

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Terminate Probation Against:

LANCE CANDELARIA  
License No. P24487

Respondent.

Enforcement Matter No. : 10-0134

OAH No.: 2010100251

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 April 8, 2011.

IT IS SO ORDERED March 24, 2011.

By

Daniel R. Smiley

:TR

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**PROPOSED DECISION**

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings in Los Angeles, California on February 10, 2011.

Cynthia L. Curry, Senior Staff Counsel, represented Complainant.

Respondent Lance Candelaria appeared and was represented by Joseph P. Hanson, Attorney at Law.

Evidence was received and the matter was submitted for decision.

**FACTUAL FINDINGS**

1. Sean Trask, Chief of the Emergency Medical Services Authority, Personnel Division, State of California (Authority), made and filed the Accusation and Petition to Revoke Probation in his official capacity.
2. Respondent is currently licensed as an Emergency Medical Technician-Paramedic (EMT – P), License No. P24487. Said license was valid until January 31, 2011.
3. On June 15, 2009, Respondent signed a Stipulated Settlement Agreement and Disciplinary Order to resolve an Accusation in Case No. 08-0151. The Authority adopted the Stipulated Settlement and Disciplinary Order as its decision, which became effective July 15, 2009. The disciplinary order was based on Respondent's conviction on January 26, 2009, for violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol. Pursuant to the Disciplinary Order, Respondent's EMT-P license was revoked. However, said revocation was stayed and Respondent was placed on probation for three (3) years on certain terms and conditions, including the condition ordering Respondent to obey all laws.

4. Respondent violated the Stipulated Disciplinary Order in that on May 8, 2010, drove a vehicle while under the influence of alcohol. At the time of his arrest, Respondent had a blood alcohol concentration of .20%, which is more than twice the legal limit. Respondent was thereafter charged with violating Vehicle Code section 23152, subdivision (a), driving under the influence, and subdivision (b), driving with a blood alcohol concentration of .08% or more. The criminal complaint also alleged that Respondent suffered a prior conviction for violating Vehicle Code section 23152, and an enhancement for driving with a blood alcohol concentration of .15% or more.

5. On June 22, 2010, in the Superior Court of California, County of San Diego (Case No. CN277484), Respondent entered a plea of guilty and was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration of .08 percent or more. Respondent also admitted to alleged enhancements under Vehicle Code sections 23578 (driving with a blood alcohol concentration of .15% or more) and 23540 (prior DUI conviction within 10 years). The offenses are substantially related to the duties, functions and qualifications of a licensee.

6. Imposition of sentence was suspended and Respondent was placed on probation for a period of five years on certain terms and conditions, including, inter alia, that he serve 96 hours in the county jail, complete a multiple conviction alcohol program, and pay fines and fees totaling \$2,418.

7. Respondent testified that his driver's license is currently under suspension. Respondent works as a paramedic at the federal prison in Lompoc, California. He is not required to drive to perform his job duties because he works on-site at the prison. He rides in a carpool or takes public transportation to work. Respondent submitted two performance evaluations, which show that Respondent meets or exceeds job-related expectations.

8. Respondent testified that he is sorry for his misconduct and that he made two very poor decisions by drinking and driving. He stated that he rarely drinks alcohol, and has a good support system with his father and his girlfriend. In addition, Respondent attends AA meetings once a week.

### **LEGAL CONCLUSIONS**

1. Cause exists to suspend or revoke the licenses and licensing rights of Respondent pursuant Health & Safety Code section 1798.200, subdivision (c)(6), and California Code of Regulations, title 22, section 100174, based on Respondent's conviction and underlying conduct which resulted in said conviction as set forth in Factual Findings 4, 5 and 6.

2. Cause exists to suspend or revoke the licenses and licensing rights of Respondent pursuant Health & Safety Code section 1798.200, subdivision (c)(9), based on Respondent's excessive use and misuse of alcoholic beverages as set forth in Factual Findings 3 through 5.

3. Cause exists to grant the Accusation and Petition to Terminate Probation pursuant Health & Safety Code section 1798.200, subdivisions (c)(6) and (c)(9), based on Factual Findings 1 through 6.

4. Respondent's drinking is a problem as evidenced by his convictions and the blood alcohol concentration results when he was tested. Further, Respondent is still on probation for his 2009 conviction. Respondent presented limited rehabilitation evidence partly because his latest conviction is so recent. On the positive side, Respondent attends AA meetings and has a support system, which includes his father and his girlfriend. However, the Authority's main concern is to protect the public. Respondent's testimony that he rarely drinks alcoholic beverages is troubling because of his history of poor judgment after drinking. Respondent must stop drinking alcoholic beverages if he is to retain his license. But he is still young and should be able to turn his life around with proper direction in the form of a probationary order which includes a term of actual suspension and conditions that are imposed to specifically address his abuse of alcohol. Such an order would serve to teach Respondent an important lesson and to protect the public.

### **ORDER**

The Accusation is sustained and the Petitioner to Terminate Probation is granted. The Emergency Medical Technician – Paramedic License No. P24487, issued to Respondent Lance Candelaria is revoked. However, said revocation is stayed and Respondent is placed on probation for five years under the following terms and conditions:

#### **1. Suspension**

Respondent's Emergency Medical Technician – Paramedic License No. P24487 is suspended for a period of 30 days beginning on the effective date of this decision.

#### **2. Probation Compliance:**

The Respondent shall fully comply with all terms and conditions of the probationary order. The Respondent shall fully cooperate with the EMSA in its monitoring, investigation, and evaluation of the Respondent's compliance with the terms and conditions of his probationary order.

The Respondent shall immediately execute and submit to the EMSA all Release of Information forms that the EMSA may require of the Respondent.

#### **3. Personal Appearances:**

As directed by the EMSA, the Respondent shall appear in person for interviews, meetings, and/or evaluations of the Respondent's compliance with the terms and conditions of the probationary order. The Respondent shall be responsible for all of his costs associated with this requirement.

**4. Quarterly Report Requirements:**

During the probationary period, the Respondent shall submit quarterly reports covering each calendar quarter which shall certify, under penalty of perjury, and document compliance by the Respondent with all the terms and conditions of his probation. If the Respondent submits his quarterly reports by mail, it shall be sent as Certified Mail.

**5. Employment Notification:**

During the probationary period, the Respondent shall notify the EMSA in writing of any EMS employment. The Respondent shall inform the EMSA in writing of the name and address of any prospective EMS employer prior to accepting employment.

Additionally, the Respondent shall submit proof in writing to the EMSA of disclosure, by the Respondent, to the current and any prospective EMS employer of the reasons for and terms and conditions of the Respondent's probation.

The Respondent authorizes any EMS employer to submit performance evaluations and other reports which the EMSA may request that relate to the qualifications, functions, and duties of prehospital personnel. Any and all notifications to the EMSA shall be by certified mail.

**6. Notification of Termination:**

The Respondent shall notify the EMSA within seventy-two (72) hours after termination, for any reason, with his prehospital medical care employer. The Respondent must provide a full, detailed written explanation of the reasons for and circumstances of his termination.

Any and all notifications to the EMSA shall be by certified mail.

**7. Functioning as a Paramedic:**

The period of probation shall not run anytime that the Respondent is not practicing as a paramedic within the jurisdiction of California (excluding the suspension period).

If the Respondent, during his probationary period, leaves the jurisdiction of California to practice as a paramedic, the Respondent must immediately notify the EMSA, in writing, of the date of such departure and the date of return to California, if the Respondent returns.

Any and all notifications to the EMSA shall be by certified mail.

**8. Obey All Related Laws:**

The Respondent shall obey all federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as a paramedic. The Respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to Section 1798.200. To permit monitoring of

compliance with this term, if the Respondent has not submitted fingerprints to the EMSA in the past as a condition of licensure, then the Respondent shall submit his fingerprints by Live Scan or by fingerprint cards and pay the appropriate fees within 45 days of the effective date of this decision.

Within 72 hours of being arrested, cited or criminally charged for any offense, the Respondent shall submit to the EMSA a full and detailed account of the circumstances thereof. The EMSA shall determine the applicability of the offense(s) as to whether the Respondent violated any federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as a paramedic.

Any and all notifications to the EMSA shall be by certified mail.

#### **9. Abstinence from Drug Possession and Use**

Respondent shall abstain for the possession, injection or consumption by any route of all controlled substances, dangerous drugs, or any drugs requiring a prescription unless prescribed under federal or state law as part of a documented medical treatment. Within fourteen days of obtaining such a prescription, Respondent shall insure that the prescribing professional provides the EMSA a written report indentifying the medication, dosage, the date the medication was prescribed, the Respondent's diagnosis, and the date the medication will no longer be required. This report must be provided to the EMSA directly by the prescribing professional.

If Respondent has a lawful prescription when initially placed on probation, this same report must be provided within fourteen days of the commencement of probation.

#### **10. Abstinence from the Use of Alcoholic Beverages:**

The Respondent shall abstain from the use of alcoholic beverages.

#### **11. Biological Fluid Testing:**

The Respondent shall submit to routine and random biological fluid testing or drug/alcohol screening as directed by the EMSA or its designee. Respondent may use a lab pre-approved by the EMSA or may provide to the EMSA the name and location of an independent laboratory or licensed drug/alcohol testing facility for approval by the EMSA. The EMSA shall have sole discretion for lab approval based on criteria regulating professional laboratories and drug/alcohol testing facilities. When the EMSA requests a random test, the Respondent shall provide the required blood/urine sample by the time specified or within 12 hours of the request if no time is specified. When the EMSA requests a random test, the Respondent shall ensure that any positive test results are conveyed telephonically by the lab to the EMSA within 48 hours, and all written positive or negative results are provided directly by the lab to the EMSA within 10 days. The Respondent shall be responsible for all costs associated with the drug/alcohol screening.

At the EMSA's sole discretion, the EMSA may allow the random drug testing to be conducted by the Respondent's employer to meet the requirement of random drug testing as set forth above. The results of the employer's random drug testing shall be made available to the EMSA in the time frames described above.

**12. Drug/Detoxification/Diversion Program:**

Within 30 days of the effective date of this decision, the Respondent shall enroll and participate in an alcohol diversion or counseling program approved by the EMSA. The Respondent shall participate in the program until appropriate medical supervision determines that further treatment and rehabilitation is no longer necessary.

If the Respondent voluntarily withdraws from the alcohol diversion or counseling program or the Respondent is expelled from the program, such withdrawal or expulsion shall constitute a violation of probation by the Respondent. The Respondent shall be responsible for all costs associated with such alcohol diversion or counseling program.

**13. Psychiatric/Medical Evaluation:**

Within 60 days of the effective date of this decision, and on a periodic basis as specified by a psychiatrist certified by the American Board of Psychiatry and Neurology, the Respondent shall submit to a psychiatric evaluation. The psychiatrist must be approved by the EMSA prior to the evaluation. The Respondent shall be responsible for all costs associated with the evaluation.

Within 90 days of the effective date of this decision, and on a periodic basis as specified by a licensed physician, the Respondent shall submit to a medical evaluation. The physician must be approved by the EMSA prior to the evaluation. The Respondent shall be responsible for all costs associated with the evaluation.

The EMSA shall have the sole discretion to determine if the Respondent may continue to practice as a paramedic until such time that the psychiatrist or physician evaluates and determines that the Respondent is mentally and/or physically fit to practice safely as a paramedic.

**14. Completion of Probation:**

The Respondent's license shall be fully restored upon successful completion of probation.

**15. Violation of Probation:**

If during the period of probation the Respondent fails to comply with any term of probation, the EMSA may initiate action to terminate probation and implement actual license suspension/revocation. Upon the initiation of such an action, or the giving of a notice to the Respondent of the intent to initiate such an action, the period of probation shall remain in effect until such time as a decision on the matter has been

adopted by the EMSA. An action to terminate probation and implement actual license suspension/revocation shall be initiated and conducted pursuant to the hearing provisions of the California Administrative Procedure Act.

The issues to be resolved at the hearing shall be limited to whether the Respondent has violated any term of his/her probation sufficient to warrant termination of probation and implementation of actual suspension/revocation. At the hearing, the Respondent and the EMSA shall be bound by the admissions contained in the terms of probation and neither party shall have a right to litigate the validity or invalidity of such admissions.

DATED: March 16, 2011

*Humberto Flores*  
HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings