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

IN THE MATTER OF:

DIA NO. 13PHES002

CASE NO. 12-03-15

Alan Cannon

Certification #PS-18-105-02

PROPOSED DECISION

On February 1, 2013, the Department of Public Health-Emergency Medical Services Bureau (Department) issued Alan Cannon (Appellant) an Emergency Suspension and Notice of Proposed Action-Revocation of his certification as an EMT-Paramedic Specialist. The proposed revocation was based on Appellant's convictions for the crimes of Assault, Supplying Alcohol to Minor, and Contempt and his guilty plea to the crime of Solicitation to Commit Murder. The Department asserts that Appellant's actions violated 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 11:10 a.m. before the undersigned administrative law judge. Assistant Attorney General Heather Adams represented the Department. Appellant Alan Cannon was sent the Notice of Hearing by first-class mail with instructions to call-in to a conference calling system for the hearing. Appellant did not call in for the hearing and did not request a continuance. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2013), because Appellant did not request a closed hearing.

THE RECORD

The record includes the Notice of Proposed Action-Revocation, the Emergency Order, Notice of Appeal, Notice of Telephone Hearing, and Department Exhibits 1-8 (See Exhibit Index for description).

FINDINGS OF FACT

The Department initially certified Appellant as a Paramedic Specialist on June 16, 2005. (Exh. 4)

On December 15, 2011, Appellant was charged with Sexual Abuse 3rd Degree and Supplying Alcohol to Persons Under Age. The allegations were that Appellant

provided alcohol to an underage female and then had nonconsensual sex with her. (Exh. 5) On December 22, 2011, Appellant was charged with Conspiracy to Commit a Forcible Felony, Solicitation to Commit a Felony, and Attempted Murder. The allegations were that Appellant solicited another individual to kill and dispose of the body of a 17 year old girl, who was the named victim in the Sexual Assault charge. (Exh. 6)

On July 23, 2012, Appellant was found guilty of Assault (a serious misdemeanor) and Supplying Alcohol to a Person Under age (a serious misdemeanor)(Exh. 6)

On January 28, 2013, Appellant entered a plea of guilty to the charge of Solicitation to Commit Murder, in violation of Iowa Code section 705.1 (a class D felony). Appellant was sentenced to five years in prison on March 11, 2013. (Exh. 6)

On February 1, 2013, the Department issued an Emergency Suspension Order based on Appellant's convictions. The Department found that Appellant's continued practice of EMS would pose an immediate danger to the public health, safety and welfare. On February 1, 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."

Appellant filed an appeal from the proposed revocation of his EMS certification. Appellant provided two addresses where mail could be sent to him. One of the addresses was the Cerro Gordo County Jail and the other was c/o Verlene Cannon. The Notice of Hearing was sent by first-class mail to both addresses provided by Appellant. The notice sent to the Cerro Gordo County Jail was returned marked "Return to Sender No Longer Here." The notice that was sent c/o Verlene K. Cannon was not returned by the post office. Appellant failed to call in for the hearing.

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 evidence in the record fully supports the Department's proposed action to revoke Appellant's EMS certification for engaging in unethical conduct and violating a statute of this state relating to the provision of emergency medical care. Appellant's convictions for Assault, Supplying Alcohol to a Minor, and Conspiracy to Commit Murder are all related to the practice of EMS. A person calling for emergency medical service would not anticipate that a person with this criminal record would be a certified EMS provider. Appellant's convictions indicate that he has a propensity to commit violence and to harm others, which is wholly inconsistent with the professional and ethical obligations of a certified EMS provider.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Revocation, issued by the department to Alan M. Cannon on February 1, 2013, is hereby AFFIRMED.

Dated this 15th day of May, 2013.

Margaret LaMarche

Administrative Law Judge

Margaret Fa Marche

Iowa Department of Inspections and Appeals

Division of Administrative Hearings

Wallace State Office Building-Third Floor

Des Moines, Iowa 50319

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cc: Alan M. Cannon c/o Verlene K. Cannon 1207 Meadow Lane, Apt. 6 Waterloo, IA 50701 (RESTRICTED CERTIFIED) and (FIRST-CLASS MAIL)

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Gerd Clabaugh, Department of Public Health Lucas State Office Building (LOCAL)

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).