



State of New Jersey
DEPARTMENT OF HEALTH AND SENIOR SERVICES

OFFICE OF EMERGENCY MEDICAL SERVICES
PO BOX 360
TRENTON, N.J. 08625-0360

RICHARD J. CODEY
Acting Governor

FRED M. JACOBS, M.D., J.D.
Commissioner

www.nj.gov/health

October 4, 2005

Mr. Todd Schmiedle

**Re: Notice of Proposed Revocation of EMT-Basic Certification
Investigation Control #04-C-025**

Dear Mr. Schmiedle:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1, et seq., which was enacted, in part, to ensure that all hospital and related health care services rendered in the State of New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include any pre-hospital care rendered by basic life support (BLS) personnel. In furtherance of the objectives set forth in the statute, the Department of Health and Senior Services (the Department) has adopted regulations that govern the training, certification and professional conduct of Emergency Medical Technician-Basics (EMT-Bs). See N.J.A.C. 8:40A-1.1, et seq.

On August 11, 2003, the Department's Office of Emergency Medical Services (OEMS) received an anonymous complaint that you had criminal charges pending against you in connection with an arson committed in Woodbridge. The OEMS initiated an investigation in response to the complaint. This letter summarizes the findings and conclusions of the investigation and advises you of your rights in connection with this proposed agency action.

In July of 2003, in Indictment No. 03-11-014271, a Middlesex County Grand Jury charged that you and three other individuals, on or between the 1st day of January 2003 and the 14th day of February 2003, did conspire with each other to commit the crime of Aggravated Arson, second degree, in violation of N.J.S.A. 2C:17-1a; contrary to the provisions of N.J.S.A. 2C:5-2. Conspiracy is a serious second degree crime which carries a presumptive seven year term of imprisonment.

OEMS staff sent letters to you on August 15, 2003 and again on October 10, 2003 requesting that you contact the OEMS to schedule an interview to talk about the circumstances giving rise to the indictment. On October 17, 2003, you contacted OEMS and advised that you had not been convicted of the crime and would contact OEMS as soon as you knew your next court date.

On October 17, 2003, you were found aboard a Rural Metro ambulance during a routine spot check. You initiated a conversation with an OEMS staff member that you had heard a couple of people on your first aid squad talking about burning a car but that you didn't think anything of it. You told the OEMS staff member that a couple of days later, you were taking a ride with Kevin Lewandowski in his vehicle when he went to the Woodbridge Center Mall. You then stated that you followed Mr. Lewandowski to a secluded location in an industrial park and waited in Mr. Lewandowski's vehicle while he set the car he drove from the mall on fire. The OEMS staff member advised you to contact the Department with your court date, and you indicated that you would.

After additional conversations with OEMS staff members on various dates, you scheduled an interview at the Department on May 5, 2004. During the interview, you told essentially the same story as recited above, adding that when Kevin Lewandowski returned from burning the car that he presented with burns on his face and hands from the fire. You indicated that you did not report these events to authorities because you thought that you were guilty by association. You consented to a New Jersey State Police criminal history record review and paid the required fee.

The OEMS investigation determined that you, Jane Kurtz, Kevin Lewandowski and William Fetzke entered into a conspiracy sometime in January or early February of 2003 to steal a car, burn it, and collect the insurance proceeds thereon. The conspiracy arose during multiple conversations among co-conspirators, some of which took place at the Sayreville First Aid Squad. During one conversation, Kevin Lewandowski asked Jane Kurtz whether she liked her car. Ms. Kurtz indicated that she liked the car but that there were little quirks about the car that she did not like. Ms. Kurtz further indicated that she would like to sell or get rid of the car. More than once, Kevin Lewandowski offered to steal the car and dispose of it for Ms. Kurtz. During one conversation, both you and Mr. Lewandowski told Ms. Kurtz that after the car was gone she should make a claim with her insurance company and receive a check in a couple of weeks. Ms. Kurtz agreed and gave Mr. Lewandowski the keys to her car.

Subsequently, while Ms. Kurtz was at the Woodbridge Center Mall, you and Kevin Lewandowski drove in Mr. Lewandowski's truck to the place where Ms. Kurtz's car was parked at the mall. Mr. Lewandowski got out of the truck and into Ms. Kurtz's car. He instructed you to follow him. You followed him to a secluded area in an industrial park and waited in his truck. Mr. Lewandowski parked Ms. Kurtz's car, rolled down the driver's side window and attempted to set the car on fire by pouring gasoline on the front seats and igniting it with a cigarette. The car did not catch fire, so Mr. Lewandowski leaned close to the open window and struck a match. This time, the car did catch fire, burning Mr. Lewandowski's hands and face in the process. Following

these events, you picked up Mr. Lewandowski and drove him home. Shortly thereafter, Mr. Lewandowski sought treatment for his wounds at Raritan Bay Medical Center.

You were present during many of the conversations that gave rise to the conspiracy, including those that took place at the Sayreville First Aid Squad, yet there is no evidence that you made an effort to stop the conspiracy at any time. It is troubling that you didn't make an effort to stop the conspiracy as you watched Mr. Lewandowski get into Ms. Kurtz's car at the mall. At that point, you had the opportunity to tell Mr. Lewandowski that you would not follow him to the location where you knew he would attempt to burn the car and to withdraw from the conspiracy. You could have persuaded Mr. Lewandowski not to go through with the arson, or you could have contacted Ms. Kurtz or the police. You chose instead to remain in the conspiracy and to further its purposes.

Subsequent investigation revealed that you entered a pre-trial intervention (PTI) program. The charge of conspiracy to commit aggravated arson, second degree is currently being held in an inactive status. Your PTI is scheduled to end on May 26, 2006. Until that time, you are under supervisory treatment. Conspiracy to commit aggravated arson is a serious offense which carries a presumptive term of imprisonment of seven years. Your involvement in this conspiracy is a serious cause of concern for this agency.

The Rehabilitated Convicted Offenders Act, found at N.J.S.A. 2A:168A-1, et seq., provides that a person shall not be disqualified from licensure or certification by any licensing authority because of any conviction for a crime, unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought. Accordingly, the Department has considered your continued certification pursuant to the guidelines set forth in the Rehabilitated Convicted Offenders Act. The Department's analysis follows.

EMT-Basics must work in two person teams to respond effectively to emergencies. They must make important medical assessments and carry out appropriate medical interventions at motor vehicle accidents, in people's homes, in large crowds at sporting events and at other difficult field locations. In order to be effective, EMT-Basics must trust each other and be trusted by EMT-Paramedics, police officers, fire fighters, doctors, and other professionals. EMT-Basics must exercise good judgment and provide truthful information to other emergency medical services personnel, police officers, fire fighters, doctors, patient family members and others. EMT-Basics are required to scrupulously document patient care on patient care reports and to provide accurate descriptions of the care they rendered to patients to emergency department personnel, EMT-Paramedics and higher levels of medical authority. All of these duties require EMT-Basics to be honest, law-abiding and trustworthy.

Your actions in connection with the arson are inconsistent with the duties of an EMT-Basic as described above. Your willingness to participate in a scheme to commit aggravated arson and to tell the owner of the car that she should make an insurance claim thereon is indicative of not only poor judgment, but of a lack of trustworthiness

that is essential to effectively perform the duties of an EMT-Basic. This agency has considered that you made a serious overt action in furtherance of the conspiracy when you followed Mr. Lewandowski from the mall to the area where he set fire to Ms. Kurtz's car. You knew why Mr. Lewandowski entered Ms. Kurtz's car, and you knew what he planned to do to the car. In spite of this knowledge, you did not take any overt action to stop it. You did not take any action to prevent Ms. Kurtz from filing the fraudulent insurance claim that was part of the conspiracy. It is also troubling that you participated in conversations at the Sayreville First Aid Squad that gave rise to this conspiracy. All of your actions and inactions in connection with the conspiracy indicate dishonesty, poor judgment and a lack of respect for the law and emergency workers such as police and fire fighters.

This agency finds no special circumstances or social conditions that explain or mitigate your conduct. The crime was committed in early 2003, when you were 23 years old. This agency finds that you were old enough to understand that conspiring to commit aggravated arson was wrong. Since the conspiracy was formed over several conversations and communications, this agency has considered that your wrongful conduct was of a continuing nature.

Although you were generally cooperative, you did not reveal the whole story to OEMS staff members during their investigation. This agency has considered your reluctance to cooperate with OEMS investigators as evidence that you are not rehabilitated. No evidence of rehabilitation was revealed during the OEMS investigation.

N.J.A.C. 8:40A-10.2(b) provides that, "The Commissioner, or his or her designee, may issue a formal written warning, impose a monetary penalty, place on probation, suspend, revoke and/or refuse to issue or renew the certification of any EMT-Basic or EMT-Instructor for violation of any of the rules set forth in this chapter. This includes, but is not limited to:

12. Conviction of any crime;
13. Conviction of any disorderly persons offense;
15. Entry into a pre-trial intervention, conditional discharge, or other diversionary program;
24. Any other action deemed by the Department to pose a threat to the public health, safety or welfare.

Therefore, as a result of our investigation, please be advised that the Department intends to revoke your certification as an Emergency Medical Technician-Basic. In addition, you will not be recognized as having Emergency Medical Technician-Basic privileges in New Jersey. Pursuant to N.J.S.A. 52:14B-1, et seq. and N.J.A.C. 8:40A-10.3(b), you are entitled to a hearing before the Office of Administrative Law to contest this Department's decision to revoke your EMT-Basic

certification and to refuse to recognize you as having EMT-Basic privileges in New Jersey. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the charges contained herein. Your request for a hearing must be submitted within 30 days from the date of this Notice and should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Legal & Regulatory Affairs
P.O. Box 360, Room 805
Trenton, NJ 08625-0360
Attn: Ms. Michele Stark

Please include the control number 04-C-025 on all of your correspondence. **Finally, please note that your failure to submit a request for a hearing within 30 days shall be interpreted as an acceptance of this Department's decision, thereby negating any further appeal rights.** If you have any questions concerning this matter, please do not hesitate to contact Mr. Samuel Stewart of my office at (609) 633-7777.

Sincerely,



Karen Halupke, RN, M.Ed.
Director
Emergency Medical Services

- c: Michele Stark, OLRA
- David Gruber, Assistant Commissioner
- Samuel Stewart, Esq., OEMS
- Robert Dinetz, OEMS
- Charles McSweeney, OEMS
- James Sweeney, OEMS

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State of New Jersey
DEPARTMENT OF HEALTH AND SENIOR SERVICES
PO BOX 360
TRENTON, N.J. 08625-0360

JON S. CORZINE
Governor

www.nj.gov/health

FRED M. JACOBS, M.D., J.D.
Commissioner

October 5, 2006

Mr. Todd Schmiedle
85 Wilson Avenue
Parlin, NJ 08859

RE: Department of Health and Senior Services v. Todd Schmiedle
Final Agency Decision
OAL Docket No. HLT 08972-2005

Dear Mr. Schmiedle:

Enclosed please find a Final Agency Decision in reference to the above captioned matter.

If dissatisfied with the Decision, you may appeal to the Appellate Division, Superior Court of New Jersey, Richard J. Hughes Justice Complex, P.O. Box 006, Trenton, NJ 08625-0006. A request for judicial review must be initiated within 45 days from the date of the receipt of this Decision.

Any action required by the Decision will be promptly implemented.

Sincerely,

A handwritten signature in cursive script that reads "Ruth Charbonneau/es".

Ruth Charbonneau
Director
Office of Legal and Regulatory Affairs

Enclosure

REGULAR & CERTIFIED MAIL
RETURN RECEIPT REQUESTED



State of New Jersey
 DEPARTMENT OF HEALTH AND SENIOR SERVICES
 PO BOX 360
 TRENTON, N.J. 08625-0360

JON S. CORZINE
 Governor

www.nj.gov/health

FRED M. JACOBS, M.D., J.D.
 Commissioner

TODD SCHMIEDLE,	:	
	:	
PETITIONER,	:	
	:	
v.	:	
	:	
DEPARTMENT OF HEALTH	:	ADMINISTRATIVE ACTION
AND SENIOR SERVICES	:	FINAL AGENCY DECISION
	:	
RESPONDENT.	:	OAL DKT. NO. HLT 8972-05
	:	AGENCY DKT. NO. 04-C-025

The Commissioner of the New Jersey Department of Health and Senior Services (Commissioner) has reviewed the record in this matter consisting of the Initial Decision of the Honorable Donald J. Stein, A.L.J. and the documents presented in evidence to the Office of Administrative Law.

Based upon a full review of the record, the Commissioner hereby **ADOPTS** the findings and conclusions of Judge Stein and incorporates the same herein by reference that the petitioner is not rehabilitated and that his involvement in a conspiracy to commit aggravated arson adversely relates to the occupation of an Emergency Medical Technician-Basic (EMT-B). Conspiracy to commit Aggravated Arson is a second degree crime, in violation of N.J.S.A. 2C:17-1a and N.J.S.A. 2C:5-2. Under the standards set forth in N.J.S.A. 2A:168A-1, et seq. and N.J.A.C. 8:40A-10.2(b), the petitioner's continued certification poses a threat to the public safety and welfare. Therefore, the Department's revocation of the petitioner's EMT-B certification is proper.

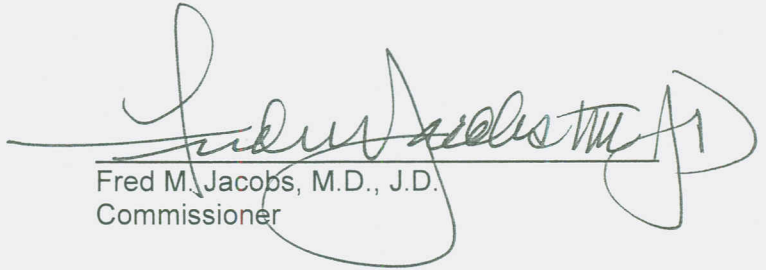
TODD SCHMIEDLE, PETITIONER v. DEPARTMENT OF HEALTH
AND SENIOR SERVICES, RESPONDENT

Parties have the right to appeal this Final Agency Decision within forty-five (45) days to
the following authority:

New Jersey Superior Court-Appellate Division
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0006

THEREFORE, it is on this 4th day of October, 2006;

ORDERED that the decision to revoke Todd Schmiedle's EMT-B certification is affirmed.



Fred M. Jacobs, M.D., J.D.
Commissioner



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

GRANTING SUMMARY DECISION

OAL DKT. NO. HLT 8972-05

AGENCY DKT. NO. 04-C-025

**NEW JERSEY DEPARTMENT OF
HEALTH AND SENIOR SERVICES,**

Petitioner,

v.

TODD SCHMIEDLE,

Respondent.

Kimberly Jenkins, Deputy Attorney General, for petitioner (Zulima V. Farber, Attorney General of New Jersey, attorney)

Todd Schmiedle, respondent, pro se

Record Closed: August 18, 2006

Decided: August 21, 2006

BEFORE **DONALD J. STEIN**, ALJ:

STATEMENT OF THE CASE

Petitioner, New Jersey Department of Health and Senior Services (hereinafter "DHSS"), seeks the revocation of the Todd Schmiedle's (respondent) Emergency Medical Technician-Basic Certification (EMT-Basic certification) pursuant to N.J.A.C. 8:40A-10.2, adopted pursuant to the Health Care Facilities Planning Act, N.J.S.A.

26:2H-1 et seq. DHSS alleges that respondent, a certified EMT, was convicted of a crime and placed into a pre-trial intervention program. Respondent argues that he has been rehabilitated.

PROCEDURAL HISTORY

Respondent requested a hearing with respect to the substantiated findings of resident abuse. The matter was transmitted to the Office of Administrative Law (OAL) on December 2, 2005, for hearing as a contested case. On July 10, petitioner filed a motion for summary decision (P-1). Respondent was advised that he had until July 27, 2006, to file an opposition brief. Respondent requested an extension until July 31, 2006, and was given one additional week to file his response (P-2). No response was received and the record closed on August 18, 2006.

STATEMENT OF FACTS

The facts in this matter are not in dispute. Respondent is certified as an Emergency Medical Technician-Basic. On August 11, 2003, DHSS received information that respondent had a criminal complaint pending against him. The police investigation report revealed that respondent and three other individuals entered into a conspiracy to steal one of the three individuals' cars, and then set it on fire to collect the insurance proceeds. Some of the planning took place at the Sayerville First Aid Squad (P-3, P-4, P-5). On May 10, 2004, respondent pled guilty to conspiracy to second degree aggravated arson, and also entered into a pre-trial intervention program. (P-6, P-7)

Petitioner concluded that revocation was appropriate because respondent's actions posed a threat to health, safety, and welfare.

The proceeding information is undisputed and is **FOUND as FACT**.

CONCLUSIONS OF LAW

The facts involving this motion are not in dispute. Therefore, pursuant to N.J.A.C. 1:12.5(b) and Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520, 523 (1995), I **FIND** that there are no genuine issues of material fact and that this matter is ripe for Summary Decision.

N.J.A.C. 8:40A-10.2(b) provides that the Commissioner may suspend, revoke or refuse to issue an EMT certification for a number of reasons, including the conviction of any crime, disorderly person offense, or entry into a pre-trial intervention, conditional discharge, or other diversionary program.

In this case, respondent has pleaded guilty to a second degree crime. Thus it is within the discretion of the Commissioner to revoke his EMT certification.

However, the respondent has the opportunity to show that he has been rehabilitated. Pursuant to the Rehabilitated Convicted Offenders Act, a person shall not be disqualified or discriminated against by any licensing authority because of any conviction for a crime unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought. N.J.S.A. 168A-1. The following factors are to be considered in determining whether the crime relates adversely to the profession:

- a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;
- b. Nature and seriousness of the crime;
- c. Circumstances under which the crime occurred;
- d. Date of the crime;
- e. Age of the person when the crime was committed;

- f. Whether the crime was an isolated or repeated incident;
- g. Social conditions which may have contributed to the crime;
- h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. N.J.S.A. 2A:168A-2

Respondent has some mitigating factors. He was twenty-three years old when he committed this offense (e), and this appears to be an isolated incident (f). However, the aggravating factors are more significant.

As an EMT-Basic, the respondent is employed in a position that involves public trust, and cooperation with law enforcement officials (a). The crime itself was a second degree crime, involving fraud, dishonesty, and destruction of property. When an EMT-Basic is summoned to a victim's home, great reliance is placed in his skills, judgment and integrity. He may be the only one alone in the house. A sick person must rely on him to get help. An EMT-Basic must exercise good judgment and provide truthful information to other emergency medical services personnel, police officers, fire fighters, doctors, patient family members and others. The commission of this crime, committed approximately three years ago casts significant doubt on the judgment and integrity of the respondent to perform this job (b) and (c). No evidence has presented as to any social conditions that may have contributed to the crime (g).

Evidence of rehabilitation is a significant factor in deciding whether the respondent's certification should be revoked (h). However, respondent has not submitted a reply to this motion, nor submitted any evidence of rehabilitation. In his letter of appeal, respondent said he found "several not factual statements and/or events that either did not happen or may have happened that I had no involvement." He also said that he did not understand why there is no evidence of rehabilitation, but did not submit any such evidence (P2). Therefore, the record is devoid as to any proof of rehabilitation on the part of the respondent.

A review of these factors, as well as the proofs presented, clearly indicates that the respondent is not rehabilitated and that his involvement in a conspiracy to commit aggravated arson adversely relates to the occupation of an EMT-Basic. The respondent has not come forward with any evidence to contradict the evidence submitted by the Department. Therefore, pursuant to N.J.A.C. 8:40A-10.2Kb) and N.J.S.A. 2A:168A-2, respondent's EMT-Basic certification must be revoked.

DECISION AND ORDER

Accordingly, it is **ORDERED** the EMT-Basic certification issued to respondent, Todd Schmiedle, be revoked.

I hereby **FILE** my initial decision with the **COMMISSIONER OF THE DEPARTMENT OF HEALTH AND SENIOR SERVICES** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF HEALTH AND SENIOR SERVICES**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Health and Senior Services does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF HEALTH AND SENIOR SERVICES, John Fitch Plaza, PO Box 360, Room 805, Trenton, New Jersey 08625-0360**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



August 21, 2006
DATE

DONALD J. STEIN, ALJ

E-mail Receipt of Initial Decision Confirmed by Department of Health and Senior Services on:

DATE

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

bdt/mh

APPENDIX

LIST OF WITNESSES

For Petitioner:

None

For Respondent:

None

LIST OF EXHIBITS

For Petitioner:

- P-1 Brief
- P-2 Respondent's request for extension to file response
- P-3 Affidavit of investigation
- P-4 Indictment
- P-5 Investigation Report
- P-6 Plea Agreement

For respondent:

None