



ISSUED:  
May 1, 2024

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Chris Mitchell,  
Petitioner,

v.

Department of Homeland Security,  
Respondent.

Administrative Case Number: DHS-2311-  
002838

Agency Number: S0052-2003

Ultimate Authority: Emergency Medical Services Commission

### NON-FINAL ADMINISTRATIVE DECISION

The Administrative Law Judge (ALJ) Carrie Ingram, having heard the evidence and arguments presented in this matter, now issues this Non-Final Order addressing the decision by the Department of Homeland Security (DHS) to revoke Petitioner’s Emergency Medical Responder (EMR) and Emergency Medical Technician (EMT) Certificates. **This decision is favorable to Respondent, DHS.** Any party dissatisfied with this decision may appeal. Appeal instructions are at the end of this document.

#### Jurisdiction

The ALJ assigned to this matter by the Director of the Office of Administrative Law Proceedings (OALP), *see* Ind. Code § 4-15-10.5-13, has jurisdiction over this case pursuant to Indiana Code § 4-15-10.5-12, which gives OALP jurisdiction over agency administrative actions subject to the Indiana Administrative Orders and Procedures Act at Indiana Code Art. 4-21.5 (AOPA) or “any other statute that requires or allows the office to take action.” The OALP has jurisdiction over this matter because this case is governed by AOPA.

#### Issue

The issue in this matter is whether Petitioner’s EMR and EMT Certificates may be revoked due to Petitioner’s felony conviction.

#### Procedural History

1. On October 26, 2023, DHS issued its Findings and Order (hereinafter “agency action”), which revoked Petitioner’s EMR and EMT Certificates.

2. On November 2, 2023, Petitioner filed a Petition for Administrative Review with the Indiana Emergency Medical Services Commission, who granted the Petition on November 9, 2023, and referred it to OALP for assignment of an ALJ.
3. The Petition requested that the agency action be stayed, and a Stay Hearing and Initial Prehearing Conference was scheduled for November 21, 2023. The Stay Hearing and Initial Prehearing Conference was continued, at the request of Respondent, to November 22, 2023.
4. The Stay Hearing and Initial Prehearing Conference was held on November 22, 2023. The parties agreed to schedule an evidentiary hearing for January 24, 2024. The request for a stay was taken under advisement.
5. Petitioner's request for Stay was denied on November 29, 2023.
6. The evidentiary hearing was continued, at the request of Petitioner, to February 7, 2024.
7. The evidentiary hearing was held on February 7, 2024. Petitioner Chris Mitchell appeared, self-represented. The Respondent appeared by Counsel Hillary Egan and State Emergency Medical Services (EMS) Director Kraig Kinney. The hearing was conducted using the Zoom platform and was recorded. The parties were able to hear each other, the ALJ, and all witness testimony. Likewise, the ALJ was able to hear the parties and all witness testimony.
8. The ALJ took official notice of the OALP file in this proceeding, including the testimony and exhibits admitted at the Stay Hearing on November 22, 2023.
9. The following Exhibits were offered by the Parties and admitted by the ALJ at the evidentiary hearing:
  - a. Petitioner's Exhibit 1, Affidavit of Tuesday Michelle Durbin, dated June 2, 2023 (2 pages).
  - b. Petitioner's Exhibit 2, Email communication between Petitioner and EMS Certification Specialist Kristine Kruger dated October 17, 2022 (2 pages).
  - c. Petitioner's Exhibit 3, Email communication between Petitioner and EMS Director Kraig Kinney dated August 28, 2023 (5 pages).
  - d. Respondent's Exhibit A, Chronological Case Summary of case number 36C01-1306-000023 (12 pages).
  - e. Respondent's Exhibit B, Affidavit to Establish Probable Cause in case number 36C01-1306-000023 (Click or tap here to enter text. pages).

- f. Respondent's Exhibit C, Memo showing Petitioner's petition for Post-Conviction Relief as Denied in case number 36D02-2308-PC-000005 (1 pages).
- g. Respondent's Exhibit D, Findings of Fact and Conclusions of Law Denying Post Conviction Relief in case number 36D02-2308-PC-000005 (Click or tap here to enter text. pages).

10. The following witnesses testified at the evidentiary hearing:

- a. Kraig Kinney, State EMS Director (hereinafter Director Kinney).
- b. Chris Mitchell (hereinafter Appellant).

### **Findings of Fact**

1. On or about June 14, 2013, Petitioner was charged with Sexual Misconduct with a Minor, a Class B Felony in case number 36C01-1306-FB-0000023. (Exhibit A)
2. On or about July 7, 2015, Petitioner was convicted of the lesser-included offense of Sexual Misconduct with a Minor, a Class C Felony, and sentenced to an eight year executed sentence in the Department of Corrections (DOC). Petitioner was required to register on the sex offender registry. (Exhibit A)
3. Petitioner was released from DOC in 2021 and registered for the sex offender registry. (Testimony of Petitioner)
4. In October 2022, Petitioner applied for an EMR and EMT certification. Petitioner's EMR certification was issued on December 22, 2022, and expires on December 31, 2024. Petitioner's EMT certification was issued on February 3, 2023, and expires on March 31, 2025.
5. In August 2023, DHS received a complaint regarding Petitioner's certifications because Petitioner is a registered sex offender. The complainant thought it was unusual that DHS would issue EMR and EMT certifications to a registered sex offender. (Testimony of Director Kinney)
6. Upon receiving the complaint, DHS reviewed Petitioner's certifications and realized it had made an error in granting Petitioner's certification. Typically, when an applicant has a felony, DHS reviews the application more carefully and will not grant a certification unless there has been a period of rehabilitation that begins after the person has been released from incarceration or probation. When DHS originally reviewed Petitioner's application, it only noted that Petitioner had an old conviction, but did not carefully examine that Petitioner

had only been released from the Department of Corrections approximately one year prior to his application and that Petitioner was on the sex offender registry. (Testimony of Director Kinney)

7. On or about August 15, 2023, Petitioner filed a Petition for Post-Conviction Relief. (Exhibit D)
8. DHS intended to correct its error, by revoking Petitioner's certifications. DHS, however, did not immediately act on revoking Petitioner's certifications because Petitioner had advised Director Kinney that he was not working as an EMT or EMR, and Petitioner had filed a Petition for Post-Conviction Relief on or about August 15, 2023. DHS wanted to see the results of the Petition before it revoked Petitioner's certifications. DHS later discovered that Petitioner was working as an EMT and EMR and therefore revoked Petitioner's certifications on October 26, 2023. (Testimony of Director Kinney)
9. EMTs and EMRs are likely to encounter children while performing services for the public. There is no means for DHS to issue a certification that excludes a person from providing EMT and EMR services to children. (Testimony of Director Kinney)

### **Conclusions of Law**

1. The Emergency Medical Commission is responsible for certifying and licensing personnel who provide emergency medical services. Ind. Code § 16-31-2-7.
2. DHS may issue an order to revoke a person's certifications to provide emergency medical services. Ind. Code § 16-31-3-14.
3. A person may request an appeal of DHS's decision to revoke a certificate. Ind. Code § 16-31-3-17. The appeal is subject to the Administrative Orders and Procedures Act (AOPA), Ind. Code § 4-21.5-3.
4. When a request for an appeal is filed, the Office of Administrative Law Proceedings (OALP) has jurisdiction to appoint an ALJ. Ind. Code §§ 4-15-10.5-12 and 13.
1. Proceedings held before an Administrative Law Judge (ALJ) are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. Ind. Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its role as factfinder, the ALJ must independently weigh the evidence in the record and base findings and conclusions only upon that record. *Id.*
5. At a minimum, the ALJ's findings "...must be based upon the kind of evidence that is substantial and reliable." Ind. Code § 4-21.5-3-27(d). "[S]ubstantial evidence is more than

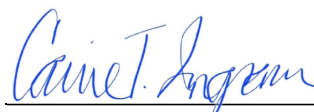
speculation and conjecture yet less than a preponderance of evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *State v. Mills*, 76 N.E.3d 861, 870 (Ind. Ct. App. 2017) (internal citation omitted).

6. DHS, as the party requesting Petitioner’s certifications be revoked, has the burden of proof and the burden of persuasion. Ind. Code § 4-21.5-3-14.
7. A person’s certificate or license may be revoked for a period of seven years if that individual has been “convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder or license holder should be entrusted to provide emergency medical services.” Ind. Code § 16-31-3-14.
8. Petitioner was convicted of sexual misconduct with a minor and is on the sex offender registry. A purpose of the sex offender registry is to protect the public from repeat sexual crime offenders. *Gonzalez v. State*, 980 N.E.2d 312, 319 (Ind. 2013). Petitioner’s conviction of Sexual Misconduct with a Minor, as a Class C Felony, and his placement on the sex offender registry has a direct bearing on whether he should be entrusted to provide emergency medical services because he will likely encounter children while performing those services. DHS has no means for DHS to issue a certification that excludes a person from providing EMT and EMR services to children.
9. Because Petitioner’s conviction has a direct bearing on whether he should be entrusted to provide emergency services, DHS may revoke his EMT and EMR Certifications for a period of seven years.

### Decision and Order

The decision of DHS to revoke Petitioner’s EMT and EMR Certifications is affirmed.

So ordered on: May 1, 2024.



Administrative Law Judge  
Carrie T. Ingram

### Appeal Rights

In accordance with Ind. Code § 4-15-10.5-12(b), the OALP’s order disposing of this matter is not final. If you wish to raise and preserve an objection to this order, you must file an objection, in writing, within fifteen (15) days after service of this order. If served only by mail, however, three

(3) days will be added to this period to object. See Ind. Code § 4-21.5-3-2 for how to compute the period to object.

Your objection must identify the basis of the objection with reasonable particularity and be served on all parties and filed with the ultimate authority:

1. By email at [emscertifications@dhs.in.gov](mailto:emscertifications@dhs.in.gov); or
2. By mail or personal service to:  
Emergency Medical Services Commission]  
302 West Washington Street, Room E-208  
Indianapolis, IN 46204

If a timely objection is filed or a notice of intent to review the order is served by the ultimate authority in accordance with Ind. Code § 4-21.5-3-29, the ultimate authority will review the matter and either (1) issue a final order or (2) remand this matter back to the Office of Administrative Law Proceedings for additional proceedings. In the absence of an objection or notice of intent to review, the ultimate authority shall affirm the order in accordance with Ind. Code § 4-21.5-3-29(c).

**Distribution:**

Petitioner, Chris Mitchell, sent via US mail at 95 Eastside Lane, Bedford, IN 47421  
Respondent, Department of Homeland Security, sent via e-mail at [hegan@dhs.in.gov](mailto:hegan@dhs.in.gov)  
Ultimate Authority, Emergency Medical Services Commission, sent via e-mail at [emscertifications@dhs.in.gov](mailto:emscertifications@dhs.in.gov)