



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

In the Matter of the Registration
of David A. Erickson, First Responder
Registration No. 963682

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between David A. Erickson, First Responder ("FR") ("Respondent"), and the Complaint Review Panel ("Review Panel") of the Emergency Medical Services Regulatory Board ("Board") as follows:

JURISDICTION

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a registration as a FR in the State of Minnesota.
2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. The Review Panel was represented by Gregory J. Schaefer, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2131, telephone (651) 757-1366.

FACTS

3. For the purpose of this Stipulation and Order only, the parties may consider the following facts as true:
 - a. Respondent became registered as a First Responder in Minnesota on August 20, 2012.
 - b. Respondent was convicted for Driving While under the Influence ("DWI") in March 2004, November 2006, and March 2011. Respondent underwent chemical dependency treatment from April to June 2011.

c. On August 17, 2012, the Health Professionals Services Program (“HPSP”) received Respondent’s signed Participation Agreement for monitoring of his chemical dependency.

d. In November 2012, after he missed three consecutive screens and failed to return HPSP phone calls, Respondent was discharged from HPSP, and his case was referred to the Board.

e. On June 27, 2013, Respondent successfully completed probation for the March 2011 DWI conviction.

f. Respondent was served with a Notice of Conference to appear before the Review Panel on May 20, 2013. Respondent did not appear for the conference and made no contact with the Board.

STATUTES

4. The Review Panel views Respondent's conduct as inappropriate in such a way as to require Board action under Minnesota Statutes section 144E.27, subdivision 5(a)(3), (4), and (5), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

DISCIPLINARY ACTION

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without further notice or hearing, the parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Stayed Suspension

6. The Board hereby **SUSPENDS** Respondent's registration to engage in the practice of emergency medical services. The suspension is **STAYED** so long as Respondent complies with the following requirements:

a. Contact With the HPSP. Respondent shall contact the HPSP at (651) 643-2120 to initiate enrollment in the program within 14 days of the date of this Order.

b. Participation Agreement. Respondent shall enter into a Participation Agreement with the HPSP for monitoring of Respondent's chemical dependency within 60 days of the date of this Order. Respondent must comply with all terms of the Participation Agreement. At a minimum, the Participation Agreement must include the following terms:

- 1) The Participation Agreement shall be effective for a minimum of 12 months.
- 2) Respondent shall completely abstain from any and all mood-altering chemicals, including alcohol, unless expressly prescribed in writing by a physician, dentist, or other health care professional who is providing care and treatment to Respondent.
- 3) Respondent shall attend a chemical dependency support group at least three times per month.
- 4) Respondent shall submit or cause to be submitted a report every three months from Respondent's supervisor.
- 5) Respondent shall submit to urine or blood screenings to determine the presence or absence of alcohol or drugs upon the request of the HPSP. Respondent shall be responsible for the cost of the screenings.

c. Abstention From Mood-Altering Chemicals. At all times while this Stipulation and Order is in effect, Respondent shall completely abstain from all mood-altering chemicals, including alcohol, unless expressly prescribed in writing by a physician, dentist, or other authorized health care professional who is providing care and treatment to Respondent. Within three (3) days of when a physician, dentist, or other authorized health care professional

prescribes controlled substances for Respondent, Respondent must inform the HPSP in writing of the prescription and the condition being treated.

7. Respondent shall notify each present and future supervisor of this Stipulation and Order within ten days of the date of the order or commencing employment. Respondent shall provide the supervisor with a copy of the entire signed Stipulation and Order.

8. Respondent must receive preapproval from the Review Panel before accepting any emergency medical services position not currently held.

B. Removal of Stayed Suspension

9. The stayed suspension of Respondent's registration may be administratively removed upon the HPSP's written notification to the Board of Respondent's successful completion of the terms of the Participation Agreement and upon written notification to Respondent by the Board of the removal of the stayed suspension.

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

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

11. It is Respondent's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order or the HPSP pursuant to Respondent's Participation Agreement are timely filed by those preparing the report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

A. Noncompliance With Requirements for Stayed Suspension

12. If the Review Panel has probable cause to believe Respondent has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 6 above or has failed to comply with the Participation Agreement, or is subject to a

positive chemical screen, the Review Panel may remove the stayed suspension pursuant to the procedures outlined in paragraph 12.b. below, with the following additions and exceptions:

a. If the HPSP discharges Respondent from the program for any reason other than Respondent's successful completion of the terms of the Participation Agreement, there will be a presumption of a preponderance of the evidence that Respondent has failed to comply with the requirement(s) for staying the suspension.

b. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Respondent agrees that the Review Panel is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 13 below. The Order of Removal shall confirm the Review Panel has probable cause to believe Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's registration. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a hearing before removal of the stayed suspension.

c. The Review Panel shall schedule the hearing pursuant to paragraph 13.a. below to be held within 60 days of the notice.

B. Noncompliance With Stipulation and Order

13. If Respondent fails to comply with or violates this Stipulation and 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 20 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 Order. Unless stated otherwise in this Stipulation and 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 prior to 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 will 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 registration is suspended or the suspension is stayed.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Respondent's registration.

f. Nothing herein shall limit the Review Panel's or the Board's right to temporarily suspend Respondent's registration pursuant to Minnesota Statutes section 144E.27, subdivision 6, based on a violation of this Stipulation and Order or based on conduct of Respondent not specifically referred to herein. Similarly, nothing herein shall limit the Review Panel's or the Board's right to automatically suspend Respondent's registration pursuant to Minnesota Statutes section 144E.27, subdivision 5.

ADDITIONAL TERMS

14. Within seven days of any change, Respondent shall provide the Board with his current address and telephone information. The information shall be sent to Pamela Biladeau, Executive Director, Emergency Medical Services Regulatory Board, University Park Plaza, 2829 University Ave. S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

15. This Stipulation and Order, related investigative reports, summaries thereof, and other documents shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

16. Respondent agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and the case comes before the Board, Respondent will

assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

17. Respondent waives the contested case hearing and all other procedures before the Board to which Respondent may be entitled under the Minnesota or United States Constitutions, statutes, or rules and agrees that the order to be entered pursuant to the Stipulation and Order shall be the final Order herein.

18. This Stipulation and 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.

DATA PRACTICES NOTICES

19. This Stipulation and 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 Order is in effect, information obtained by the Board pursuant to this Stipulation and 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.

20. Respondent hereby acknowledges that he has read and understands this Stipulation and Order and has voluntarily entered into it. This Stipulation and Order contains the entire

agreement between the parties, there being no other agreement of any kind, verbal or otherwise,
which varies the terms of this Stipulation and Order.

COMPLAINT REVIEW PANEL

David A. Erickson

DAVID A. ERICKSON, FR
Respondent

Dated: 1-24-14, 2014

Matthew Simpson

MATTHEW SIMPSON
Board Member

Dated: 2-3-2014, 2014

ORDER

Upon consideration of this Stipulation and Order, the Board **SUSPENDS** Respondent's registration. The Board **STAYS** the suspension upon Respondent's compliance with the requirements outlined in the Stipulation and upon the **CONDITION** that Respondent participates in the Health Professionals Services Program and adopts all other terms of the Stipulation on this 25 day of April, 2014.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By:

Pamela Bladeau

PAMELA BILADEAU
Executive Director