

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

In the Matter of
James A. Sizenbach, EMT
Certificate No. 277012

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

The above-entitled matter came on for a prehearing conference on February 11, 2014, before Administrative Law Judge (“ALJ”) Eric L. Lipman at the request of the Minnesota Emergency Medical Services Regulatory Board (“Board”) Complaint Review Panel (“Review Panel”). The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Board Review Panel on January 13, 2014. Gregory J. Schaefer, Assistant Attorney General, represented the Board Review Panel. James A. Sizenbach, Emergency Medical Technician (“EMT”) (“Respondent”), made no appearance.

On March 11, 2014, the ALJ issued Findings of Fact, Conclusions of Law, and Recommendation (“ALJ’s report”), recommending the Board take disciplinary action against the EMT certificate of Respondent. (A true and accurate copy of the ALJ’s report is attached hereto and incorporated herein as Exhibit A.)

The Board convened to consider the matter on May 15, 2014, in Conference Room A on the fourth floor of University Park Plaza, 2829 University Avenue S.E., Minneapolis, Minnesota. Gregory J. Schaefer, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Review Panel. Respondent did not appear. Board members Matthew Simpson, J.B. Guiton, Marlys Tanner, and Paula Fink Kocken, M.D., did not participate in deliberations and did not vote in the matter. Pamela Biladeau, Executive Director of the Board,

and Rose Olson, Licensing Administrator for the Board, did not participate in the deliberations. Hans A. Anderson, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the March 11, 2014, ALJ's report and accordingly adopts and incorporates by reference the Findings of Fact therein. Paragraph 5 of the ALJ's Conclusions of Law states,

Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice and Order for Prehearing Conference and Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore deems the allegations to be true.

The allegations contained in the Notice of Hearing are as follows:

1. On October 2, 1984, Respondent was convicted of Driving While Under the Influence ("DUI").
2. Respondent failed to disclose to the Board the 1984 DUI when renewing his EMT certificate in 1999, 2002, 2004, 2006, 2008, 2010, and 2012.
3. On February 27, 2013, Respondent was convicted of petty misdemeanor Possession of Drug Paraphernalia and petty misdemeanor Possessing Small Amount of Marijuana.
4. On May 23, 2013, and by certified mail on July 1, 2013, the Review Panel requested that Respondent provide a Chemical Dependency Assessment issued by a chemical dependency counselor. Respondent failed to respond or provide a Chemical Dependency Assessment.

CONCLUSIONS

The Board accepts the March 11, 2014, ALJ's report and accordingly adopts and incorporates the Conclusions therein.

ORDER

Based on the foregoing Findings of Fact and Conclusions and upon the recommendation of the ALJ, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the certificate of Respondent as an EMT in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

2. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct which constitutes the practice of emergency medical services and shall not imply to any persons by words or conduct that Respondent is authorized to practice emergency medical services in the State of Minnesota.

3. IT IS FURTHER ORDERED that Respondent may petition the Board to have the suspended status removed from his certificate at such time as he is willing to respond to the Findings of Fact set forth above. His certificate may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of emergency medical services. At the time of Respondent's petition, Respondent shall meet with a Board Review Panel to review his response to the Findings of Fact. In petitioning for removal of the suspension, Respondent shall comply with or provide the Board with, at a minimum, the following:

- a. A response to each separate fact set forth in the Findings of Fact.
- b. Evidence of compliance with the provisions of this Order. As part of the

proof of compliance, Respondent shall submit the following in support of his petition:

- 1) Chemical Dependency Evaluation. While this Order is in effect or during the petition process, the Board may direct Respondent to obtain a chemical dependency evaluation. Respondent shall undergo a chemical dependency evaluation performed by a

chemical dependency treatment professional. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board.

2) Compliance With Evaluator's Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

3) Waivers. If requested by the Board at any time during the petition process, 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 treatment professional/therapist, chemical dependency counselor, or others from whom Respondent has sought or obtained treatment, support, or assistance.

4. IT IS FURTHER ORDERED that Respondent shall meet all reregistration requirements in effect at the time of his petition to reinstate his certification, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

5. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 144E.28, subdivision 5(1), and provide grounds for further disciplinary action.

6. IT IS FURTHER ORDERED that 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. Grant EMT certification to Respondent;

b. Grant EMT certification 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 certification upon his failure to meet the burden of proof.

Dated: May 17, 2014

STATE OF MINNESOTA
EMERGENCY MEDICAL SERVICES
REGULATORY BOARD



KELLY SPRATT
Board Chair