

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

IN THE MATTER OF:

DIA NO. 13PHES001

CASE NO. 12-12-18

Christopher Slaughter
Certification #B-10-204-19

PROPOSED DECISION

On February 9 2013, the Department of Public Health-Emergency Medical Services Bureau (Department) issued Christopher Slaughter (Appellant) a Notice of Proposed Action-Revocation of his certification as an EMT-B. The proposed revocation was based on Appellant's conviction for the crime of Theft-5th Degree. The Department asserts that Appellant's conviction violates Iowa Code section 147A.7(1)"f" and "j" and 641 IAC 131.7(3)"f" and "t." Appellant filed a timely Notice of Appeal. A telephone hearing was held on April 30, 2013 at 9:00 a.m. before the undersigned administrative law judge. Assistant Attorney General Heather Adams represented the Department. Appellant Christopher Slaughter appeared and was self-represented. The hearing was open to the public at Appellant's request, pursuant to Iowa Code section 272C.6(1)(2013).

THE RECORD

The record includes the Notice of Proposed Action-Revocation, Notice of Appeal, Notice of Telephone Hearing, the testimony of Joe Ferrell and Christopher Slaughter, and Department Exhibits 1-7 (See Exhibit Index for description).

FINDINGS OF FACT

The Department initially certified Appellant as an EMT-Basic on September 9, 1996. (Exh. 3)

On January 19, 2011, Appellant was charged with Burglary. On May 29, 2012, Appellant entered a guilty plea to Theft -5th Degree, which is a simple misdemeanor, and the Burglary charge was dismissed. Appellant was granted a deferred judgment on the 5th Degree Theft, and he was placed on unsupervised probation for a period of one year. Appellant was also required to perform 50 hours of community service, to pay a

civil penalty of \$100, and to pay victim restitution of \$76.00 to the Cedar Rapids Fire Department. (Joe Ferrell testimony; Department Exh. 5)

Joe Ferrell is the Department's EMS Certification Manager. Mr. Ferrell interviewed Appellant on January 7, 2013 concerning the circumstances of his conviction. Appellant was employed by the Cedar Rapids Fire Department as a fire fighter at the time of his theft on December 22, 2010. Appellant admitted that he took \$76 from the Cedar Rapids Fire Department member fund. The fire fighters contributed money into this fund to pay for expenses like cable TV and condiments, which were not paid for by their employer. Appellant told Mr. Ferrell that at the time of his theft he was going through a difficult divorce and had a gambling addiction. (Joe Ferrell, Appellant testimony; Exh. 4)

On February 9, 2013, the Department issued a Notice of Proposed Action-Revocation of Appellant's EMS Certification for:

- engaging in unethical conduct, in violation of Iowa Code section 147A.7(1)"f" and 641 IAC 131.7(3)"f;" and
- violating a statute relating to the provision of emergency medical care, in violation of Iowa Code section 147A.7(1) "j" and 641 IAC 131.7(3)"t."

The Department proposes revoking Appellant's EMT-B certification because his crime involved theft from his co-workers and as such, constituted a violation of trust. This type of crime reflects poorly on Appellant's judgment and veracity. It is important for EMS providers to be trustworthy because they are afforded broad access to the homes and belongings of others when they respond to emergency calls. The Department has either denied the certification application or revoked certification in other cases that involved any theft from the provider's employer. The Department has consistently maintained that if an EMS provider or applicant has a theft conviction, they should not be certified until after they have completed all terms of their sentence, including probation, and have shown evidence of rehabilitation. (Joe Ferrell testimony; Exh. 7)

Appellant filed an appeal from the proposed revocation of his EMS certification. Appellant expressed remorse for his actions. He testified that he has not engaged in gambling for more than three years. He has voluntarily signed a trespass order that bans him from entering any casino. Appellant participated in Outpatient Gambling Services from January 20, 2011 through May 31, 2011. He attended all of individual counseling sessions and was engaged in the treatment process. His gambling counselor has indicated that Appellant is insightful about the changes that he would like to make

in his life. Appellant reports that the gambling treatment was very helpful to him. (Exh.5; Appellant testimony)

Appellant is currently employed by a local feed business. Appellant has access to his employer's credit card and handles money from customers. He reports that he has not had any further incidents of stealing money following the single incident at the Cedar Rapids Fire Department. (Appellant testimony)

CONCLUSIONS OF LAW

The Department may impose a civil penalty not to exceed \$1,000, may place the emergency medical care certificate on probation, may issue a citation and warning, or may suspend or revoke the certificate when it finds that the EMS provider:

- Has engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. Iowa Code section 147A.7(1)(f)(2013); 641 IAC 131.7(3)"f."
- Has violated a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of emergency medical care, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, controlled substances, substance abuse, assault, sexual abuse, sexual misconduct, or homicide. A copy of the record of conviction or plea of guilty is conclusive evidence. Iowa Code section 147A.7(1)(j)(2013); 641 IAC 131.7(3)"t."

The preponderance of the evidence established that Appellant violated Iowa Code section 147A.7(1)(f) and (j) and 641 IAC 131.7(3)"f" and "t" when stole money from his co-workers and was convicted of Theft 5th Degree. Theft is a crime related to the practice of an emergency medical services provider due to the broad access that EMS providers are given to patient's homes and belongings at a time when the patients are very vulnerable. The theft in this case was of particular concern to the Department because Appellant violated the trust placed in him by his co-workers. In other cases involving theft from an employer, the Department has consistently denied the application for certification or has revoked the certification with no possibility of reinstatement until the person has completed probation and has shown a period of rehabilitation.

There is no doubt that the Department has valid reasons for imposing sanctions on Appellant's EMS certification. It is important for EMS providers to be trustworthy and

for members of the public to have confidence in the honesty and trustworthiness of the EMS providers responding to their emergency medical needs. Nevertheless, it is also important for the Department to consider the particular facts of the case, including the number and seriousness of the person's convictions and any evidence of rehabilitation. In this case, Appellant has a single conviction for simple misdemeanor theft. The offense underlying the conviction occurred more than two years ago. Since that time, Appellant has completed treatment for a gambling addiction, and there is no evidence of any other offenses. These circumstances do not justify the revocation action sought by the Department, which would not permit Appellant to be certified as an EMT-B until some unknown date after May 2014. The circumstances do justify suspending Appellant's certification until he provides verification to the Department that he has been discharged from probation and has had no further offenses for six months following the completion of his probation.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Revocation, issued by the department to Christopher Slaughter on February 9, 2013, is hereby AFFIRMED, in part, and MODIFIED, in part. The finding of violations are AFFIRMED but the sanction is MODIFIED. Appellant's certification shall be SUSPENDED until such time as he can verify to the Department that he has been discharged from probation and has had no further offenses for a six month period following completion of probation.

Dated this 15th day of May, 2013.

Margaret LaMarche

Margaret LaMarche
Administrative Law Judge
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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). 641 IAC 131.12(10). 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).

