

**PUBLIC HEALTH HEARING OFFICE
STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Bruce Dougherty, EMT-P

Petition No. 990603-072-003

PROPOSED MEMORANDUM OF DECISION

Procedural Background

On September 27, 1999, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") naming Bruce Dougherty, E.M.T. P., as respondent ("respondent"). The Charges were brought pursuant to §§19a-10 and 19a-14 of the Connecticut General Statutes¹ and allege that respondent violated §20-206nn, as described more particularly below. H.O. Exh. 1.

On October 19, 1999, a Notice of the Hearing was provided to respondent. In the Notice of Hearing, Elisabeth Borrino, the undersigned, was appointed by the Commissioner of the Department to be the Hearing Officer and to rule on all motions, and to recommend findings of fact and conclusions of law. H.O. Exh. 2.

Respondent did not file an Answer.

The administrative hearing was held on December 17, 1999 and February 3, 2000, in accordance with Connecticut General Statutes Chapter 54 and Regulations §§19a-9-1 *et seq.* Respondent did not appear and was not represented by counsel; Attorney Leslie Scoville, Esq. represented the Department.

On February 3, 2000, the Department moved to deem all allegations contained in the Charges admitted since respondent did not file an Answer. The Department's Motion was granted. Tr. 2/3/00, p. 9.

This Proposed Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer's proposed findings of fact, conclusions of law, and order. To

¹ All section references are to the Connecticut General Statutes unless otherwise stated.

the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent was the holder of Connecticut EMT-Paramedic License No. 000275 and that respondent's license expired on June 1, 1998.
2. In paragraph 2 of the Charges, the Department alleges that on May 15, 1998, the Department ordered a Consent Order as a result of respondent's (a) violation of standards and/or regulations; (b) failure to adequately assess and/or treat a patient, and (c) failure to document a patient evaluation and treatment decision.
3. In paragraph 3 of the Charges, the Department alleges that the terms of the Consent Order required that (1) respondent pay a civil penalty of \$2,000.00; (2) his license be suspended for two years with said suspension stayed after one year; (3) his license concurrently be placed on probation; (4) he complete coursework in the first six months of probation; (5) he practice only as an EMT during the first five months of the probation; (6) he be evaluated by the Sponsor Hospital Medical Director before being reinstated as paramedic; (7) he provide monthly employer reports to the Department; and (8) a supervisor conduct a monthly random review of emergency patient run forms and provide reports to the Department.
4. In paragraph 4 of the Charges, the Department alleges that respondent has not complied with most² of the terms of the Consent Order.
5. In paragraph 5 of the Charges, the Department alleges that respondent's conduct as described above constitutes violations of the terms of probation as set forth in the Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by §§19a-17 and 20-206nn.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut EMT-Paramedic License No. 000275 which expired on June 1, 1998.³ H.O. Exh. 1; Dept. Exh. 10.

² On February 3, 2000, the Department moved to amend paragraph 4 of the Charges to delete the term "any" and replace it with "most." The motion was granted.

³ Respondent was issued certificate number 95-10 in 1996. Effective October 1, 1997, Public Act 97-311 provided for the licensure of paramedics. Thus, the program for certification of paramedics changed to a program for licensure of paramedics. All paramedics certified and in current standing as of October 1,

2. The Department made all reasonable efforts to serve respondent with Notice of the Hearing in this matter. H. O. Exhs. 1, 2; Dept. Exh. 10.
3. Respondent did not file an Answer to the allegations contained in the Charges.
4. All of the factual allegations contained in the Charges are deemed admitted. In particular:
 - a. On May 15, 1998, the Department ordered a Consent Order as a result of respondent's (1) violation of standards and/or regulations, (2) failure to adequately assess and/or treat a patient, and (3) failure to document a patient evaluation and treatment decision;
 - b. The terms of the Consent Order required that (1) respondent pay a civil penalty of \$2,000.00; (2) his license be suspended for two years with said suspension stayed after one year; (3) his license concurrently be placed on probation; (4) he complete coursework in the first six months of probation; (5) he practice only as an EMT during the first five months of the probation; (6) he be evaluated by the Sponsor Hospital Medical Director before being reinstated as paramedic; (7) he provide monthly employer reports to the Department; and (8) a supervisor conduct a monthly random review of emergency patient run forms and provide reports to the Department;
 - c. Respondent has not complied with any of the terms of the Consent Order set forth in paragraph 4b., except the payment of the civil penalty;
 - d. Respondent's conduct as described above constitutes violations of the terms of probation as set forth in the Consent Order, and subjects respondent's license to revocation or other disciplinary action authorized by §§19a-17 and 20-206nn.
5. All of the factual allegations contained in the Consent Order (Dept. Exh. 10) are also deemed admitted pursuant to the terms of the Consent Order. In particular:
 - a. Respondent violated standards and/or regulations applicable to his profession by neglecting to adequately assess and/or treat patient L.K. by:
 - (1) failing to completely obtain patient L.K.'s vital signs, including but not limited to (i) insuring that he or his partner take patient L.K.'s

1997, automatically became licensed on that date. Respondent was thereby issued license number 000275. Dept. Exh. 10.

- blood pressure; and/or (ii) insuring that he or his partner listen to patient L.K.'s chest sounds;
- (2) allowing the inappropriate use of a nasopharyngeal airway; and/or,
 - (3) failing to transport patient L.K. to a treatment facility.
- b. Respondent violated standards and/or regulations by failing to document a patient evaluation and treatment decision;
6. On May 4, 1999, the Department notified respondent that he failed to comply with the terms of the Consent Order. Respondent did not respond to that notification. Dept. Exh. 10.

Discussion and Conclusions of Law

Pursuant to section 20-206nn, the Commissioner may take any disciplinary action set forth in section 19a-17 against a paramedic license if the licensee fails to conform to the accepted standards of the profession or engages in negligent, incompetent or wrongful conduct in performing his professional activities.

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995.

First, respondent admits that he violated standards and/or regulations applicable to his profession in his negligent assessment and treatment of patient L.K. pursuant to the Consent Order executed by him on May 14, 1998. FF. 5.

Second, all allegations contained in the Charges are deemed admitted. FF. 4.

Accordingly, the Department met its burden of proof that respondent violated the standards and/or regulations of his profession and violated the terms of his probation, and that his license is subject to disciplinary action.

The only issue remaining is what, if any, disciplinary action should be imposed against respondent's license.

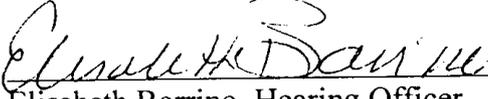
The record establishes that respondent committed several serious violations of the standards of his profession in his negligent treatment of patient L.K. The record also

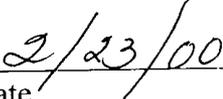
establishes that the Department afforded respondent an opportunity to retain his EMT-Paramedic license upon completion of the terms of the Consent Order. Respondent, however, merely paid the civil penalty required by the Consent Order and has failed to comply with all remaining terms therein. Thus, respondent has confirmed that any discipline, other than revocation, is ineffective and inappropriate to protect the public.

Therefore, this Hearing Officer recommends to the Commissioner that respondent's EMT-Paramedic License No. 000275 be revoked.

Proposed Order

Based on the record in this case, the above findings of fact and conclusions of law, this Hearing Officer respectfully recommends to the Commissioner that respondent's EMT-Paramedic License No. 000275 be revoked.


Elisabeth Borrino, Hearing Officer
Department of Public Health


Date



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

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IN RE: Bruce Dougherty, EMT-P - Petition No. 990603-072-003

FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-180, the attached Proposed Memorandum of Decision issued February 23, 2000, by Hearing Officer Elisabeth Borrino is hereby adopted as the final decision of the Commissioner of the Department Health in this matter. A copy of the Proposed Memorandum of Decision is attached hereto and incorporated herein.

Date

3/15/00

Norma D. Gyle, MS, RN
Deputy Commissioner



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