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State of Wisconsin
Department of Health Services

DIVISION OF PUBLIC HEALTH

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February 20, 2024

(Via Certified Mail)

[redacted]

Re: Letter of Warning to [redacted]

Dear Mr. [redacted]:

The Department of Health Services (Department), Emergency Medical Services (EMS) Section, hereby issues a letter of warning to you, [redacted], License [redacted], for failure to follow patient care protocols of the emergency medical service provider with which you were serving while performing patient care, as required by Wis. Admin. § Code DHS 110.13(3).

Factual Basis for the Department's Action

On June 28, 2023, the Department received a complaint regarding patient care you participated in on June 19, 2023, while functioning as a paramedic with an EMS Service provider (EMS Provider).

The EMS Provider maintains patient care protocols as part of its operational plan in accordance with Wis. Admin § Code DHS 110.35(2)(a). On July 7, 2023, the Department requested a copy of the EMS Provider's patient care protocols in place on June 19, 2023. The EMS provider provided the Department a copy of these protocols on July 21, 2023.

The patient care described in the patient care report for the incident on June 18, 2023, which was medical in nature, deviates from the EMS Provider's protocols for respiratory care. Although the EMS Provider's respiratory care protocols document the causes that can lead to the formation of a tension pneumothorax in a patient, the protocols do not include any interventions that include the performance of needle-decompression.

The EMS Provider's respiratory protocols state:

> Airway Management- Treatment and Interventions
> 1. Non-invasive ventilation techniques
> a. Maintain airway and administer oxygen as appropriate for dyspnea or distress with a target of achieving greater than 93% saturation for most acutely ill patients. For severe respiratory distress or impending respiratory failure, use noninvasive positive pressure

ventilation devices- Continuous positive airway pressure (CPAP), Bi-level positive airway pressure (BiPAP) or high flow nasal cannula (HFNC) should be administered.
b. Use bag-valve mask (BVM) ventilation in the setting of respiratory failure or arrest…
4. Endotracheal intubation
a. When less-invasive airway methods are ineffective, use endotracheal intubation to maintain oxygenation and/or ventilation.
b. Other indications may include potential airway obstructions, severe burns, multiple traumatic injuries, altered mental status or loss of normal protective airway reflexes.
c. Monitor clinical signs, pulse oximetry, cardiac rhythm, blood pressure, and capnography.

Key Considerations
2. Use continuous waveform capnography to detect end-tidal carbon dioxide (ETC02). This is an important adjunct in the monitoring of patients with respiratory distress, respiratory failure, and those treated with positive pressure ventilation.
3. Non-Invasive Positive Pressure Ventilation
a. Contraindications to these non-invasive ventilator techniques include intolerance of the device, severely impaired consciousness, increased secretions inhibiting a proper seal, or recent gastrointestinal and/or airway surgery.

Although the patient's condition described in the patient care report for the incident on June 18, 2023, was medical in nature, you deviated from the EMS Provider's respiratory care protocols and instead used the EMS Provider's trauma protocols when you suspected that the patient suffered from a tension pneumothorax.

The EMS Provider's trauma protocols state:

Treatment and Interventions
3. Breathing
a. If absent or diminished breath sounds in a hypotensive patient, consider tension pneumothorax, and perform needle decompression.

Patient Safety Considerations
2. Monitor patient for deterioration over time with serial vital signs and repeat neurologic status assessment.

Key Considerations
- Frequent reassessment of the patient is important. If patient develops difficulty with ventilation, reassess breath sounds for development of tension pneumothorax.

The patient care report documents no hypotension in your patient, lacks frequent reassessment of the patient's lung sounds, lacks full sets of vitals that include blood pressures, and does not document any difficulty ventilating the patient, as the patient was breathing on her own and did not require any mechanical ventilation. The patient care report also documents that there was no use of continuous waveform capnography to detect end-tidal carbon dioxide (ETCO2) of the

patient and does not document severe impaired consciousness in the patient. The only documentation in the patient care report that could potentially lead one to suspect the formation of a tension pneumothorax in the patient was the absence of lung sounds in the patient's left lower lung field. Despite this finding, the patient care report documents that the patient remained breathing on her own during the entire transport and did not experience a significant drop in her oxygen saturation or work of breathing.

The patient care report does not document any traumatic even, any tracheal deviation, any hypotension, or any abnormal chest movement that are potential indications of the formation of a pneumothorax. The patient care report instead documents expiratory wheezing in the in upper lobes of the patient's lungs and does not document any worsening of the patient's breathing effort nor does it document that the patient developed difficulty with ventilation. Additionally, the patient care report does not document any considerations for other interventions, including additional respiratory medications and or a consideration for intubation, despite having a transport time to the hospital in excess of thirty minutes.

Despite lacking adequate indications to perform a needle decompression on a respiratory emergency patient, you performed a needle decompression, followed by a thoracentesis that was a result of you attaching a syringe to the end of the catheter, post the needle decompression procedure, that filled with fluid. The investigation found that after you performed the needle decompression on the patient, you failed to notify the hospital via a radio report of the potentially life threatening tension pneumothorax that you believed the patient was suffering from. The investigation also found that you failed to notify the hospital via a radio report that you had performed a needle decompression of the patient, an intrusive and potentially life threatening procedure, especially if the patient was not suffering from a pneumothorax prior to the needle decompression you performed.

The patient care report documented that after you transferred the patient to the hospital bed, the catheter became dislodged from the patient and the hospital reported that you informed them that you attached a syringe to the catheter and removed approximately fifty cubic centimeters of fluid via the syringe prior to the catheter becoming dislodged from the patient. Although the withdrawal of fluid may have been unintentional, a thoracentesis is not a skill that is allowed under the EMS Provider's protocols nor is it within the Wisconsin paramedic scope of practice.

Interview with you confirmed that your intentions were not to cause the patient harm or perform a thoracentesis. You acknowledged that you lacked additional indications to perform a needle decompression of the patient and that only having absent lung sounds in the lower left lung of your patient was not enough to fulfill the requirements of a needle decompression per your protocols. You also confirmed that you failed to notify the incoming hospital that you performed a needle decompression of the patient despite your belief that the patient was suffering from a tension pneumothorax.

Legal Authority for Department Action

Under Wis. Admin Code DHS §110.55,

The department may issue a warning letter to a licensee, permit holder, or certificate holder if the department finds that the person has committed a minor, first-time violation of a requirement of this chapter or ch. 256, Stats., or a minor, first-time violation identified in s. DHS 110.54. The department shall retain a copy of the warning letter in the person's file and may consider it when determining what enforcement action is appropriate if the person commits subsequent violations…

Wis. Admin. Code DHS § 110.54 allows for enforcement action when:

> (4) The person violated a provision of Wis. Stat. ch. 256 or Wis. Admin. Code DHS ch. 110.

Wis. Admin. Code DHS § 110.13(3) provides:

> An emergency medical service professional shall follow the patient care protocols of the emergency medical service provider with which the EMS professional is serving while performing patient care, regardless whether the EMS profession is licensed at a practice level higher than that of the provider.

Department Action

Based on the records submitted, it has been determined that you failed to follow the patient care protocols of the emergency medical service provider with which the EMS professional is serving while performing patient care, in accordance with Wis. Admin. Code 110.

EMS professionals are responsible for caring for those who are sick and injured. As an EMS professional, you are responsible for conducting appropriate physical assessments and providing the appropriate treatment based on those assessments. Knowing and understanding your protocols is a fundamental aspect of treating and potentially improving your patient's wellbeing. Protocols establish a baseline for treatment decisions and aid you in the treatment of various medical conditions and ultimately contribute to better patient care and outcomes. Your decision to deviate from your protocols, despite your service's established patient care protocols, demonstrated poor judgment and potentially placed the patient at risk of an adverse reaction, harm or imminent death. It is critical for medical procedures to be conducted within established EMS protocols to ensure the safety and proper care of patients.

You are a licensed paramedic with an EMS Provider that responds at the paramedic level. As a member of the EMS service, you failed to follow patient care protocols and potentially jeopardized a patient's safety and wellbeing. You also failed to inform the hospital of the needle decompression you performed, potentially putting your patient at risk by not having hospital staff prepared to take immediate lifesaving action in the case that the patient was suffering from a pneumothorax or developed one as a result of the needle decompression you performed. The Department reviewed records and conducted interviews to confirm these facts. Additionally, during an interview with you, you confirmed these facts as accurate.

In accordance with Wis. Admin. Code DHS §110.55, the Department will post a copy of summary of the letter of warning, which does not identify the recipient of the letter, on the Department's EMS website, will retain a copy of this letter of warning in your file, and may consider it in determining what further enforcement action may be appropriate if subsequent violations occur.

Pursuant to Wis. Admin. Code DHS § 110.55, the Department's issuance of this letter of warning is a final decision of the Department and is not subject to an administrative hearing.

If you have any questions regarding this decision, please contact the me at 608-266-8853 or mark.mandler@dhs.wisconsin.gov.

Sincerely,

Mark Mandler
EMS Section Manager
Office of Preparedness and Emergency Health Care
Wisconsin Department of Health Services