



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

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

www.nj.gov/health

SHEREEF M. ELNAHAL, MD, MBA
Commissioner

February 11, 2019

Michael Lewis

Re: **Notice of Proposed Suspension of EMT Certification (# 571165)
Investigation Control #2018-0155V**

Dear Mr. Lewis:

The New Jersey Department of Health 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 basic life support (BLS) personnel. In furtherance of the objectives set forth in the statute, the Department of Health (the Department) has adopted regulations that govern the training, certification and professional conduct of Emergency Medical Technicians (EMTs), such as you. See N.J.A.C. 8:40A-1.1, et seq.

On December 28, 2018, investigators from the Department's Office of Emergency Medical Services (OEMS) were conducting inspections on licensed ambulances at the emergency department of Trinitas Regional Medical Center in Elizabeth, New Jersey. During this time, the investigators began inspecting a vehicle from Smart Care Mass Transit (Vehicle # 602), of which you were a crew member. Upon requesting your credentials and access to the vehicle, you became indignant, uncooperative, and refused to provide investigators with your name or credentials. You stated that you needed to get to another job and this was not your concern. You continued to raise your voice and made posturing gestures, by flailing your arms erratically to investigators. The only piece of information you provided was your EMS identification number, but this was only after you were advised you were hindering an investigation.

As a certified EMT, you should already be aware that OEMS is authorized to conduct inspections of emergency medical vehicles and require EMTs to produce their credentials upon demand. Specifically, N.J.A.C. 8:40-2.6(a) provides that “[a]uthorized representatives of the Department may conduct periodic vehicle inspections and provider audits as necessary to determine compliance with this chapter.”

Furthermore, N.J.A.C. 8:40-4.1(a) states that “[e]ach crewmember who is operating a vehicle shall possess a valid driver’s license, as required by N.J.S.A. 39:3-10. Licenses shall be made available to Department staff upon demand.”

Even more, N.J.A.C. 8:40-4.1(e) provides that “[e]ach crewmember shall possess and shall make available to Department staff upon demand, certification for the type or level of patient care he or she is providing. No person shall be allowed to provide a type or level of patient care beyond the level he or she is lawfully eligible to provide in the State of New Jersey. In addition, each crewmember shall, upon request by Department staff, produce a photo I.D. that Department staff may utilize in order to verify the validity of the required certification credentials.”

Upon review of the incident and your actions on December 28, 2018, the Department finds that you have not complied with the above cited regulations.

Pursuant to N.J.A.C. 8:40A-10.2(b), “[t]he 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 or EMT-Instructor for violation of any of the rules set forth in this chapter. This includes, but is not limited to:

17. Willful obstruction of any investigation and/or representative of the Department or other agency empowered to enforce the provisions of this chapter or any applicable law, rule and/or regulation; . . . [and]
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.”

On December 28, 2018, you not only failed to produce your EMS credentials upon request by the OEMS investigators, as you are required to do under the above rules, but you also hindered OEMS’ inspection of an emergency medical vehicle and its crewmembers. **Consequently, the Department is suspending your EMT certification for a period of thirty (30) days. Following the suspension, you shall be placed in a probationary status for a period of twelve months. Additional regulatory violations will result in further action against your certification up to and including revocation. As such, the suspension will begin on March 15, 2019 and end on February 15, 2019.**

Please note, in accordance with N.J.A.C. 8:40A-10.2(d), you are prohibited from acting in the capacity of an EMT on any mobility assistance vehicle, BLS ambulance,

mobile intensive care unit, specialty care transport unit or air medical unit while your certification is suspended. The suspension may be followed by a probationary period; however, you will be permitted to enroll and successfully complete the educational conditions outlined during this suspension period.

N.J.A.C. 8:40A-10.2(e) provides that, "An EMT-Basic who has been placed on probation may be monitored for performance by the Department."

1. A person who has been placed on probation shall operate only when under the direct supervision of an EMT or EMT-Paramedic. Under no circumstances may a person who has been placed on probation act independently or in conjunction with, or on the same MAV, BLS ambulance, or SCTU as, another probationary EMT-Basic.
2. The Department shall have the right to restrict or otherwise limit the scope of practice of the probationer. Failure to meet such conditions or any terms of probation shall be cause for revocation of certification and/or other such action the Department deems appropriate.
 - i. Monitoring shall include of all calls in which you provide Basic Life Support services (including 100% chart reviews) by any EMS program by which you are employed. Your employer's Medical Director is required to provide a written quarterly report to the Department as to your progress and any remediation that may be needed;
 - ii. You shall provide the Department within 14 days of your probation with the name(s) of all of the EMS programs you are employed by or volunteer with. You are required to notify the Department within one (1) business day in any changes in your status with these agencies.

Pursuant to N.J.S.A. 52:14B-1, et seq. and N.J.A.C. 8:40A-10.2(b), you are entitled to a hearing before the Office of Administrative Law to contest this proposed suspension. 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. In the event that you request a hearing, the proposed suspension will be held in abeyance and you shall retain your EMT certification until such time as the hearing has been concluded and a final decision has been rendered. 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
Office of Legal & Regulatory Affairs
P.O. Box 360, Room 805
Trenton, NJ 08625-0360
Attn: Tamara Roach

Please include the control #**2018-0155V** 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 contact Dr. Jo-Bea Sciarrotta, OEMS Compliance Officer, OEMS Regulatory Officer, at (609) 633-7777.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scot Phelps', written on a light-colored background.

Scot Phelps
Director
Emergency Medical Services

Certified Mail

Cc: James Sweeney, OEMS
Eric Hicken, OEMS
Tim Seplaki, OEMS