Iowa Dept. of Public Health
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Bureau of Emergency
and Trauma Services

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

Jesse Bevins 4957 Woodland Avenue Apt 35 West Des Moines, IA 50266, Appellant, v. Iowa Department of Public Health, Respondent.	)	DIA FILE NO. 18DPH0002 DPH FILE NO. 17-02-02 Certification: PM-10-1600-22 PROPOSED DECISION

On June 27, 2017, the Iowa Department of Public Health-Bureau of Emergency and Trauma Services (Department) issued a Notice of Proposed Action-Probation to Jesse Bevins (Respondent). The Notice of Proposed Action imposed a one year period of probation on Respondent's certification as a Paramedic. Respondent filed a timely Notice of Appeal. A telephone hearing was held before the undersigned administrative law judge on September 11, 2017. Assistant Attorney General Heather Adams represented the Department at hearing. Respondent was self-represented and elected an open hearing, pursuant to Iowa Code section 272C.6(1).

THE RECORD

The record includes the Notice of Telephone Hearing, Motion to Continue, and Order Continuing Hearing; the testimony of Rebecca Curtis, Steve Van Natta, and Respondent; and Department Exhibits 1-8. A protective order was granted for Exhibits 4-7, which include confidential information under Iowa Code sections 272C.6(4) and 22.7.

FINDINGS OF FACT

The Iowa Department of Public Health-Bureau of Emergency and Trauma Services (Department) currently certifies Emergency Medical Services (EMS) providers at four

levels: Emergency Medical Responder (EMR), Emergency Medical Technician (EMT), Advanced Emergency Medical Technician (AEMT), and Paramedic. At the time relevant to this proceeding, Respondent Jesse Bevins had been certified by the Department as a Paramedic for approximately 3 ½ years. (Curtiss testimony; Ex. 3, 4, p. 23)

Respondent was employed as a Paramedic by Central Iowa Healthcare Paramedic Service (CIHPS) from December 2016 until his termination on February 7, 2017. Steve Van Natta was the EMS Manager for CIHPS. In this position, Mr. Van Natta was responsible for supervising 32 employees, including Respondent. Mr. Van Natta has worked as an EMS provider for 28 years and has been a certified Paramedic for 16 years. This proceeding concerns Respondent's performance as a Paramedic on February 2, 2017 and on February 4, 2017. (Curtiss, Van Natta testimony; Ex. 5)

February 2, 2017 Incident. On February 2, 2017, Respondent and AEMT Anthony Haubrich responded to the home of an 81 year old female who was unresponsive and in cardiac arrest. As the person with the highest level of certification on the call, Respondent was the person with primary responsibility for the care of the patient. Respondent was also responsible for preparing the run report and signing it. Marshalltown Fire and Rescue also responded. (Curtiss, Van Natta, Bevins testimony; Ex. 4, pp. 24-25; Ex. 6)

The patient was transferred to the ambulance, where it was discovered that she no longer had a pulse. CPR was initiated by AEMT Haubrich, while Respondent made several unsuccessful attempts to intubate the patient. Marshalltown Fire and Rescue crew was eventually able to successfully intubate the patient at 06:56:00 while CPR continued. AEMT Haubrich administered intravenous (IV) Epinephrine to the patient at 06:54:00 and again at 06:57:00. Epinephrine is primarily used for patients in cardiac arrest. The run report, which was prepared and signed by Respondent, documented that Respondent was the person who administered the IV Epinephrine. Respondent admits that AEMT Haubrich actually administered the IV Epinephrine. Respondent's narrative states, in relevant part: "A bag of NS was hung wide open and a round of Epi was given at 0654…At 0657, a second round of Epi was given." (Curtiss, Van Natta, Bevins testimony; Ex. 4-6)

February 4, 2017 Incident. On February 4, 2017, Respondent was on a call with AEMT Anthony Haubrich and AEMT student Jordan Hoy. Jordan Hoy was a certified EMT at

the time of this call. The crew received a 911 dispatch to the home of a 59 year old female who had become very weak and lethargic. After they arrived at the home, Jordan Hoy started an IV and gave the patient 4 mg of IV Zofran. Zofran is given to prevent nausea and vomiting. There is no dispute that Hoy administered the IV Zofran to the patient. The run report states, however, that Respondent administered the IV Zofran. The narrative prepared by Respondent states, in relevant part: "An IV was started by the EMT-Advanced student in the right forearm with a 20G. A blood sugar was then checked and found to be within normal limits. She was then given 4 mg of Zofran prior to moving her." (Curtiss, Van Natta, Bevins testimony; Ex. 4-7; Ex. 6, pp. 38, 40)

Scope of Practice Issues: The permissible scope of practice for the different levels of certified EMS providers is defined in the "Iowa Emergency Medical Care Provider Scope of Practice June 2016." The permissible scope of practice allows AEMTs to administer only the following three medications by intravenous push: Naloxone/Dextrose/Glucagon. AEMTs are not permitted to administer IV Epinephrine or IV Zofran. (Curtiss, Van Natta testimony; Ex. 3, p. 19).

When a Paramedic is on the ambulance call, the Paramedic has the overall authority for the patient's care. The Paramedic is responsible for delegating duties to the EMS providers who are certified at lower levels and for assuring that those providers are only providing services that are within their permissible scope of practice. (Curtiss, Van Natta testimony)

Investigation and Subsequent Disciplinary Actions against Respondent: On February 6, 2017 at 1:10 p.m., Respondent called his supervisor, Steve Van Natta, and reported the two incidents that occurred on February 2 and February 4, 2017.

- Respondent told Van Natta that on February 2, 2017 AEMT Haubrich administered the IV Epinephrine to the patient in cardiac arrest. Respondent reported that he was intubating the patient when the first dose was given and further reported that he did not know that AEMT Haubrich had administered the second dose until after it was already given. Respondent admitted that he documented that he had administered both rounds of Epinephrine. When Mr. Van Natta asked Respondent why he had falsified the documentation, Respondent replied "I panicked and didn't know what else to do. I know what I did was wrong." (Van Natta testimony; Ex. 5, p. 28)

- Respondent also told Van Natta that on February 4, 2017, AEMT Haubrich drew up the medication Zofran and gave it to AEMT student Jordan Hoy for IV administration. Respondent admitted that he documented in the run report that he had administered the IV Zofran for the same reason that he documented administering the IV Epinephrine on February 2nd. (Van Natta testimony; Ex. 5, p. 28)

Steve Van Natta contacted Jordan Hoy on February 6, 2017 at 1:30 p.m. and asked him who administered the IV Zofran to the patient on February 4, 2017. After a long pause, Hoy reported that AEMT Haubrich drew up the Zofran and handed it to him, stating "here's the Zofran." Hoy reported that he wasn't sure what to do and he panicked. He told Van Natta that he administered the medication after Haubrich told him "It's ok. Go ahead." Van Natta asked Hoy if he knew that it was outside his scope of practice to administer IV Zofran, and Hoy admitted that he knew that. Van Natta then reported the incident to Hoy's instructor. (Van Natta testimony; Ex. 5, p. 28)

Steve Van Natta contacted AEMT Anthony Haubrich on February 6, 2017 at approximately 6:00 p.m. and asked him about the two incidents. Haubrich admitted administering the IV Epinephrine to the patient on February 2, 2017 and reported he did so because Respondent "was busy." He admitted that he knew that IV Epinephrine was not within the scope of practice for an AEMT. Haubrich also admitted that he drew up the IV Zofran for the patient on February 4, 2017 and that Hoy administered the Zofran to the patient. Haubrich admitted that he knew that IV Zofran was not within the scope of practice for an AEMT. When Van Natta asked Haubrich who authorized Hoy to administer the IV Zofran, Haubrich stated that Respondent had authorized it. (Van Natta testimony; Ex. 5, p. 29)

On February 7, 2017 at 4:00 p.m., Steve Van Nata had a follow up meeting with Respondent. During this meeting, Respondent denied that he authorized Haubrich to administer the IV Epinephrine on February 2nd. Respondent stated that he was dealing with the patient's airway and became aware of Haubrich's administration of the Epinephrine when Haubrich radioed in "Epi given." Respondent told Van Natta that on February 4th, AEMT Haubrich obtained the IV Zofran from the drug box, gave the syringe to Hoy, and told him to "go ahead" and administer it. Respondent admitted that he did not talk with Haubrich or Hoy about the medication administration and told Van Natta that he wasn't sure how to handle it. Van Natta informed Respondent that

his employment was being terminated for his falsification of the patient care reports. (Van Natta testimony; Ex. 5, pp. 30-31)

Steve Van Natta notified the Department's Bureau of EMS and Trauma Services about the two incidents and provided his written investigation findings. (Van Natta testimony; Ex. 4, 5, p. 29) The Department also conducted its own investigation and subpoenaed the relevant documents. Department employee Steve Mercer interviewed Respondent, Haubrich, and Hoy and prepared a Preliminary Investigative Report.

In his interview with Steve Mercer, Respondent stated that:

- Haubrich broke the seal on the drug box and administered the IV Epinephrine on February 2, 2017 without his knowledge;
- Haubrich drew up the IV Zofran on February 4, 2017, gave it to Hoy, and told Hoy to go ahead and administer the medication;
- he (Respondent) did not know that Hoy administered the Zofran until after he did it;
- he told Hoy that he should not have given the medication, and Haubrich stated that he "does it all of the time;"
- he wrote the PCR (patient care report) without indicating who performed what skills or procedures;
- the PCR defaults all procedures to the person completing the PCR;
- he was unsure if he could change the default on the PCR software to indicate who performed the skills or procedures; and
- he waited until February 6th to report the incidents because he did not know the procedure for reporting the violations. (Ex. 4, pp. 23-24)

In his interview with Steve Mercer, Haubrich claimed that he administered just one dose of IV Epinephrine after Respondent asked him to do so. Haubrich denied knowing that the patient was given a second dose of Epinephrine. Haubrich stated that Respondent prepared the PCR and that the default can be changed to indicate who performed the skill or procedure. (Ex. 4, pp. 25-26)

In his interview with Steve Mercer, Hoy reported that Respondent drew up the IV Zofran, that Haubrich handed him the syringe, and that Respondent asked him to "push" the medication. He further reported that Haubrich told him that "it was alright and to go ahead and administer." He also reported that following the call, Respondent

told him "what happens in the back of the ambulance stays in the back of the ambulance." (Ex. 4, pp. 22-23)

Rebecca Curtiss is the Bureau Chief for the Iowa Department of Public Health Bureau of Emergency and Trauma Services. She is responsible for overseeing the Department's investigation and certification of EMS providers and of EMS training and service programs in Iowa. After reviewing the results of the investigations, Curtiss determined that Respondent's Paramedic Certification should be placed on probation for one year, subject to terms and conditions. Haubrich and Hoy were issued Citations and Warnings by the Department. (Curtiss testimony)

On June 27, 2017, the Department issued Respondent a Notice of Proposed Action: Probation based on the incidents that occurred on February 2, 2017 and February 4, 2017. The Department's Proposed Action places Respondent on probation for a period of one year, subject to a number of terms and conditions. The terms and conditions of probation include, in part:

- Successful completion of six (6) hours of continuing education in the area of ethics and one (1) hour of continuing education in the area of documentation in addition to the hours required for certification renewal;
- Submission of quarterly reports that verify that Respondent has complied with the terms of probation for the relevant time period;
- Personal appearance before the bureau upon request;
- Notification of any current or prospective employer, to include direct supervisors, service directors and medical directors, of the terms, conditions, and restrictions imposed by the probation. Within 15 days of the notice (of proposed action-probation) taking effect, or of undertaking new employment, Respondent's direct supervisor, service director and medical director is required to report to the bureau, in writing, acknowledging that they have read the Notice of Proposed Action and understand it; and
- Notification of any EMS training program enrolled in for courses leading to certification or endorsement of the reasons for the probation. Within fifteen days of the notice taking effect, or entering an EMS training program, the training program director and medical director are required to report to the bureau, in writing, acknowledging that they have read the Notice of Proposed Action and understand it.

Rebecca Curtiss testified that the Department has imposed similar terms of probation for other EMS providers who had similar scope of practice and documentation violations. Curtiss explained that it is very important for the patient care records to be accurate because the quality of care that the patient receives afterward can depend on the care provided by the pre-hospital medical care providers. Curtiss and Van Natta credibly testified that while the patient care report software will enter the name of the person preparing the report as the "default," the person preparing the report can and must change the defaulted entry if it is not accurate. Van Natta reviewed five prior reports that Respondent prepared in late January 2017 and those reports identified providers other than Respondent when they performed a service for the patient. In one of the reports, Respondent identified his partner as the person who gave Narcon to a patient. This demonstrated that Respondent knew how to change the default to accurately document the provider who administered a medication. (Curtiss, Van Natta testimony; Ex. 1)

CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the examination and certification of emergency medical care providers.[1] The Department has adopted rules pertaining to Emergency Medical Services-Provider Education/Training/Certification at 641 IAC chapter 131.
641 IAC 131.3(3) pertains to the scope of practice for emergency medical care providers and states, in relevant part:

> **131.3(3)** Scope of practice.
> *a.* Emergency medical care providers shall provide only those services and procedures that are authorized within the scope of practice for which they are certified.
> *b.* Scope of Practice for Iowa EMS Providers (June 2016) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.
> ...

[1] Iowa Code section 147A.4(2)(2015).

> *d.* Scope of Practice for Iowa EMS providers is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems).

The Iowa Emergency Medical Care Provider Scope of Practice (June 2016) provides various charts indicating the level of certification that is required for particular emergency medical services in the categories of Airway and Breathing, Assessment, Pharmacological Intervention (including an AEMT Drug List), Emergency Trauma Care, and Medical/Cardiac Care. (Ex. 3) The scope of practice chart for Pharmacological Intervention indicates that an AEMT is not authorized to administer intravenous Epinephrine or intravenous Zofran.

641 IAC 131.7(3) pertains to disciplinary proceedings against certificate holders and provides, in relevant part:

> **131.7(3)** The department may …impose any of the disciplinary sanctions provided in subrule 131.7(2) when it finds that an applicant or certificate holder has committed any of the following acts or offenses:
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> ...
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> *c.* Rendering treatment not authorized under Iowa Code chapter 147A.
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> …
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> *f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.[2] Acts which may constitute unethical conduct include, but are not limited to:
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> …
>
> (5) Falsification of medical records.
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> …
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> *j.* Failure to report another emergency medical care provider to the department for any violation listed in these rules, pursuant to Iowa Code 147A.
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> …

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[2] *Accord,* Iowa Code section 147A.7(1)(f)(2017).

> *k.* Knowingly aiding, assisting or advising a person to unlawfully practice EMS.
> ...

The preponderance of the evidence in the record clearly established that Respondent knowingly made misleading, deceptive, untrue or fraudulent representations in the practice of his profession as a Paramedic, on February 2, 2017 and again on February 4, 2017, when he prepared, signed, and filed two patient care reports (run reports) that included deceptive, untrue, or fraudulent representations concerning the care that was provided. The two reports prepared and submitted by Respondent inaccurately identified the providers who administered IV medications (Epinephrine and Zofran), in violation of Iowa Code section 147A.7(1)(f) and 641 IAC 131.7(3)"f." The reports identified Respondent as the provider who administered these medications. There is no dispute that Respondent did not administer the IV Epinephrine on February 2, 2017 or the IV Zofran on February 4, 2017. There is also no dispute that Respondent knew that the reports that he filed were inaccurate. The credible testimony of his supervisor supports the conclusion that Respondent did know how to change the default entries on the reports. Nevertheless, if Respondent was confused about how to correct inaccurate default entries on the patient care reports, it was his responsibility to find out how to correct those entries before submitting the report.

The preponderance of the evidence further established that Respondent knew that the administration of IV Epinephrine and IV Zofran was outside the permissible scope of practice for the AEMT and the AEMT student who administered the medications. Respondent has consistently denied that he directed or instructed the AEMTs to administer the IV medications, and he claims that he only found out about their administration of the IV medications after the fact. The somewhat inconsistent and self-serving hearsay statements provided by Haubrich and Hoy were insufficiently persuasive to refute Respondent's sworn testimony that he did not direct them to administer the IV medications. Nevertheless, as the Paramedic on the call, Respondent was responsible for the care provided by the AEMT and the AEMT student. He should have promptly reported their actions to his supervisor and to the Department, as required by 641 IAC 131.7(3)"j." Instead of reporting their actions, Respondent falsified the information in the patient care report, and he signed and submitted the false reports. Respondent did not report their actions to his supervisor until several days after the fact.

This record fully supports and warrants the one year probationary term imposed on Respondent by the Department's Notice of Proposed Action. Given Respondent's responsibilities as a Paramedic, it is more than reasonable to require him to complete additional continuing education in ethics and documentation and to ensure some additional oversight of his practice as a Paramedic for a one year period.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action- Probation, issued by the Department to Respondent Jesse Bevins on June 27, 2017, is AFFIRMED.

Dated this 26th day of September , 2017.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Jesse Bevins, 4957 Woodland Avenue Apt. 35, West Des Moines, IA 50266 (CERTIFIED) ; Heather Adams, Assistant Attorney General, Hoover State Office Building, Des Moines, Iowa 50319 (LOCAL); Rebecca Curtiss, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319 (LOCAL)

This proposed decision and order becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director of the Department of Public Health is taken as provided in subrule 131.12(11). Any appeal to the director for review of this proposed decision and order shall be filed in writing and mailed to the director of the Department of Public Health by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be sent to the administrative law judge. Any request for appeal shall state the reason for the appeal. 641 IAC 131.12(11).