

**BEFORE THE MINNESOTA  
EMERGENCY MEDICAL SERVICES REGULATORY BOARD**

In the Matter of  
Rick Besser, EMT-P  
Certificate No. 274274

**STIPULATION AND  
CONSENT ORDER**

**STIPULATION**

Rick Besser, EMT-P (“Respondent”), and the Minnesota Emergency Medical Services Regulatory Board’s Complaint Review Panel (“Review Panel”) agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

**I.**

**JURISDICTION**

1. The Minnesota Emergency Medical Services Regulatory Board (“Board”) is authorized pursuant to Minnesota Statutes chapter 144E to certify and regulate Emergency Medical Technician–Paramedics (“EMT-P”) and to take disciplinary action as appropriate.

2. Respondent holds a certificate from the Board to provide emergency medical services as a paramedic in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Consent Order.

**II.**

**CONFERENCE**

1. On February 29, 2012, Respondent appeared before the Review Panel, composed of Board members Matt Simpson, Dr. Paula Fink Kochen, and Dr. Paul Satterlee, to discuss allegations contained in a Notice of Conference dated October 31, 2011, and Notice and Order

for Prehearing Conference and Hearing dated January 23, 2012. Karen B. Andrews, Assistant Attorney General, represented the Review Panel at the conference.

2. Respondent was advised by the Board's representatives that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

### III.

#### FACTS

The parties agree this Stipulation and Consent Order is based upon the following facts:

1. In November 2001, Respondent was terminated from Ambulance Service #1 for sexual harassment of a female employee (female #1), including alleged inappropriate touching.

2. In September 2010, while employed at Ambulance Service #2, Respondent was issued written discipline due to the following conduct as the instructor of a new employee orientation class:

a. Respondent demonstrated the application of a 12-lead ECG on a female employee ("female #2") in the back of the ambulance. Afterward, female #2 reported that Respondent touched her breast during the demonstration.

b. The ambulance service noted that the 12-lead ECG training should have been conducted in the meeting room, versus the ambulance, which was confined and private. Additionally, Respondent should have removed himself from the ECG application process by utilizing a female employee and acting as an observer.

c. During a meeting to discuss this issue, Respondent admitted his behavior was inappropriate for a field supervisor, and explained that recent issues with his personal/married life had caused stress and impaired his judgment. Respondent agreed to

exercise caution with subordinates in the future and to attend Employee Assistant Program (“EAP”) meetings.

3. On June 8, 2011, Respondent’s employment with Ambulance Service #2 was terminated due to the following conduct:

a. Respondent referred to a female high school student (“female #3”) in his EMT class as a “hot blonde” in front of other students.

b. Respondent asked female #3 to accompany him to a store, where he purchased personal items, including underwear.

c. During training scheduled in the last week of the class, a presentation was being given regarding the paramedic program. Respondent asked female #3 to leave the presentation to go and buy him a pop. Upon her return, Respondent responded, “thanks honey.”

d. Although 12-lead ECG skills are not required for an EMT class, Respondent used female #3 to demonstrate the proper placement of a 12-lead ECG during class. Respondent required female #3 to pull her shirt up to just below her breasts in front of her male peers, and then used the back of his hand to move her breast while a student placed the lead.

4. On October 31, 2011, the Review Panel served Respondent with a Notice of Conference, scheduling a conference on November 14, 2011, to discuss the allegations therein. Respondent failed to attend the conference or to notify the Review Panel that he was unable to attend.

5. At the prehearing conference with the Review Panel on February 29, 2012, Respondent apologized for his conduct, but indicated he did not believe he had acted inappropriately. Respondent indicated he would have attended the conference on November 14, 2011, had he received his mail in a timely manner.

IV.

**LAWS**

Respondent acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 144E.28, subdivision 5(a)(5), and justifies the disciplinary action described in section V. below.

V.

**DISCIPLINARY ACTION**

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

*Suspension of Certification*

1. The Board **SUSPENDS** Respondent's EMT-P certification for an indefinite period of time. Respondent shall not provide emergency medical services in the State of Minnesota and shall not imply by words or conduct that Respondent is authorized to provide services as an EMT-P.

2. Respondent shall surrender to the Board his EMT-P certificate card. Respondent shall personally deliver or mail the certificate to the Minnesota Emergency Medical Services Regulatory Board, c/o Pamela Biladeau, Executive Director, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414, within ten days of the date of this Order.

*Reinstatement of Certification*

3. Respondent may petition for reinstatement of his EMT-P certificate following six months from the date of this Order. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of providing emergency medical services in a fit and competent manner. At the time of Respondent's petition,

Respondent may be asked to meet with a Review Panel and to comply with, at a minimum, the following:

a. Mental Health Evaluation. Within 60 days prior to petitioning for reinstatement, Respondent must undergo a mental health evaluation performed by a psychiatrist or a licensed psychologist. Respondent shall submit, or cause to be submitted, the credentials of the evaluator for review and pre-approval by Board staff for purposes of this evaluation. The evaluation shall include the Minnesota Multiphasic Personality Inventory (“MMPI”). Respondent is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

1) Verification the evaluator has reviewed a copy of this Stipulation and Consent Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

2) Diagnosis and any recommended treatment plan;

3) Interpretation of Respondent’s MMPI test;

4) Respondent’s ability to handle stress;

5) Recommendations for additional evaluation or treatment; and

6) Any other information the evaluator believes would assist the

Board in its ultimate review of this matter.

b. Compliance With Evaluator’s Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

c. Continuing Education. At the time of Respondent’s petition for reinstatement, Respondent shall submit to the Board evidence of successful completion of at

least 2.0 contact hours of continuing education on the topic of sexual harassment awareness. Respondent shall submit written documentation, such as measurable learning objectives and qualifications of the instructor, in order to receive advance approval from Board staff of classes that Respondent takes in fulfillment of this condition.

d. Typewritten Report. At the time of Respondent's petition for reinstatement, Respondent shall submit to the Board a typewritten report, at least two pages in length, addressing what he learned from the continuing education. Respondent shall reflect on the situations described in section III and describe the knowledge he has gained and how he will apply this knowledge to his future practice as an EMT-P.

e. Additional Information. Respondent shall provide any additional information relevant to his petition reasonably requested by the Review Panel.

4. Recertification Requirements. Respondent shall meet all recertification requirements in effect at the time of his petition for reinstatement, including but not limited to completing the appropriate application, paying requisite fees, and completing any necessary continuing education requirements.

5. The Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement pursuant to paragraph 3. above, take any of the following actions:

- a. Issue an EMT-P certificate to Respondent;
- b. Issue an EMT-P certificate to Respondent with limitations upon the scope of Respondent's practice and/or with conditions for Respondent's practice; or
- c. Continue the suspension of Respondent's EMT-P certification upon his failure to meet the burden of proof.

## VI.

### CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

If Respondent fails to comply with or violates this Stipulation and Consent Order, the Review Panel may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Review Panel shall schedule a hearing before the Board. At least 30 days before the hearing, the Review Panel shall mail Respondent a notice of the violation(s) alleged by the Review Panel. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Review Panel, in its discretion, may schedule a conference with Respondent prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Review Panel and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Review Panel and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Review Panel shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Respondent

waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Respondent's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Review Panel not to seek discipline when it first learns of a violation shall not waive the Review Panel's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Respondent's license is in a conditional status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Respondent's practice, a period of suspension, additional conditions of reinstatement, or revocation of Respondent's certification.

f. Nothing herein shall limit the Review Panel's or the Board's right to temporarily suspend Respondent's license pursuant to Minnesota Statutes section 144E.28, subdivision 6, based on a violation of this Stipulation and Consent Order or based on conduct of Respondent not specifically referred to herein.

**VII.**

**ADDITIONAL INFORMATION**

1. Respondent waives the contested case hearing and all other procedures before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or rules.

2. Respondent waives any claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Respondent.

3. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

4. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

5. Respondent has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Respondent is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Respondent, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Respondent or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

6. Respondent agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

7. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Respondent by initiating a contested case hearing or by other appropriate means

on the basis of any act, conduct, or admission of Respondent which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

**VIII.**

**DATA PRACTICES NOTICES**

1. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

2. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

CONSENT:

MINNESOTA EMERGENCY MEDICAL  
SERVICES REGULATORY BOARD  
COMPLAINT REVIEW PANEL

  
\_\_\_\_\_  
RICK BESSER, EMT-P  
Respondent

  
\_\_\_\_\_  
BOARD MEMBER

Dated: 3-15, 2012

Dated: 5-14, 2012

**ORDER**

Upon consideration of the Stipulation, the Board places Respondent's EMT-P certification in a **SUSPENDED** status and adopts all of the terms described above on this \_\_\_\_\_ day of May 18, 2012.

MINNESOTA EMERGENCY MEDICAL  
SERVICES REGULATORY BOARD



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PAMELA BILADEAU  
Executive Director

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