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BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Emergency Medical Technician- Paramedic License Held by:) Enforcement Matter No.: 13-0006
) OAH No.: 2014010300
)
6 **JUSTIN B. BECKMAN**) **DECISION AND ORDER**
License No. P24555)
Respondent.)
_____)

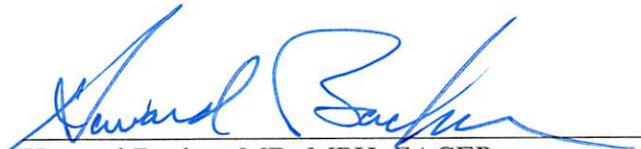
The attached Proposed Decision and order dated August 4, 2014, is hereby adopted by the Emergency Medical Services Authority as its Decision in this matter.

This decision shall become effective September 1, 2014.

It is so ordered.

DATED:

August 14, 2014



Howard Backer, MD, MPH, FACEP
Director
Emergency Medical Services Authority

**BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA**

In the Matter of the Emergency Medical
Technician – Paramedic License Held by:

JUSTIN B. BECKMAN,
License No. P24555,

Respondent.

Case No. 13-0006

OAH No. 2014010300

PROPOSED DECISION

Administrative Law Judge Abraham M. Levy, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on July 7, 2014.

Michael Jacobs, Senior Staff Counsel, represented complainant Sean Task, Chief, EMS Personnel Division, Emergency Medical Services Authority (EMSA).

Justin B. Beckman (respondent) appeared on his own behalf and was present during the hearing.

Oral and documentary evidence was received and the matter submitted for decision on July 7, 2014.

FACTUAL FINDINGS

1. On October 31, 2013, Sean Task (complainant) issued the Accusation and Petition to Terminate Probation in the above- captioned matter. On December 3, 2013, respondent timely submitted his Notice of Defense.

2. On February 5, 2007, EMSA issued Emergency Medical Technician-Paramedic (EMT-P) license number P24555 to respondent. His license is valid through February 28, 2015.

3. On March 6, 2012, EMSA adopted the Decision and Order of Administrative Law Judge Carla Nasoff. EMSA's Decision and Order revoked respondent's EMT-P license, stayed the revocation, and placed the license on probation for five years effective April 6, 2012. The EMSA found that respondent reported on December 10, 2011, for his 7:00 a.m.

shift as a firefighter paramedic with San Diego Fire and Paramedic under the influence of alcohol; he had a blood alcohol content of .076. Respondent had been drinking the night before his shift and stopped drinking at 11:00 p.m. Under the terms of his probation, respondent was required to abstain from the use of alcoholic beverages (Probation Condition 10); comply with the terms of his probation (Probation Condition 1); and obey all laws governing the practice of medical care as a paramedic (Probation Condition 7). If respondent violated any term of his probation, a disciplinary action to terminate his probation and possibly revoke his license could be initiated.

4. On December 31, 2012, respondent was arrested for being drunk in public.

5. Complainant established the circumstances of this incident through the testimony and reports of San Diego Police Officers Patrick Hall and Joseph Suibielski. Officers Hall and Suibielski have 12 and 10 years of experience respectively as San Diego police officers. Both have received extensive training in the detection of alcohol and the use of alcohol detection equipment.

6. On December 31, 2012, respondent and his girlfriend were in the Ocean Beach area of San Diego on Newport Street, a street with a number of bars, restaurants and businesses. Officers Hall and Suibielski noticed respondent and his girlfriend because they were in the middle of the street gesturing for the officers to stop. When the officers stopped, respondent asked them for a ride. Officer Suibielski told them that they are not a taxi service and instructed respondent to get out of the street and go to the curb. Respondent was reluctant, but his girlfriend persuaded him to go to the curb.

About fifteen minutes later, the officers again saw respondent and his girlfriend in the middle of the street. The officers determined that respondent and his girlfriend were a traffic hazard. Respondent again told the officers he needed a ride. At this point, the officers determined that respondent was unable to take care of himself because he was visibly intoxicated. Officer Suibielski detected a strong odor of alcohol emitting from respondent. He also observed that respondent had dilated pupils; an unsteady gait; slurred speech; red, bloodshot eyes; and that he interfered with traffic. A breathalyzer taken of respondent showed respondent's blood alcohol level at .173.

Respondent and his girlfriend were arrested pursuant to Penal Code section 647, subdivision (f), for being drunk in public. The officers took them to a detox facility where they would be safe and where they could sleep. During the ride, respondent and his girlfriend refused to follow the officers' directions and were uncooperative. They kissed in the car despite the officers' repeated directions to them to stop. At the detox facility, respondent and his girlfriend refused to follow the directions of staff and, as a result, the officers transported them to jail. No evidence was presented to indicate that respondent was charged with being drunk in public.

7. Special Investigator Delaya Crawford testified. Ms. Crawford was assigned to investigate respondent's December 31, 2012 arrest. As part of her investigation, Ms.

Crawford gathered materials and reviewed documents relevant to respondent's probation and his public intoxication arrest. EMSA's records indicate that respondent never disclosed his public intoxication arrest to the EMSA despite his obligation to do so under Probation Condition 3.

8. Under Probation Condition 3, respondent was required to sign and submit Quarterly Reports under penalty of perjury to document his compliance with all the terms of his probation. In a Quarterly Report for the October 1 to December 31, 2012, reporting period, which respondent dated December 27, 2012, respondent stated under penalty of perjury that he was not arrested for any criminal offense between October 1 and December 31, 2012. Respondent submitted this completed form to EMSA on January 16, 2013.

Respondent did not merely fail to disclose his December 31 arrest; he tried to deceive EMSA regarding the arrest. Respondent dated his Quarterly Report before his December 31, 2012, arrest; he then submitted the Quarterly Report for the October through December 2012 reporting period on January 16, 2013, without referencing the December 31, 2012, arrest.

9. On January 4, 2013, EMSA received respondent's EMS-P license renewal application. In this renewal application, dated December 23, 2012, respondent marked "No" to the following question:

Have you ever had a healthcare certification, accreditation, or license denied, suspended, revoked, or placed on probation, or are you under investigation at this time?

Respondent was not truthful when he stated, under penalty of perjury, that his EMT-P license was not placed on probation. His EMT-P license was placed on probation on March 6, 2012 and was to remain on probation until 2017.

Respondent's Evidence

10. Matthew David Millard holds a Ph.D. in chemistry and is respondent's Alcoholics Anonymous (AA) sponsor. Dr. Millard has been involved in AA for 14 years and has known respondent for the last six months. When he first met respondent, respondent was not sure of AA. Now respondent is fully committed to the program. Dr. Millard has seen positive changes in respondent, and respondent is currently at the ninth step of the AA program.

11. Respondent testified that being a firefighter has been his dream, and he can't imagine not working as a paramedic. He acknowledged that his drinking was out of control and that, until his arrest on December 31, 2012, he didn't take his need for recovery seriously. Now, with the help of Dr. Millard, AA has changed his life.

Before his arrest, respondent believed that he could drink and not take his problem into the workplace. Respondent offered meaningful and sincere insight from his family

history that allowed him to understand the extent of his problem drinking and that, previously, prevented him from understanding the inability to recognize it. He now understands the extent of his problem drinking and is committed to living a life without alcohol.

Respondent admitted that he never informed EMSA that he was arrested. He thought that the fact that his employer informed EMSA was adequate. He also admitted that he was dishonest when, in his probation quarterly report, he stated that he was not arrested.

Respondent did not agree that he was uncooperative with the police. He believes that the police were out of line when they arrested him and his girlfriend. He said his girlfriend was only trying to get a cab.

12. Respondent provided a reference letter from Jeffrey Ring. Mr. Ring is a Fire Captain/Bomb Technician with the San Diego Fire and Rescue Department and is respondent's supervisor. Mr. Ring trusts respondent notwithstanding his past problems, and he does not believe that respondent is a liability to his crew or the public.

LEGAL CONCLUSIONS

1. EMSA is the state agency "responsible for the coordination and integration of all state activities concerning emergency medical services." (Health & Saf. Code, § 1797.1.) Emergency medical services (EMS) are "the services utilized in responding to a medical emergency." (Health & Saf. Code, § 1797.72.)

2. EMSA has jurisdiction to proceed in this matter pursuant to Health and Safety Code section 1798.200. Administrative proceedings to revoke, suspend, or impose discipline on a professional license are nonpenal; they are not intended to punish the licensee, but rather to protect the public. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 768.)

3. The standard of proof in an administrative proceeding seeking to suspend or revoke a certificate that requires substantial education, training, and testing is "clear and convincing evidence" to a reasonable certainty. (*Ettinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Applicable Law

4. Health and Safety Code section 1798.200 provides in relevant part:

(b) The authority may . . . suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P

licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c) . . .

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the . . . suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate holder or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

[¶]...[¶]

(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.

[¶]...[¶]

(9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

5. “For the purposes of denial, placement on probation, suspension, or revocation, of a license, pursuant to Section 1798.200 of the Health and Safety Code, a crime or act shall be substantially related to the qualifications, functions and/or duties of a person holding a paramedic license under Division 2.5 of the Health and Safety Code. A crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a paramedic if to a substantial degree it evidences present or potential unfitness of a paramedic to perform the functions authorized by her/his license in a manner consistent with the public health and safety.” (Cal. Code Regs., tit. 22, § 100175, subd. (a).)

EMSA’s Disciplinary Guidelines

6. EMSA has developed “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” dated July 26, 2008 (Guidelines), which are incorporated by reference in EMSA’s regulations at California Code of Regulations, title 22, section 100173.

Section III of the Guidelines describes categories of violations and the recommended level of discipline for each category. For fraud in the procurement of any certificate or license the maximum penalty is revocation or denial; the recommended discipline is revocation or denial; the minimum discipline is revocation stayed with a 60 day suspension (Guidelines, p. 5.) For a misuse or excessive use of alcohol, the maximum discipline is

revocation and the minimum discipline is revocation stayed, with three years' probation with standard terms and conditions. (Guidelines, p. 7.)

Section II of the Guidelines lists factors to be considered when determining the appropriate discipline to be imposed in a given case. The factors include: the nature and severity of the act, offense, or crime under consideration; the actual or potential harm to the public or any patient; prior disciplinary record; prior warnings on record or prior remediation; the number and/or variety of current violations; aggravating evidence; mitigating evidence; any discipline imposed by the paramedic's employer for the same occurrence of that conduct; rehabilitation evidence; time that has elapsed since the act or offense occurred (Guidelines, pp. 1-2.)

Cause Exists to Revoke Respondent's EMT-P License

7. Cause exists to discipline respondent's EMT-P license pursuant to Health and Safety Code section 1798.200, subdivision (c)(1). Respondent attempted to procure the renewal of his EMT-P license by fraud. In his January 2013 renewal application, respondent misrepresented that he has never had his EMT-P license disciplined when, in fact, his license was placed on probation on April 6, 2012.

8. Cause exists to discipline respondent's EMT-P license pursuant to Health and Safety Code section 1798.200, subdivision (c)(9). On December 31, 2012, respondent used alcohol in such a manner as to be a danger to himself and others.

Cause Exists to Revoke Probation and Impose Revocation

9. Cause exists to revoke respondent's EMT-P probation and impose the stayed revocation because he violated Probation Conditions 1, 7, and 9 of EMSA's March 6, 2012 Decision and Order. Respondent failed to abstain from the use of alcohol and failed to obey all laws governing the practice of an EMT-P. On December 31, 2012, respondent misused alcohol to such a degree that he was unable to exercise care for his own personal safety and for the safety of others in violation of Health and Safety Code section 1798.200, subdivision (c)(9). Respondent engaged in this conduct when his EMT-P license was on probation. Respondent also failed to obey the law when he violated Health and Safety Code section 1798.200, subdivision (c)(1), by seeking to renew his EMT-P license by misrepresenting that his EMT-P license was not on probation.

Evaluation Regarding the Degree of Discipline

Consistent with EMSA's disciplinary guidelines, in consideration of the circumstances of respondent's conduct and in order to ensure public protection, respondent's license must be revoked. Respondent abused alcohol to such an extent that police were required to arrest him for his safety and for the safety of others. This incident occurred less than a year into his five year probation period and, as a result, he violated the term of his probation that required him to abstain from alcohol use. To compound his error, he

misrepresented in his license renewal application that his license was not on probation and then attempted to deceive EMSA when he submitted his Quarterly Report on January 16, 2013, without informing EMSA that he had been arrested for public intoxication. His lack of honesty with EMSA calls into question his ability to exercise sound judgment in the performance of his duties as a paramedic. “[T]here is more to being a licensed professional than mere knowledge and ability. Honesty and integrity are deeply and daily involved in various aspects of the practice.” (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772-3, citing *Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.)

Respondent is in the early stages of alcohol abuse recovery and he should be commended for his efforts to achieve sobriety. However, his present commitment to achieve sobriety does not establish that he is rehabilitated.

ORDER

Justin B. Beckman’s EMT-P License No. P24555 is hereby revoked.

Dated: August 4, 2014.



ABRAHAM M. LEVY
Administrative Law Judge
Office of Administrative Hearings