

FINAL

**STATE BOARD OF EMERGENCY MEDICAL SERVICES
OHIO DEPARTMENT OF PUBLIC SAFETY
MEETING MINUTES
August 19, 2009**

Chaired by Mark Burgess

Board Meeting Date and Location: August 19, 2009, Ohio Department of Public Safety, 1970 West Broad Street, Columbus, Ohio 43223

Board Members in Attendance: Ms. Pamela Bradshaw, Dr. Thomas Collins, Dr. Deanna Dahl-Grove, Mr. James Davis, Mr. David Fiffick, Ms. Joyce Fischer, Ms. Vickie Graymire, Mr. John Kubincanek, Mr. William Mallory, Mr. Mark Marchetta, Mr. Daryl McNutt, Dr. John Pakiela, Mr. William Quinn, Mr. Mark Resanovich, Mr. Craig Self, Mr. William Vedra

Board Members Absent: Mr. James Holcomb, Dr. Wendy Pomerantz

Staff Members Present: Dr. Carol Cunningham, Aleta Dodson, Heather Frient, Thomas Gwinn, John Kennington, Thomas Macklin, Chuck Milam, Linda Mirarchi, Sue Morris, Ellen Owens, Carol Palantekin, Richard Rucker, Bob Ruetenik, Joe Stack, Yvonne Tertel, Melissa Vermillion, Diane Walton

Guest and Public Attendance: Loren Ackenhausen, Spring Valley Township Fire Department; Chris Chumith, Cleveland EMS; Suzanne Hoholik, Columbus Dispatch; Andrew Welsh Huggins, Associated Press; Ron McWilliams, Columbus Fire Department; John Crow, EMS Trauma Committee; John Wilt, Columbus Fire Department

Mr. Burgess called the August 19, 2009 meeting to order at 10:00 AM.

Roll Call

Mr. Mark Burgess	Here
Dr. John Pakiela	Here
Ms. Pamela Bradshaw	Here
Dr. Thomas Collins	Here
Dr. Deanna Dahl-Grove	
Mr. James Davis	Here
Mr. David Fiffick	Here
Ms. Joyce Fischer	Here
Ms. Vickie Graymire	Here
Mr. James Holcomb	
Mr. John Kubincanek	Here
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. Mark Marchetta	Here
Dr. Wendy Pomerantz	
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here

Mr. Craig Self Here
Mr. William Vedra Here

******* Dr. Dahl-Grove arrived at 10:01 AM *******

REVIEW AND APPROVAL OF THE CONSENT AGENDA ITEMS

ACTION: Motion to approve the consent agenda items, including the June 17, 2009 EMS Board minutes; Regional Physicians Advisory Board appointment (Dr. Craig Dues - Region III); EMS certifications issued and continuing education extension and reciprocity granted for the period of June 1, 2009 through July 31, 2009; initial and renewal applications for education certificates of approval and accreditation for the period of June 1, 2009 through July 31, 2009. Pakiela first. Self second. None opposed. Motion approved.

OPEN FORUM

Nothing was presented.

STAFF REPORTS

Chair's Report, Mark Burgess

Mr. Burgess has been attending Mass Fatality and Shelter in Place patient tracking and mass care roundtable meetings to develop plans for hospitals to implement during mass incidents. One of the plans is to have EMS personnel input patient information in the field for patient tracking.

State EMS Medical Director, Dr. Cunningham

Dr. Cunningham presented an RPAB application for Dr. Craig Dues for the Regional Physicians Advisory Board (RPAB) Region III for approval.

ACTION: Motion to approve Dr. Craig Dues as a member of the Region III Regional Physicians Advisory Board. Marchetta first. Collins second. None opposed. Motion passed.

Dr. Cunningham reported Executive Director Rucker submitted a proposal to the National Association of State EMS Officials (NASEMSO) on June 9th requesting the National Registry of EMTs to consider extending the deadline for the upcoming national accreditation requirements for paramedics to be eligible to take their examination. Dr. Cunningham said the deadline was extended to January 1, 2018, but the letter indicated some contingences will be attached to the deadline extension. She said the second paragraph of the response letter implied Ohio had committed to accreditation in 2018; however, there was no commitment in Mr. Rucker's request letter. She and Director Guzmán sent a thank you letter to the National Registry for the extension. Copies of both letters were distributed to Board members for review.

Dr. Cunningham reported she and Executive Director Rucker will attend the NASEMSO annual meeting in September. She attended the Department of Homeland Security (DHS) Target Capabilities List workgroup meeting involving patient tracking and will continue working on that project. Dr. Cunningham reported she has fielded numerous inquiries from EMS agencies, medical directors, and public health agencies during the past several weeks regarding EMS providing immunizations for H1N1 influenza. She presented an article regarding H1N1

immunizations for the Board's review and approval for publication in the EMS SIREN newsletter.

ACTION: Motion to approve Dr. Cunningham's article on H1N1 immunizations for publication in the SIREN newsletter. Graymire first. Dahl-Grove second. None opposed. Motion passed.

Principal Assistant Attorney General, Yvonne Tertel
Ms. Tertel had no news to report.

EMS Staff Legal Counsel, Heather Frient
Ms. Frient had no report.

Executive Director's Report, Richard Rucker

Mr. Rucker reported that six of the Board members terms are up in November: Ms. Bradshaw, Mr. McNutt, Mr. Marchetta, Mr. Quinn, Mr. Resanovich, and Mr. Self. Letters have been sent to the respective nominating organizations.

Instead of a full retreat as has been done in the past, Mr. Rucker suggested having a two-day meeting in February. The dates would be February 24th and 25th and be held in Conference room GA at the Ohio Department of Transportation, 1980 W. Broad Street. Dr. Cunningham asked if the committees could meet on the normal third week of the month as she had concerns some committee members' schedules might allow them to meet on the fourth week. Mr. Rucker said that would be two different trips and would increase costs. He will send an email out to members to see if they can make that meeting date; if a majority cannot, it will be moved back to the third week. Mr. Burgess asked committee chairs to ensure Division staff has current rosters so the appropriate people are contacted.

At the last Board meeting, Executive Director Rucker gave a report on budget cuts and Board members requested further details on costs. A report detailing line items of those costs was distributed.

Mr. Kennington and Linda Mirarchi gave a Power Point presentation on House Bill 1 (HB 1) rule changes and how it will impact individual providers and accredited schools. Four different statutes were amended under HB 1 and some of the changes include:

- Allow the Board to establish a common expiration date for certificates issued; currently it is possible for an individual to have six certifications with six different expiration dates.
- EMS instructor certificates will move from the current two-year period to a three-year period.
- Accredited schools with multiple programs will require only one expiration date.
- Eliminates the requirement to furnish certificate holders with renewal applications.
- A certificate of accreditation or approval may be valid for up to five years.
- A certificate of accreditation or approval issued or renewed on a provisional basis is valid for the length of time established by the Board.

Division of EMS staff members are working with the EMS Board's Education committee to address issues regarding implementation and communication of these changes.

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Certifications, John Kennington

Mr. Kennington presented five requests for exemption for continuing education due to active military service.

ACTION: Motion to approve the request(s) for exemption(s) for continuing education for five individual(s) serving on active military duty during the certification period. Collins first. McNutt second. None opposed. Motion approved.

COMMITTEE REPORTS

Committee Report Agenda

This report includes updates from the Education and Firefighter/Fire Safety Inspectors committees and an update from the Department of Public Safety (DPS) EMS Legislative Liaison staff highlighting Ohio bills impacting EMS. The committee report is available for viewing on the EMS Division website at

http://ems.ohio.gov/emsb/BoardMeetingMinutes/emsboardminutes_master.html.

Education Committee, James Holcomb (Pam Bradshaw)

The Education committee requested approval to add Chris Chumita to the Education committee.

ACTION: Motion to approve Chris Chumita to the EMS Board Education Committee. Bradshaw first. Collins second. None opposed. Motion passed.

Dr. Pakiela asked whether the Board needed to discuss intubation by EMT Basics and Ms. Bradshaw said the committee is still compiling information.

Emergency Medical Services, Dr. Wendy Pomerantz (Dr. Deanna Dahl-Grove)

The committee discussed performance measures including offline and online medical direction issues as they are validating their survey results.

The committee discussed using the Emergency Department categorization for pediatrics on a voluntary basis.

Dr. Dahl-Grove said the ACEP and American Academy of Pediatrics (AAP) report on proposed recommended pediatric equipment for squads was e-mailed to Board members. The committee discussed the list and asked the Board accept that document as a recommended guideline.

ACTION: Motion to accept the ACEP/AAP pediatric equipment list as a recommended guideline of equipment squads should be carrying. Collins first. Marchetta second.

Ms. Graymire asked whether all squads currently have such equipment. Dr. Cunningham said the committee reviewed the list and every item recommended is already included in the Ohio EMS grants equipment list.

None opposed. Motion passed.

Homeland Security, Mark Resanovich

Mr. Resanovich said the committee has been working on H1N1 and had a conference call with the Ohio Department of Health (ODH), Emergency Management Agency (EMA), EMS staff, and other organizations regarding the H1N1 vaccinations and EMS participation. They were informed that the vaccines will be available on a tiered basis in Ohio in the near future. Dr. Cunningham said there has been further delineation of the at-risk population and it no longer includes law enforcement or fire personnel. Mr. Resanovich stated during a pandemic situation, the Governor may invoke Ohio Administrative Code (OAC) 4765-6-03, which permits EMS providers (all four levels) to administer vaccines in accordance with a public health emergency. Mr. Resanovich says there is every indication this could occur prior to the next Board meeting. They discussed that the rule itself allows EMS providers to do this if training and medical direction are provided. Once the vaccines have been shipped to the local health departments, EMS personnel will be utilized in mass vaccinations if a gubernatorial declaration of emergency has been made. It will be the local agency's responsibility, whether it is the health department or a hospital, to provide training, protocols, medical direction, and physician oversight for the EMS providers during the vaccination process. This is a federal initiative and liability protection will provide protection against negligence for all involved in the vaccination process.

The HLS committee recommendations to the Board for when a governor-declared emergency that affects public health is invoked are:

1. EMT-Intermediates and EMT-Paramedics will be the first certification levels trained during the initial phase since they already have training to perform intramuscular (IM) and subcutaneous (SC) injections;
2. Use the Centers for Disease Control's (CDC) vaccination training; and
3. Protocols be written and approved by local medical directors for EMS personnel administering the vaccinations.

The committee will have a Power Point presentation completed by the end of the week for local health departments to use modeled after the CDC training guidelines. This will be forwarded to ODH and EMA. The committee submits the above three items for Board approval. The Executive Director can notify the Ohio EMA and ODH of the Board's recommendations once this is declared.

ACTION: Motion to approve three procedures to be used for the H1N1 mass vaccination event: EMT-Intermediate and EMT-Paramedic certification levels will be trained first in the initial phase, use the CDC injection training, and establish protocols to be approved by local medical directors. Resanovich first. Quinn second.

Mr. Marchetta asked what local medical director needs to approve the protocol and Mr. Resanovich said it will be the local health department physician's responsibility to develop the protocols for the administration of the vaccine, including training. Dr. Collins wanted to clarify that this only applies to H1N1 vaccinations and does not authorize EMS providers to administer the seasonal flu or other vaccinations. Mr. Resanovich said the liability and immunity protection is only directed toward the H1N1 vaccine. Dr. Cunningham said this falls under the federal Public Readiness and Emergency Preparedness (PREP) Act that provides liability protection for vaccination teams. Mr. Fiffick asked if the EMS providers who will be doing this are on or off

duty. Mr. Resanovich said this is up to the local agencies and there are funds available for training and compensation for the administration of the vaccine.

None opposed. Motion passed.

Mr. Resanovich said when the Governor declares a public health emergency, e-mails will be sent to Board members.

At the last meeting, the Board directed the TEMS committee to consider broadening work on the TEMS certification to that of an advanced practice medic certification inclusive of all specialties. Mr. Resanovich said the committee agreed and will change the focus to an advanced, broad based certification. He said the TEMS domains and competencies have been completed. The committee continues working on curriculum, continuing education, and grandfathering.

Mr. Resanovich said the HLS/TEMS committee would move their committee meeting to February 23rd.

Mr. Resanovich presented an updated roster of TEMS committee members for Board approval.

ACTION: Motion to approve the following individuals as EMS Board TEMS committee members: Dr. Collins, Dr. Cunningham, Jeff Funai, Michael Grossman, Dr. Donald Locasto, Dr. Howard Mell, Bob Neidhart, Mark Resanovich, Lt. Steve Rosta, Matt Ruth, Dr. Drew Stephens, Mark Burgess, Heather Frient, Chuck Milam, Ellen Owens, Rich Rucker, Robert Ruetenik, and John Sands. Resanovich first. Fiffick second. None opposed. Motion passed.

Legislative and Rules Committee, Bill Mallory

The committee did not meet but plan to meet in October.

Ms. Frient distributed copies of draft legislation submitted to ODPS Legislative Liaison Nancy Crespo for possible inclusion in the omnibus cleanup bill. Items include clarifying that medical direction is needed for all levels of EMS providers, EMTs can provide services beyond their scope of practice and have immunity for conducting a Board-approved research study, deleting language that is no longer necessary or applicable, clarifying EMS students operating under a physician assistant will be provided immunity, and clarifying that either a certificate of accreditation or approval is required to provide continuing education. It will also update titles of EMS providers to be consistent with those within the National EMS Scope of Practice model and clarify that EMTs may dispense drugs during the Governor's declaration of an emergency affecting the public's health. Ms. Frient said work continues on language clarification to HB 241, Medical Orders for Life Sustaining Treatment (MOLST).

Medical Oversight, Research and Grants Committee (MORG), Daryl McNutt

Mr. McNutt said since this is a large committee, Dr. Collins will co-chair Research, Dr. Pakiela will co-chair Medical Oversight (MOC), and Mr. McNutt will chair Grants. Dr. Collins reported the Research committee received a letter from a researcher in Toledo who would like to bring a project forward. Committee members had some questions and once answered, it will be brought

back to the Board. MOC had nothing to report. The Grants committee received a request to add digital cameras to the approved equipment list, which was denied because members felt this was not a good resource for patient care.

National Accreditation Ad Hoc Committee, Mark Burgess

With the newly granted five year extension for national accreditation, the committee does not want to rush into such an important decision. They will continue to investigate and get additional answers. Once the committee has their recommendation for the Board, they would like to bring schools in for their feedback and comments. Mr. Davis said he thought the National Registry had always been responsive to requests, but in the last report, Mr. Burgess indicated one of the issues was the inability to get quality information from National Registry. Mr. Davis asked what type of information he was referring to and if it has been asked for. Mr. Burgess said he will have to look into that as he did not recall that. Mr. Davis said he will talk with Mr. Burgess later about it.

Recruitment & Retention Committee, Daryl McNutt

Mr. McNutt said the committee is pooling their resources with other groups. They are working with Dan Fitzpatrick of the Ohio Fire Chiefs' Association to get a Safer Grant for media advertising for recruitment and retention. If received, a link will be put on the EMS Division website. Mr. McNutt reported he and Mr. Fitzpatrick met with Senator Wagoner regarding the tax credit for volunteers. Joe Stack put a link on the EMS website on how to become an EMT.

Trauma Committee, Dr. John Crow

Dr. Crow said the committee continues work on creating the model trauma system document which will be an ongoing process. The sub-group headed by Kathy Haley has identified eight areas of focus including: leadership, injury prevention, emergency preparedness, pre-hospital care, definitive care - acute care hospitals, definitive care - rehab, evaluation and performance improvement, and registry infrastructure.

A variance in Region IV RPAB trauma triage is being reviewed by several state level constituent groups and he expects the committee will present the results to the Board at the October meeting.

It was discovered that some trauma registry data from 2007 and 2008 was incomplete as Region VIII, Northern Region Trauma System, and the Northwest System batch data had not been submitted by their sub-contractor. One of the hospitals discovered this and reported it to Mr. Erskine. Mr. Erskine ran a query, discovering approximately 20 to 25 percent of state trauma records were not in the registry. Mr. Erskine expects to recover approximately 90% of the impacted records in the next few months. The good news is that none of the data reports lacking the missing data was used in any studies or articles. Fail safe measures to prevent data omission from occurring again have now been implemented. Dr. Cunningham commended Dr. Crow and Mr. Erskine for making personal contact with agencies that might have been affected by this. Mr. Davis said the Board used trauma registry data to change the trauma triage guidelines for geriatric trauma and asked if the committee foresaw any further education or training guideline changes they would recommend to the Board. Dr. Crow does not think the committee has the prevue to do that and most changes do not occur based on one study.

GOLDMAN PROCEEDINGS

The Goldman Proceedings were called to order at 11:12 AM.

Roll Call

Mr. Mark Burgess	Here
Dr. John Pakiela	Here
Ms. Pamela Bradshaw	Here
Dr. Thomas Collins	Here
Dr. Deanna Dahl-Grove	Here
Mr. James Davis	Here
Mr. David Fiffick	Here
Ms. Joyce Fischer	Here
Ms. Vickie Graymire	Here
Mr. James Holcomb	
Mr. John Kubincanek	Here
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. Mark Marchetta	Here
Dr. Wendy Pomerantz	
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here
Mr. Craig Self	Here
Mr. William Vedra	Here

A majority of the Board members were present. Three adjudication proceedings were held in the matters of EMS Case Number 2008-556-101 Ashley M. Sibila, EMS Certificate Number 132337, EMS Case Number EMS Case Number 2008-709-101 Loren C. Ackenhausen, EMS Certificate Number 7658, and EMS Case Number 2008-412-101 Joseph C. Beljan, EMS Certificate Number 130905. Respondents do not have the ability to submit written or oral testimony today, but may be present to hear the proceedings and outcome.

The Board reviewed evidence, including exhibits and affidavits from EMS investigators and/or staff, associated with the aforementioned cases. In lieu of a stenographic record being made, let the minutes reflect that the original sworn affidavits and exhibits shall be kept as the official record of the proceedings in the aforementioned matters in the office of the Division of EMS. Mr. Burgess recognized Principal Assistant Attorney General Yvonne Tertel for the purpose of providing a brief synopsis of the cases and recommendations for disciplinary action.

Ms. Tertel said neither Mr. Beljan nor Ms. Sibila requested a hearing. Ms. Sibila was a renewal applicant who failed to provide the required BCI & I record, was convicted of two counts of disorderly conduct for making harassing phone calls, has not cooperated in the case, and has failed to respond to the Division's requests. The recommendation is for the Board to conclude the misdemeanors involve moral turpitude and recommend revocation.

Mr. Beljan was convicted of disorderly contact after being found naked by police in a hallway of an apartment building. He failed to provide the BCI & I record and has not cooperated or

responded to staff on this matter. The recommendation is for the Board to conclude the misdemeanor involves moral turpitude and recommend revocation.

In Mr. Ackenhausen's case, he was convicted of unauthorized use of property when he removed bags of IV fluid and supplies from a hospital emergency room. He was not in uniform and after being questioned by an ER nurse about removing the items, he still stole them. Ms. Tertel said the recommendation for the Board is to conclude the misdemeanor involves moral turpitude and recommend revocation. Ms. Tertel said Mr. Ackenhausen did not request a hearing, but is in the audience today.

Ms. Tertel said newer Board members have not experienced someone attending a Goldman Hearing and she gave an overview of the procedure. The Goldman process does not permit the person to speak, but Board members can ask clarifying questions about the affidavit. She said Ms. Frient is here to guide members if they choose to question Mr. Ackenhausen. Since there is no court reporter here today and if anyone asks questions, she said they need to be accurately depicted in the minutes. Ms. Frient said questions should be limited to clarification and suggested not asking general questions about the nature of the case.

Mr. Davis asked Mr. Ackenhausen why he did not fill out the paperwork in a timely fashion and request a Goldman hearing. Mr. Ackenhausen said at the time talking to the inspector, he made it sound like it would make things worse. He was scared and ashamed, and with everything else going on, he did not fill out the paperwork.

ACTION: Motion to admit the sworn affidavit(s) and the accompanying exhibit(s) in the aforementioned case(s) into evidence. Fischer first. Fiffick second. None opposed. Motion approved.

There being no further evidence to come before the Board, the Goldman Proceedings were closed at 11:23 AM. Mr. Burgess asked for a motion to deliberate on the sworn affidavits and exhibits. A written copy of the Board's decision will be mailed to the respondents.

ACTION: Motion to go into private session for the purpose of quasi-judicial deliberations on these matters by roll call vote at 11:24 AM. Marchetta first. Vedra second. None opposed. Motion approved.

Roll Call

Mr. Mark Burgess	Here
Dr. John Pakiela	Here
Ms. Pamela Bradshaw	Here
Dr. Thomas Collins	Here
Dr. Deanna Dahl-Grove	Here
Mr. James Davis	Here
Mr. David Fiffick	Here
Ms. Joyce Fischer	Here
Ms. Vickie Graymire	Here
Mr. James Holcomb	

Ohio Department of Public Safety
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Mr. John Kubincanek	Here
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. Mark Marchetta	Here
Dr. Wendy Pomerantz	
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here
Mr. Craig Self	Here
Mr. William Vedra	Here

The Board returned from private session at 12:27 PM.

ACTION: In the matter of EMS Case Number 2008-556-101 Ashley M. Sibila, EMS Certificate Number 132337, the Board orders to close the case because the conviction does not involve moral turpitude. Dahl-Grove first. Mallory second. Fiffick abstained. Motion passed.

ACTION: In the matter of EMS Case Number 2008-709-101 Loren C. Ackenhausen, EMS Certificate Number 7658, the Board finds that Mr. Ackenhausen was convicted of Unauthorized Use of Property, in violation of Ohio Revised Code 2913.04, a Fourth-degree Misdemeanor. The Board concludes that this misdemeanor involves moral turpitude, which violates Ohio Administrative Code Section 4765-10-03(B)(2)(c). The Board moves to renew Mr. Ackenhausen's emergency medical technician-paramedic certificate with the following provisions: issue a written reprimand, EMT paramedic certificate is placed on three years probation to run concurrently with new three year cycle, BCI check within 180 days from journal date of order and another at renewal, 90 day suspension - 60 days stayed. Dahl-Grove first. Mallory second. Opposed: Bradshaw, Quinn, Vedra. Fiffick abstained. Motion passed.

ACTION: In the matter of EMS Case Number 2008-412-101 Joseph C. Beljan, EMS Certificate Number 130905, the Board finds Mr. Beljan failed to report his conviction and failed to submit documentation of his criminal conviction as required pursuant to Ohio Administrative Code 4765-9-01(M). Furthermore, the Board finds that Mr. Beljan was convicted of Disorderly Conduct, in violation of Ohio Revised Code 2917.11(A)(1), a Fourth-degree Misdemeanor. The Board concludes that this misdemeanor conviction involves moral turpitude, which violates Ohio Administrative Code Section 4765-10-03(B)(2)(c); therefore, the Board moves to revoke Mr. Beljan's certification to practice as emergency medical technician-paramedic. Dahl-Grove first. Collins second. Quinn opposed. Fiffick abstained. Motion passed.

***** Lunch 12:30 PM – 1:03 PM *****

OLD BUSINESS

Mr. Burgess said the Board's position paper on Key Concepts of Cardiology review was tabled until Mr. Marchetta was present. Mr. Marchetta said the concepts remain fundamentally sound,

but the reference list needs updating and will work on that. Dr. Cunningham is not sure if the new American Heart Association guidelines being released in January 2010 will affect the paper.

Mr. Burgess said the National Accreditation issue was addressed earlier.

Mr. Davis asked if Board members wanted to discuss Ms. Frient's memo regarding the lethal injection process. Ms. Frient clarified that the memo was sent to Board members under attorney client privilege, which means information in the memo cannot be shared with third parties until and unless the Board waives that privilege. She said if the members would like to discuss the memo today, they would need to, as the full Board, waive that privilege. She said there are some benefits of waiving it, one of which is to foster open government. She said there was nothing in the memo that she would need to redact for public release. Additionally, Ms. Frient said it would be helpful for people to know the Board's final resolution on the issue and the reasons behind any of its decisions. Mr. Davis said he appreciated Ms. Frient putting this together as it gives members a basis for where the Board stands. He said the Board should resolve the issue and the public has the right to know where the basis of the Board's decision comes from, whether the Board takes any action or not. He made a motion to release the document as a public record. Ms. Frient said the motion should be reworded to say "waive the attorney client privilege" and Mr. Davis agreed.

ACTION: Motion to waive the attorney client privilege on the memo Ms. Frient provided Board members regarding determination of whether the Board has disciplinary authority over an EMT on an execution team. Davis first. Quinn second. None opposed. Motion passed.

Mr. Self asked Ms. Frient if he could now provide the memo to his organization and she said yes. Mr. Davis said he will forward a copy to Dr. Groner. Ms. Frient read the conclusion of the eight-page memo: "After analyzing several factors and applying a balancing test, it appears that the majority of the factors lean toward the conclusion that the individuals are *not* representing themselves as EMTs while participating on the execution team. The individuals do not wear any EMT insignia or uniform, they do not refer to themselves as EMTs (nor does DRC refer to them as EMTs), it does not appear, based on their testimony, that they think of themselves as EMTs during the execution process (nor apparently does DRC), the majority of their job duties within DRC do not require EMS certification, and they do not perform the executions under medical direction or pursuant to medical protocols (as with the provision of emergency medical services). The execution team members who hold EMT certificates do not appear to be acting as EMTs in the performance of their execution duties. An execution is a non-medical procedure and the EMTs have been included by DRC on the execution team because they possess certain skills, not because they are expected to act, or represent themselves as acting, as EMTs under medical direction or pursuant to medical protocols. Accordingly, it is my opinion, and you are so advised, that the Board has no authority to investigate such individuals for potential violations of R.C. Chapter 4765. or Chapters 4765-1 to 4765-22 of the Ohio Administrative Code."

Ms. Frient asked Board members if they had any questions regarding the memo. Mr. Davis asked what the difference is between that opinion and practicing medicine without a license. Ms. Frient said there is a different legal analysis depending on which law you are reviewing (EMS

Board law vs. Medical Board law). In order to determine if someone is violating the EMS law (specifically R.C. 4765.50), the individual must be holding themselves out or “representing” themselves as an EMT. The language in R.C. 4765.50 differs from the Medical Board law (which covers physicians and is broader, in that it states “shall not practice”). When looking at whether a particular action violates R.C. 4765.50, you have to look at the specific language in that section (“representing”). The Board has consistently applied this analysis when looking at EMTs using their skills in another role in their off hours (i.e. phlebotomist, ER technician). Ms. Frient explained that there is no specific case law on this issue, but that the analysis is based on statutory interpretation and what the Board has defined in the past as “representing” or holding oneself out as an EMT (which entails a number of factors).

Mr. Davis asked if Ms. Frient could forward a copy of the memo to Dr. Groner. Ms. Frient asked if Dr. Groner had requested a copy and Mr. Davis said that he had not, but that he presumed Dr. Groner would like to read it since he had asked the original question. Ms. Frient stated that Mr. Davis could forward a copy to Dr. Groner if he wished, now that the memo was no longer protected by attorney-client privilege.

Mr. Burgess asked if there were any further questions. Ms. Frient clarified that if the Board agreed with the advice in the opinion, then no motion was necessary as no official action needed to be taken. If the Board disagreed, then they would need to have a discussion. No questions were raised. Dr. Collins thanked Ms. Frient for the amount of time and work she put into preparing the analysis.

NEW BUSINESS

Mr. Burgess noted the Board needs to nominate a Chair and Vice Chair to serve next year at the October meeting and vote on those at the December meeting. If anyone is interested, please let him know.

No other new business was brought forward.

Investigations, Melissa Vermillion

ACTION: Motion to go into Executive Session for the purpose of discussing proposed disciplinary action(s) against certificate holder(s) which is pending or imminent court action under Revised Code 121.22(G)(3) and involve matter(s) that are required to be kept confidential under Revised Code 4765.102(B) at 1:32 PM. McNutt first. Mallory second. None opposed. Motion approved.

Roll Call

Mr. Mark Burgess	Here
Dr. John Pakiela	Here
Ms. Pamela Bradshaw	Here
Dr. Thomas Collins	Here
Dr. Deanna Dahl-Grove	Here
Mr. James Davis	Here
Mr. David Fiffick	
Ms. Joyce Fischer	Here

Ms. Vickie Graymire Here
 Mr. James Holcomb
 Mr. John Kubincanek Here
 Mr. Daryl McNutt Here
 Mr. William Mallory Here
 Mr. Mark Marchetta Here
 Dr. Wendy Pomerantz
 Mr. William Quinn, Jr. Here
 Mr. Mark Resanovich Here
 Mr. Craig Self Here
 Mr. William Vedra Here

******* Board returned from Executive Session at 1:45 PM *******

2006-215-102	2009-254-101	2009-345-101
2007-217-203	2009-281-304	2009-359-304
2008-628-102	2009-313-101	2009-360-304
2009-174-304	2009-315-304	2009-370-101
2009-220-304	2009-319-304	2009-393-101
2009-238-101	2009-327-304	2009-417-101

ACTION: Motion to accept the Consent Agreement(s) for the above listed case(s). Dahl-Grove first. Marchetta second. None opposed. Quinn abstained - 2009-313-101. Motion approved.

2009-211-401	2009-324-102
2009-242-305	2009-346-101
2009-311-101	2009-349-101
2009-321-101	2009-377-502

ACTION: Motion to close the above listed case(s). Dahl-Grove first. Marchetta second. None opposed. Motion approved.

2006-275-102	2007-66-102
2006-304-102	2007-104-304
2006-388-304	2007-148-304
2006-406-304	2007-395-503
2006-429-304	2009-108-101
2006-451-304	2009-137-101
2006-494-304	2009-212-101
2006-495-304	2009-237-305

ACTION: Motion to close the above listed case(s) as the individuals have met the stipulations of their Consent Agreement(s). Dahl-Grove first. Marchetta second. None opposed. Motion approved.

2006-362-304	2009-320-304
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2009-210-102 2009-271-102 2009-272-101	2009-426-304 2009-427-304
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ACTION: Motion to issue a Notice of Opportunity for Hearing for the above case(s). Dahl-Grove first. Marchetta second. None opposed. Motion approved.

2008-672-101	2009-375-304	2009-420-101	2009-452-101
2009-209-101	2009-383-101	2009-421-101	2009-453-101
2009-232-304	2009-386-304	2009-422-101	2009-454-305
2009-312-101	2009-389-101	2009-423-305	2009-455-101
2009-333-101	2009-394-101	2009-424-201	2009-461-101
2009-347-305	2009-395-101	2009-425-304	2009-462-101
2009-350-101	2009-396-304	2009-433-101	2009-464-101
2009-348-101	2009-399-101	2009-446-101	2009-466-101
2009-361-101	2009-401-101	2009-449-101	2009-469-101
2009-373-101	2009-418-101	2009-451-305	2009-475-101

ACTION: Motion to close the above listed case(s) for one of the following reasons: inadvertently marked yes to conviction question, misdemeanor convictions which the Board has previously deemed “not involving moral turpitude,” continuing education cases which now meet the requirements, local non-patient care issues, and grandfathering issues of certification/conviction. Dahl-Grove first. Marchetta second. None opposed. Motion approved.

ADJOURNMENT

ACTION: Motion to adjourn with the exception of the Fire Board members, who will remain for discussion of fire issues. Pakiela first. Collins second. None opposed. Motion approved. The meeting was adjourned at 1:48 PM.

FIRE BOARD MEMBERS

GOLDMAN PROCEEDINGS

The Goldman Proceedings were called to order at 1:50 PM.

Roll Call

Mr. Mark Burgess	Here
Mr. James Davis	Here
Ms. Joyce Fischer	Here
Mr. James Holcomb	
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here

Mr. Burgess noted that a majority of the members are present as well as Executive Director Rich Rucker. There will be one adjudication proceeding today in the matter of Fire Case Number 2008-708-701, Loren K. Ackenhausen, Fire Certificate Number 7658.

The Board reviewed evidence, including exhibits and affidavits from EMS investigators and/or staff, associated with the aforementioned cases. In lieu of a stenographic record being made, let the minutes reflect that the original sworn affidavits and exhibits shall be kept as the official record of the proceedings in the aforementioned matters in the office of the Division of EMS. A written copy of the executive director's decision will be mailed to the respondent. Mr. Burgess recognized Principal Assistant Attorney General Yvonne Tertel for the purpose of providing a brief synopsis of the case and recommendation for disciplinary action.

Ms. Tertel said one of the EMS Goldman individuals, Joseph C. Beljan, EMS case 2008-412-101, also has a fire case, 2008-413-701. However, he did not renew his fire certificate and the recommendation is to close the case and reopen if he reapplies.

Since members were present when Loren Ackenhausen's EMS case was heard and the facts of the case are the same, she will not re-present them again.

ACTION: Motion to admit the sworn affidavit(s) and the accompanying exhibit(s) in the aforementioned case(s) into evidence. Resanovich first. Mallory second. None opposed. Motion approved.

Ms. Tertel said Mr. Ackenhausen has two fire certificates in the affidavit, firefighter and fire safety inspector as stated in the affidavit. Mr. Davis asked if members have the ability to ask Mr. Ackenhausen questions and Ms. Tertel said they can be asked prior to closing the Goldman hearing. Ms. Frient asked Mr. Davis if these are the same clarifying questions he asked before and he said they are. Mr. Davis asked Mr. Ackenhausen if his answer stands the same as it did in the EMS Goldman for why he did not submit the request for his fire certificate and Mr. Ackenhausen said it does. Mr. Davis asked Mr. Ackenhausen if he knew he is in threat of losing his certification as a firefighter, and if that occurs, he will lose his career. Mr. Ackenhausen said he understands. Mr. Davis asked if it was true that he will lose his job. Mr. Ackenhausen said he is already separated from the city of Xenia. Mr. Davis said he was under the assumption Mr. Ackenhausen was still employed as a firefighter somewhere and if he lost his certification, his question was going to be he would lose his job, but you are saying you are already separated and are not employed now as a firefighter. Mr. Ackenhausen said he is still on the medical reserve list for Spring Valley Township and has been working part-time with them. Ms. Frient stopped the line of questioning and said that was outside the realm of a clarifying question for the affidavit and was more of a peripheral issue.

Mr. Burgess said there being no further evidence to come before the Board, the Goldman Proceedings were closed at 1:51 PM.

ACTION: Motion to go into private session for the purpose of quasi-judicial deliberations on these matters by roll call vote at 1:52 PM. Fischer first. Mallory second. Quinn opposed. Motion approved.

Roll Call

Mr. Mark Burgess	Here
Mr. James Davis	Here
Ms. Joyce Fischer	Here
Mr. James Holcomb	
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here

******* Fire Board returned from Private Session at 2:06 PM *******

ACTION: In the matter of Fire Case Number 2008-708-701, Loren C. Ackenhausen, Fire Certificate Number 7658, the committee finds that Mr. Ackenhausen was convicted of Unauthorized Use of Property, in violation of Ohio Revised Code 2913.04, a Fourth-degree misdemeanor. The Committee concludes that this misdemeanor involves moral turpitude, which violates Ohio Administrative Code Section 4765-23-02(A)(1)(c). The committee recommends to the Executive Director to renew Mr. Ackenhausen's certifications to practice as a Level II Firefighter and Fire Safety Inspector, with the following conditions: issue a written reprimand, certificates placed on three year probation to run concurrently with new three year cycle, BCI check within 180 days from journal date of order and another at renewal, and 90 day suspension - 60 days stayed. Mallory first. McNutt second. Quinn opposed. Motion passed.

ACTION: In the matter of Fire Case Number 2008-413-701, Joseph C. Beljan, Fire Certificate Number 130905, the committee recommends to the Executive Director that the case be closed and re-open if applies. Mallory first. McNutt second. None opposed. Motion passed.

ACTION: Motion to go into Executive Session for the purpose of discussing proposed disciplinary actions against fire certificate holders which is pending or imminent court action under Revised Code 121.22(G)(3) and involves matters that are required to be kept confidential under Revised Code 149.43 at 2:12 PM. Fischer first. Mallory second. None opposed. Motion approved.

Roll Call

Mr. Mark Burgess	Here
Mr. James Davis	Here
Ms. Joyce Fischer	Here
Mr. James Holcomb	
Mr. Daryl McNutt	Here
Mr. William Mallory	Here
Mr. William Quinn, Jr.	Here
Mr. Mark Resanovich	Here

*******Fire Board returned from Executive Session at 2:33 PM *******

2008-317-705 2009-152-701 2009-265-706 2009-302-702	2009-307-706 2009-314-701 2009-473-701
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ACTION: Motion recommending that the Executive Director accept the above Fire case(s) consent agreement(s). Mallory first. McNutt second. None opposed. Quinn abstained – 2009-314-701. Motion approved.

2009-378-706 2009-331-706	2009-408-706
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ACTION: Motion recommending that the Executive Director close the above Fire case(s). Mallory first. McNutt second. None opposed. Motion approved.

2008-532-702 2009-109-701	2009-141-706 2009-153-706
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ACTION: Motion recommending that the Executive Director close the above Fire case(s) as the individuals have met the stipulations of their Consent Agreements. Mallory first. McNutt second. None opposed. Motion approved.

2009-115-706 2009-158-706 2009-161-706 2009-224-706	2009-263-702 2009-306-706 2009-342-706 2009-352-706
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ACTION: Motion recommending that the Executive Director issue(s) a Notice of Opportunity for Hearing for the above Fire case(s). Mallory first. Fischer second. None opposed. Motion approved.

2009-492-703

ACTION: Motion recommending that the Executive Director propose(s) a Consent Agreement(s) for the above Fire case(s). Mallory first. McNutt second. None opposed. Motion approved.

No old or new business was brought forward.

ACTION: Motion to adjourn the Fire Board members portion of the meeting. Fischer first. McNutt second. None opposed. Motion approved.

The meeting adjourned at 2:35 PM.