisit the \$400 fine proposed to lessen commensurate with the circumstances of the case relative to other cases of uncertified practice.

Motion: That if the investigation committee members can agree on a reduced fine amount, that the amount be approved as part of case 07-21's resolution (Chagrasulis; Conley carries 10-2-0)

Committee members then recommended a \$50 fine for the subject of case 07-21.

Motion: To ratify the investigations committee member's recommendation of a \$50 fine Inre: case #07-21 (Chagrasulis; second by Montejo) Unanimous

Due to departure of Board members and therefore, the lack of a quorum, the Board could not ratify the minutes of the July 19, 2007 Investigations Committee meeting.

Chairman Werts postponed staff reports and all other business to the next meeting.

Next meeting is scheduled for Wednesday, September 5.

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