

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Department of Public Health,
Petitioner

v.

Docket No. PHET-22-0615

Raymond Thomas Steele,
Respondent

Appearance for Petitioner:

Mathew Hatfield, Esq.
Assistant General Counsel
Department of Public Health
250 Washington Street
Boston, MA 02108

Appearance for Respondent:

Pro se
17 Tory Circle
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Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF TENTATIVE DECISION

The decision of the Department of Public Health to temporarily revoke an EMT-Basic certification for twelve months and until completion of remedial training is affirmed. The Department, through its Office of Emergency Medical Services, has established grounds to discipline the EMT for failure to use good judgment in violation of 105 CMR 170.940(C), and for knowingly making an omission of material fact in violation of 105 CMR 170.940(M), when he engaged in inappropriate conduct with a minor student in an EMT-Basic initial training course, and thereafter misrepresented his conduct to the Department.

TENTATIVE DECISION

On November 28, 2022, the Department of Public Health, through the Office of Emergency Medical Services, notified Raymond Steele of its decision to temporarily revoke his certification as an EMT at all levels for a minimum of twelve months with the requirement that he complete remediation in that time frame. On May 23, 2020, the parties' submitted a joint pre-hearing memorandum and 8 agreed upon proposed exhibits.

A hearing was held June 6, 2023 at the Division of Administrative Law Appeals, 14 Summer St., 4th Floor, Malden, MA 02148. A digital recording was made of the proceedings. I admitted the proposed exhibits as marked. (Exs. 1-8.) The Department called the following witnesses: Daniel Saxe, the Department's OEMS Certification and Education Supervisor; Ryan Rege, Vocation Director for Day Programs at Montachusett Regional Vocational Technical School; Patricia Woodliff, Adult Education & Workforce Development at Montachusett; Lorenzo Sordoni, Instructor at AD Quality; and Zachary Algarin, Operations Director at AD Quality. Mr. Steele testified on his own behalf and called no other witnesses. The parties submitted post-hearing briefs.

FINDINGS OF FACT

Based upon the testimony and documents admitted into evidence, I make the following findings of fact:

1. Raymond Thomas Steele resides in Leominster, Massachusetts. He is certified as an EMT at the EMT-Basic level, with an expiration date of March 31, 2025. (Ex. 1.)
2. During the period of alleged misconduct, Mr. Steele was an Instructor Aide for AD Quality EMS Training, Inc., a Department of Public Health-accredited EMT training institution. (Ex. 1.)

3. In October 2022, Mr. Steele served as an Instructor Aide for the evening EMT-Basic initial training course taught at Montachusset Technical High School (MTHS). The course was provided through AD Quality. (Ex. 1.)

4. The evening course included not only adult learners, but also high school students currently attending MTHS. A typical class included a lecture followed by skills sessions at different “stations.” Mr. Steele taught the skills sessions, rotating among stations while observing students’ skills practice. (Ex. 1; Woodliff test.)

5. During class on October 13, 2022, Lawrence Sordoni, the co-instructor for that night, observed conduct that he found concerning. He noted that Mr. Steele seemed “hyper-focused” on one group of “three younger female students” at a single station instead of rotating through the different skill stations as required. In addition, he believed that Mr. Steele and the students were joking and talking casually rather than staying focused on classroom instruction and practice. He also stated that Mr. Steele was “providing incorrect information on the testing station,” including improper backboarding technique and the incorrect time students would have at each skill station during the exam. (Ex. 6; Sordoni test.)

6. Mr. Sordoni shared his concerns with a fellow instructor, Christopher Whynot, who then called Al Deshler, the President and CEO of AD Quality, on October 17, 2022. Mr. Whynot reported Mr. Sordoni’s observations and concerns. (Ex. 8; Sordoni test.)

7. During class on October 18, 2022, Mr. Steele again rotated through the stations as an Instructor Aide while another instructor, Zachary Algarin, taught the lecture. Mr. Algarin observed the minor student from the previous class move her chair

to sit next to Mr. Steele, and he reported that they talked throughout the lecture portion of the course. (Ex. 7; Algarin test.)

8. On October 19, 2022, Mr. Deshler spoke with Mr. Steele regarding the concerns raised by both instructors. At that time, he placed Mr. Steele on leave from AD Quality while the issue was investigated, and removed him from the evening class on October 20, 2022. (Ex. 2.)

9. Shortly after their conversation, Mr. Deshler received a phone call from Patricia Woodliff, Director of Adult Education at MTHS, who informed him that a third party had come forward with further concerns about Mr. Steele's conduct with a high school student in the class. The substance of her concern was text messages between Mr. Steele and the student. (Exs. 2, 4; Woodliff test.)

10. Mr. Steele sent a "friend request" to the minor student over social media. This was followed by an exchange of messages over Facebook Messenger, as well as text messages between the student and Mr. Steele. (Exs. 3, 4; Woodliff test., Steele test.)

11. In one exchange, Mr. Steele messaged the student: "You want to come work for me today." He later clarified through text that the invitation was to work with him at the Shirley Fire Station, and texted "I can always put you on the ambulance and let you run on that lol." When the student later texted, "Ok, so what would i do," Mr. Steele responded "Sit here and look pretty . . . lol." (Ex. 3; Saxe test.; Woodliff test.; Steele test.)

12. After a conversation with Ms. Woodliff, where she shared this new information concerning Mr. Steele's interactions with the minor student, Mr. Deshler fired Mr. Steele from his role as an Instructor Aide with AD Quality. He notified Mr. Steele at that time that no unauthorized persons could ride along or otherwise visit the

Shirley Fire Station because there were no agreements in place allowing it. In addition, Ms. Woodliff banned Mr. Steele from the MTHS campus. (Exs. 2, 4.)

13. On October 20, 2022, Mr. Deshler contacted the Department of Public Health to report the termination of Mr. Steele as an Instructor Aide for inappropriate interactions with a minor student. (Ex. 5.)

14. On October 20, 2022, the Department, through its Office of Emergency Medical Services, opened an investigation into the allegations against Mr. Steele. (Exs. 1, 2.)

15. During the investigation, Mr. Steele stated in an October 25, 2022 email to investigators that he was unaware the student was a minor when he invited her to the Shirley Fire Station. In a subsequent interview with investigators on October 27, 2022 Mr. Steele stated that he did not offer for the minor student to “ride along” during his shift on the evening of October 19, 2022. He confirmed in his interview, however, that he had sent texts to the minor student, including texts inviting her to the station suggesting she could “run on” the ambulance and to “sit there and look pretty.” (Exs. 2, 3, 9; Saxe test.; Steele test.)

16. Mr. Steele admitted at the hearing in this matter that he was aware that the student was a minor when he invited her to the Shirley Fire Station. (Steele test.)

17. Following its investigation, the Department proposed a temporary 12-month revocation of Mr. Steele’s EMT-Basic certification, requiring completion of remedial training prior to reinstatement. (Ex. 1.)

18. Mr. Steele timely appealed the proposed agency action under 105 CMR 170.740(A). (Ex. 1.)

CONCLUSION AND ORDER

G.L. c. 112, § 61 grants broad authority to the Department of Public Health, through the Office of Emergency Medical Services, to suspend, revoke, or cancel an EMT certification at any level. The grounds for such an action are set forth in 105 CMR 170.940.

The Department now acts to temporarily revoke Raymond Steele's EMT-Basic Certification for a period of twelve months and until successful completion of remedial training on proper professional boundaries. The Department charges Mr. Steele with violating four provisions of its regulations. First, 105 CMR 170.940(C) for failure to exercise reasonable care, judgment, knowledge, or ability in the performance of duties or to perform those duties within the scope of his/her training and certification, and in accordance with the Statewide Treatment Protocols. Second, 105 CMR 170.940(D) for gross misconduct in the exercise of duties. Third, 105 CMR 170.940(H) for failure to conduct training programs in accordance with provisions in 105 CMR 170.945 through 170.978 and/or the standards and procedures established in the administrative requirements published separately by the Department. Finally, 105 CMR 170.940(M) for knowingly making an omission of a material fact or a false statement, orally or in any application or document filed with or obtained by the Department or any other entity in the EMS system.

Failure to exercise reasonable care

EMS personnel occupy positions of public trust. Professional boundaries, whether on the job or in the classroom, are necessary to maintain and uphold this trust. They "ensure a safe interface between a professional, such as EMS personnel . . . and their respective patients, candidates, or students." 105 CMR 170.020.

In the present case, Mr. Steele sent an online friend request to a minor student enrolled in an EMT training course in which he was an Instructor Aide and messaged her through Facebook Messenger and text exchanges. He invited her to the Shirley fire station where, in his words, she would “sit there and look pretty.” The text messages and interactions between the minor student and Mr. Steele, though not explicitly sexual, were inappropriate and unprofessional.

When Mr. Steele invited the minor student to the Shirley fire station, he should have known that AD Quality would not allow unauthorized persons to accompany him to the fire station. Further, there were no agreements in place between the Shirley FD and the training company, AD Quality, Inc., that would allow students in the course to participate in a “ride-along” as part of their instruction.

For the foregoing reasons, the Department has proven that Mr. Steele failed to exercise reasonable care and judgment in the performance of his duties when he engaged in inappropriate conduct with a minor student in an accredited EMT-Basic training course where he served as an Instructor Aide. *See* 105 CMR 170.940(C).

Knowingly making an omission of a material fact

The Department bases its charge on Mr. Steele’s conflicting answers regarding whether he invited the minor student to the Shirley FD for a ride-along and whether he was aware the student was a minor. In an email to investigators and a subsequent interview, Mr. Steele stated that while he did invite the student to the Shirley Fire Department to practice backboarding skills and spinal immobilization, he did not invite her or her friends for a ride-along. Text messages exchanged with the student, however, show an invitation to the student to work for him for the day at the Shirely FD, stating “I

can always put you on the ambulance and let you run on that.” Mr. Steele affirmed to investigators that he had exchanged those texts with the student.

In an email dated October 25, 2020, Mr. Steele stated that he was unaware that the student was a minor when he invited her to the Shirley Fire Station. In his testimony, however, Mr. Steele admitted that in fact he did know that she was a minor when he invited her to the Shirley Fire Station.

The Department has therefore proven that Mr. Steele knowingly made an omission of a material fact or a false statement, orally or in any application or document filed with or obtained by the Department or any other entity in the EMS system. *See* 105 CMR 170.940(M).

Gross misconduct in the performance of duties

While 105 CMR 170.940(D) allows an EMT license to be suspended, revoked, or canceled for gross misconduct in the exercise of duties, the regulation in effect at the time does not define gross misconduct. The Supreme Judicial Court has distinguished gross misconduct as intentional or willful misconduct that is “flagrant” and “extreme,” or such that it shows utter indifference to a present legal duty. *See Hellman v. Bd. of Registration in Med.*, 404 Mass. 800 (1989). DALA decisions that have concluded EMTs have committed gross misconduct have done so in circumstances considerably worse than Mr. Steele’s. *See, e.g., Department of Public Health v. Cameron*, PHET-13-256 (DALA Feb. 13, 2014) (EMT committed gross misconduct by performing five unnecessary intubations and engaging in a pattern of unnecessary intubations); *Department of Pub. Health v. Culleton*, PHET-10-396 (DALA Sept. 12, 2012) (EMT trainer committed gross misconduct where he falsified training records); *Department of Pub. Health v. Fliter*, PHET-10-371 (DALA Oct. 26, 2010) (EMT committed gross misconduct when he

claimed recertification from a refresher course that never took place). Mr. Steele's behavior in this case does not reach that high standard. As I have previously decided, it does not meet the standards applicable to EMTs, but it is not gross misconduct.

Failure to properly conduct training programs

The Department bases this charge on the observations of Lorenzo Sordoni, the lead instructor on the night of October 13, 2022 when the first incident occurred. In his incident report, Mr. Sordoni reported that Mr. Steele gave students incorrect information on proper backboarding technique and the length of time students would have at each skill station during the exam. No other instructors observed incorrect training or instruction by Mr. Steele. OEMS Certification and Education Supervisor Daniel Saxe credibly testified, however, that while there may have been inconsistency in instruction, there was no specific violation of training protocols. Therefore, the Department has not proven that Mr. Steele violated 105 CMR 170.940(H).

For the above-stated reasons, the Department of Public Health's temporary revocation of Raymond Steele's EMT-Basic certification and remedial training is affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: **JUL 25 2023**