

Cause No.: 05-01M
Name: Jason Taylor
Administrative Law Judge: William K. Teeguarden
Date: August 26, 2005
Commission Action: Affirmed

FINDINGS OF FACT

1. The Agency is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5 and IC 16-31, apply to this proceeding.
3. The Agency is responsible for regulating Emergency Medical Technicians (“EMT’s”) in Indiana.
4. At all times relevant to this proceeding, Taylor held an EMT Certificate issued by the Agency.
5. The EMS Commission is the ultimate authority within the meaning of IC 4-21.5 over orders issued by the Agency.
6. On February 28, 2005, the Agency issued the Order to Taylor revoking his Certificate for seven years.
7. The reason for the issuance of the Order involved a criminal conviction for Sexual Misconduct with a Minor, a Class D Felony under IC 35-4-2-4-9(b).
8. Taylor received an eighteen month suspended sentence in September of 2004.
9. Taylor filed a timely petition for administrative review of the Order.
10. Taylor and the Agency agree that Taylor was convicted of the crime above and the general facts and circumstances surrounding the offense.
11. Because of this, the parties agreed to proceed on the basis of briefs and dispense with an evidentiary hearing.
12. IC 16-31-3-14(a)(5) allows the agency to revoke a certificate for up to seven years if the holder is convicted of a crime where the acts that led to conviction have a direct bearing on whether the certificate holder should be entrusted to provide emergency medical services.
13. Taylor was 22 years old in September of 2003 when the original charges were filed.
14. At that time, Taylor was a certificate holder for approximately two years and a member of the Lake Dalecarlia Fire Department in Lowell, Indiana.
15. The charge involved sexual intercourse with a fifteen year old girl.
16. The Father of the fifteen year old girl has told both court officials and the administrative law judge that he and his daughter have known Taylor for five years and he does not hold Taylor totally responsible for the situation. See Exhibit A attached.
17. Taylor has also included many other letters of support, several of which attest to his competency as an EMT.
18. Taylor’s appeal of the Order centers on the severity of the sanction, noting it is the most severe sanction that could be imposed.
19. Taylor also emphasizes the fact that Taylor’s misconduct did not take place while on duty as an EMT, thus it is not an automatic conclusion that he should not be

entrusted to provide services.

20. It is true that this case is not the equivalent of IN RE Molter, Cause 04-01 in which the certificate holder, age 65, molested a 14 year old girl in the back of an ambulance while being transported from hospital to hospital.
21. In the instant case, the age difference is not outrageous, the girl was a willing participant, and the criminal act did not take place on a run.
22. There are several aggravating circumstances, however.
23. First, Taylor knew the family well and had to know the girl's age.
24. Second, the girl was a Junior Fire Fighter Cadet Member and had dealings with Taylor in this capacity so there is some professional misconduct involved in the crime even though it may not directly involve EMT services or ambulances.
25. There are some references in the record to multiple incidents between Taylor and the girl but at no time was Taylor criminally charged with more than one count and there is insufficient evidence in the record to find multiple occurrences.
26. Taylor agrees that the only issue involved in this matter is the severity of the penalty.
27. The Agency cites two cases as precedent for imposing the maximum penalty.
28. One is IN RE Sipe, Cause 02-12M, which does not apply. Sipe's certification was suspended for life after receiving a sentence of approximately seventy years for continual sexual abuse of his step-daughter from age 13 to 18.
29. The Taylor matter cannot be compared to Sipe.
30. The Agency also relies on IN RE: Shilling, Cause 00-6M, which is a little more applicable.
31. In Shilling, the certificate holder (age 47) was found guilty of Sexual Battery on a minor boy (age 14).
32. Shilling failed to appear at his revocation hearing and his certification was revoked for 7 years.
33. There are three major differences between the Shilling case and the present case.
34. First is the difference in ages between the perpetrator and the victim. The victim in the present case is only 7 years younger than Taylor and very close to the age of consent.
35. The second is the fact that Shilling stated he had long standing thoughts and fantasies about young men and was a threat to repeat his conduct. There is no evidence in the record that Taylor is a continuing threat to seduce under age girls.
36. The third deals with the actor's ability and reputation within the community for providing competent EMT or fire service. Shilling produced no evidence of community support. Taylor has produced over 20 letters of support including the girl's father, the St. Anthony Medical Center Assistant EMT Coordinator, and an award for excellence from the Hospital dated June 25, 2003.
37. These letters of support show that Taylor provided highly competent patient care.
38. Taylor cites several cases involving drug usage or prescription fraud where lesser penalties (4 or 5 year suspensions) were imposed.
39. The trier of fact believes those types of cases have limited usage because often the person most injured in the drug cases is the offender.
40. In the molestation and abuse cases, it is other persons who are the injured party.

41. In searching prior cases to use as precedent, the trier of fact believes that IN RE: Helms, Cause 00-3M, is the most appropriate. In Helms, the certificate holder was convicted of Battery on a minor. The cause started out as a Class C Felony sexual misconduct of a minor. The Commission concluded that a Battery conviction where the victim was a member of a protected class impacts the public and calls into question the ability of the certificate holder to serve the public.
42. The penalty imposed in Helms was a 5 year revocation. The reasons for a 5 year revocation instead of 7 years involved the fact that no patient mistreatment was involved and there was no evidence of continuing or repeated misconduct.
43. The Helms situation is fairly close to the instant case.
44. The actions towards a protected class member are wrong and call into question Taylor's fitness to serve the public as a provider.
45. On the other hand, there is no indication that improper patient treatment is involved or that Taylor is a sexual predator just waiting for another opportunity to strike.
46. The trier of fact concludes the maximum penalty should not be imposed in this case and that the 5 year penalty imposed in Helms is appropriate.
47. In several recent drug related matter, most notably IN RE: Hicks, Cause 03-01M and IN RE: Rosenau, Cause 04-04M, the Commission found that in matters where patient care is not an issue and there is evidence of sincere interest in the EMS profession, any period of ineligibility should be in the form of a suspension rather than a revocation.
48. Putting all of these prior decisions together, the trier of fact concludes that the appropriate penalty should be a five year suspension.

NONFINAL ORDER

The Order of the State Emergency Agency dated February 28, 2005, issued to Jason R. Taylor, holder of EMT Certificate Number 54856, is hereby modified to provide that the Certificate is suspended for a period of five (5) years. If Mr. Taylor maintains his continuing education requirements and submits same to the Agency, he shall be eligible for reinstatement 5 years from the effective date of the Order of February 28, 2005.

