

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

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IN THE MATTER OF:

DIA NO. 12DPHES004

CASE NO. 12-03-02

Jeffrey Inman  
27877 520<sup>th</sup> Street  
Moulton, Iowa 52572-8471

PROPOSED DECISION

Certification: EMT-15-1000-02

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On March 21, 2012, the Department of Public Health-Emergency Medical Services Bureau (Department) served a Notice of Proposed Action-Denial on Appellant Jeffrey Inman. Mr. Inman filed a timely Notice of Appeal on April 10, 2012. A telephone hearing was held before the undersigned administrative law judge on May 1, 2012 at 1:00 p.m. Assistant Attorney General Heather Adams represented the Department. Mr. Inman was self-represented, with the assistance of his mother, Jerilyn Inman. The record was held open for seven days to allow Mr. Inman to submit character references. Two letters were submitted on May 8, 2012, and the record was closed.

#### THE RECORD

The record includes the Notice of Telephone Hearing, testimony of Joe Ferrell, Jeffrey Inman, and Jerilyn Inman, Department Exhibits 1-10 (See Exhibit Index for description), and Appellant Exhibits A-B.

#### FINDINGS OF FACT

In September 2011, Jeffrey Inman enrolled in the Emergency Medical Technician (EMT) program at Indian Hills Community College. (Testimony of Joe Ferrell, Jeffrey Inman, Appellant Exhibit A) On September 6, 2011, Mr. Inman submitted his student registration for certification as an emergency medical provider at the EMT level to the Department. Appellant truthfully answered "yes" to the question on the application that asked if he had any criminal convictions. (Testimony of Joe Ferrell, Jeffrey Inman; Department Exhibit 3)

Jeffrey Inman provided a letter explaining that he entered a guilty plea to the crime of Burglary in the Third Degree, was granted a deferred judgment, and placed on probation for a period of five years. He also explained the circumstances of the burglary, which occurred on July 26, 2009 when Mr. Inman was 19 years old. Mr. Inman spent the day boating and drinking with friends. Mr. Inman reports that he parked his truck in the parking lot of a restaurant, which he assumed had been out of business for several years. Mr. Inman and his friend entered the restaurant through a window, after removing an air conditioning unit. Once inside, Mr. Inman realized that the restaurant was not abandoned and decided to leave through the back door. He noticed that a neighbor was calling the sheriff, and took off running. One of the friends he was with that evening gave his name to the police. Mr. Inman eventually turned himself in and admitted the crime. Mr. Inman reports that nothing was stolen from the business during the burglary, although the criminal complaint states that officers found several bottles of alcohol on the ground on the south side of the restaurant. (Testimony of Jeffrey Inman, Jerilyn Inman; Department Exhibits 4, 6)

Joe Ferrell is the EMS Regulation Manager for the Department. Mr. Ferrell placed Mr. Inman's application on hold status pending further review of his criminal history. On February 23, 2012, Jeffrey Inman provided Mr. Ferrell with copies of the charging documents and disposition for the burglary. These documents established that Mr. Inman entered his guilty plea to Burglary in the Third Degree, in violation of Iowa Code section 713.1 and 713.6A (2009),<sup>1</sup> on February 5, 2010. The Appanoose County District Court granted Mr. Inman a Deferred Judgment and placed him on probation for a period of five years, contingent upon his future good behavior. Mr. Inman was required to pay a civil penalty of \$750, law enforcement surcharge of \$125, all costs of prosecution, and victim restitution. (Ferrell testimony; Department Exhibits 5, 6)

The record also includes Jeffrey Inman's criminal history as it appears in Iowa Courts Online. Based on these records, Mr. Inman was charged with a violation of probation on August 6, 2010. On August 20, 2010, Mr. Inman entered a negotiated guilty plea to Contempt, in violation of Iowa Code section 665.2(6), and was sentenced to time served. None of the witnesses discussed the contempt conviction during their testimony, and it does not appear that it was considered by the Department in making the decision to deny the application. (Department Exhibits 7, 2)

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<sup>1</sup> Burglary in the Third Degree is classified as a class "D" felony. Iowa Code section 713.6A(1)(2009).

Joe Ferrell presented all of the information concerning Jeffrey Inman's deferred judgment to his supervisor, who is the EMS Bureau Chief. The supervisor decided to deny the application, primarily because Mr. Inman will be on criminal probation until February 5, 2015. The denial is consistent with the Department's past decisions denying applications or revoking certifications of persons who are on criminal probation for offenses such as theft and burglary. In the Department's opinion, granting registration to a person who is currently on criminal probation for a felony burglary could diminish the public's trust of the EMS profession or of the Department as its regulatory agency. The public must be able to trust certified emergency medical providers because they are given access to people's homes, businesses, and belongings at a time when people are dependent and vulnerable. (Testimony of Joe Ferrell; Department Exhibit 10)

Jeffrey Inman submitted character references from Cindy Hewitt, RN, EMT-PS, who is the EMS Program Coordinator at Indian Hills Community College and from Peggy West, EMTPS, who was his EMS preceptor. Ms. Hewitt has known Mr. Inman since he became a student and described him as dependable, kind, caring, compassionate, efficient and professional. She notes that he received high marks during his clinical and field experiences. She further noted that he has set up a career path to become a paramedic. He has joined the local fire department and is interested in serving as a volunteer in his community. Ms. West described Mr. Inman as ambitious, courteous, polite, determined, goal oriented, honest, trustworthy, patient, level headed, people oriented, and a team player. (Appellant Exhibits A, B)

Jeffrey Inman has passed his practical EMT examination and is waiting to take his written examination. He is currently working at Honey Creek Resort as a banquet bartender and as setup staff. He has paid all but \$59.00 of his court fines and restitution. (Testimony of Jeffrey Inman)

#### CONCLUSIONS OF LAW

The legislature has directed the Department to adopt rules pertaining to the examination and certification of emergency medical care providers.<sup>2</sup> The Department has adopted such rules at 641 IAC chapter 131. 641 IAC 131.7(3) provides, in relevant part:

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<sup>2</sup> Iowa Code section 147A.4(2)(2011).

**131.7(3)** The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including endorsement, or may impose any of the disciplinary sanctions provided in subrule 131.7(2) when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

...

*f.* Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established. ...

...

*t.* Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or a misdemeanor, which relates to the provision of emergency medical care, including but not limited to a crime involving dishonesty, fraud, theft, embezzlement, ... A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

Jeffrey Inman pled guilty to 3<sup>rd</sup> Degree Burglary, a Class D felony. The guilty plea is conclusive evidence of his violation of 641 IAC 131.7(2)"t." The 3<sup>rd</sup> Degree Burglary is a crime of dishonesty, like theft. It relates to the provision of emergency care because EMS providers are granted access to the homes and possessions of patients at a time when the patients are dependent and vulnerable to theft or exploitation. It is therefore essential for the public and for the Department to have trust in persons who are certified EMS professionals in this state.

The substantial length of the probation<sup>3</sup> that was attached to Mr. Inman's deferred judgment indicates that the sentencing court regarded his offense to be quite serious. Unless Mr. Inman is able to obtain an early discharge from the court, he will remain on criminal probation until February 15, 2015.

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<sup>3</sup> Five years is the maximum length of probation for a felony offense. Iowa Code section 907.7(1)(2011). The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others. Iowa Code section 907.7(3). The court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid or waived. *Id.*

The Department has previously denied applications (or revoked certifications) for others who were on criminal probation for crimes involving dishonesty or theft. (Department Exhibit 10) As pointed out by Mr. Inman, many if not all of these cases involved more egregious circumstances, whether it was due to the nature and circumstances of the crimes, the failure to fully disclose criminal history, or both. Nevertheless, these cases illustrate that the Department has not previously allowed persons who are on criminal probation for these types of crimes to become certified or to retain their certification. The question remains whether Mr. Inman's particular circumstances merit a departure from the Department's past practice.

There are some mitigating circumstances present in this case. Jeffrey Inman was only 19 at the time of the burglary. It appears that he has matured significantly in the past three years. He has done very well in his EMT training program and has maintained steady employment. He has provided excellent references from his training program. There is no doubt that he should be encouraged to continue on this path. Nevertheless, based on this record it was reasonable for the Department to deny Mr. Inman's application while he remains on criminal probation for a felony involving dishonesty. Mr. Inman should be encouraged to reapply if he is able to obtain an earlier discharge from probation.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Denial, issued on March 21, 2012 to Appellant Jeffrey Inman, is hereby AFFIRMED.

Dated this 17<sup>th</sup> day of May, 2012.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

91 7199 9991 7031 0562 1070

cc: Jeffrey Inman, 27877 520<sup>th</sup> Street, Moulton, Iowa 52572-8471 [CERTIFIED]

Heather Adams, Assistant Attorney General, Department of Justice, Hoover Building- [LOCAL]

Gerd Clabaugh, Department of Public Health, Lucas Bldg. [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). 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).

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