

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

In the Matter of the Certification
of Gary D. Ruiz Jr., EMT
Certification No. 509801

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between Gary D. Ruiz Jr.,
Emergency Medical Technician ("EMT") ("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 certification as an EMT 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 certified as an EMT in Minnesota on February 1,
2000.

b. Respondent was convicted of misdemeanor driving while impaired in
Dakota County on August 23, 2006.

c. Respondent was convicted of gross misdemeanor driving while under the influence of alcohol in Ramsey County on November 22, 2013.

d. The Board declined to renew Respondent's EMT certification on March 17, 2013.

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.28, subdivision 5(a)(3) and (4), 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 certification to engage in the practice of emergency medical services. The suspension is **STAYED** so long as Respondent complies with the following requirements:

a. **Report From Supervisor.** Respondent shall maintain current employment, or Respondent must receive preapproval from the Review Panel before accepting any emergency medical services position not currently held. Respondent shall notify each present and future supervisor of emergency medical services 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. Respondent shall cause to be submitted to the Board a report from his supervisor. The report shall be submitted every six months and at the

time Respondent petitions for reinstatement of his certification. Each report shall provide and address:

- 1) In the first report, verification Respondent's supervisor has received and reviewed a copy of this Order;
- 2) The date of Respondent's employment;
- 3) Respondent's sobriety;
- 4) Respondent's attendance and reliability;
- 5) Respondent's ability to carry out assigned functions, and if any performance deficiencies are identified, the actions taken to address them;
- 6) Respondent's ability to handle stress;
- 7) Respondent's typical work schedule; and
- 8) Any other information the supervisor believes would assist the Board in its ultimate review of this matter.

b. **Report From Probation Officer.** Respondent shall cause to be submitted to the Board a report from his probation officer. The report shall be submitted every six months while this Order is in effect and at the time Respondent petitions for reinstatement of his certification. Each report shall provide information regarding Respondent's compliance with all terms of his probation, including results of random alcohol testing and any criminal charges against him.

c. **Waivers.** If requested by the Board at any time while this Order is in effect, Respondent shall complete and sign health records waivers and chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Respondent's case with and to obtain written evaluations and reports and copies of all of Respondent's health, mental health, or chemical dependency records from his physician, mental

health professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, support, or assistance.

B. Removal of Stayed Suspension

7. Before petitioning for removal of the stayed suspension, Respondent shall meet with the Review Panel to review his petition and any evidence in support of the petition. Respondent shall provide any information relevant to his petition reasonably requested by the Review Panel.

8. In connection with any petition for an unconditional certification, the burden of proof shall be upon Respondent to demonstrate to the Board that he is able to provide emergency medical services in a fit and competent manner without risk of harm to the public.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. 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 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

10. 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, the Review Panel may remove the stayed suspension pursuant to the procedures outlined in paragraph 10.b. below, with the following additions and exceptions:

a. If Respondent fails to comply with the terms of probation, 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 11 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 certification. 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 11.a. below to be held within 60 days of the notice.

B. Noncompliance With Stipulation and Order

11. 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 certification 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 certification.

f. Respondent is aware this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Respondent, the Stipulation and 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 Order, it will be of no effect except as specified in the following paragraph.

g. Respondent agrees that if the Board rejects this Stipulation and 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 Order or of any records relating to it.

h. Nothing herein shall limit the Review Panel's or the Board's right to temporarily suspend Respondent's certification pursuant to Minnesota Statutes section 144E.28, 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 certification pursuant to Minnesota Statutes section 144E.28, subdivision 5.

ADDITIONAL TERMS

12. 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, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

13. 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.

14. 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.

15. 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.

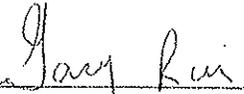
16. This Stipulation and Order shall not limit the Board's authority to proceed against Respondent by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

DATA PRACTICES NOTICES

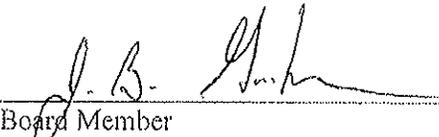
17. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by federal law or consistent with Board policy. While this Stipulation 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.

18. 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



GARY D. RUIZ JR., EMT
Respondent



Board Member

Dated: MAY 5th, 2014

Dated: 5/21, 2014

ORDER

Upon consideration of this Stipulation and Order, the Board **SUSPENDS** Respondent's certification. The Board **STAYS** the suspension upon Respondent's compliance with the requirements outlined in the Stipulation and adopts all other terms of the Stipulation on this 21 day of May, 2014.

MINNESOTA EMERGENCY MEDICAL
SERVICES REGULATORY BOARD

By: 

PAMELA BILADEAU
Executive Director