

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
DIVISION OF ADMINISTRATIVE HEARINGS
WALLACE STATE OFFICE BUILDING
DES MOINES IOWA 50319

IN THE MATTER OF

LOGAN GLOSS
2085 ROSEDALE AVE
DUBUQUE IA 52001-4165

DOCKET NO. 08DPHES007
PROPOSED DECISION

Certification # B-01-344-07

STATEMENT OF THE CASE

On June 5, 2008, Kirk E. Schmitt, EMS Bureau Chief, issued a Notice of Proposed Action - Revocation/Denial. The Department of Public Health's action was to revoke Logan Gloss' (Appellant) EMT-Basic certification and Deny his EMT-Intermediate application. The Appellant filed a timely appeal and requested a hearing on the proposed action.

A telephone hearing was held on July 29, 2008. The hearing was **CLOSED** at the request of the Appellant.

The Appellant participated and was represented by Attorney Tom Bitter. Heather Adams, Assistant Attorney General, represented the Department of Public Health. Testimony was received from Joe Ferrell, with the Department of Public Health.

The following exhibits were admitted into the record:

- Ex. 1: 641 IAC 131.7(2);
- Ex. 2: Notice of Proposed Action: Revocation/Denial, 6/5/08;
- Ex. 3: Certification Information;
- Ex. 4: Emails, Gloss to Ferrell;
- Ex. 5: Email and Letter, Gloss to Ferrell, 4/26/08;
- Ex. 6: Email, Ferrell to Paramount EMS, 5/8/08;
- Ex. 7: Telephone log;
- Ex. 8: Criminal History Information
Unauthorized Computer Access, 1/30/08;
- Ex. 9: Appeal Letter, 6/17/08;
- Ex.10: Letter from Keith Rippey to Judge Priester, 7/21/08.

FINDINGS OF FACT

The Appellant is licensed as an EMT Basic. He is certified by the Iowa Department of Health with the classification of EMT-Basic with Certification #B-01-344-07. This certificate is valid until March 31, 2010. The Appellant was in the process of qualifying as an EMT-Intermediate. The Department of Public Health served him with the Notice of Proposed Action Revocation/Denial on June 5, 2008.

The Appellant was employed at Paramount Emergency Services in Dubuque. While working at Paramount EMS he assisted the owner, Mr. Marvin Ney, with entering information into the Wisconsin Ambulance Run Data System (WARDS). The Appellant used Mr. Ney's password to access the WARDS system.

After working for Paramount for about a year the Appellant tendered his resignation, giving two week's notice. Paramount then terminated the Appellant's employment. The evening of the termination the Appellant went onto the WARDS system and deleted information and added incorrect information. He then logged out. At the time he did this he was no longer employed by Paramount and he was not authorized to enter the WARDS system on Paramount's behalf.

The Appellant was charged with the crime of Unauthorized Computer Access- Copy, Alter or Delete Data. This was a serious misdemeanor. The Appellant pled guilty to the offense and was granted a deferred judgment. He was placed on informal probation for one year. The probation will end on January 30, 2009.

The Appellant testified that he has been an EMT since 2005. In that time he has had no reprimands or complaints filed against him. His job as an EMT is his only source of income.

The Appellant stated that the information he accessed pertained to data that had entered previously. It did not have anything to do with patient care in any way. The Appellant received a deferred judgment and believed that this was not considered a conviction under Iowa law.

CONCLUSIONS OF LAW

The Department of Health proposed revoking the Appellant's EMT-Basic certificate and his application for EMT-Intermediate application. The authority for this action is found in Iowa Code section 147A.7. The relevant section is as follows:

147A.7 Denial, suspension or revocation of certificates--hearing--appeal.

1. The department may deny an application for issuance or renewal of an emergency medical care provider certificate, or suspend or revoke the certificate when it finds that the applicant or certificate holder is guilty of any of the following acts or offenses:

. . . .

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

The Department of Public Health has promulgated administrative rules to govern the discipline of emergency medical care personnel. The rules provide that the "department may deny an application for issuance or renewal of an emergency medical care provider certificate, including specialty certifications, or place on probation, or issue a citation and warning, or suspend or revoke the certificate 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 representations 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.
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- t. Violating 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.

641 IAC 131.7(2).

The evidence establishes that the Appellant pled guilty to a criminal offense. The fact that he was granted a deferred judgment does not alter the fact that he pled guilty. This alone is sufficient to revoke the Appellant's certification as an EMT-Basic and deny his application for an EMT-Intermediate. However, the Appellant's conduct was sufficiently inappropriate to be grounds for discipline.

The Appellant's conduct was inappropriate on many levels. The Appellant was not an employee of Paramount and he used Paramount's password to access the WARDS system. He then deleted and altered information on the WARDS system. This is a serious breach of trust to not only Paramount, but to the state of Wisconsin who keeps the WARDS system.

No patient run information was altered or affected, but that misses the point. The Appellant acted unethically when he accessed the system. He acted unethically when he deleted records and he acted unethically when he altered records.

While the Appellant's record as an EMT is unblemished, this one criminal act casts a shadow over his three year career. Trust is slowly gained and quickly lost. The undersigned finds that the Department was correct in revoking the Appellant's EMT-Basic certification and denying his EMT-Intermediate certification based upon a guilty plea to a criminal offense and conduct that was unethical.

DECISION

IT IS THEREFORE ORDERED that the disciplinary action proposed by the Department of Health revoking the Appellant's EMT-B certificate # B-01-344-07 and denying his EMT-Intermediate application is hereby AFFIRMED.

DATED THIS 4TH DAY OF AUGUST 2008.



John M. Priester
Administrative Law Judge

Cc: Logan Gloss, CERTIFIED
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This decision shall be final, unless within ten (10) days from the date you receive this Order, you or any interested party appeal to the Director, Department of Public Health, 6th Floor Lucas State Office Building, Des Moines, IA 50319, clearly stating the grounds upon which such appeal is based.

