

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

Iowa Dept. of Public Health  
**RECEIVED**

MAY 27 2016

**Bureau of Emergency  
and Trauma Services**

IN THE MATTER OF:

DIA NO. 16DPHES001

CASE NO. 15-12-15

Quentin Daufeldt  
3117 Peartree Lane  
Muscatine, IA 52761

PROPOSED DECISION

Certification: EMR-09-1011-01

On February 18, 2016, the Department of Public Health-Bureau of Emergency and Trauma Services (Department) served a Notice of Proposed Action-Probation on Quentin Daufeldt (Appellant). Respondent filed a timely Notice of Appeal. A telephone hearing was held before the undersigned administrative law judge on May 9, 2016. Assistant Attorney General Heather Adams represented the Department. Appellant Quentin Daufeldt failed to appear for hearing.

#### THE RECORD

The record includes the Notice of Telephone Hearing and Department Exhibits 1-8. A protective order was issued for Department Exhibit 6, which contains confidential information, pursuant to Iowa Code sections 22.7(2) and 42 CFR Part 2.

#### FINDINGS OF FACT

In November 2015, Quentin Daufeldt (Appellant) was enrolled in a course to become certified as an Emergency Medical Responder (EMR). On or about November 4, 2015, Appellant answered questions concerning his criminal history background in connection with his Emergency Medical Services (EMS) Student Registration. (Department Exhibits 3, 4) Appellant submitted additional information, which indicated that he has had the following criminal convictions:

- June 2007: Operating While Intoxicated (OWI)-1<sup>st</sup> Offense;
- March 2011: Consumption/Intoxication-1<sup>st</sup> Offense;
- July 2014: Consumption/Intoxication -2<sup>nd</sup> Offense;

- September 2015: OWI-2<sup>nd</sup> Offense.

Appellant further disclosed that on July 14, 2014, he was placed on probation for 24 months for the Consumption/Intoxication-2<sup>nd</sup> Offense and was released from probation on January 2, 2015. On September 8, 2015, Appellant was placed on probation for 24 months for his OWI-2<sup>nd</sup> Offense. (Department Exhibit 4)

On December 15, 2015, the Department asked Appellant to provide a copy of the substance abuse evaluations and treatment recommendations for his most recent OWI conviction. Appellant was informed that he would not be eligible for certification until that information was received, processed and approved. On December 29, 2015, Appellant provided a copy of the substance abuse screening and evaluation that he completed in May 2015. The evaluation included a diagnosis and a recommendation that Appellant participate in a residential treatment program. Appellant also provided written verification of his successful completion of the residential treatment program on July 10, 2015. Respondent was medically cleared to return to work without restrictions on July 13, 2015. (Department Exhibits 5, 6)

Iowa Courts Online established that Appellant has had the following convictions:

- Curfew violations on 10/22/01 and 8/18/05;
- OWI-1<sup>st</sup> Offense, 10/20/05;
- OWI-1<sup>st</sup> Offense, 6/8/07;
- Consumption/Intoxication, 3/31/11;
- Consumption/Intoxication-2<sup>nd</sup> Offense, 7/14/14; and
- OWI-2<sup>nd</sup> Offense, 9/8/15.

The Sentencing Order from Appellant's most recent conviction placed him on probation for two years. Appellant will be on criminal probation for OWI-2<sup>nd</sup> Offense until September 2017. (Department Exhibits, 1, 7)

The Department has concluded that Appellant's EMR certification should be placed on probation for a period of four years, subject to the following terms and conditions:

- abstain from using alcohol and mood altering chemicals and abstain from using prescription medication unless prescribed and dispensed by a physician in an appropriate manner;

- follow all treatment and aftercare recommendations made by the facility where he received his substance abuse evaluation, including completion of outpatient treatment;
- attend AA, NA or similar structured recovery support group meetings at least once a week, obtain a sponsor, and have weekly contact with the sponsor;
- provide a specimen of blood or urine when requested and sign necessary releases of information;
- file quarterly reports with the Department;
- make personal appearances when requested;
- obey all federal, state, and local statutes and rules governing the provisions of EMS; and
- notify the Department of any change of address within one week of said change.

The terms of probation also require Appellant to provide notification of his probationary conditions to any current or prospective employers (including direct supervisors, service directors, and medical directors) and to any EMS training program in which he enrolls. Within fifteen days after the probation takes effect, or within fifteen days of undertaking new employment or enrolling in an EMS training program, Appellant's direct supervisor, service director, training program director, and medical directors must report to the Department acknowledging that they have read the Notice of Proposed Action-Probation and understand it. (Department Exhibit 1)

## CONCLUSIONS OF LAW

### *I. Failure to Appear*

The Department served Appellant with its Notice of Proposed Action-Probation by restricted certified mail, in conformance with the Department's rules.<sup>1</sup> Appellant requested a hearing, and his appeal request was transmitted to the Iowa Department of Inspections and Appeals for hearing. The Department of Public Health's rules are silent as to the service of the Notice of Hearing but provide that the hearing shall be conducted in accordance with the procedural rules of the department of inspections and appeals found in 481 IAC chapter 10.<sup>2</sup>

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<sup>1</sup> 641 IAC 131.12(6); Department Exhibit 1.

<sup>2</sup> 641 IAC 131.12(9).

481 IAC 10.5(2) provides that the notice [of hearing] shall be sent by first-class mail unless otherwise required by statute or rule, or agreed to pursuant to subrule 10.5(1). The Notice of Telephone Hearing was issued on April 6, 2016 and was sent to Appellant by first-class mail at the address he provided in his appeal. The notice was not returned by the post office, and Appellant failed to appear for hearing. 481 IAC 10.22(1) provides that if a party fails to appear after proper service of notice, the ALJ may proceed with the hearing and issue a decision in the absence of the party. In this case, the telephone hearing proceeded when Appellant failed to appear.

*II. Appellant's Violations of 641 IAC 131.7*

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

**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:

...

*q.* Habitual intoxication or addiction to the use of drugs.

...

*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 ... substance abuse,... A copy of the record of conviction or plea of guilty is conclusive evidence of the violation.<sup>4</sup>

Appellant's history of repeated alcohol related convictions and his recent substance abuse diagnosis established violations of 641 IAC 131.7(3)"q" and "t." The Department is authorized to impose disciplinary sanctions on Appellant's EMR certificate under

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<sup>3</sup> Iowa Code section 147A.4(2)(2015).

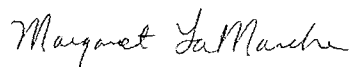
<sup>4</sup> *Accord*, Iowa Code section 147A.7(1)(g),(j)(2015).

these circumstances. The evidentiary record and the Department's legitimate public safety concerns more than justify the Department's decision to monitor Appellant's practice of emergency medical services through a four year period of probation.

ORDER

IT IS THEREFORE ORDERED that the Notice of Proposed Action-Probation, issued on February 18, 2016 to Appellant Quentin Daufeldt, is hereby AFFIRMED. The four year period of probation shall commence when this Proposed Decision becomes final.

Dated this 26th day of May, 2016.



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

cc: Quentin Daufeldt, 3117 Peartree Lane, Muscatine, Iowa 52761 [CERTIFIED] and [FIRST-CLASS MAIL]; Heather Adams, Assistant Attorney General, Department of Justice, Hoover Building- [LOCAL]; Rebecca Curtiss, Department of Public Health, Lucas Bldg. [LOCAL]

*Appeal Rights-Motion to Vacate*

The rules of the Department of Public Health provide that default decisions or decisions rendered on the merits after a party fails to appear or participate in a contested case hearing become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal on the merits<sup>5</sup> is timely initiated. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate in the contested case hearing. Each fact so stated must be

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<sup>5</sup> The separate procedure for an appeal on the merits is described below.

substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion. 641 IAC 173.22(3). The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 641 IAC 173.22(4).

Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response. 641 IAC 173.22(5). "Good cause" for the purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rules of Civil Procedure 236. 641 IAC 173.22(6). [Please note Iowa Rule of Civil Procedure 236 has since been renumbered to Iowa Rule of Civil Procedure 1.977]

#### *Appeal on the Merits*

641 IAC 131.12(11) provides the procedure for appealing the proposed decision on its merits. Unlike a motion to vacate, an appeal on the merits does not provide the opportunity to request a new hearing or to present additional evidence. An appeal on the merits provides only for review of the existing hearing record and the proposed decision by the Director of the Department of Public Health. An appeal on the merits must be filed within ten days after the proposed decision is received. A proposed decision 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) (or unless a motion to vacate is filed within 15 days as provided by 641 IAC 173.22). 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).