State of New Jersey
DEPARTMENT OF HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHEREEF M. ELNAHAL, MD, MBA
Commissioner

May 1, 2019

David Pugh

Re: **Notice of Proposed Suspension and Probationary Period:**
Paramedic Certification # 3102 (EMS ID # 519000)
Investigation Control # 2018-0148V

Dear Mr. Pugh:

The New Jersey Department of Health (Department) is vested with the responsibility of carrying out the provisions of N.J.S.A. 26:2K-7 to -69, which govern the provision of advanced life support services within the State of New Jersey, and the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 to -26, 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 paramedical and ambulance services. These laws establish a scheme that permits certain individuals, once certified, to perform basic life support and/or advanced life support services. In furtherance of the objectives set forth in the statutes, the Department of Health has adopted regulations that govern the training, certification and professional conduct of Emergency Medical Technicians (EMT) and Mobile Intensive Care Paramedics (MICP). See N.J.A.C. 8:40A and N.J.A.C. 8:41A.

The Department's Office of Emergency Medical Services (OEMS) received a complaint on December 20, 2018 regarding the treatment you provided to a patient while on an emergency medical services (EMS) call in Sicklerville on October 27, 2018. Consistent with regulatory authority and OEMS policy, the OEMS opened an investigation in response to this notification. The investigation consisted of your interview as well as interviews of other relevant witnesses, a document review, including patient care reports, and viewing audio/video recordings that captured the call. The investigation revealed the following:

Upon opening the investigation, the OEMS investigator confirmed that you have been a MICP since August 2007. In addition, the investigator confirmed that you were on the Mobile Intensive Care Unit (MICU) that was dispatched to the call in question. The

initial nature of the call, according to your electronic patient care report (ePCR), was that of a "Stroke/CVA."

Video from the body camera of the police officer who was on scene indicated a situation where the patient, a 64-year-old female, was in respiratory distress and complaining of chest pain. Upon arrival, you and your partner entered the patient's apartment and received a brief report from the Emergency Medical Technicians (EMTs) who made patient contact prior to your arrival, all while the patient was screaming that "it hurts so much." The EMTs reported to you that the patient was experiencing chest pain that was reproducible on palpation and that a radial pulse could not be felt. However, no blood pressure, respiratory rate, SpO2, brachial or carotid pulse, or color/temperature/moisture was demonstrated or verbalized to you. Additionally, oxygen was not being administered to the patient. You and your partner then left the apartment and stood in the hallway without assuming supervision of the clinical care for the patient, without performing an appropriate medical assessment, and without ensuring that the EMT-level of care was appropriately provided to the patient.

Once the EMTs placed the patient on the stretcher, the patient was wheeled out of the apartment and through the hallway past you and your partner while on the way out to the ambulance. At this point, the patient had stopped screaming in pain and appeared to be flaccid, extremely pale and unconscious. The video then shows you walking out of the building and proceeding to the ambulance, without stopping to assess the patient's change in status.

After the patient was loaded into the ambulance, you entered the side of the ambulance and realized that the patient was in cardiac arrest. At this point, the EMTs were attempting to assemble a bag valve mask to assist the patient with ventilations, while you were placing the patient on the cardiac monitor. However, no one was providing chest compressions at this time, which is a critical first step of CPR for a patient in cardiac arrest. According to the ePCR, you obtained intravenous access to administer cardiac medications to the patient.

With basic care, the patient was temporarily resuscitated. In an effort to manage the patient's airway, you and your partner decided to provide the patient with Rapid Sequence Intubation (RSI). Pursuant to the pilot RSI protocol in place with your MIC hospital, you were required to provide the patient with a sedative, then a paralytic, and then another sedative in order to perform the RSI without medical command oversight. Instead, you deviated from the protocol by administering just the sedative, namely Ketamine, to the patient. However, you failed to contact the Medical Command Physician to obtain an order for the sedation only intubation. After administering the Ketamine, your partner attempted the endotracheal intubation, which lasted one minute and twenty-two seconds, significantly longer than the acceptable standard for the procedure of thirty seconds or less. But, the attempt was unsuccessful.

You and your partner then decided the patient should receive the balance of the

RSI algorithm, which included the administration of Rocuronium, a paralytic, and post-sedation medication, to facilitate intubation. After the patient was successfully intubated on the second attempt, her condition deteriorated with her heart rate becoming bradycardic, eventually resulting in cardiac arrest a second time. You then placed the patient on the LUCAS device, which is a mechanical CPR device, to perform compressions. Despite the fact that your patient was in cardiac arrest, you elected to administer one milligram of Atropine Sulfate. However, the use of Atropine Sulfate for a patient in cardiac arrest is a deviation from the protocols set forth in the 2018 American Heart Association's (AHA) Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiac Care. The patient was then transported to Cooper University Hospital, bypassing Jefferson-Stratford Hospital and Jefferson-Washington Township Hospital, which were two closer, appropriate receiving hospitals. Your patient passed away shortly after arriving at the hospital.

From its investigation, and for the reasons outlined below, OEMS has determined that your EMT and MICP certifications should be **SUSPENDED.** Specifically, the above recitation of events that took place on October 27, 2018 evidence that you deviated from the appropriate standard of care for your patient. The deviations are as follows:

1. **Failure to assess the vital signs of the patient.**

Pursuant to N.J.A.C. 8:41A-5.1(b)(1), a MICP's scope of practice includes the performance of all skills and procedures approved for EMTs. The rules outlining the scope of practice of EMTs includes a "patient assessment, including vital signs and ongoing evaluations." N.J.A.C. 8:40A-10.1(b)(1). Moreover, MICPS are required to conduct a physical examination of the patient in order to obtain necessary information to permit the rendering of appropriate medical care. N.J.A.C. 8:41A-5.1(b)(2). You and your partner failed to comply with these basic provisions of care from which all necessary medical interventions stem. Specifically, you and your partner failed to assess the patient's vital signs. Upon your arrival, the EMTs only advised you that the patient lacked a radial pulse and that she was complaining of chest pain. They did not provide you with a blood pressure, respiratory rate, SpO2, brachial or carotid pulse, or the color/temperature/moisture of the patient. Upon learning that the EMTs failed to assess the patient and take vital signs, you were required to immediately examine the patient and take her vital signs, but you and your partner failed to do this. Instead, you and your partner stepped out of the apartment while the EMTs placed the patient on the stretcher and then walked with the EMTs while they moved the patient to the ambulance. Without a proper patient assessment, there was no way for you and your partner to determine the nature of the patient's medical condition and determine the type and level of care the patient required. Indeed, the patient was having a significant cardiac event, which you failed to recognize until the patient was loaded into the ambulance.

2. **Failure to provide an unstable patient with oxygen and/or sufficient oxygen for more than 5 minutes and failure to provide appropriate CPR.**

As set forth in N.J.A.C. 8:41A-5.1(c)(4), a MICP's scope of practice includes the administration of oxygen therapy. Furthermore, N.J.A.C. 8:41-3.3 provides that "the collective duties of the crewmembers staffing a MICU . . . shall include, but are not limited to:.... [p]roviding the patient with prompt, effective and appropriate medical care." (Emphasis added).

In this instance, you did not provide your patient with prompt, effective and appropriate medical as you failed to administer her oxygen and failed to administer her chest compressions when she went into cardiac arrest. In New Jersey, the MICP curriculum is based off of the National Highway Traffic Safety Administration's curriculum titled, "National Emergency Medical Services Education Standards," which is found at www.ems.gov. See N.J.A.C. 8:41-12.1(b)(7) and N.J.A.C. 8:41A-1.3. The curriculum states, in pertinent part, that a paramedic should, at a minimum, place a non-rebreather mask with high flow oxygen on a patient experiencing respiratory distress. Your patient was described as not having a radial pulse and was complaining of chest pain and shortness of breath. Despite these symptoms, which demonstrate the patient's need for oxygen, you failed to administer oxygen to the patient who was in critical need of it until she was loaded into the ambulance. As result of your actions, your patient was without oxygen from the time of your arrival until after she was placed into the ambulance.

The care you rendered to this patient was also contrary to the clinical interventions for advanced cardiac life support, as set forth in the American Heart Association Advanced Cardiac Life Support (ACLS) curriculum. As you are aware, MICPs are required to have ACLS and CPR certifications, which are issued by the American Heart Association (AHA). See N.J.A.C. 8:41A-1.3 and N.J.A.C. 8:41A-4.3(a). According to the AHA curriculum, when a patient is in cardiac arrest, the first intervention that must be taken is to begin chest compressions immediately. For this call, you elected to hook the patient up to a heart monitor instead of beginning chest compressions or ensuring that your partner or an EMT provided the compressions. Accordingly, you and your partner failed to provide the patient with appropriate, prompt and effective medical care.

3. Failure to provide supervision, perform an assessment, or provide appropriate medical care within a reasonable time of arriving on the scene.

According to N.J.A.C. 8:41-3.3, a MICP staffing a MICU has the duty to ensure that the patient is attended to by at least one MICP at all times, to provide the patient with prompt, effective and appropriate medical care and to supervise the well-being of the patient. As the MICP on the scene, it is your responsibility to ensure all tasks are completed in a timely manner or that another provider has been directed to do so as you are the highest-ranking medical authority on the scene. You and your partner failed to discharge these responsibilities. Specifically, when you and your partner arrived at the patient's apartment, you both received a report from the EMTs that the patient did not have a radial pulse (indicating that she was in critical condition) and was complaining of reproducible chest pain, all while the patient was screaming that she was in pain in the

background. After learning this information, you both left the apartment without assuming supervision of the clinical care for the patient, without performing an appropriate medical assessment, and without ensuring that the EMT-level care was appropriately provided. In fact, no mobile intensive care assessment or care was provided to the patient for several minutes until the patient was transported from the apartment to the ambulance. Indeed, your patient was having a significant cardiac event and you and your partner failed to recognize the critical nature of her condition until she was loaded into the ambulance. Thus, you violated the requirements of N.J.A.C. 8:41-3.3.

4. **Failure to recognize when the patient became unresponsive and provide her with medical care.**

N.J.A.C. 8:41-3.3 states that "the collective duties of the crewmembers staffing a MICU . . . shall include, but are not limited to:....

3. Providing the patient with prompt, effective and appropriate medical care;
7. Assuring that the patient is attended to by at least one ALS crewmember at all times;
8. Continually monitoring the patient's condition and equipment while providing necessary intervention according to the medical command physician, written protocols and/or standing orders."

In this matter, you violated these basis MICP duties. Specifically, when the EMTs moved the patient on the stretcher from her apartment through the hallway and past you and your partner, you failed to recognize that the patient's condition rapidly changed and that she became unresponsive. In fact, you and your partner did not notice that the patient was unresponsive until she was loaded into the ambulance. Even more troubling, the patient went from screaming in pain in her apartment to silent in the hallway, yet you and your partner failed to notice this change in status. Accordingly, you failed to continually monitor your patient's condition and failed to ensure that either you or your partner attended to the patient's needs at all times. As a result, you did not recognize that she became unresponsive and did not notice the patient's serious medical condition for several minutes, which resulted in your failure to provide her with immediate medical intervention. As such, you failed to comply with these basic tenets of paramedic practice and, consequently, failed to provide appropriate care to your patient.

5. **Failure to speak to a Medical Command Physician prior to performing Rapid Sequence Intubation and/or prior to deviating from the previous clinical protocol.**

Pursuant to N.J.A.C. 8:41-9.6, the provision of advanced life support care by a MICP is a delegated medical practice and, consequently, the medical command physician provides the authority for the paramedic to act. The regulation further provides that "no [advanced life support] crewmember shall perform any skill or procedure, administer any pharmaceutical agent or engage in any other activity within his or her approved scope of

practice unless the crewmember has first received the direct and specific order of the medical command physician or physician directed registered nurse." Additionally, N.J.A.C. 8:41-3.3(a)(8) states that advanced life support crewmembers must "continually monitor[] the patient's condition and equipment while providing necessary intervention according to the medical command physician, written protocols and/or standing orders."

At this time, your MIC hospital was conducting a pilot program where field units were permitted to perform RSI under standing orders. In other words, crews were permitted to initiate the protocol, in an all or none fashion, without first speaking to the online medical command physician. The treatment provided in this case, however, began with the administration of Ketamine followed by an intubation attempt instead of following the entire protocol, which required the administration of a paralytic. To deviate from the standing order, you were required to first contact the online medical command physician and gain approval. However, you failed to contact the medical command physician, took matters into your own hands and deviated from the orders without authority. As such, you provided emergency medical care without an order from the medical command physician, in direct violation of the above rule.

6. Failure to transport a critically ill patient to the closest appropriate 911 receiving hospital.

As stated above, an MICP has the duty to provide his patients with prompt medical care. Prompt medical care includes transporting a patient to the closest, appropriate hospital for treatment. Here, you and your partner failed to provide your critically ill patient with prompt medical care because you did not transport her to the closest 911 receiving hospital. Specifically, you chose to bypass the closest and second closest 911 receiving emergency departments, Jefferson-Stratford and Jefferson-Washington Township respectively, and transported the patient to Cooper University Hospital. While the patient's daughter requested that the patient be transported to Cooper prior to you recognizing that the patient was in cardiac arrest, you should have declined the request and transported the patient to the closest hospital upon determining the seriousness of your patient's medical condition. Thus, you and your partner failed to provide your patient with prompt medical care.

Pursuant to N.J.A.C. 8:41A-5.2(b), "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-Paramedic for violation of any of the rules set forth in this chapter. This includes, but is not limited to:

1. Demonstrated incompetence or inability to provide adequate services; . . .

20. Failure to provide appropriate ALS care and/or to recognize the need for and to provide for more advanced medical intervention. . . [and]

25. Failure to comply with any part of this chapter, any applicable part of N.J.A.C. 8:40 or 8:41, or any applicable law, rule and/or regulation."

The above violations evidence incompetence and also show that you failed to provide appropriate advanced life support care to your patient. Additionally, you failed to comply with the above cited rules. **Therefore, as a result of OEMS' investigation, please be advised it is the intention of this Department to suspend your EMT and MICP certifications for a period of thirty (30) days. Following the period of suspension; you shall be placed in a probationary status for a period of twenty-four (24) months.** N.J.A.C. 8:41A-5.2(e) states that, "a paramedic who has been placed on probation shall be monitored for performance by the Department and the mobile intensive care program that employs the person." Consistent with N.J.A.C. 8:41A-5.2(e), the terms of your probation are as follows:

1. You shall operate only when under the direct supervision of a paramedic, registered nurse or physician. Under no circumstances may you act independently or in conjunction with, or on the same BLS ambulance, MICU, SCTU or AMU as another probationary paramedic;

2. You must be monitored for performance. This monitoring shall include complete supervision of all calls in which you provide care (100% chart reviews) by your employer. Your employers are required to provide a written quarterly report to the Department signed by the employer's medical director as to your progress and any remediation that needed to be performed during that quarter;

3. You shall provide the Department within 14 days of your probation with the name(s) of all EMS programs by which you are employed. You are required to notify the Department within one (1) business day of any changes in your status with these agencies;

4. You are to successfully complete the Difficult Airway Course within three months of the date of this letter, which can count towards your recertification requirements as a Paramedic in the State of New Jersey;

5. You are to successfully complete the Advanced Cardiac Life Support for the Emergency Provider within three months of the date of this letter, which can count towards your recertification requirements as a Paramedic in the State of New Jersey; and

6. You are to successfully complete a Rapid Sequence Intubation assessment administered by your employer with one (1) month of the date of this letter.

Pursuant to N.J.A.C. 8:41A-5.3(b), N.J.A.C. 8:40A-10.3(a) and N.J.S.A. 52:14B-11, you are entitled to a hearing before the Office of Administrative Law to contest this Department's decision to suspend your certifications and thereafter place you on

probationary status. In the event that you request a hearing, the proposed suspension and probation will be held in abeyance and you shall retain your certifications until such time as the hearing has been concluded and a final decision has been rendered. 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 thirty (30) days from the date of this Notice and should be forwarded to:

New Jersey Department of Health
Office of Legal & Regulatory Compliance
P.O. Box 360, Room 805
Trenton, NJ 08625-0360
Attn: Ms. Tami Roach

Please include the control number **2018-0148V** on all your correspondence. Finally, please note that failure to submit a written request for a hearing within 30 days from the date of this Notice 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 contact Dr. Jo-Bea Sciarrotta, at (609) 633-7777.

Sincerely,

Christopher Neuwirth, MA, MEP, CBCP, CEM
Assistant Commissioner
PHILEP Division

CC: Scot Phelps, JD, MPH, Paramedic, Director, OEMS
Eric Hicken, OEMS
James Sweeney, OEMS
Tami Roach, OLRC

SENT VIA REGULAR U.S. MAIL AND
CERTIFIED MAIL #
RETURN RECEIPT REQUESTED