



State of New Jersey  
DEPARTMENT OF HEALTH AND SENIOR SERVICES  
OFFICE OF EMERGENCY MEDICAL SERVICES  
PO BOX 360  
TRENTON, N.J. 08625-0360

JON S. CORZINE  
Governor

[www.nj.gov/health](http://www.nj.gov/health)

FRED M. JACOBS, M.D., J.D.  
Commissioner

August 8, 2006

Mr. Patrick J. McCabe, Jr.

**Re: Notice of Proposed Revocation:  
EMT-Basic Certification**  
Investigation Control # 06-C-070

Dear Mr. McCabe:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1, et seq., which was enacted, in part, to ensure that all hospital and related health care services rendered in the State of New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include any pre-hospital care rendered by paramedical and ambulance services. These laws establish a scheme that permits certain individuals, once certified, to perform basic life support (BLS) services. In furtherance of the objectives set forth in the statutes, the Department of Health and Senior Services (the Department) has adopted regulations that govern the training, certification and professional conduct of EMT-Basics. See N.J.A.C. 8:40A-1.1, et seq.

On December 12, 2005, the Department's Office of Emergency Medical Services (OEMS) received complaints from Douglas Krisburg of the North Plainfield Rescue Squad and Nancy Fiamingo of Solaris-Muhlenberg Regional Medical Center. The complaints alleged that you rendered inappropriate patient care to a newborn infant born on December 11, 2005. OEMS staff initiated an investigation in response to the complaints.

According to the Incident Report (the Report) that you filed with the North Plainfield Rescue Squad, on December 11, 2005, at 7:46 a.m., you received a cellular phone call from your mother advising you that your sister had a miscarriage. On

December 11, 2005, at 8:00 a.m., you took ambulance #26 from its garage at the North Plainfield Rescue Squad and responded to 15 Hurley Avenue in North Plainfield, New Jersey, in order to transport a 16 year-old female, to the hospital. The Report identifies this female as your sister. Upon your arrival at approximately 8:04 a.m., you found your sister sitting on the toilet with a towel over her legs. You stated a baby was in the toilet. Assisted by a neighbor, Alicia Monticello, a licensed practical nurse who was on the scene prior to your arrival, you removed the baby from the toilet. According to the Report, you assessed the newborn and found no signs of life. You then placed the newborn in a black plastic bag and Ms. Monticello tied it closed. Then you and Ms. Monticello transported your sister and the newborn to Muhlenberg Regional Medical Center. You were driving the ambulance while Ms. Monticello rode in the patient compartment.

OEMS staff interviewed Nancy Fiamingo, Chief Operating Officer of Solaris-Muhlenberg Regional Medical Center, in connection with this incident. Upon your arrival to the hospital at 8:29 a.m., according to Ms. Fiamingo, video cameras in the ambulance bay revealed that you waited in the ambulance for five minutes before bringing your sister and her baby into the hospital. Once inside the emergency department, you informed hospital staff that your sister had a miscarriage and the bag accompanying her contained "products of conception." Upon opening the bag, hospital staff found a 5 lb., 5 oz., 19" male infant that had a weak heartbeat. Hospital staff "called a code" and attempted to resuscitate the infant. Their efforts failed and the infant was pronounced dead at 9:40 a.m. by Doctor Brazaitis. Hospital staff reported this incident to the North Plainfield police. OEMS was then informed that the Somerset County Prosecutor's Office initiated an investigation into this matter.

On December 19, 2005, the Department summarily suspended your Emergency Medical Technician-Basic (EMT-Basic) certification. You filed an appeal with the Department on January 2, 2006, and a hearing for this matter was scheduled to be held on May 1, 2006. On April 22, 2006, you withdrew your request for a hearing.

Subsequent to the issuance of your summary suspension, the Department obtained additional facts in this matter. On December 22, 2005, you were interviewed by OEMS staff. The autopsy report issued by the Northern Regional Medical Examiners Office for "Baby Boy McCabe" listed the Cause of Death as "Full term live newborn with prolonged submersion in toilet water and prolonged enclosure in plastic bag."

New Jersey EMT-Basics are taught according to the EMT-Basic: National Standard Curriculum, promulgated by the National Highway Traffic Safety Administration of the United States Department of Transportation. The Department has determined that your actions as described above deviated markedly from the appropriate pre-hospital standard of care.

- On December 11, 2005, at 7:46 a.m. you were given information via a cellular phone call from your mother that a medical emergency existed at your residence. You were advised by your mother that your father “told her not to call 911 and that he didn’t want any police or medical care.” You had a duty to act and failed to do so by not implementing the standard of care and activating the 911 system yourself. It would have been reasonable to have an appropriately staffed Basic Life Support ambulance as well as the services of an Advanced Life Support unit respond to your residence to provide the appropriate pre-hospital medical care to your sister and ultimately her newborn.
- You cited in the Report that “A higher medical authority was already on the scene” and you were “only going to operate the ambulance.” Your knowledge and expectations of a Licensed Practical Nurse (LPN) were erroneous. As per the National EMS Education and Practice Blueprint in the EMT-B National Standard Curriculum, the status of an LPN is not included in the four recognized levels of certification or licensure as a qualified pre-hospital care provider. In fact, a Licensed Practical Nurse is not a higher medical authority in the pre-hospital setting; you were the highest medical authority on this call.
- By the descriptions and account that you provided in your Report and in your interview with OEMS, it appeared that the placenta had delivered in your presence. The placenta delivers within a few minutes after the baby’s birth but sometimes as long as 30 minutes later. You were not aware of the significance of this in regards to your decision to place the infant in a bag versus to initiate resuscitation. In fact, in response to questions about this, you stated “I did not think to check the cord or clamp it or anything of that nature, I did not do a lot of things.”
- You stated that you checked for a pulse and did not detect any. You did not attempt to listen for any lung sounds or heart activity. You stated that you did not have a stethoscope with you. You made no attempts to initiate a neonatal resuscitation. After the newborn was removed from the tied plastic bag at the hospital, at least 25 minutes after your contact, the initial physical assessment revealed a near term infant with the umbilical cord and placenta still attached, cyanotic and cold with an apical heart rate of 30 beats per minute. Only then, resuscitation was initiated and attempted.
- Your treatment of a post-partum patient was inadequate. You indicated in your appeal letter to the Department that you were caring for your “heavily bleeding sister.” You did not take any vital signs. You did not administer oxygen. You made no provisions to allow for abdominal massage to aid in the contraction of the uterus to minimize bleeding. You provided no lifting and moving techniques and allowed an actively bleeding patient to ambulate to the ambulance.

It is the Emergency Medical Technician-Basic's responsibility to act predictably and reasonably in emergent circumstances within the standards of his or her training. The Northern Regional Medical Examiner's conclusion that the cause of death included "prolonged enclosure in plastic bag" is a troubling fact that must be given significant weight by OEMS. The Department has determined that your actions as an Emergency Medical Technician-Basic fell far short of the appropriate standard of care in this case and, at the very least, constitute demonstrated incompetence and negligent practice.

N.J.A.C. 8:40A-10.2(b) provides that, "The Commissioner, or his or her designee, may issue a formal written warning, impose a monetary penalty, place on probation, suspend, revoke and/or refuse to issue or renew the certification of any EMT-Basic or EMT-Instructor for violation of any of the rules set forth in this chapter. This includes, but is not limited to:

1. Demonstrated incompetence or inability to provide adequate services;
3. Negligent practice;
23. Failure to comply with any part of this chapter, any applicable part of N.J.A.C. 8:40 or N.J.A.C. 8:41, or any applicable law, rule and/or regulation; and/or
24. Any other action deemed by the Department to pose a threat to the public health, safety or welfare."

**Therefore, as a result of our investigation, please be advised that the Department intends to revoke your certification as an Emergency Medical Technician-Basic. In addition, you will not be recognized as having Emergency Medical Technician-Basic privileges in New Jersey.** Pursuant to N.J.S.A. 52:14B-1, et seq. and N.J.A.C. 8:40A-10.3(b), you are entitled to a hearing before the Office of Administrative Law to contest this Department's decision to revoke your EMT-Basic certification and to refuse to recognize you as having EMT-Basic privileges in New Jersey. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the charges contained herein. Your request for a hearing must be submitted within 30 days from the date of this Notice and should be forwarded to:

New Jersey Department of Health & Senior Services  
Office of Legal & Regulatory Affairs  
P.O. Box 360, Room 805  
Trenton, NJ 08625-0360  
Attn: Ms. Michele Stark

Please include the control number 06-C-070 on all of your correspondence.  
**Finally, please note that your failure to submit a request for a hearing within 30 days shall be interpreted as an acceptance of this Department's decision, thereby negating any further appeal rights.** If you have any questions concerning this matter, please do not hesitate to contact Mr. Samuel Stewart, OEMS Regulatory Officer, at (609) 633-7777.

Sincerely,



Karen Halupke, RN, M.Ed.  
Director  
Emergency Medical Services

c: David Gruber, Senior Assistant Commissioner,  
Division of Health Infrastructure Preparedness and Emergency Response  
Joseph Tricarico, Jr., Assistant Commissioner,  
Health Infrastructure Preparedness Bureau  
Ruth Charbonneau, Director, OLRA  
Kimberly Jenkins, D.A.G.  
Samuel Stewart, Regulatory Officer, OEMS  
Charles McSweeney, OEMS  
Donald Roberts, OEMS  
✓ Kenneth Beym, OEMS  
John Brennan, M.D., OEMS Medical Advisor  
Lieutenant Buckman, Somerset County Prosecutor's Office  
National Registry of EMTs  
North Plainfield Rescue Squad

SENT VIA REGULAR U.S. MAIL AND  
CERTIFIED MAIL #  
RETURN RECEIPT REQUESTED