

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

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

CHRISTOPHER BEUCHER  
License No. P03045,

Respondent.

Case No.: 11-0242

OAH No.: 2011110393

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted  
by the Emergency Medical Services Authority as its Decision in the above-entitled matter.

This Decision shall become effective March 1, 2012.

IT IS SO ORDERED Jan 31, 2012.

EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

By Howard Backus

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**PROPOSED DECISION**

Administrative Law Judge Michael A. Scarlett, Office of Administrative Hearings, State of California, heard this matter in Bakersfield, California, on December 2, 2011.

Cynthia L. Curry, Senior Staff Counsel, Emergency Medical Services Authority, represented Complainant.

Michael Parent, Attorney at Law, represented Christopher Beucher (Respondent) who was present at the hearing.

Oral and documentary evidence was received and the matter submitted for decision on December 2, 2011.

The Administrative Law Judge hereby makes his factual findings, legal conclusions, and order.

**FACTUAL FINDINGS**

1. On September 29, 2011, Sean Trask (Complainant), Chief of the EMS Personnel Division of the Emergency Medical Services Authority (the Authority), State of California, issued the Accusation in the above-captioned matter in his official capacity. On November 2, 2011, Respondent submitted his Notice of Defense and this hearing ensued. All jurisdictional requirements have been met.

2. On August 24, 1992, the Authority issued Emergency Medical Technician-Paramedic (EMT-P), license number P03045 to Respondent. His license is valid through August 31, 2012. On September 16, 2011, the license was temporarily suspended by the Kern County Local Emergency Medical Services Agency. The Temporary Suspension Order was confirmed by the Authority on September 22, 2011.

3. On March 18, 2011, in the Superior Court of California, County of Kern, in Case No. BM778783A, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of 0.08% or above), a misdemeanor. Imposition of sentence was suspended and Respondent was placed on probation for a period of three years under the following terms and conditions: Respondent was prohibited from moving out of the state of California and from leaving the state for more than 30 days without permission of the probation department; pay a fine in the amount of \$1,869; serve two days in jail, with credit for one day time served; not operate a vehicle without a driver's license; not to indulge in the use of intoxicants or visit any places where they are sold as a primary income or business; submit to a blood, breathe, or urine test at the request of any peace or probation officer; not to drink and drive with any measurable amount of alcohol or drugs in his blood; participate in a licensed alcohol (DUI) education program for three months or longer; and participate in the Victim Impact Panel.

4. The facts and circumstances surrounding Respondent's conviction are that on October 17, 2010, Respondent was stopped by two California Highway Patrol officers after he was observed driving recklessly. One of the officers while questioning Respondent noticed that his eyes were red and watery, his speech was slurred, and a strong odor of alcohol was emitting from the vehicle. Respondent later failed a field sobriety test and his Preliminary Alcohol Screening conducted by the arresting officers registered a blood alcohol content of .168/.184 percent. Respondent was arrested for driving under the influence of alcohol. He admitted to officers that he had two beers "earlier."

5. Respondent's misdemeanor complaint for driving under the influence of alcohol also alleged a prior alcohol related offense and conviction. On June 4, 2001, in the Superior Court of California, County of Kings, in Case No. 01CM09, Respondent was convicted of a violation of Vehicle Code section 23103 (wet reckless), for an offense that occurred on March 27, 2001.

6. On July 22, 2011, in the Superior Court of California, County of Kern, in Case No. 137138A, Respondent was convicted on his plea of nolo contendere to a violation of Penal Code section 273.5, subdivision (a) (willful and unlawful infliction of corporal injury to upon a spouse resulting a traumatic condition), a felony. Imposition of sentence was suspended and Respondent was placed on formal probation for a period of three years under the following pertinent terms and conditions: serve 120 days in county jail; complete 320 hours of community service; abstain from the use of intoxicating beverages or being in a place of business where the primary item sold is intoxicating liquor for consumption on the premises; not to possess alcohol during his probation period; submit to a blood, breathe or urine test at the request of any peace officer or probation officer; seek drug counseling and continue until probation is successfully completed; seek counseling in a batterer's treatment program and continue until terminated by a probation officer; and pay a domestic violence fine in the amount of \$400, and fees and assessments in the total amount of \$70.

7. The facts and circumstances surrounding Respondent's March 18, 2011 conviction are that on May 15, 2011, Respondent was involved in an argument with his wife, Summer Beucher, at the family home. The argument escalated into a physical confrontation that resulted in Respondent's wife sustaining injuries to the left side of her forehead (large red bump approximately three inches in diameter) and a laceration on the right side of her head near the right eyebrow that required several stitches. Ms. Beucher's two daughters, 10 and nine years old, were upstairs in the home, but did not witness the incident. As a result of the injuries sustained, Ms. Beucher went to Mercer Southwest Hospital for treatment. After being examined at the hospital, the Bakersfield Police Department was notified regarding a domestic violence report. Officers went to Respondent's home to arrest him but were unable to locate him. On May 17, 2010, officers again went to Respondent's home to arrest him, and Ms. Beucher answered the door and stated he was not at home. A subsequent search of the home discovered that Respondent was hiding in the attic attempting to avoid apprehension, at which time he was arrested and taken into custody.

8. At the hospital, Ms. Beucher told officers that she and Respondent had gotten into an argument because Respondent had tried to call her on her cellular phone and she did not answer. She attempted to explain to Respondent that she did not answer or call him back because she had left her phone at home. Respondent was drunk and became angry and physically beat her by punching and kicking her in the head. She stated that Respondent grabbed her around the throat, strangling her, and then slammed her head into the dining room table. According to Ms. Beucher's statement, Respondent punched her in the head and face with a closed fist and kicked her in the head when she fell to the ground.

9. At hearing, Ms. Beucher's testimony was markedly different from the statement she gave to police officers and medical staff at the hospital on the day of the incident. Ms. Beucher testified that the argument was essentially her fault because she confronted Respondent about his "Facebook" account and a message from or to a female associate of Respondent. Ms. Beucher stated she became angry because Respondent "blew her off" when she asked him about the Facebook account. She testified that she and Respondent had been drinking alcohol and they began yelling and screaming at each other all day. The argument came to a head when she "lunged" at Respondent and "grabbed him around the neck." At that time, according to her testimony, they both lost their balance and she fell and hit her head on the dining room table.

10. Respondent's testimony was essentially the same regarding the argument and how Ms. Beucher sustained her injuries. He admitted he and his wife had been drinking and that the argument escalated into a physical confrontation. He stated his wife became angry about the Facebook messages and his refusal to seriously discuss the matter with her. After arguing all day, according to Respondent, his wife ultimately lunged at him, he lost his balance, and they fell onto the dining room table, which caused the cut over her eye. He also testified that he physically held his wife on the ground to prevent her from getting up and continuing the fight. He stated some of her injuries may have been sustained due to his actions in holding her down.

11. Neither Respondent's or his wife's testimony is credible given Ms. Beucher's contemporaneous statements made to police officers and medical personnel on the day of the incident. She told police that Respondent had been drinking alcohol all day and physically attacked and beat her because she did not respond to his telephone calls. Ms. Beucher never told police that a Facebook message was the genesis of the argument or that she had initiated the attack against Respondent. Ms. Beucher testified that she was very angry when she gave her statement to police and that she was still under the influence of alcohol, hence she lied about the incident to police. However, Ms. Beucher did not call police to report the incident, nor did she request an Emergency Protective order when offered by police on the day of the incident. Had Ms. Beucher's intent been to truly fabricate facts about the incident to harm Respondent, taking these additional steps would have been expected. Consequently, Ms. Beucher's statements to police on the date of the domestic violence incident is the most reliable indicia of the circumstances that surrounded the May 15, 2011 spousal abuse offense committed by Respondent.

12. Respondent has been married to his wife for two years, and has two children. He stated that he and his wife have had marital problems and that they are currently seeking marriage counseling. His wife testified that she never intended to file criminal charges against Respondent and that she accepted responsibility for the spousal abuse offense. Respondent has been unemployed since his license was suspended in September 2011.

13. Respondent is currently on probation for his felony conviction for spousal abuse. He has been enrolled in an 18-month "Steps Program" for alcohol treatment since February 2011. He is also enrolled in an 18-month domestic violence class that he attends for two hours every Sunday morning. Respondent is still completing 320 hours of community service by working five to six hours, once per week. He has not paid all of the fines ordered by the court, but has "almost" completed payment.

14. Respondent has been a paramedic since 1991 and has no prior disciplinary action against his license by the Authority.

## LEGAL CONCLUSIONS

### *Jurisdiction*

1. The Authority has jurisdiction to proceed in this matter pursuant to Health and Safety Code section 1798.200,<sup>1</sup> based on Factual Findings 1 and 2. Administrative proceedings to revoke, suspend, or impose discipline on a professional license are nonpenal;

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<sup>1</sup> All statutory references are to the Health and Safety Code unless otherwise specifically noted.

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.)

2. 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*

3. 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 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 or licenseholder under this division:

[¶]...[¶]

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

[¶]...[¶]

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

4. “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, § 100174, subd. (a).)

5. “The authority shall deny/revoke a paramedic license if .... [he] [i]s on parole or probation for any felony.” (Cal. Code Regs., tit. 22, § 100173, subd. (a)(4).)

#### *Determination of Issues*

6. Cause exists to revoke Respondent’s EMT-P license pursuant to Health and Safety Code section 1798.200, subdivisions (c)(6) and (c)(9) in that he has been convicted of a crime (driving with a blood alcohol content of .08% or greater) that is substantially related to the qualifications, functions, and duties of a paramedic, and there is sufficient evidence to show excessive or the misuse of alcoholic beverages, by reason of Factual Findings 3 to through 5.

7. Cause exists to revoke Respondent’s EMT-P license pursuant to Health and Safety Code section 1798.200, subdivisions (c)(6), and California Code of Regulations, section 100173, subdivision (a)(4), in that Respondent has been convicted of a violence related felony (infliction of corporal injury on a spouse), that is substantially related to the qualifications, functions, and duties of a paramedic, by reason of Factual Findings 6 through 11.

#### *Discussion*

8. On October 17, 2010, Respondent was arrested for driving under the influence of alcohol, and subsequently was convicted of driving with a blood alcohol content of .08 percent or greater on March 18, 2011. A crime or act is substantially related to the licensed activity of a paramedic if, to a substantial degree the crime or act evidences a present or potential unfitness of a paramedic to perform the duties or functions authorized by his or her license in a manner that is consistent with the public health and safety. (Cal. Code Regs., tit. 22, § 100174, subd. (a).) California courts have determined that a conviction involving the consumption of alcohol is substantially related to the licensed activity of a health care provider. In *Griffiths v. Superior Court* (2002) 96 Cal.App.4th, 757, 770, the court stated:

Convictions involving alcohol consumption reflect a lack of sound professional and personal judgment that is relevant to a physician's fitness and competence to practice medicine. Alcohol consumption quickly affects normal driving ability, and driving under the influence of alcohol threatens personal safety and places the safety of the public in jeopardy. It further shows a disregard of medical knowledge concerning the effects of alcohol on vision, reaction time, motor skills, judgment, coordination and memory, and the ability to judge speed, dimensions, and distance.

“One who wilfully consumes alcoholic beverages to the point of intoxication, knowing that he thereafter must operate a motor vehicle, thereby combining sharply impaired physical and mental faculties with a vehicle capable of great force and speed, reasonably may be held to exhibit a conscious disregard of the safety of others.” (*People v. Watson* (1981) 30 Cal.3d, 290, 300-301.)

Respondent’s duties as an EMT-P involve providing health care to persons in need of basic and emergency medical care on a daily basis, and require him to drive emergency vehicles as an integral part of his duties. The consumption of alcohol by a paramedic impairs his or her ability to operate a vehicle and provide medical care in a safe and effective manner. The evidence further established Respondent engaged in excessive use and/or misuse of alcohol. In 2001, he was convicted for a “wet reckless” offense involving driving under the influence of alcohol, he had his DUI conviction in March 2011, and just two months later, in May 2011, committed the spousal abuse offense, while admitting the he was drinking alcohol when the offense occurred. Of particular importance is his use of alcohol just two months following the DUI conviction in violation of the terms of his court ordered probation. When considered in its entirety, Respondent’s history of alcohol abuse, evidences a disturbing pattern of misconduct that constitutes a threat to the health and safety of the public if he is allowed to retain his EMT-P license.

9. Respondent’s felony conviction for spousal abuse on July 22, 2011, further evidences his unfitness to perform the duties of a paramedic in a manner consistent with the public health and safety. As stated above, Respondent was on probation following the March 2011 DUI conviction when the spousal abuse occurred. He was prohibited as a term and condition of probation from violating the law or indulging in the use of intoxicants such as alcohol. Respondent attempted to avoid apprehension by hiding in the attic of his home when law enforcement officers appeared at his home to arrest him. Respondent’s conduct evidenced an utter disregard for the court order placing him on criminal probation. The subsequent violent felony offense for spousal abuse reflects a disregard of the law, a lack of sound professional and personal judgment, and thus, is substantially related to his fitness to perform his duties as a paramedic.

Moreover, because Respondent remains on probation for his felony conviction for spousal abuse until July 2014, the Authority is required to revoke Respondent’s paramedic license pursuant to California Code of Regulations, title 22, section 100173, subdivision (a)(4), which requires revocation when a licensee is on probation for any felony.

#### *Rehabilitation or Mitigation*

10. Respondent provided insufficient evidence of rehabilitation and/or mitigation to warrant the consideration of a probationary license in this case, by reason of Factual Findings 3 through 14. First, there has not been enough time since Respondent’s two convictions in 2011 to determine whether he has been sufficiently rehabilitated from the unlawful conduct and his excessive of alcohol. Respondent is on probation until July 2014, he has only been enrolled in his alcohol treatment programs since February 2011, less than




one year. Respondent has also failed to accept full responsibility for his conduct as he unconvincingly denied his role and responsibility in committing the spousal abuse offense when testifying at hearing. Respondent's propensity to violate the terms and conditions of court-ordered probation suggests that he is not capable of complying with any probationary order for licensure that would be granted by the Authority. Because of the serious nature of his duties as an EMT-P, allowing Respondent to retain his license would constitute a significant risk to the public health and safety.

11. On this record, the Authority has established by clear and convincing evidence that Respondent's EMT-P license should be revoked.

### ORDER

Respondent Christopher Beucher's EMT-P License No. P03045, is hereby revoked pursuant to Legal Conclusions 6 and 7, jointly and severally.

January 26, 2012

  
MICHAEL A. SCARLETT  
Administrative Law Judge  
Office of Administrative Hearings