

Cause #: 00-8M  
Name: Douglass Swihart  
Administrative Law Judge: William K. Teegarden  
Date: October 16, 2002  
Commission Action: Affirmed

### **FINDINGS OF FACT**

1. The EMSC is an agency within the meaning of IC 4-21.5.
2. IC 4.21.5, IC 16-31, and IAC 836 apply to this proceeding.
3. The EMSC is the state agency which regulates all EMTs and EMT certificates in Indiana.
4. The EMSC is the ultimate authority within the meaning of IC 4-21.5 over actions involving EMT certificates.
5. At all times relevant to this proceeding, Swihart held the Certificate duly issued by the EMSC.
6. On or about July 10, 2000, Swihart was arrested in Allen County, Indiana, on the charge of possession of a controlled substance by subterfuge.
7. The EMSC issued an emergency order suspending the Certificate.
8. On December 29, 2000, Swihart pled guilty to the charge which is a class D felony.
9. 836 IAC 1-5-1(e)(5) allows the EMSC to suspend or revoke a certificate for up to seven years.
10. 836 IAC 1-5-1 provides that a certificate can be suspended or revoked for acts having a direct bearing on a person's fitness to serve the public as an EMT and also for violating standards of ethical conduct.
11. The conduct involved in obtaining a controlled substance by subterfuge is both conduct bearing on Swihart's fitness to serve the public as an EMT and unprofessional conduct.
12. There is no evidence that Swihart has worked as an EMT since July 25, 2000, the date of his emergency suspension, and the Certificate expired in January of 2001 and was not renewed.
13. The Department has requested a revocation to July 1, 2005, a period of approximately five years from the initial suspension.
14. This recommendation is consistent with prior cases involving class D felony convictions for controlled substances and the administrative law judge adopts this recommendation.

### **NONFINAL ORDER**

Emergency Medical Technician Certificate Number 02-42647 issued to Douglass Swihart is hereby revoked until July 1, 2005.

