

(f) Monetary penalties may be imposed in the amount of \$200.00 per calendar day, per infraction.

1. Violations shall be considered as a single, different occurrence for each calendar day the violation occurs or remains uncorrected.

2. Subsequent violations of the same type may be subject to a penalty of \$500.00 per calendar day, per infraction.

3. In the event that a person is in arrears of any monetary penalty greater than 60 calendar days, the Department may:

- i. Refuse to issue any certification or renewal;
- ii. Refer the delinquent account to the Office of the Attorney General for collection; and/or
- iii. Take such other action as authorized by law, rule and/or regulation.

(g) The Department shall notify all mobility assistance vehicle services, basic life support ambulance services and specialty care transport services that employ, or are thought to employ, any EMT-Basic against whom an enforcement action is being taken.

(h) No person shall have any action taken against his or her EMT-Basic or EMT-Instructor certification, excluding an emergent situation as described in (a) above, unless that person has first been afforded an opportunity for a hearing in accordance with N.J.A.C. 8:40A-10.3(a).

(i) Any actions taken under this section shall be separate from any civil, criminal or other judicial proceeding, including actions against licenses of health care professionals issued by other departments or boards. All matters of professional misconduct shall be referred to the appropriate licensing boards, and all matters of a criminal nature shall be forwarded to the appropriate authorities for disposition. Action taken against an EMT-Basic does not preclude any action that may be taken against a mobility assistance vehicle service, basic life support ambulance service or specialty care transport service for the same infraction.

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 750) adopted, which concluded that petitioner was not rehabilitated and that his involvement in a conspiracy to commit aggravated arson by stealing one of his co-conspirator's cars, and then setting it on fire to collect the insurance proceeds, adversely related to the occupation of an Emergency Medical Technician-Basic (EMT-B) and his continued certification posed a threat to the public safety and welfare, mandating revocation of his EMT-B certification. *Schmiedle v. N.J. Dep't of Health & Senior Services*, OAL Dkt. No. HLT 8972-05, 2006 N.J. AGEN LEXIS 874, Final Decision (October 4, 2006).

Initial Decision (2005 N.J. AGEN LEXIS 420) adopted, which concluded that petitioner's criminal convictions, including three counts of attempted sexual assault, were incompatible with the duties of an Emergency Medical Technician-Basic and that the petitioner's continued certification posed a threat to the public safety and welfare; therefore, suspension of certification was proper. The judge in the criminal court

found no mitigating factors, and the placement of petitioner on community supervision for life reflected the statutory determination that people with such convictions were a threat to the public welfare. *Davis v. N.J. Dep't of Health & Senior Services*, OAL Dkt. No. HLT 2816-02, 2005 N.J. AGEN LEXIS 1470, Final Decision (September 1, 2005).

8:40A-10.3 Hearings

(a) A person whose EMT-Basic and/or EMT-Instructor certification has been summarily suspended shall, consistent with N.J.A.C. 1:1-12.6, have the right to apply to the Commissioner for emergency relief.

1. A request for emergency relief shall be submitted in writing and shall be accompanied by a response to the charges contained in the "Notice of Summary Suspension." Failure to submit such written notice shall result in the person forfeiting all rights to emergency relief.

2. All applications for emergency relief will be handled in accordance with N.J.A.C. 1:1-12.6(c).

3. Unless emergency relief is granted, the summary suspension shall remain in effect until such time as Department staff has conducted a full investigation into the circumstances that formed the basis for the summary suspension. Nothing herein shall be construed to prevent the Commissioner from simultaneously or thereafter moving to suspend or revoke the person's certification, issuing a formal written warning, imposing a probationary period and/or imposing a monetary penalty.

(b) If the Department proposes to issue a formal written warning, assess a monetary penalty, impose a probationary period and/or to suspend, revoke or refuse to issue or renew an EMT-Basic or EMT-Instructor certification, the person affected shall be afforded an opportunity for hearing to contest the proposed action.

1. All warnings, monetary assessments, probationary periods, suspensions (excluding summary suspensions) and revocations shall become effective 30 calendar days after mailing of a notice of the proposed action unless the person affected, within such 30-day period, gives written notice to the Department of his or her desire for a hearing. Failure to submit such written notice shall result in the person forfeiting all rights to such a hearing.

i. Upon the filing of such written notice, the warning, assessment, probationary period, suspension (excluding summary suspensions) or revocation shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

2. Refusals to issue or renew an EMT-Basic or EMT-Instructor certification shall become effective immediately. In the event that a person desires to contest the Department's refusal to issue or renew a certification, the person shall give written notice to the Department within the 30-day period immediately following that refusal of his or her desire for a hearing. Failure to submit such written notice

shall result in the person forfeiting all rights to such a hearing.

i. In the event that a person requests a hearing, the certification shall not be issued or shall remain invalid, as applicable, until such time as the hearing has been concluded and a final decision has been rendered.

(c) An applicant denied certification as a training agency, a training agency whose application for program/session approval has been denied or a training agency whose certification the Department proposes to suspend or revoke shall be afforded an opportunity for hearing at the New Jersey Office of Administrative Law to contest the action.

1. All suspensions and revocations shall become effective 30 calendar days after mailing of a notice of the proposed suspension or revocation unless the training agency, within such 30-day period, gives written notice to the Department of its desire for a hearing. Failure to submit such written notice shall result in the training agency forfeiting all rights to such a hearing.

i. In the event that a hearing is requested, the suspension (excluding summary suspensions) or revocation shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

2. Denial of training agency certification and denial of program/session approval shall become effective immediately.

(d) The procedures governing all hearings shall be conducted in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) All enforcement shall be considered public information and shall be posted on the OEMS website (www.state.nj.us/health/ems) as a public notice.

1. Formal written warnings and summary suspensions shall be posted 10 days after they are issued. Monetary penalties, proposed probationary periods, proposed suspensions and proposed revocations shall be posted 30 days after they are issued. In those instances where a hearing has been requested, the enforcement action shall not be posted to the OEMS website until the hearing has been concluded and a final decision has been rendered.

2. Once posted, enforcement actions shall remain on the OEMS website as follows:

i. Monetary penalties: One year from the date on which the notice is posted;

ii. Suspensions (summary and non-summary): One year from the date on which the notice is posted or for the duration of the suspension, whichever is greater; and

iii. Revocations: Permanently.

8:40A-10.4 Penalty for impersonating an EMT-Basic or EMT-Instructor

(a) Consistent with N.J.A.C. 8:40A-7.1(a) and 8.1(a), no person shall impersonate, refer to himself or herself as, act in the capacity of or perform the duties of, an EMT-Basic or EMT-Instructor unless he or she is certified or recognized by the Department in accordance with the standards set forth in this chapter.

1. Upon notice or discovery that a person is impersonating, referring to himself or herself as, or acting in the capacity of an EMT-Basic without having first obtained the required EMT-Basic or EMT-Instructor certification or recognition or after revocation of an EMT-Basic or EMT-Instructor certification previously issued by the Department, the Commissioner or his or her designee may issue an order directing that person to immediately cease and desist.

i. Failure to comply with an order to cease and desist may result in an action by the Department for injunctive relief in the Superior Court of New Jersey.

ii. The order to cease and desist shall constitute a final agency decision. As such, pursuant to New Jersey Court Rule 2:2-3, any appeal from the Commissioner's order to cease and desist shall be filed with the Superior Court of New Jersey, Appellate Division.

iii. Orders to cease and desist shall be considered public information and shall be posted on the OEMS website (www.state.nj.us/health/ems) as a public notice. Orders to cease and desist shall remain posted on the OEMS website permanently or until such time as EMT-Basic or EMT-Instructor certification is issued or recognized by the Department.

2. In addition to the issuance of an order to cease and desist, the Commissioner or his or her designee may:

i. Impose a monetary penalty in the amount of \$200.00 per calendar day for each day that a person is found to have impersonated, referred to him or herself as, or acted in the capacity of, an EMT-Basic or EMT-Instructor;

ii. Refuse to issue or renew any subsequent EMT-Basic and/or EMT-Instructor certifications; and/or

iii. Impose additional training requirements and/or place additional conditions or restrictions on any subsequent EMT-Basic or EMT-Instructor certification.