

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

DEPT. OF PUBLIC HEALTH, OFFICE :
OF EMERGENCY MEDICAL SERVICES :
Petitioner :

Docket No. PHET-22-0589

v. :

CHRISTOPHER P. MAILLOUX :
Respondent. :

Appearance for Petitioner:

John Pina, III, Esq.
Deputy General Counsel
Mass. Dept. of Public Health

Appearance for Respondent:

Christopher Mailloux, *pro se*
South Dennis, MA 02660

Administrative Magistrate:

Eric Tennen

SUMMARY OF (RECOMMENDED) DECISION

The Department of Public Health has established sufficient grounds to suspend the Respondent's temporary certification as an Emergency Medical Technician under 105 Code Mass. Regs. §§ 170.940(Q) and (R). There is no dispute the Respondent was disciplined in another jurisdiction for acts that would be subject to discipline in Massachusetts. Nor is there any dispute the Respondent failed to timely report the out-of-state disciplinary action. I therefore recommend that the decision of the DPH to immediately suspend Respondent's certification be affirmed.

**RECOMMENDED RULING ALLOWING
PETITIONER'S MOTION FOR SUMMARY DECISION**

On November 11, 2022, the Petitioner, Department of Public Health (“Department” or “DPH”), issued a Notice of Agency Action immediately suspending Respondent Christopher Mailloux’s temporary EMT certification. DPH put forward five grounds for suspension based on an August 23, 2022 order by the State of Maine Board of Emergency Medical Services also suspending Petitioner’s license.

At a January 26, 2023 pre-hearing conference, I indicated there appeared to be a dispute of fact as to some grounds but not others. The parties attempted to resolve the matter. Ultimately, the parties were unable to resolve the matter completely, but were able to narrow the issues. The Department moved to dismiss three grounds, which I allowed on May 1, 2023. In turn, the Respondent agreed the remaining grounds could be decided without a hearing. *See* 801 Code Mass. Reg. § 1.01(10)(b).

On May 12, 2023, the Board filed a motion for summary decision, accompanied by five exhibits (A-E). I now admit them into evidence. The Respondent did not file a response.

FINDINGS OF FACT

Based on the exhibits submitted into evidence, I make the following findings of fact:

1. Respondent was issued a temporary EMT paramedic certificate in Massachusetts on April 15, 2020. (Exhibit B.)
2. Respondent already had a paramedic license in Maine, which had been issued in 2014. (Exhibit A.)

3. On May 4, 2022, the Maine Board of Emergency Medical Services (“Maine EMS”) issued Respondent a Notice of Hearing for alleged disciplinary infractions arising out of conduct in Maine. (Exhibit A.)
4. Following an evidentiary hearing, in August 2022, Maine EMS voted unanimously to revoke Respondent’s Maine license. (Exhibit A.)
5. The Respondent did not report this disciplinary action to DPH within five days. (Exhibit C.)
6. The grounds for discipline in Maine involved allegations of inaccurately recording material information and falsifying documents. (Exhibit A.)¹
7. Based on Maine EMS’s actions, on November 10, 2022, DPH issued the Respondent a Notice of Agency Action immediately suspending his temporary EMT certification in Massachusetts. (Exhibit C.)
8. The Respondent timely appealed and requested a hearing. (Exhibit D.)
9. The proposed suspension was based on numerous grounds. Ultimately, DPH moved to dismiss three grounds in the notice, and that was allowed. *See* May 1, 2023 Order.
10. The two remaining grounds are: 1) discipline in another jurisdiction for conduct substantially like that which would constitute grounds for discipline in Massachusetts and 2) failure to report the discipline within five days. (Exhibit C.)

CONCLUSION AND ORDER

A summary decision may be granted when “there is no genuine issue of fact relating to all or part of a claim.” 801 Code Mass. Regs. § 1.01(7)(h). “In such a circumstance, a hearing

¹ At the pre-hearing conference, the Respondent denied committing the violations adjudicated in Maine. However, he conceded that he had exhausted his appellate rights in Maine.

serves no useful purpose.” *Jordan v. State Bd. of Ret.*, CR-21-0201, 2022 WL 16921458 (DALA Feb. 18, 2022). In this case, the motion for summary decision may be granted simply “because it is unopposed.” *DPH v. McCall*, PHET-18-0372 (DALA Mar. 28, 2019), *citing* 801 Code Mass. Regs. § 1.01(7)(h). Nevertheless, the evidence supports the Department’s position.

105 Code Mass. Regs. § 170.940 sets forth the grounds upon which DPH may suspend, revoke, or refuse to renew an EMT’s certification. These include the remaining grounds DPH is pursuing:

(O) Knowingly make an omission of a material fact or a false statement, orally or in any application or other document filed with or obtained by the Department or any other entity in the EMS system.

...

(Q) Having been disciplined in Massachusetts or another jurisdiction (state, United States or foreign) by a governmental licensing or certification authority, or by the NREMT, against an EMT or other health care certification or license held by the EMT, for acts or conduct substantially similar to that which would constitute grounds for discipline by the Department.

(R) Failure to meet reporting obligations in accordance with 105 CMR 170.937.

105 Code Mass. Regs. § 170.940.²

A finding that the Respondent’s actions or omissions violate any of these provisions must result in a decision affirming DPH’s actions. *See DPH v. Pessini*, PHET-16-162 (DALA Mar. 3, 2017), *citing* 105 Code Mass. Regs. § 170.770 (B).

DPH has met its burden of proving that the Respondent’s temporary certification should be suspended. First, the Respondent’s sanction in Maine was for inaccurately recording material

² The regulations were recently updated and some renumbered. The notice of suspension cited the prior regulations in effect at that time; my decision cites the current regulations. To be clear, the basis for the suspension has not changed, only the citation to the regulations.

information and falsifying a healthcare provider record. This conduct would be grounds for discipline in Massachusetts. *See* 105 Code Mass. Regs. § 170.940(O). Therefore, Respondent violated 105 Code Mass. Regs. § 170.940(Q). Second, the Respondent did not report this discipline to Massachusetts in a timely matter. Accordingly, he also violated 105 Code Mass. Regs. § 170.940(R).

By a preponderance of the evidence, DPH has established sufficient grounds under 105 C.M.R. §§ 170.940(Q) and (R) to immediately suspend Mr. Mailloux's temporary certification as an EMT. I recommend that the decision be **affirmed**.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate

JUN 06 2023