

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**Dep't of Public Health,
Petitioner**

Docket No. PHET-20-0389

January 3, 2025

v.

**McCauliff (Anthony)
Respondent**

Appearance for Petitioner:

Ryan Gibbons, Esq.
Dep't of Public Health
250 Washington St., 2nd fl.
Boston, MA 02108-4619

Appearance for Respondent:

Anthony McCauliff, *pro se*
1 Gannam Ave.
Hunter Army Air Field (AAF)
Savannah, GA 31405

Administrative Magistrate:

Mark L. Silverstein, Esq.

SUMMARY OF DECISION

EMT License Suspension and Temporary Revocation, M.G.L. c. 111C, §§ 1-24 and 105 C.M.R. § 170 - Misrepresenting paramedic credentials to state agencies and to private emergency medical service provider employers in applying for a paramedic position, 105 C.M.R. § 170.940 - Dismissal - Lack of Prosecution.

Respondent's appeal challenging a Notice of Agency Action issued by the Massachusetts Department of Public Health immediately suspending the Emergency Medical Technician (EMT) certification of a person with the respondent's name (but with two different addresses) and proposing that the certification be temporarily revoked for two years is dismissed for lack of

prosecution, following the issuance to him of an order to show cause, based upon his failure to appear for a scheduled prehearing conference by telephone or respond to the show cause order; and the Notice of Agency Action and the immediate EMT certification suspension it ordered, and the temporary revocation it proposed, are made final.

DECISION

Background

On September 1, 2020, the Massachusetts Department of Public Health (DPH) issued a Notice of Agency Action immediately suspending, and proposing to temporarily revoke, the certification of an individual named Anthony McCauliff as an Emergency Medical Technician (EMT) for a minimum of two years, pursuant to M.G.L. c. 111C, §§ 1-24 and DPH's emergency medical care and licensing regulations, 105 C.M.R. § 170, for misrepresenting his credentials in applying for a paramedic position. *See* 105 C.M.R. § 170.940. DPH alleged in the Notice that Mr. McCauliff had (1) presented to a private Massachusetts ambulance service ("Vital EMS") a document showing an EMT certification number that did not exist; and (2) stated falsely to Vital that he was certified as a paramedic in Massachusetts, had obtained paramedic certification from the National Registry of Emergency Medical Technicians (NREMT), had completed a paramedic program in Massachusetts; and had been a critical care paramedic in the United States military.¹

¹/ NREMT is a non-profit organization established in 1970, upon the recommendation of the Presidential Commission on Highway Traffic Safety, "to provide a national certification agency to establish uniform standards for training and examination of personnel active in the delivery of emergency ambulance service." *See* <https://nremt.org/about/about-us>. NREMT provides certification of prehospital service providers at various levels. The entry level NREMT certification required by most states for persons seeking state EMT certification is "Nationally Registered Emergency Medical Responder" (NREMR). An EMT is allowed to "provide immediate lifesaving care to critical patients who access the emergency medical services system" and "provide immediate lifesaving interventions while awaiting additional EMS resources to arrive," *see* <https://nremt.org/EMR/Certification>. The most advanced level of certification that NREMT provides is "Nationally Registered Paramedic" (NRP), which is required by most states for persons seeking state paramedic certification. A paramedic is "an allied health professional whose primary focus is to provide advanced emergency medical care for critical and emergent patients who access the emergency medical system," and who is allowed to "perform

In addition, DPH alleged that when Mr. McCauliff applied to NREMT in March 2020 to test at the paramedic level, he had stated falsely that he had completed a paramedic program in Massachusetts at "NCTI," a provider of accredited EMS and paramedic training and education programs. DPH also alleged that when an investigator from the Massachusetts Office of Emergency Management Services interviewed him regarding these allegations, Mr. McCauliff falsely denied applying to Vital for any position, submitting any credentials or a resume to Vital, or speaking with anyone at Vital regarding a paramedic position.

DPH took this action after being advised by the New Hampshire Department of Safety, Division of Fire and Emergency Medical Services (NHEMS) in August 2020 that it had disciplined Mr. McCauliff as an EMT after finding that he had submitted a falsified NREMT card purporting to show his certification as a paramedic when he applied for a position with "AMR," a private New Hampshire ambulance service, and had therefore committed fraud in representing his skills or ability, in violation of N.H. Rev. Stat. Ann. § 153-A:13 I.(f); and had "knowingly ma[de] misleading, deceptive, untrue, or fraudulent misrepresentations or engag[ed] in unethical conduct including, but not limited to, conduct likely to deceive, defraud or harm the public or demonstrat[ed] a willful or careless disregard for the health and safety of a client/patient or practice harmful or detrimental to the public," in violation of N.H. Rev. Stat. Ann. § 153-A:13 I.(d).

In its Notice of Agency Action, DPH alleged that in view of Mr. McCauliff's actions, the public health and safety would be endangered if his EMT certification was not suspended pending a hearing on the license revocation the agency proposed. As grounds for revoking Mr. McCauliff's EMT license, DPH alleged that he had:

interventions with the basic and advanced equipment typically found on an ambulance." See <https://nremt.org/Paramedic/Certification>.

(1) Knowingly made false or misleading statements and/or omissions of material fact, both orally and in documents filed with or obtained by the Department or another entity in the EMS system, in violation of 105 C.M.R. § 170.940(M);

(2) Failed to exercise reasonable care, judgment, knowledge or ability in the performance of duties, or to perform those duties within the scope of his training and certification, in violations of 105 C.M.R. § 170.940(c);

(3) Committed gross misconduct in the performance of his duties, in violation of 105 C.M.R. § 170.940(D);

(4) Endangered the health or safety of the public, in violation of 105 C.M.R. § 170.940(F);

(5) Been disciplined in another jurisdiction (New Hampshire) as an EMT for acts or conduct substantially similar to what would be grounds for discipline by DPH, in violation of 105 C.M.R. § 170.940(O);

(6) Failed to meet reporting obligations specified at 105 C.M.R. § 170.937, in violation of 105 C.M.R. § 170.940(P); and

(7) Committed other violations of M.G.L. c. 111C or 105 C.M.R. § 170.000, in violation of 105 C.M.R. § 170.940(Q).

The DPH Notice of Agency Action identified Mr. McCauliff as holding an EMT certification number that expired on April 1, 2020 but that had remained active pursuant to the Governor's Declaration of a COVID-19-related Health Emergency on March 10, 2020. The notice stated that the respondent had resided at 97 Groton Street, Pepperell, Massachusetts 01463, but "may be residing at 24 Kessler Farm Road, Unit 140, Nashua, New Hampshire 06063." DPH sent copies of its Notice of Agency Action to Mr. McCauliff at both of these addresses.

The Notice of Agency Action appears to have been emailed as well to an email address for a person named Anthony McCauliff. This person responded to the Notice on the same day (September 1, 2020) by email sent to DPH General Counsel. He gave his name as Anthony McCauliff and provided a regular mailing address at Hunter Army Air Force Base in Savannah, Georgia ("Hunter AAF"). He asserted, in the email, that he never lived at the Nashua, New Hampshire address listed in the DPH Notice of Agency Action, and that he did not work for any EMT service in Massachusetts or New Hampshire.

On September 20, 2020, the DPH Deputy General Counsel sent an email to Mr. McCauliff asking that he clarify whether he was appealing DPH's September 1, 2020 notice of agency action and supply his current address. Mr. McCauliff confirmed in his email response that his current address was at Hunter AAF. He also asked for identifying information about the Anthony McCauliff who was the subject of the DPH notice of agency action (social security number, birth date and name), and stated that he "did not agree with the decision" meaning, apparently, the notice of agency action. He added "nor do I care about anything but ensuring my name is clear."

The DPH Deputy General Counsel took this to mean that Mr. McCauliff was appealing the notice of agency action. On September 29, 2020, DPH transferred DPH's September 1, 2020 Notice of Agency Action and the email exchanges of September 1 and 20, 2020 as an appeal for DALA to adjudicate under the Standard Rules for Adjudicatory Practice and Procedure, 801 C.M.R. § 1.01 *et seq.*²

DALA scheduled a prehearing conference for November 19, 2020 by telephone, on

²/ Per the DPH regulations, appeals of EMT suspensions and proposed temporary EMT certifications may be appealed to the Massachusetts Division of Administrative Law Appeals (DALA), *see* 105 C.M.R. § 170.770, for adjudication pursuant to M.G.L. c. 30A and the Standard Rules.

account of the ongoing COVID 19-related shutdown of DALA and other state offices. DALA mailed a notice of this conference to both the DPH Deputy General Counsel and to Mr. McCauliff at the Massachusetts and New Hampshire addresses listed on the September 1, 2020 DPH notice of agency action. The notice gave both parties the call-in telephone number and passcode that they were to use to join the telephone prehearing conference. It stated that the purpose of the conference was, among other things, to identify the issues to be adjudicated, determine the possibility of resolution by agreement, schedule discovery and motions, and schedule a hearing. The notice also stated that failure to appear at the conference by telephone "may result in the entry of an order of default."

Both regular mailings to Mr. McCauliff were returned to DALA by the United States Postal Service as undeliverable and not forwardable.

By email dated November 9, 2020, the DPH Deputy General Counsel notified Mr. McCauliff that mail sent to him in Georgia had been returned as undeliverable, and requested that he furnish his current address. Mr. McCauliff responded by email on the same day that his address was 1 Gannam Avenue, Hunter AAF, [Savannah] GA 31405. The DPH Deputy General Counsel immediately sent an email to DALA, with a copy by email to Mr. McCauliff, notifying DALA of Mr. McCauliff's Hunter AAF address, and advising Mr. McCauliff of the scheduled telephonic prehearing conference date, time, call-in number and password.

Mr. McCauliff responded by email shortly afterward (also on November 9, 2020). His email stated:

What is this conference for? I have no idea what is going on here. Is this a criminal hearing? If I miss the call y'all gonna issue warrants? I need to know this info like now so I can talk to the staff judge advocates office and get an attorney. I've done nothing wrong and yet you people are treating me like a felon. Please advise.

Within the next hour, the DPH Deputy General Counsel emailed a reply to Mr. McCauliff

that stated:

This is not a criminal matter and no warrant would issue. The matter involves only your certification as an EMT in Massachusetts.

The Pre-Hearing Conference is an opportunity for the parties to present a brief summary of their positions and schedule a Hearing (which is an administrative trial). You are welcome to hire an attorney to represent you. Should you fail to participate in the Pre-Hearing Conference, your appeal may be dismissed (however, that is a matter for the Magistrate to decide). If you have evidence that your identity was stolen and the allegations against you are not true, the proceeding before DALA is your opportunity to present that evidence.

I held the scheduled prehearing conference by telephone at 2:00 p.m. on November 19, 2020. The DPH Deputy General Counsel joined the telephone conference. Mr. McCauliff had not joined the telephone prehearing conference as of 2:30 p.m. Before concluding the conference, I asked the DPH Deputy General Counsel if he had received any further communication from Mr. McCauliff following the initial email exchange on November 9, 2020. He advised me of the two emails quoted above, and later that day, he forwarded a copy of the November 9, 2020 emails to me. He also pointed out that Mr. McCauliff's email address was the one he had used in communicating with Vital EMS, and that DPH was certain that the Mr. McCauliff who had emailed the agency from this email address, and who gave an address at Hunter AAF in Savannah, Georgia, was the respondent named in DPH's September 1, 2020 Notice of Agency Action.

Before I concluded the telephone prehearing conference, I informed the DPH Deputy General Counsel that I would be issuing an order to show cause regarding the proposed dismissal of this appeal for lack of prosecution in view of Mr. McCauliff's failure to participate in the telephonic prehearing conference on November 19, 2020. I also stated that, because DALA's office remained closed during the ongoing health emergency, I would issue the order to show cause by email and direct that any response to it be filed and served by email as well.

On November 23, 2020, I issued by email to DPH, and to Mr. McCauliff at the email address he had given to the DPH Deputy General Counsel, an order directing Mr. McCauliff to show cause why I should not (1) dismiss this appeal for lack of prosecution by the respondent, pursuant to 801 C.M.R. § 1.01(7)(g)2; and (2) and make final the appealed DPH notice of agency action dated September 1, 2020 regarding the immediate suspension, and proposed temporary revocation for a minimum of two years, of the certification of Anthony McCauliff as an Emergency Medical Technician. The Order gave the email addresses for DALA and for the DPH Deputy Attorney General to which Mr. McCauliff was to send his response. The Order to Show Cause also stated that Mr. McCauliff's failure to respond to it "will result in the dismissal of this appeal and the finalization of the appealed notice of agency action, without further notice."

Mr. McCauliff filed no response to the Order to Show Cause and has filed nothing further in this appeal during the several intervening years, which shows that he intentionally abandoned the prosecution of this appeal.

Disposition and Order

For the reasons stated above, this appeal is dismissed for lack of prosecution, pursuant to 801 C.M.R. § 1.01(7)(g)2. As a result of this dismissal, DPH's Notice of Agency Action dated September 1, 2020 is made final, as are the immediate suspension of the EMT certification in question as of that date, and the temporary revocation of the EMT certification for two years that the Notice of Agency Action proposed.

SO ORDERED.

This is a final decision. The parties are hereby notified that any person aggrieved by this Decision may seek judicial review by filing, within 30 days of receiving notice of it, an appeal with the Superior Court pursuant to M.G.L. c. 30A, § 14.

The parties are also hereby notified further that, within ten days from the date on which this Decision is sent to them, either of the parties to this proceeding may move for reconsideration, pursuant to 801 C.M.R. § 1.01(7)(l), in order to “correct a clerical or mechanical error in the decision or a significant factor that [DALA or the Administrative Magistrate] may have overlooked in deciding the case.”

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Mark L. Silverstein

Mark L. Silverstein
Administrative Magistrate

Dated: January 3, 2025