

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

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

MARK R. PAALUHI,  
License No. P23718,

Respondent.

Case No.: 08-0269

OAH No.: 2009061295

DECISION

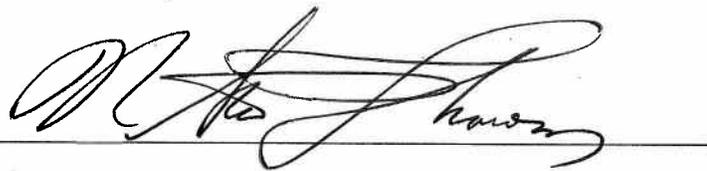
The attached Proposed Decision of the Administrative Law Judge is hereby adopted  
by the Emergency Medical Services Authority as its Decision in the above-entitled matter.

This Decision shall become effective 2/4/2010.

IT IS SO ORDERED 1/5/10.

EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

By



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

**MARK R. PAALUHI,  
License No. P23718**

**Respondent.**

**Case No. 08-0269**

**OAH No. L2009061295**

**PROPOSED DECISION**

This matter came on regularly for hearing on December 17, 2009, at Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Nancy Steiner (Complainant) was represented by Cynthia L. Curry, Senior Staff Counsel.

Mark R. Paaluhi (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

**FACTUAL FINDINGS**

The Administrative Law Judge makes the following factual findings:

1. Complainant made the Accusation in her official capacity as the Chief, EMS Personnel Division of the Emergency Medical Services Authority (EMSA) of the State of California.
2. Respondent was issued emergency medical technician-paramedic license number P23718 by the EMSA on June 23, 2006. The license will expire on June 30, 2010, unless renewed.

3. On December 3, 2008, in the Superior Court of California, County of Los Angeles, in Case No. 8SY09857, Respondent was convicted, on his plea of nolo contendere, of violating Vehicle Code section 23103 (Reckless Driving/No Injury) with alcohol involvement, a misdemeanor. Respondent's crime was substantially related to the qualifications, functions and duties of an emergency medical technician/paramedic pursuant to California Code of Regulations, title 22, section 100174.

4. Respondent was placed on summary probation for a period of three years under various terms and conditions including a prohibition against driving within 12 hours of consuming alcohol, a prohibition against driving with any measurable or detectable amount of alcohol or intoxicating drug in his system, submission to drug and alcohol testing, completion of the Mothers Against Drunk Driving Victim Impact Program, and either 13 days in the Los Angeles County Jail, 207 hours of community service, or payment of fines, fees and assessments totaling \$1,893.

5. The facts and circumstances underlying the conviction are that, on September 19, 2008, Respondent drove his car after consuming alcohol in a restaurant. After the traffic in front of him had stopped, it began to move again. As Respondent moved forward, he reached down for his cellular telephone. The vehicle in front of him stopped again, and Respondent's vehicle struck the back of that vehicle. Respondent was traveling at approximately 10 mph at the time of impact, and no one in either vehicle was injured. After police officers arrived, Respondent submitted to a breath test that yielded results of .132 percent and .124 percent. He was transported to a local hospital where a blood test yielded results of .15 percent.

6. Complainant did not prove the allegations in the Accusation that Respondent had been dishonest with the arresting officers or that he failed to obtain a fitness for duty statement to submit to the EMSA.

7. Respondent is a world-class professional beach volleyball player and an experienced emergency medical technician-paramedic. He is fully cognizant of the effect alcohol can have on one's ability to drive, and he acknowledges the tremendous error in judgment he committed on that day. Driving under the influence on the day of the accident and arrest was an anomaly for him, and he is certain it will never be repeated.

8. Since his conviction, Respondent has taken it upon himself to speak to inner city children about the dangers of drinking and driving and, although it pains him to do so, he bases his talks on his own experience in the hope that he might stop someone from repeating his error.

9. Respondent has also begun a practice of picking up his friends when they have consumed too much alcohol, and driving them to their homes.

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10. In addition to working full time in a low-paying job and supporting his son, Respondent volunteers as a fire cadet with the Monrovia Fire Department. He is also in the process of applying for a position as a police officer with the City of Gardena Police Department.

11. Respondent enjoys an excellent reputation as a personable, professional, reliable, and selfless individual who can be counted on in most any situation.

### LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's emergency medical technician-paramedic license pursuant to Business and Professions Code section 1798.200, subdivision (c)(6), for conviction of a crime substantially related to the qualifications, functions and duties of the licensed activity, as set forth in Findings 3, 4, and 5.

2. Cause exists to discipline Respondent's emergency medical technician-paramedic license pursuant to Business and Professions Code section 1798.200, subdivision (c)(9), for the misuse of alcoholic beverages, as set forth in Findings 3, 4, and 5.

3. Although Complainant alleged in the Accusation that Respondent committed an act of dishonesty by making a false statement to the arresting police officers, that act was not alleged as a charging allegation, and it was not proven.

4. The act that led to Respondent's arrest was an anomaly in an otherwise dedicated, law-abiding, service-oriented, healthy and athletic life. Since his conviction, Respondent has gone beyond the terms and conditions of his criminal probation by reaching out to inner city youth in an attempt to preclude their repeating his error. The chances of recidivism in this case are very low. The public safety, welfare and interest should be adequately protected by the issuance of a properly-conditioned probationary license. However, Respondent is scheduled to be on criminal probation until November 2011. Because people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that an applicant has engaged in good behavior while on probation or parole. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) Therefore, Respondent must remain on administrative probation for a period of time beyond the termination of his criminal probation.

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## **ORDER**

### **WHEREFORE, THE FOLLOWING ORDER is hereby made:**

License Number P23718 issued to Respondent Mark R. Paaluhi is revoked pursuant to legal conclusions 1 and 2, jointly and separately. However, such revocation is stayed and Respondent is placed on probation for four years upon the following terms and conditions:

#### **1. Probation Compliance:**

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

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

#### **2. Personal Appearances:**

As directed by the EMSA, 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.

#### **3. 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 quarterly reports by mail, it shall be sent as certified mail.

#### **4. Employment Notification:**

During the probationary period, Respondent shall notify the EMSA in writing of any EMS employment. Respondent shall inform the EMSA 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 EMSA 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 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.

**5. Notification of Termination:**

Respondent shall notify the EMSA within 72 hours after termination, for any reason, with his prehospital 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 EMSA shall be by certified mail.

**6. 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 EMSA, in writing, of the date of such departure and the date of return to California, if Respondent returns.

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

**7. 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 Section 1798.200. To permit monitoring of compliance with this term, if Respondent has not submitted fingerprints to the EMSA 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 EMSA a full and detailed account of the circumstances thereof. The EMSA 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.

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

**8. Abstinence from the Use of Alcoholic Beverages:**

Respondent shall abstain from the use of alcoholic beverages.

**9. Biological Fluid Testing:**

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, 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, 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. 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 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.

**10. Violation of Probation:**

If, during the period of probation, 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 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 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 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.

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**11. Completion of Probation:**

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

DATED: December 28, 2009

  
H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings