

Cause No. 03-01M

Name: Scott Hicks

Administrative Law Judge: William K. Teegarden

Date: October 22, 2004

Commission Action: Affirmed

FINDINGS OF FACT

1. The EMSC is an Agency within the meaning of IC 4-21.5.
2. The EMSC is the State Agency responsible for EMT certification, paramedics certification and use of green lights in Indiana.
3. IC 4-21.5 and IC 16-31 apply to this proceeding.
4. At all times relevant to this proceeding, Hicks held the Certificates issued by the EMSC.
5. In addition, Hicks was the sole owner of Life Ambulance Service from 1992 until January of 2003 when he sold the Service to an employee.
6. Hicks, age 42, has held EMT certification for over 20 years and Paramedic certification for 6 years prior to his arrest.
7. On February 19, 2003, Hicks was formally charged with 3 counts of obtaining a controlled substance by Fraud or Misrepresentation in Wayne Superior Court II. All counts were Class D felonies and the drugs were Demerol and Morphine Methylsulfonate.
8. The EMSC issued an emergency suspension on February 11, 2003, and has periodically renewed the Emergency Order so that for all practical purposes the Certificates have been suspended since that date.
9. On or about July 29, 2003, Hicks pled guilty to one count of obtaining a controlled substance by Fraud, a Class D Felony and the other two counts were dismissed.
10. Pursuant to IC 35-50-2-7(b), judgment of conviction was entered as a Class A Misdemeanor in October of 2003 and Hicks received a one year sentence suspended after 120 days and placed on probation under certain conditions including participation in a drug treatment program.
11. Hicks obtained the controlled substances through his ownership of Life Ambulance and in his capacity of a paramedic.
12. Hicks has no other criminal history.
13. Reid Hospital ("Reid") in Richmond operates a pharmacy open 24/7 which, among other duties, fills prescriptions for restocking ambulances which service Reid.
14. In late 2002, Reid performed an audit of purchases by ambulance companies and noticed Life Ambulance was purchasing much more narcotics than the major ambulance service to Reid who delivered 10 times the number of patients.
15. A check of the underlying documentation submitted by Life Ambulance raised more questions than answers.
16. The Wayne County Drug Task Force became involved and a formal statement was

- taken from Hicks in January of 2003 in which he admitted submitting false documentation on run reports to Reid to obtain replacement narcotics.
17. The investigation showed that in 2002, Rural Metro made 16 times the number of runs to Reid than Life did, but Life purchased more than twice as much morphine as Rural and purchased 1700 mg. of Demerol to Rural's zero.
 18. Hicks testified in a straight forward manner and never failed to take responsibility for his actions.
 19. He admitted he had a serious drug problem commencing in the spring or early summer of 2001.
 20. The root of the problem was the death of his mother which, while troublesome enough in its own right, was compounded by the fact that she died from complications after surgery which Hicks had urged her to undergo.
 21. Hicks found that the only way he could sleep was to take double doses of the drugs in question and take them frequently.
 22. There is no evidence that Hick's drug problem harmed a patient or that any of his ambulances made a run without the proper medication.
 23. Hicks managed to escape detection for the 1 ½ years or so that he obtained drugs via false documentation at Reid because approximately a dozen person could authorize replacement narcotics so no one person ever became suspicious.
 24. Hicks provided several witnesses that confirmed his ability as an EMT and Paramedic.
 25. Hicks was chief of the Milton Fire Department before his arrest.
 26. He resigned as chief and remains a member of the Department.
 27. Hicks began treatment at Reid shortly before his arrest and had essentially completed the program by the date of the hearing since he was then down to one session per month.
 28. Hicks had been drug free for over a year by the date of the hearing.
 29. IC 16-31-3-14 allows the EMSC to revoke or suspend certificates for a period of not more than seven years for conviction of a crime if the wrongful act has a direct bearing on determining whether the certificate holder should be entrusted to provide emergency medical care.
 30. There is no question that Hicks used his position in the EMS community to fraudulently obtain substantial quantities of controlled substances.
 31. There are a number of mitigating circumstances in this matter, however in the seven years that the EMSC has authorized the indexing of decisions pursuant to IC 4-21.5-3-32 which allows prior indexed decisions of the EMSC to be used as precedent, the EMSC has consistently found that violations of drug laws by a certificate holder which are continuous over a lengthy time period and committed as a result of a certificate holder's EMS affiliation negate any mitigating circumstances.
 32. The only times the EMSC has imposed lesser penalties for criminal acts were in cases where the certificate holder was not using his position in the EMS service to commit the crime and there was no evidence of continuing criminal conduct.
 33. As per prior precedent, the paramedic certificate should be revoked for a period of seven years.

34. The opportunity to obtain narcotics arose out of Hicks' ownership of the ambulance service and his position as a paramedic.
35. Since patient care is not an issue and Hicks has indicated a sincere interest in remaining active in Fire and Emergency response work, his EMT certification should be suspended for seven (7) years rather than revoked.
36. If Hicks has no further brushes with the law and maintains his required continuing education, his EMT certificate should be restored in February of 2010.

NONFINAL ORDER

Paramedic Certificate #15231 issued to Scott Hicks is hereby revoked until February 11, 2010, a period of seven (7) years. Emergency Medical Technician and Green Light Certificate #15231 are hereby suspended until February 11, 2010, a period of seven (7) years.