

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

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In the Matter of	)	Case No. 08-12-10
	)	DIA No. 09DPHES001
Maysville Fire Department	)	
23614 93 <sup>rd</sup> Ave.	)	PROPOSED DECISION
Walcott, Iowa 52773	)	
Service #9829200	)	

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On January 9, 2009, the Department of Public Health-Emergency Medical Services Bureau (Department) served a Notice of Proposed Action-Citation and Warning on Maysville Fire Department (Appellant). A telephone hearing was held before Administrative Law Judge Margaret LaMarche on April 9, 2009 at 3:00 p.m. Assistant Attorney General Heather Adams represented the Department. The Appellant was self-represented by its Chief, Scott Roenfeldt, and elected to have an open hearing, pursuant to Iowa Code section 272C.6(1).

#### THE RECORD

The record includes the Notice of Telephone Hearing, testimony of the witnesses, and the following exhibits:

Department Exhibit 1:	641 IAC chapter 132
Department Exhibit 2:	Notice of Proposed Action: Citation and Warning
Department Exhibit 3:	Service Program Onsite Inspection Report
Department Exhibit 4:	Onsite Review Edits
Department Exhibit 5:	Service Event Log
Department Exhibit 6:	Authorization Information
Department Exhibit 7:	Letter, Wolfe to Appellant, 12/10/08
Department Exhibit 8:	Request for Hearing

## FINDINGS OF FACT

1. Maysville Fire Department is a volunteer, non-transport emergency medical services service program that is certified at the EMT-B level and is located in Walcott, Iowa. Scott Roenfeldt is the Chief and Ty Arp is the Assistant Chief. (Roenfeldt testimony; Department Exhibit 6)

2. Evelyn Wolfe is the Southeast Regional EMS Coordinator for the Department of Public Health. She is responsible for inspecting all EMS Service Programs within her region at least once every three years to confirm compliance with all administrative rules and all minimum standards applicable to emergency medical services. (Wolfe testimony)

3. On October 6, 2008, Ms. Wolfe performed a scheduled inspection of the Maysville Fire Department EMS service program. Mr. Arp was assigned to assist her and provide any necessary information or documentation. Mr. Roenfeldt was not present for the inspection. Ms. Wolfe documented the following deficiencies during her inspection:

- Failure to have the current 2008 protocols approved by medical director on file; the service program only had the outdated 2005 protocols. [641 IAC 132.8(3)"b"]
- Failure to have documentation of annual training of its personnel to show they are functioning within the scope and level of service authorized, as required by the service program's Continuing Quality Improvement (CQI) policy. [641 IAC 132.8(3)"c"]
- Failure to have personnel rosters and files on file. (641 IAC 132.8(3)"d")
- Failure to have documentation of skills competency as required by the CQI policy. [641 IAC 132.8(3)"m"]
- Failure to have documentation of measurable outcomes per the CQI policy. [641 IAC 139.2"c"]
- Failure to have documentation of training and protocols on prescription and over-the-counter (OTC) drugs carried by the service. [641 IAC 132.8(4)"c"]
- Failure to document an equipment maintenance program (monthly inspections-last documented inspection was June 1, 2008.) [641 IAC 132.8(3)"o"]
- Failure to remove expired aspirin, glucose and pediatric pads, per physician protocol. [641 IAC 132.8(4)"b"]

- Failure to document a vehicle preventative maintenance program documented monthly. [641 IAC 132.8(5)]

Ms. Wolfe gave a copy of the inspection form to Mr. Arp, which stated that the compliance due date was within thirty days (November 6, 2008). Mr. Arp contacted Wolfe less than a week after the inspection and informed her that Mr. Roenfeldt had all of the requested documentation. Ms. Wolfe asked Arp to mail the documentation to her. On October 27, 2008, Ms. Wolfe returned a voice mail message from Mr. Arp. Mr. Arp again advised Wolfe that he had all of the required documentation and asked her to pick it up. She advised him that she would not be in his area in the near future and that he should mail the documentation to her. Mr. Arp did not mail the documentation. (Wolfe testimony; Department Exhibits 3, 4)

4. On November 5, 2008, an automatic notice of outstanding on-site deficiency was sent to Mr. Roenfeldt by email. He responded and told Ms. Wolfe to contact Mr. Arp. Ms. Wolfe told Mr. Roenfeldt that she had spoken to Mr. Arp and had reminded him that November 6, 2008 was the deadline for correcting the deficiencies. The deficiencies were not corrected by that date. (Wolfe, Roenfeldt testimony; Department Exhibit 5)

5. On December 5, 2008, Ms. Wolfe sent Mr. Roenfeldt an email reminding him of the outstanding deficiency. On December 10, 2008, Ms. Wolfe sent Mr. Roenfeldt a certified letter notifying him that the deficiencies had been turned over to her Bureau Chief for possible disciplinary action. Mr. Roenfeldt was advised to submit the requested information by December 19, 2008. On December 19, 2008, Ms. Wolfe received documentation concerning two of the nine deficiencies. She received documentation of the equipment maintenance program preventative maintenance record and notice that expired supplies had been removed from the service program's drug inventory. (Wolfe testimony; Department Exhibit 5)

6. Additional notices of outstanding deficiencies were sent to Mr. Roenfeldt on December 25, 2008 and January 4, 2009. In all, the service program received nine notices that deficiencies remained. The Notice of Proposed Action- Citation and Warning was issued on January 9, 2009. This was the least serious form of discipline that could be imposed and does not impact the service program's ability to continue to provide emergency medical services. The Department typically imposes a Citation and Warning for failure to correct service program deficiencies within the required time frame. In 2008, six service programs were

issued Citations and Warnings. In 2007, seven service programs were issued Citations and Warnings. (Wolfe, Farrell testimony; Department Exhibits 5, 2)

7. The remaining deficiencies were eventually resolved by the submission of the requested documentation on February 5, 2009. (Wolfe testimony)

## CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the operation of ambulance, rescue, and first response services which have received authorization to utilize the services of emergency medical services providers.<sup>1</sup> The Department has adopted rules governing service programs at 641 IAC chapter 132.

641 IAC 132.8(3) sets out the service program operational requirements, including the requirements that service programs shall:

- Utilize department protocols as the standard of care.<sup>2</sup>
- Ensure that personnel duties are consistent with level of certification and the service program's level of authorization.<sup>3</sup>
- Maintain current personnel rosters and personnel files that include names and address of all personnel and documentation of their EMS provider credentials.<sup>4</sup>
- Implement a continuous quality improvement program that provides a policy to include, in part, skills competency.<sup>5</sup>
- Document an equipment maintenance program to ensure proper working condition and appropriate quantities.<sup>6</sup>

641 IAC 132.8(4) sets out the equipment and vehicle standards for service programs, including the requirements that service programs shall:

- Carry equipment and supplies in quantities as determined by the medical director and appropriate to the service program's level of care and

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<sup>1</sup> Iowa Code section 147A.4(1)(2007).

<sup>2</sup> 641 IAC 132.8(3)"b."

<sup>3</sup> 641 IAC 132.8(3)"c."

<sup>4</sup> 641 IAC 132.8(3)"d."

<sup>5</sup> 641 IAC 132.8(3)"m."

<sup>6</sup> 641 IAC 132.8(3)"o."

available certified EMS personnel and as established in the service program's approved protocols.<sup>7</sup>

- Carry and administer pharmaceutical and over-the-counter drugs upon completion of training and pursuant to the service program's established protocols.<sup>8</sup>

641 IAC 132.8(5) requires service programs to document a preventative maintenance program. 641 IAC 132.9(2)"c" requires the medical director to monitor and evaluate the activities of the service program and individual personnel performance, including establishment of measurable outcomes that reflect the goals and standards of the EMS system.

The preponderance of the evidence established that the Department documented nine deficiencies involving the above-cited regulations when it inspected the Appellant's service program on October 6, 2008. Appellant was provided ample opportunity to correct these deficiencies without incurring any disciplinary action but failed to do so within the required time frames. The proposed disciplinary action is proportionate to the violations and is the least serious discipline that can be imposed. It does not interfere with the service program's ability to serve the public.

#### ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Citation and Warning issued by the department to Appellant Maysville Fire Department on January 9, 2009, is hereby AFFIRMED.

Dated this 5th day of May, 2009.

*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

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<sup>7</sup> 641 IAC 132.8(4)"b."

<sup>8</sup> 641 IAC 132.8(4)"c."

cc: Scott Roenfeldt, Chief  
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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).