

JP

BEFORE THE IOWA DEPARTMENT OF PUBLIC HEALTH

IN THE MATTER OF:

MERCY COLLEGE
OF HEALTH SCIENCES
207 Crocker Street, Suite 100
Des Moines, IA 50309

Training Program # 17

and

DAVID FILIPP
207 Crocker Street, Suite 100
Des Moines, IA 50309

Certification PS-99-507-091

DPH Case Nos. 09-11-12,
10-03-11, 10-03-31,
10-05-21, 10-11-15,
and 10-11-16

CONSENT AGREEMENT



COMES NOW the Iowa Department of Public Health ("Department") and Mercy College of Health Sciences ("Mercy College"), and David Filipp ("Filipp" individually and "Appellants" collectively with Mercy College) and pursuant to Iowa Code section 17A.10 and 641 Iowa Administrative Code 131.12(7) enter into the following combined settlement of Department Cases 09-11-12, 10-03-11, 10-03-31, 10-05-21, 10-11-15, and 10-11-16:

Case Nos. 09-11-12 and 10-03-11

1. On March 25, 2010, the Department issued a Notice of Proposed Action: Citation and Warning, Case No. 09-11-12, directed to Mercy College, and a Notice of Proposed Action: Revocation of Endorsement, Case No. 10-03-11, directed to Filipp,

Mercy College's training program director.

2. The Appellants filed timely appeals and a consolidated in-person contested case hearing was held on November 1, 2010.

3. On December 30, 2010, Administrative Law Judge John M. Priester issued a Proposed Decision affirming the Notices of Proposed Actions.

4. On January 14, 2011, Appellants filed a timely Notice of Hearing to the Director of the Department of Public Health.

5. Appellants hereby withdraw the Notice of Appeal filed January 14, 2011, in Case No. 09-11-12 and Case No. 10-03-11.

Case No. 10-03-31

6. On June 2, 2010, the Department issued a Notice of Proposed Action: Probation, Case No. 10-03-31, directed to Mercy College.

7. On June 16, 2010, Mercy College requested a hearing regarding the proposed probation.

8. The Department of Inspections and Appeals scheduled a contested case hearing for December 10, 2010, which was continued upon request of both parties.

9. Mercy College hereby withdraws its Notice of Appeal filed June 16, 2010, in Case No. 10-03-31.

10. The Department hereby withdraws the Notice of Proposed Action in Case No. 10-03-31.

Case No. 10-05-21

11. The Department's rules provide that training programs shall use the following course curricula approved by the Department for certification:

CCP – Iowa curriculum, 80 to 90 didactic hours, clinical and field time as necessary to complete objectives.

641 IAC 131.5(1)(a)(2)

Department rules further provide:

The training program shall maintain an individual record for each student. Training program policy and department requirements will determine contents.

These requirements may include:

c. Student record or transcript of hours and performance (including examinations) in classroom, clinical and field experience settings.

641 IAC 131.5(6).

12. In 2010, Mercy College conducted a Critical Care Paramedic (CCP) Course. On April 22, 2010, the Department received thirteen EMS Endorsement Applications for the Iowa Critical Care Paramedic. Mercy College's program director verified on April 15, 2010, that the individuals had completed all training program requirements outlined in 641 Iowa Administrative Code chapter 131 and were eligible for endorsement as Iowa Critical Care Paramedics.

13. The Department has received information which indicates that these students did not complete any clinical time as part of the CCP course. Appendix B of the Iowa

CCP Standardized Curriculum (November 2001) states that students must demonstrate the ability to perform a comprehensive assessment on various critically ill/injured adult patients and specific psychomotor skills in the clinical setting. The clinical requirement does state that in the event that individual skills cannot be demonstrated in the clinical setting, competency may be evaluated in the classroom. Mercy College did not document competency in the skills.

Case 10-11-15

14. The Department's rules provide a training program may conduct continuing education courses (utilizing appropriate instructors) pursuant to subrule 131.4(4). 641 IAC 131.6(2). The Department's rules further provide:

Courses approved as formal education must meet the following criteria:

(2) Be based on the appropriate department curricula for EMS providers and include one or more of the following topic areas: airway, patient assessment, trauma assessment and management, medical assessment and management, behavioral emergencies, obstetrics, gynecology, pediatrics, or patient care record documentation.

641 IAC 131.4(6)(d)

Each training program shall maintain a participant record.

641 IAC 131.6(2)(c)

15. During a routine training program inspection conducted on November 5, 2010, Mercy College's continuing education records were reviewed by the Department. Ten records were identified as missing a participant record. Two courses that did not

meet the requirements for formal education were improperly granted formal education credit.

Case 10-11-16

16. The Department's rules provide that to be enrolled in an EMS training program course leading to certification by the Department, an applicant shall:

Be currently certified, at a minimum, as an EMT-B, if enrolling in an EMT-I, EMT-P, or PS course.

641 IAC 131.2

17. The Department has received information which indicates Mercy College allowed an individual who was not certified as an EMT-Basic to enroll in course PS-17-122. The individual completed the student registration with the Department on September 15, 2010. The individual did not receive certification as an EMT-Basic until December 1, 2010.

IT IS THEREFORE ORDERED

18. Execution of this Consent Agreement by all parties constitutes the resolution of Department Cases 09-11-12, 10-03-11, 10-03-31, 10-05-21, 10-11-15, and 10-11-16. The Department shall not pursue further investigation or additional disciplinary action involving or relating to the matters asserted or investigated in Cases 09-11-12, 10-03-11, 10-03-31, 10-05-21, 10-11-15, and 10-11-16. Appellants waive the right to hearing and all attendant rights for each of these cases, including the right to appeal, by freely and voluntarily agreeing to this Consent Agreement.

19. This Consent Agreement is subject to approval of the Department. If the

Department approves this agreement, it becomes the final disposition of this matter. If the Department fails to approve this agreement, it shall be of no force or effect to either party.

20. This Consent Agreement shall be part of the permanent record of Appellants and shall be considered by the Department in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

21. This Consent Agreement and the Notices of Proposed Action filed in Case Nos. 09-11-12, 10-03-11, and 10-03-31, and the Proposed Decision in Case Nos. 09-11-12 and 10-03-11 are public records available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

22. The Department's approval of this Consent Agreement shall constitute a FINAL ORDER of the Department and constitutes final agency action in this matter.

23. Mercy College's training program authorization is hereby placed on **PROBATION** for a period of eighteen (18) months, subject to the following terms and conditions:

a. Compliance with Statute and Rules. Mercy College shall comply with all provisions of Iowa Code chapter 147A and 641 IAC chapter 131.

b. Training Program Advisor. Mercy College shall, within thirty (30) days of execution of this Consent Agreement, submit to the Department for its approval the name and curriculum vitae of a proposed training program advisor. The proposed training program advisor shall be certified as a paramedic specialist or licensed as a registered

nurse, physician assistant, or physician, and shall be endorsed as an EMS instructor and have experience coordinating EMS courses. In the event that the Department rejects Mercy College's proposed training program advisor, Mercy College shall submit the name and curriculum vitae of another proposed training program advisor within thirty (30) days of receiving notice of said rejection. Upon approval of a proposed training program advisor by the Department, the training program advisor shall be provided by the Department with a copy of the Notices of Proposed Action for Case Nos. 09-11-12, 10-03-11, and 10-03-31, the investigative files for Cases 09-11-12, 10-03-11, 10-03-31, 10-05-21, 10-11-15, and 10-11-16, and this Agreement. Mercy College shall be responsible for all costs associated with the training program advisor's activities pursuant to this Agreement.

i. The training program advisor shall review student entry requirements for all courses leading to certification pursuant to 641 IAC 131.2 and shall review all continuing education approval to ensure that Mercy College is complying with this Agreement.

ii. The training program advisor shall provide ongoing consultation and advice to Mercy College's training program director and other staff on an as-needed basis, including a minimum of monthly meetings with the training program director to review compliance with this Agreement.

iii. The training program advisor shall have at a minimum quarterly meetings with Mercy College's medical director to ensure compliance with this

agreement.

iv. The training program advisor shall submit quarterly reports to the Department which include the following:

- a. The time period covered by the report.
- b. The dates of meetings held with Mercy College's training program director and medical director and a brief summary of the discussion held at each of these meetings.
- c. The training program advisor's assessment as to whether Mercy College has complied with the terms of this agreement.
- d. Any other information the training program advisor deems relevant for the Department's review.

c. Quarterly Reporting Requirement. Mercy College shall submit quarterly reports to the Department which include the following:

- i. The time period covered by the report.
- ii. A list of each agency or entity requesting continuing education approval from Mercy College; the objectives for each course; and the sponsor number issued.
- iii. Mercy College's assessment as to whether it has complied with the terms of this Agreement.
- iv. Verification that Mercy College's medical director has reviewed student status and progress in each certification and Critical Care Paramedic

course. The review shall include testing, skills, clinical, and field performance.

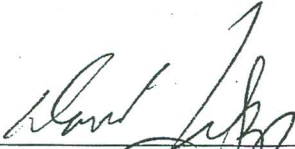
v. Any other information Mercy College deems relevant for the Department's review.

d. Mercy College shall notify the Department's EMS Regulation Manager thirty (30) days prior to Mercy College's Advisory Committee Meetings.

e. In the event Mercy College fails to comply with any of the terms or conditions of this Agreement, the Department may initiate appropriate action to suspend or revoke Mercy College's authorization as a training program or to impose other appropriate discipline.

f. Upon full compliance with the terms and conditions for probation set forth in this Agreement, Mercy College's probation shall be terminated.

AGREED AND ACCEPTED:



David Filipp, individually and
as Program Director for
MERCY COLLEGE OF
HEALTH SCIENCES

 (Interim Chief)

Kirk E. Schmitt
CHIEF, BUREAU OF EMS
IOWA DEPARTMENT OF PUBLIC HEALTH

Dated this ____ day of
_____, 2011.

Dated this 22 day of
March, 2011.

Copies mailed to:

Iowa Department of Inspections and Appeals
Administrative Law Judge John Priester
Division of Administrative Hearings
Wallace State Office Building
LOCAL

Patricia A. Shoff
William B. Ortman
Attorneys at Law
Belin McCormick
666 Walnut Street, Suite 2000
Des Moines, IA 50309

Heather L. Adams
Assistant Attorney General
Hoover State Office Building
Des Moines, IA 50319

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

M1206\0013\pld consent agreement (00930213).DOC