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BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Emergency Medical  
Technician- Paramedic License of:  
**SALVADOR NARRO**  
License No. P14990  
Respondent.

) Enforcement Matter No.: 15-0055,  
) 16-0017  
) OAH Nos.: 2016051157, 2016080905

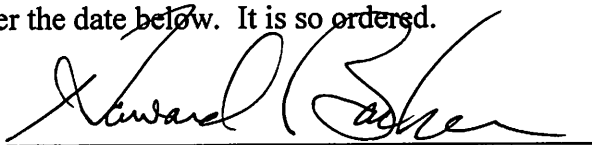
) **DECISION AND ORDER**  
)

The attached Proposed Decision is hereby adopted by the Emergency Medical Services Authority as its Decision in this matter.

This decision shall become effective 30 days after the date below. It is so ordered.

DATED:

*May 4, 2017*

  
Howard Backer MD, MPH  
Director  
Emergency Medical Services Authority

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

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

SALVADOR NARRO,  
License No. P14990,

Respondent.

Case Nos.: 15-0055  
16-0017

OAH Nos.: 2016051157  
2016080905  
(Consolidated)

**PROPOSED DECISION**

This matter came regularly for hearing before Carla L. Garrett, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on March 14, 2017.

Stephen J. Egan, Senior Staff Counsel, represented Complainant Sean Trask, Chief, EMS Personnel Division, California Emergency Medical Services Authority (the Authority). David J. Givot, Attorney at Law, represented Respondent Salvador Narro (Respondent), who was present.

Oral and documentary evidence was presented at the hearing. The record was closed and the matter was submitted for decision on March 14, 2017.

**FACTUAL FINDINGS**

1. Complainant Sean Trask, Chief, EMS Personnel Division, the Authority (Complainant), filed Accusation (No. 15-0055) and Accusation (No. 16-0017) in his official capacity.

2. The Authority issued EMT-P license No. P14990 to Respondent on August 12, 1998, which will expire on August 31, 2018, unless renewed.

*Emergency Medical Call*

3. On December 1, 2014, Respondent, while employed as a firefighter paramedic with the Los Angeles County Fire Department, along with his firefighter paramedic partner,

David Niedzialek (Paramedic Niedzialek), were dispatched to the North Dimas Adventist Home, where a 93-year-old male resident had fallen out of bed. On that day, Paramedic Niedzialek was designated as the “patient man,” tasked with interviewing and examining the patient, and Respondent was designated as the “radio man,” tasked with inputting in a report the patient’s information vocalized by Paramedic Niedzialek and tasked with contacting the hospital designated to receive the patient. Paramedic Niedzialek testified at hearing.

4. When they arrived at the scene, Paramedic Niedzialek observed the patient sitting on the floor with a cut on his head, eyes swollen shut, and dark rings encircling his eyes, also known as “raccoon eyes.” Raccoon eyes are indicative of a skull fracture, among other things, that typically appears eight to twelve hours after impact. Paramedic Niedzialek, who testified at hearing, explained that in his 26 years as a paramedic, it was not uncommon to see swollen eyes and bruising on someone who had suffered a fall, and did not suspect a skull fracture, as it was his understanding that he and Respondent were dispatched to the scene soon after the impact.

5. Paramedic Niedzialek commenced an interview with the patient, asking the patient his name, age, and what was hurting him. The patient was alert, responsive, and, according to his caretakers present at the scene, responding normally. Patient, in response to Paramedic Niedzialek’s questions, denied having any dizziness, back pain, loss of consciousness, or an altered level of consciousness. Paramedic Niedzialek contemporaneously conveyed to Respondent all of the information Paramedic Niedzialek obtained from the patient through his interview, observations, and examination, including the patient’s vital signs. Respondent, in turn, entered the information in the report. Respondent did not have any one-on-one contact with the patient.

6. The Los Angeles County Emergency Medical Services Agency provides treatment protocols that govern Respondent’s employer, Los Angeles County Fire Department. Protocol No. 506, which addresses trauma triage, provides that paramedics “shall make base hospital contact” with the designated trauma center on all patients that meet the Base Contact and Transport Criteria, as set forth in Protocol No. 808, the trauma triage criteria and/or guidelines; as set forth in Protocol No. 506; or when the paramedic has determined that it would be in the patient’s best interest to be transported to a trauma center. (Exhibit 21, Principle No. 3.)

7. Protocol No. 506’s trauma triage criteria provides that individuals with a blunt head injury associated with a suspected skull fracture, altered level of consciousness (i.e., Glasgow Coma Scale [GCS] less than or equal to 14)<sup>1</sup>, seizures, unequal pupils, or focal

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<sup>1</sup> GSC is a neurological scale which aims to give a reliable and objective way of recording the conscious state of a person for initial as well as subsequent assessment. A patient is assessed against the criteria of the scale, and the resulting points give a patient score between 3 (indicating deep unconsciousness) and either 14 (original scale) or 15 (the more widely used modified or revised scale).

neurological deficit, must be transported directly to a designated trauma center. (Exhibit 21, Trauma Criteria 1(E).)

8. Paramedic Niedzialek could not determine whether the patient had unequal pupils because his eyes were swollen shut. The patient had dementia, but that fact was not apparent to Paramedic Niedzialek, and none of the caretakers advised him of that information. Typically, the highest GCS score a dementia patient can receive is a 14, thereby requiring transportation directly to a designated trauma center. However, because Paramedic Niedzialek was unaware of the patient's dementia, and because the patient had no altered level of consciousness during the approximately 25 minutes in which Paramedic Niedzialek was with the patient, Paramedic Niedzialek assigned the patient a GCS of 15. With a GCS score of 15, Paramedic Niedzialek determined the patient was not required to be transported directly to a designated trauma center. Paramedic Niedzialek testified that he believed Respondent relied on his findings, and that it was not the custom or practice of the "radio man" to re-examine the patient for the purpose of checking the conclusions of the "patient man."

9. Protocol No. 506 also provides that paramedics should contemplate, as a consideration, injured individuals over the age of 55 years old as candidates to be transported to trauma centers. Paramedic Niedzialek acknowledged that the patient, given his advanced age, could be considered as one eligible to be transported to a trauma center, but noted it was not mandatory. Given the patient's alert, responsive, and oriented status, coupled with no altered stated of consciousness, Paramedic Niedzialek concluded that transporting the patient to a trauma center was not necessary. Respondent relied on Paramedic Niedzialek's finding.

10. Protocol No. 808 provides that "paramedics shall make base hospital contact for medical direction and/or patient destination" on patients that exhibit an "altered level of consciousness." (Exhibit 23, Policy 1(G).) Protocol No. 808 also requires base hospital contact when a patient exhibits "loss of consciousness, or acute neurological symptoms (i.e., blurred vision, weak and dizzy, numbness, etc.) prior to or upon EMS personnel arrival." (*Id.*, Policy 1(P).) Because the patient did not exhibit an altered level of consciousness, a loss of consciousness, and denied having dizziness, Paramedic Niedzialek determined that making base hospital contact was unnecessary. Respondent relied on Paramedic Niedzialek's finding.

11. Paramedic Niedzialek concluded the patient met basic life support (BLS) level criteria, because the patient was alert and responsive, and, as such, was permitted to be transported by ground ambulance designated for patients less critical than advanced life support (ALS) level cases. BLS ambulances require only ambulance attendants or emergency medical technicians (EMTs) to be present with the patient in the back of the ambulance. EMTs are entry-level patient care providers that have less training than paramedics. ALS transportation, which entails a higher level of care, requires a paramedic to ride in the back of the ambulance with the patient to the hospital, generally to a designated trauma center. Because Paramedic Niedzialek concluded the patient would receive BLS transportation, the

patient was permitted to be transported to the hospital of his choice, Pomona Valley Hospital Center, which was not a designated trauma center.

12. Paramedic Niedzialek arranged to have the patient transported by a private ambulance service, Schaefer Ambulance Service (Schaefer). The Schaefer attendants were EMTs. The Schaefer EMTs moved the patient from the home and loaded him into the back of the ambulance. Before departing to the hospital, one of the Schaefer EMTs advised Paramedic Niedzialek that the patient's level of consciousness had changed for the worse. Paramedic Niedzialek boarded the back of the ambulance, examined the patient, and then told the Schaefer EMTs that the patient was safe to transport to Pomona Valley Hospital Center. Paramedic Niedzialek exited the ambulance, and then the Schaefer EMTs transported the patient to the hospital. Respondent had no contact with the patient in the ambulance.

13. Upon the patient's arrival to Pomona Valley Hospital Center, it was determined that although the patient had been transported under BLS care, he was in fact suffering from a basal skull fracture. Paramedic Niedzialek did not suspect a skull fracture, because the patient was alert and oriented, and believed his raccoon eyes were indicative of an injury unrelated to a skull fracture, given that the impact occurred shortly before he and Respondent arrived on the scene.

#### *DUI Conviction*

14. On April 10, 2015, upon a plea of nolo contendere, Respondent suffered a conviction in the Superior Court of California, County of Riverside, Case No. SWF1403109, of driving with blood alcohol level of at least .08 percent, in violation of California Vehicle Code section 23152, subdivision (b), a misdemeanor.

15. The facts and circumstances underlying the conviction occurred on November 27, 2014, when California Highway Patrol (CHP) officers observed Respondent swerving on the freeway and speeding, prompting the officers to conduct a stop. As one of the officers questioned Respondent, he noted the objective signs of alcohol intoxication. Specifically, the officer observed Respondent's red watery eyes, slurred speech, and the odor of an alcoholic beverage emanating from Respondent's person. Consequently, the officers asked Respondent to perform field sobriety tests, but he failed to perform them as instructed. The officers then requested Respondent to submit to breathalyzer tests, which revealed blood alcohol levels of .135 and .136 percent, respectively. Respondent was arrested.

16. The court placed Respondent on summary probation for a period of 36 months, pursuant to terms and conditions, including the conditions that Respondent enroll and successfully complete a licensed three-month first-offender alcohol and other drug education and counseling program, and pay fines, fees, and assessments totaling \$1,899. Respondent completed the three-month program. The record is not clear whether Respondent paid all fines, fees, and assessments, or otherwise complied with the remainder of his conditions of summary probation.

17. The Authority received notice of Respondent's conviction on January 21, 2016.
18. Respondent proffered no rehabilitation or mitigation evidence.

## LEGAL CONCLUSIONS

### *Paramedic Call (Accusation No. 15-0055)*

1. Emergency Medical Services (EMS) Act section 1798.200 authorizes the Authority to take disciplinary action against an EMT-P license or deny a license for acts that constitute a threat to the public health and safety. Section 1798.200 provides, in relevant part, the following:

[¶]

(2) Gross negligence.

[¶] ... [¶]

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.

[¶] ... [¶]

(10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

[¶] ... [¶].

2. Cause does not exist to discipline the license of Salvador Narro, pursuant to EMS Act section 1798.200, in that Complainant failed to establish that Respondent engaged in gross negligence, violated any provision of the EMS Act, or functioned outside of the supervision of medical control in the field care system, as set forth in Factual Findings 3 through 13. Specifically, Complainant proffered no admissible direct evidence through witnesses or authenticated documents establishing Respondent engaged in any misconduct in relation to the patient. The evidence shows that Paramedic Niedzialek, as the "patient man," determined, after interviewing and examining the patient, that the patient did not meet trauma center or hospital base contact criteria. Additionally, the evidence shows that Respondent, as the "radio man," who had no contact with the patient, had no cause to question Paramedic Niedzialek's findings, especially given Paramedic Niedzialek's verbal report of the patient's status: alert, responsive, lacking dizziness, suffering no loss of consciousness, and exhibiting

no altered level of consciousness. Moreover, Paramedic Niedzialek credibly testified that it was not the custom or practice of the “radio man” to re-examine the patient to check the findings and determinations made by the “patient man.” Given these factors, Complainant failed to establish that Respondent engaged in gross negligence, violated any provision of the EMS Act, or functioned outside of the supervision of medical control in the field care system.

*Driving Under the Influence Conviction (Accusation No. 16-0017)*

A. *Motion to Dismiss Accusation*

3. Respondent moved to dismiss Accusation No. 16-0017, pursuant to Government Code section 3254, subdivision (d), arguing Complainant failed to file the Accusation within the one year period mandated by the statute. Specifically, Respondent’s arrest occurred on November 27, 2014, his conviction occurred on April 10, 2015, yet Complainant did not file the Accusation until August 18, 2016.

4. Government Code section 3254, subdivision (d) provides as follows:

Punitive action or denial of promotion on grounds other than merit shall not be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of discovery by the employing fire department or licensing or certifying agency. This one-year limitation period shall apply only if the discovery of the act, omission, or other misconduct occurred on or after January 1, 2008. If the employing department or licensing or certifying agency determines that discipline may be taken, it shall complete its investigation and notify the firefighter of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the firefighter voluntarily waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(2) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(5) If the investigation involves a matter in civil litigation where the firefighter is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(6) If the investigation involves a matter in criminal litigation in which the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(7) If the investigation involves an allegation of workers' compensation fraud on the part of the firefighter.

5. Here, Respondent failed to establish that Complainant received notice of Respondent's conviction more than a year prior to filing the Accusation. The evidence showed that Complainant learned of Respondent's conviction on January 21, 2016 and filed the Accusation seven months later. Given these factors, Respondent's motion to dismiss is denied.

*B. Applicable Law and Discussion*

6. Whether a crime is substantially related to the qualifications, functions, and duties of an EMT-P is covered in Regulation 100175, subdivision (a), which states, in relevant part: "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." Under subdivision (b), "the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction. 'Conviction' means the final judgement on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere."

7. Cause exists to discipline the license of Salvador Narro, pursuant to Regulation 100175, subdivision (a), in that Respondent suffered a conviction for driving under the influence of alcohol, which evidences present or potential unfitness to perform the functions of an EMT-P in a manner consistent with the public health and safety, as set forth in Factual Findings 3 through 13. 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.” Although *Griffiths* relates to a physician and multiple convictions for drunk driving, the quoted language is applicable to Respondent’s circumstances as well. In other words, Respondent’s crime evidences a potential unfitness to carry out the duties of a paramedic in a manner consistent with the public health and safety, and is therefore substantially related to the qualifications, functions and duties of a licensee.

8. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The evidentiary significance of a licensee’s misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) While Respondent proffered no rehabilitation or mitigation evidence, Complainant submitted no evidence demonstrating that Respondent has engaged in any similar conduct prior to or since his 2015 conviction.

9. The Authority has developed “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” dated July 26, 2008 (Guidelines), which were marked as Exhibit 27 at the hearing. The Guidelines must be considered in fixing the level of discipline to be imposed. Under the Guidelines, the maximum recommended discipline for conviction of a substantially-related crime is license revocation, and the minimum recommended action is a stayed revocation with one year of probation. For the misuse of alcoholic beverages, the maximum recommended discipline is again revocation, but the minimum recommended discipline is a stayed revocation and three years’ probation. The Guidelines set forth recommended terms and conditions of probation.

10. Given these guidelines, considering the lack of any actual harm to the public or to any patient as a result of Respondent’s crime, and the lack of evidence of any other convictions, warnings or discipline against Respondent, an imposition of discipline of stayed revocation and three years’ probation would be sufficient to ensure the protection of the public.

## ORDER

Accusation No. 15-0055 is dismissed. In regard to Accusation No. 16-0017, the EMT-P license No. P14990 of Respondent Salvador Narro is revoked; however, the order of revocation is stayed and Respondent’s license is placed on three years’ probation under the following terms and conditions of probation.

1. **Abstinence from the Use of Alcoholic Beverages:** Respondent shall abstain from the use of alcoholic beverages

2. **Biological Fluid Testing:** Respondent shall submit to routine and random biological fluid testing or drug/alcohol screening as directed by the Authority or its designee.

Respondent may use a lab pre-approved by the Authority or may provide to the Authority the name and location of an independent laboratory or licensed drug/alcohol testing facility for approval by the Authority. The Authority shall have sole discretion for lab approval based on criteria regulating professional laboratories and drug/alcohol testing facilities. When the Authority requests a random test, 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 Authority requests a random test, respondent shall ensure that any positive test results are conveyed telephonically by the lab to the Authority within 48 hours, and all written positive or negative results are provided directly by the lab to the Authority within 10 days. Respondent shall be responsible for all costs associated with the drug/alcohol screening. At the Authority's sole discretion, the Authority may allow the random drug testing to be conducted by 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 Authority in the time frames described above.

3. Probation Compliance: Respondent shall fully comply with all terms and conditions of the probationary order. Respondent shall fully cooperate with the Authority in its monitoring, investigation, and evaluation of the respondent's compliance with the terms and conditions of his/her probationary order. Respondent shall immediately execute and submit to the Authority all Release of Information forms that the Authority may require of respondent.

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

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

6. Employment Notification: During the probationary period, respondent shall notify the Authority in writing of any EMS employment. The respondent shall inform the Authority in writing of the name and address of any prospective EMS employer prior to accepting employment. Additionally, respondent shall submit proof in writing to the Authority of disclosure, by respondent, to the current and any prospective EMS employer of the reasons for and terms and conditions of respondent's probation. Respondent authorizes any EMS employer to submit performance evaluations and other reports which the Authority may request that relate to the qualifications, functions, and duties of prehospital personnel. Any and all notifications to the Authority shall be by certified mail.

7. Notification of Termination: Respondent shall notify the Authority within seventy-two (72) hours after termination, for any reason, with his pre-hospital medical care employer. Respondent must provide a full, detailed written explanation of the reasons for and circumstances of his termination. Any and all notifications to the Authority shall be by certified mail.

8. Functioning as a Paramedic: The period of probation shall not run anytime that respondent is not practicing as a paramedic within the jurisdiction of California. If respondent, during his probationary period, leaves the jurisdiction of California to practice as a paramedic, respondent must immediately notify the Authority, in writing, of the date of such departure and the date of return to California, if respondent returns. Any and all notifications to the Authority shall be by certified mail.

9. Obey All Related Laws: 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. Respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to Health and Safety Code section 1798.200. To permit monitoring of compliance with this term, if respondent has not submitted fingerprints to the Authority in the past as a condition of licensure, then 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, respondent shall submit to the Authority a full and detailed account of the circumstances thereof. The Authority shall determine the applicability of the offense(s) as to whether respondent violated any federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as a paramedic.

10. Completion of Probation: Respondent's license shall be fully restored upon successful completion of probation.

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11. **Violation of Probation:** If during the period of probation respondent fails to comply with any term of probation, the Authority 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 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 Authority. 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 respondent has violated any term of his probation sufficient to warrant termination of probation and implementation of actual suspension/revocation. At the hearing, respondent and the Authority 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: April 12, 2017

DocuSigned by:  
*Carla L. Garrett*  
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CARLA L. GARRETT  
Administrative Law Judge  
Office of Administrative Hearings