

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

In the Matter of
Hope L. Johnson, EMT-B
Certificate Number: 523362

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

On October 13, 2003, the Complaint Review Panel ("Panel") of the Minnesota Board of Emergency Medical Services ("Board") initiated the above-entitled proceeding against Hope L. Johnson, EMT-B ("Respondent"), by service of the Notice of Petition and Petition to Suspend Certification.

The matter came on for consideration by the Board pursuant to Minnesota Statutes section 144E.28, subdivision 5(b) (2002), at a regularly scheduled meeting on November 20, 2003, convened in Conference Room A (fourth floor), University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota 55414.

Robert T. Holley, Assistant Attorney General, appeared and presented oral argument on behalf of the Panel. Respondent was not present or otherwise represented at the meeting.

The following members of the Board were present: James Aagenes; Roger Boatman; Robert Carlson; Michael Guthrie; Megan Hartigan; Sen. Gary Kubly; Brian LaCroix; Mark Lindquist, M.D.; Jon Linnell; Donald Otte; Michael Parrish; and Mary Sheehan. As members of the Panel, Michael Guthrie, Megan Hartigan, Brian LaCroix, and Michael Parrish did not participate in deliberations or vote in the matter. As an *ex officio* member of the Board, pursuant to Minnesota Statutes section 144E.01, subdivision 2 (2002), Sen. Gary Kubly did not vote in the matter.

Based on the record and the proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. On Respondent's July 18, 2002, Disclosure Statement submitted with her Application for initial registration as an EMT-B, she answered "Yes" to Question No. 2: Have you ever been convicted or pled guilty or nolo contendere to any of the following: . . . gross misdemeanor . . . illegal use of alcohol?"

2. On July 7, 1990, Respondent was arrested for DWI. On January 14, 2000, Respondent was arrested for a second DWI. Respondent was arrested for her third DWI on June 23, 2001. Each arrest led to a conviction.

3. On October 31, 2002, the Panel met with Respondent to discuss the above offenses. The Panel agreed to allow Respondent to receive her certificate as an EMT-B on the condition she enter and successfully participate in the Health Professionals Services Program ("HPSP").

4. On November 4, 2002, Respondent contacted HPSP pursuant to the Panel's referral. Among other things, Respondent informed HPSP that she had completed district court probation on October 8, 2002, in connection with her most recent DWI. She also reported she was then in aftercare treatment at Hutchinson Area Health Care. In addition, Respondent reported a history of four chemical dependency treatments and stated her date of sobriety was October 31, 2001.

5. On December 12, 2002, Respondent signed an HPSP Participation Agreement. She thereby agreed to comply with an HPSP Monitoring Plan, including the following conditions, among others:

a. Complete the Hutchinson Area Health Care aftercare treatment program and follow all continuing care recommendations.

- b. Upon completion of chemical dependency treatment, engage in individual therapy.
- c. Meet with a physician at least annually.
- d. Identify a work-site monitor.
- e. Attend a self-help group at least twice a week.
- f. Abstain from the use of alcohol and other mood-altering chemicals unless lawfully prescribed or managed by a treating physician or a dentist who has been informed of Respondent's diagnosis and history.
- g. Respond to a minimum of six unscheduled bodily fluid screens per quarter at the request of HPSP.

6. On March 17, 2003, Respondent informed her HPSP case manager that she did not yet have a therapist and that she did not yet have a primary physician because she had no health insurance.

7. On March 31, 2003, Respondent was discharged from the Glencoe Regional Health Services ambulance service where she worked for failure to complete her ride-along sessions, causing her to be without an HPSP work-site monitor.

8. Effective April 23, 2003, Respondent was discharged from the Hutchinson Area Health Care aftercare program because she had not satisfactorily progressed in the completion of program requirements.

9. Respondent failed to obtain required HPSP toxicology screens on February 25, April 4, and April 11, 2003. Respondent's HPSP case manager contacted Respondent on May 1, 2003, with regard to a missing toxicology screen on April 11, 2003. Respondent acknowledged she did not provide the specimen, stating that she did not plan to continue in

HPSP because she could not afford it. Respondent was thereupon discharged from HPSP for noncompliance.

10. Upon learning of Respondent's circumstances as set forth in the preceding paragraph, specifically including her discharge from HPSP for noncompliance, she was asked to meet with the Panel on May 20, 2003, to discuss the matter. When Respondent reported she could not get off work to attend, the Panel agreed to reschedule the meeting to June 18, 2003.

11. Respondent informed Board staff she would be able to attend on June 18, 2003. She failed to appear on that date, however, and gave no notice that she would not be present. At that point, the Panel decided it would make another attempt to meet with Respondent by scheduling a formal disciplinary conference with her for August 6, 2003. On or about July 1, 2003, Board staff telephoned Respondent to confirm her presence at an August 6, 2003, conference. She stated she expected to be there.

12. A Notice of Conference ("Notice") was served on Respondent on July 11, 2003. It established the August 6, 2003, conference date and requested that Respondent submit a written response to the allegations set forth in the Notice prior to the conference. In addition, the Notice informed Respondent that her failure to attend the conference could constitute independent grounds for Board disciplinary action against her certification as an EMT-B under Minnesota Statutes section 144.30, subdivision 3.

13. Respondent failed to appear before the Panel on August 6, 2003, and again provided no prior notice that she would not be present. Further, she failed to provide any written response to the allegations in the Notice. The Panel concluded it would write to Respondent asking her to voluntarily surrender her EMT-B certificate due to her discharge from HPSP and her failure to cooperate with the Board. Alternatively, she would be given a final opportunity to meet with the Panel on September 18, 2003. If she elected to meet with the Panel, her advance

written response to the Notice allegations would also be required. Board staff mailed Respondent a letter on August 18, 2003, outlining the foregoing options.

14. Respondent did not respond to the Panel's request that she surrender her certificate. Likewise, she failed to appear before the Panel on September 18, 2003, provided no prior notice that she would not be present, and submitted no written response to the Notice allegations.

15. Respondent was served with the Notice of Petition and Petition to Suspend Certification in this matter on October 13, 2003. Respondent submitted no request for a hearing within 30 days of receipt of said notice as authorized under Minnesota Statutes section 144E.28, subdivision 5(b); nor has she submitted any such request to date or otherwise responded to the notice.

Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 144E.28 and 144E.30 (2002).

2. Respondent was given timely and proper notice of the November 20, 2003, hearing before the Board and of her right under Minnesota Statutes section 144E.28, subdivision 5(b), to request a contested case hearing to be conducted in accordance with Minnesota Statutes chapter 14.

3. The Panel has complied with all relevant substantive and procedural requirements of statute and rule.

4. The Panel has proven by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 144E.30, subdivision 3, by failing to cooperate with a Board investigation.

5. The Panel has proven by a preponderance of the evidence that, within the meaning of Minnesota Statutes section 144E.28, subdivision 5(4), Respondent is actually or potentially unable to provide emergency medical services with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of a mental or physical condition.

6. As a result of the violations set forth above and Respondent's failure to request a contested case hearing within 30 days of receipt of notice of her right to do so or at any time, the Board has the authority without further proceedings to take disciplinary action against Respondent's EMT-B certification. Minnesota Statutes section 144E.28, subdivisions 4 and 5 (2002).

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following:

ORDER

1. Respondent's EMT-B certificate is **SUSPENDED**, effective immediately. At no time subsequent to the date of this Order shall Respondent engage in any act in Minnesota which constitutes practice as an emergency medical technician as defined in Minnesota Statutes sections 144E.001 and 144E.28, nor shall she in any manner represent or hold herself out as being authorized to so practice.

2. Not later than 7 (seven) days from the date of this Order, Respondent shall surrender and cause the Board to receive her current EMT-B certificate card.

3. Respondent may apply to the Board for reinstatement of her certification as an EMT-B not earlier than 6 (six) months from the date of this Order. Any such application shall be accompanied by:

a. The results of a chemical dependency evaluation administered to Respondent at her expense by licensed providers since the date of this Order;

b. Evidence that Respondent has successfully completed or is successfully participating in any and all treatment indicated by the chemical dependency evaluation; and

c. Evidence of compliance with all applicable continuing education or training requirements under Minnesota Statutes section 144E.28, subdivisions 7 and 8.

4. Respondent shall appear before the Panel to review any application for reinstatement submitted pursuant to paragraph 3. The burden of proof shall be on Respondent to demonstrate that she is able to provide emergency medical services in a fit and competent manner without risk of harm to the public. The Board reserves the right to approve an application for reinstatement only upon the imposition of conditions and limitations which the Board deems necessary to ensure public protection. Such conditions and limitations may include but need not be limited to restricted duties, practice supervision, and participation in the HPSP for ongoing chemical dependency monitoring.

5. This Order is a public document.

The foregoing Findings of Fact, Conclusions, and Order constitute the Decision of the Board in this matter.

Dated: December 1, 2003

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By: 

ROGER BOATMAN
Board Secretary

AG: #950926