

SUMMARY SHEET
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

August 11, 2016

() ACTION/DECISION

(X) INFORMATION

I. TITLE: Health Regulation Administrative and Consent Orders.

II. SUBJECT: Health Regulation Administrative Orders, Consent Orders, and Emergency Suspension Orders for the period of May 1, 2016, through June 30, 2016.

III. FACTS: For the period of May 1, 2016, through June 30, 2016, Health Regulation issued seven (7) Consent Orders and one (1) Emergency Suspension Order with a total of twenty-one thousand dollars (\$21,000) in assessed monetary penalties.

Health Regulation Bureau	Health Care Facility, Provider or Equipment	Administrative Orders	Consent Orders	Emergency Suspension Orders	Assessed Penalties
Health Facilities Licensing	Community Residential Care Facility	0	1	0	\$11,500
Radiological Health	Chiropractic X-Ray Facility	0	1	0	\$4,500
	Tanning Facility	0	1	0	\$3,000
EMS & Trauma	Ambulance Services Provider	0	1	0	\$1,000
	Paramedic	0	1	1	\$0
	Emergency Medical Technician	0	2	0	\$1,000
TOTAL		0	7	1	\$21,000

Approved By:

Shelly Bezanson Kelly
Director of Health Regulation

HEALTH REGULATION ENFORCEMENT REPORT
SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

August 11, 2016

Bureau of Health Facilities Licensing

Facility Type	Total # of Beds or Participants	Total # of Licensed Facilities in South Carolina
Community Residential Care Facilities	17,669 Beds	465

1. Agape Assisted Living of North Charleston (Community Residential Care Facility or “CRCF”) – North Charleston, SC

Investigation: On November 4, 2014, the Department visited Agape Assisted Living of North Charleston (Agape) to conduct a routine inspection and two (2) complaint investigations and cited the facility for several violations. On March 12, 2015, the Department conducted a follow-up inspection and complaint investigation and found more violations. On July 8, 2015, the Department conducted another follow-up inspection and again found more violations. On August 19, 2015, the Department conducted three (3) complaint investigations and again found more violations. Over the course of less than a year, the Department cited Agape for multiple violations and repeat violations, which led the Department to initiate enforcement action against Agape on October 20, 2015.

Violations: During the inspections and investigations conducted between November 2014 and August 2015, the Department found twenty-nine (29) violations and repeat violations of Regulation 61-84, *Standards for Licensing Community Residential Care Facilities*. Agape failed numerous times to document staff training related to the following: in-service training, basic first aid, contagious and communicable diseases, medication management, OSHA standards regarding blood-borne pathogens, resident records confidentiality, fire response, and emergency procedures and disaster preparedness. In addition, Agape failed to document residents’ notes of observations, failed to timely complete resident physical examinations, and failed to keep facility free of offensive odors. In addition, although disputed by Agape, the following violations are still maintained by the Department: failure to update residents’ individual care plans, retention of a resident with pressure ulcers, and retention of a resident who exhibited uncontrollable aggressive and inappropriate behavioral symptoms.

Enforcement Action: The parties met on November 12, 2015, and agreed to resolve this matter with a consent order. By Consent Order executed June 21, 2016, the Department imposed an eleven thousand five hundred dollar (\$11,500) monetary penalty against Agape, and Agape has paid the full amount of the penalty to the Department.

Prior Sanctions: None.

Bureau of Radiological Health

Facility Type	Total # of Registered Providers in South Carolina
Chiropractic Facilities	419
Tanning Facilities	473

2. Falk Family Chiropractic & Wellness (Chiropractic Facility) – Conway, SC

Investigation: The Department conducted a routine inspection of Falk Family Chiropractic & Wellness (Falk) in November 2009, January 2013, and January 2016, and cited the facility for the same repeated violation. Although Falk submitted evidence of later compliance after each inspection, the Department initiated an enforcement action because of the repeated violation and potential for harm.

Violations: The Department found that Falk violated Section 4.2.13.2 of Regulation 61-64, *X-Rays (Title B)*, in November 2009, January 2013, and January 2016. R.61-64, Section 4.2.13.2 requires radiation exposure to patients to be at the minimum exposure required to produce images of good diagnostic quality. The patient’s exposure at skin entrance (ESE) limit for the projection of the anteroposterior (AP) lumbar spine exam is between 175-525 milliRoentgens (mR) for 400 speed film/screen. Falk was above the ESE limit of 525 mR in November 2009 (measure of 596.4 mR), January 2013 (measure of 597.6 mR), and January 2016 (measure of 594.2 mR). This repeated violation created major deviations from the regulatory requirements with a moderate potential for harm, and warranted this enforcement action.

Enforcement Action: The parties held an enforcement conference on April 28, 2016, and agreed to resolve this matter with a consent order. By Consent Order executed June 22, 2016, the Department imposed a four thousand five hundred dollar (\$4,500) monetary penalty against Falk. Pursuant to the terms of the Consent Order, Falk has remitted five hundred dollars (\$500) of the imposed monetary penalty to the Department. The remaining four thousand dollars (\$4,000) is stayed upon a twenty-four (24) month period of substantial compliance with Regulation 61-64.

Prior Sanctions: None.

3. Ultra Tan, Inc. (Tanning Facility) – Lexington, SC

Investigation: On March 7, 2016, the Department received a complaint alleging a client of Ultra Tan received a severe burn from a tanning device on March 4, 2016. On March 8, 2016, Department representatives conducted an investigation at Ultra Tan and found violations of Regulation 61-106, *Tanning Facilities*. The Department received an additional complaint on March 17, 2016, alleging another client suffered a severe burn at Ultra Tan occurring on March 4, 2016.

Violations: The Department determined that Ultra Tan had numerous violations of R.61-106. Most of the violations were in Part III of the regulation, which provides for minimum public health requirements for tanning facilities that employ ultraviolet (UV) equipment for the purpose of tanning the skin of the human body through the application of ultraviolet (UV) radiation. Specifically, Ultra Tan failed to ensure individuals exposed to ultraviolet (UV) radiation were not subjected to overexposure, resulting in burning of the skin requiring medical attention. Ultra Tan failed to ensure the facility was operated in a manner to prevent potential overexposure to nonionizing radiation or potential transmission of a communicable disease or injury. Ultra Tan failed to ensure that tanning equipment was maintained to prevent injury or

burn. Ultra Tan failed to ensure defective lamps or filters were replaced before further use of the tanning equipment. The Department also found that Ultra Tan violated a provision in Part IV of the regulation, which provides the minimum training requirements for tanning equipment operators who employ ultraviolet (UV) and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet (UV) radiation. Specifically, Ultra Tan failed to ensure tanning equipment operator training was documented and available to the Department for review.

Enforcement Action: The parties met for an enforcement conference on May 5, 2016, and agreed to resolve the matter with a consent order. By Consent Order executed June 21, 2016, the Department imposed a three thousand dollar (\$3,000) monetary penalty against Ultra Tan, which Ultra Tan has remitted in full to the Department. Additionally, the Consent Order required Ultra Tan to ensure the facility's operations prevent ultraviolet (UV) radiation burns requiring medical attention, prevent potential overexposure to ultraviolet (UV) radiation or potential transmission of a communicable disease or injury, and remain in compliance with all applicable requirements of R.61-106.

Prior Sanctions: None.

Bureau of EMS & Trauma

EMS Provider Type	Total # of Providers in South Carolina
EMT	5,528
EMT – Intermediate	473
Advanced EMT	310
Paramedic	3,681
Ambulance Services Provider	259
First Responder Services Provider	2

4. Saxton N. Johnson (EMT)

Investigation: On March 4, 2016, AMS of West Columbia d/b/a AMS (AMS) notified the Department an AMS employee had self-reported working as a primary patient care provider without a valid South Carolina Emergency Medical Technician (EMT) certification. Ms. Johnson had a valid National Registry EMT certification at the time of the violation. After investigating the matter, the Department determined Ms. Johnson performed patient care within the scope of an EMT on four (4) ambulance runs on March 3, 2016, a time in which she was uncertified as a South Carolina EMT.

Violations: The Department found that Ms. Johnson violated S.C. Code Section 44-61-80(A) by providing patient care that is within the scope of an EMT without obtaining proper certification.

Enforcement Action: The parties agreed to resolve this matter with a consent order. Pursuant to the Consent Order executed on May 2, 2016, Ms. Johnson agreed to a five hundred dollar (\$500) monetary penalty, which is being held in abeyance for twelve (12) months. If the Department finds Ms. Johnson in violation of the EMS Act or Regulation during the twelve (12) months, the Department may call in all or part of the five hundred dollar (\$500) monetary penalty. Any monies called in by the Department shall be due and payable to the Department within thirty (30) calendar days of the date the Department mails

written notice that payment is due. Failure to pay the full amount of the penalty at that time shall result in revocation of her state certification for a period of four (4) years.

Prior Sanctions: None.

5. AMS of West Columbia d/b/a AMS (Ambulance Services Provider)

Investigation: As indicated above, on March 4, 2016, AMS of West Columbia d/b/a AMS (AMS) notified the Department that an AMS employee did not have a South Carolina Emergency Medical Technician (EMT) certification. The AMS employee was in possession of a valid National Registry EMT certification at the time of the violation. After investigating the matter, the Department determined the employee performed patient care within the scope of an EMT on four (4) ambulance runs on March 3, 2016, a time in which she was uncertified as a South Carolina EMT.

Violations: The Department found that AMS violated S.C. Code Section 44-61-70(B)(1) by allowing an uncertified person to provide patient care that is within the scope of an EMT without proper certification.

Enforcement Action: The parties agreed to resolve this matter with a consent order. Pursuant to the Consent Order executed on May 2, 2016, AMS agreed to pay a one thousand dollar (\$1,000) monetary penalty, which is being held in abeyance for twelve (12) months. If the Department finds AMS in violation of the EMS Act or Regulation, the Department may call in all or part of the one thousand dollar (\$1,000) monetary penalty. Any monies called in by the Department shall be due and payable to the Department within thirty (30) calendar days of the date the Department mails written notice that payment is due.

Prior Sanctions: None.

6. Charles Michael Foster (Paramedic)

Investigation: On April 20, 2015, Charles Foster notified the Department of violations that he may have committed during a call on April 14, 2015. While working for Regional Ambulance Service, Mr. Foster was dispatched to a nursing home to transport a resident with breathing problems and altered level of consciousness. Mr. Foster stated that when he arrived on scene, he needed to contact the county 911 service for additional help on this call. Mr. Foster stated that patient care was turned over to the county 911 service upon their arrival. Mr. Foster stated he began to question his actions on the call prior to the arrival of the county 911 service. After reviewing the EKG obtained during the call, Mr. Foster realized he had misread the EKG strip and mistakenly used defibrillation on the patient. Defibrillation is the use of electricity help stop an unorganized rhythm of the heart, but can be fatal if used erroneously. When Mr. Foster realized his mistake, he immediately notified his supervisor and then the Department.

Violations: The Department found that Mr. Foster was guilty of misconduct by violating S.C. Code Section 44-61-80(F)(14) when “by his actions or inactions, created a substantial possibility that death or serious physical harm could result.” In this case, after misinterpreting the heart rhythm, Mr. Foster performed defibrillation on a patient who did not require it. When the heart rhythm of patient does not require defibrillation and defibrillation is used, the patient’s heart can stop beating and cause death.

Enforcement Action: The parties agreed to resolve this matter with a consent order. Pursuant to the Consent Order executed on May 4, 2016, Mr. Foster agreed to a suspension of his Paramedic certificate. Mr. Foster’s certification will remain suspended until he completes a Paramedic refresher course and an initial American Heart Association Advanced Life Support course. Mr. Foster also agreed to complete a

continuing education course on 12 lead electrocardiogram (EKG) training as an additional term of the Consent Order.

Prior Sanctions: None.

7. Wesley Calvin Duckett (Paramedic)

Investigation: On May 12, 2016, the Department received notification of Mr. Duckett's arrest in Laurens County on May 11, 2016. Mr. Duckett was arrested and charged with one (1) count of second degree criminal sexual conduct with a minor, a criminal offense defined by S.C. Code Section 16-03-655(B), and one (1) count of contributing to the delinquency of a minor, a criminal offense defined by S.C. Code Section 16-17-490.

Violations: The Department has been actively monitoring the investigation of Mr. Duckett's arrest for second degree criminal sexual conduct with a minor and contributing to the delinquency of a minor. Criminal sexual conduct with a minor in the second degree is a felony and a crime involving moral turpitude or gross immorality. The alleged conduct of Mr. Duckett rose to the level of misconduct as defined by S.C. Code Section 44-61-80(F)(2) and Section 1100(B)(2) of Regulation 61-7, *Emergency Medical Services*. The Department believes Mr. Duckett's arrest demonstrated a capacity for inappropriate and criminal behavior towards individuals placed within his trust. Moreover, the Department determined that a clear and present danger would exist to the public health, safety, or welfare if Mr. Duckett's EMT certificate was not immediately suspended, pending further investigation.

Enforcement Action: Under the Emergency Suspension Order executed May 12, 2016, the Department immediately suspended Mr. Duckett's Paramedic certificate on an emergency basis.

Prior Sanctions: None.

8. Ashly-Ann Polatty (EMT)

Investigation: On February 23, 2016, Riverside Ambulance Service, LLC (Riverside) notified the Department that one of its employees, Ms. Polatty, did not possess a valid South Carolina EMT certification. However, Ms. Polatty had her National Registry EMT certification at the time of the violation. While working for Riverside, Ms. Polatty performed patient care within the scope of an EMT on at least thirty-four (34) ambulance runs from January 18, 2016, to February 22, 2016, a time period when she was uncertified as a South Carolina EMT.

Violations: The Department found Ms. Polatty was guilty of misconduct by violating S.C. Code Section 44-61-80(A) by providing patient care that was within the scope of an EMT without obtaining proper certification from the Department. Specifically, Ms. Polatty performed patient care within the scope of an EMT on at least thirty-four (34) ambulance runs from January 18, 2016, to February 22, 2016, a time period when she did not have a South Carolina EMT certificate.

Enforcement Action: The parties agreed to resolve this matter with a consent order. Pursuant to the Consent Order executed on May 13, 2016, the Department imposed a five hundred dollar (\$500) monetary penalty against Ms. Polatty, which is being held in abeyance for a period of twelve (12) months. If the Department finds Ms. Polatty in violation of the EMS Act or Regulation, the Department may call in all or part of the five hundred dollar (\$500) monetary penalty. Any monies called in by the Department shall be due and payable to the Department within thirty (30) calendar days of the date the Department mails written notice that the payment is due. Failure to pay the full amount of the penalty at that time shall result in revocation of her state certification for the period of four (4) years.

Prior Sanctions: None.