

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA


In the Matter of the Emergency Medical Technician- Paramedic License Held by:) Enforcement Matter No.: 16-0059
) OAH No.: 2017010088
)
6 **KEITH G. RICHARDS**) **DECISION AND ORDER**
License No. P30301)
)
Respondent.)

The attached Proposed Decision and order dated August 9, 2017, is hereby adopted by the Emergency Medical Services Authority as its Decision in this matter. The decision shall become effective 30 days after the date of signature.

It is so ordered.

DATED:

August 10, 2017


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

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

In the Matter of the Accusation Against:

KEITH G. RICHARDS,
License No. P30301,

Respondent.

Case No. 16-0059

OAH No. 2017010088

PROPOSED DECISION

Administrative Law Judge Thomas Heller, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on May 30, 2017.

Craig L. Stevenson, Senior Staff Counsel, represented complainant Sean Trask, Chief, EMS Personnel Division, Emergency Medical Services Authority (EMSA), State of California.

David J. Givot, Esq., represented respondent Keith G. Richards.

After the hearing, the administrative law judge reopened the record on June 6, 2017, for briefing on the admissibility of respondent's blood-alcohol concentration (BAC) test results, and whether the hearing needed to be reconvened if those results were admitted. Complainant and respondent filed briefs on June 22 and June 27, 2017, respectively, and they were marked for identification as exhibit 10 and exhibit A, respectively. Complainant also filed a reply brief on June 28, 2017, but it was not marked for inclusion in the record, because the June 6 order did not authorize its filing. On July 10, 2017, the administrative law judge admitted the BAC test results, closed the record without further hearing, and deemed the matter submitted.

SUMMARY

Complainant requests that the EMSA discipline respondent's paramedic license, alleging he misused alcohol in a manner leading to a conviction for reckless driving. Respondent asserts discipline is unwarranted. Clear and convincing evidence established causes for discipline, justifying a stayed revocation and period of probation.

FACTUAL FINDINGS

Jurisdictional Facts

1. Respondent currently holds Emergency Medical Technician – Paramedic (EMT-P) license number P30301.
2. On October 28, 2016, complainant served an Accusation on respondent, alleging that the EMSA should discipline his license because he misused alcohol in a manner leading to a conviction for reckless driving.
3. Respondent submitted a notice of defense, dated November 4, 2016.

Incident Underlying Accusation

4. Shortly before 6:00 p.m. on February 22, 2016, California Highway Patrol Officer Jon Relles had just entered the eastbound US-101 freeway from Kanan Road in Los Angeles County when a pickup truck sped past his patrol vehicle. The officer estimated the truck was going 75 miles per hour, which exceeded the speed limit, and was notably faster than surrounding traffic. He began to pace the truck from a different lane, and observed it approach slower traffic to a close following distance, change lanes to pass, and accelerate back up to over 75 miles per hour.

5. The officer initiated a traffic stop. The pickup truck moved to the right and exited the freeway at the Liberty Canyon Road off-ramp. At the bottom of the off-ramp, it did not stop at a stop sign before turning right onto southbound Liberty Canyon Road. It pulled to a stop at the west curb, just north of Agoura Road.

6. Walking up to the pickup truck, Officer Relles contacted the driver through the open driver side window. The driver, later identified as respondent, apologized for speeding, and the officer asked him why he did not stop at the stop sign at the bottom of the off-ramp. Respondent again apologized, and related he was nervous about being pulled over.

7. The officer smelled the odor of alcohol coming from the truck, and noticed that respondent's eyes appeared glassy. The officer instructed respondent to exit the vehicle and move to the sidewalk. There, he smelled alcohol on respondent's breath, and noticed that respondent was slurring some of his words.

8. Respondent initially denied drinking alcohol that day, but later stated he consumed two vodka and Gatorade drinks about four to five hours earlier. Officer Relles then administered field sobriety tests, after explaining and demonstrating them. On the horizontal gaze nystagmus test, respondent displayed a "lack of smooth pursuit, sustained distinct nystagmus at maximum deviation, onset of nystagmus prior to 45 degrees, and

vertical nystagmus in both . . . eyes.”¹ On the Romberg test, he swayed from side to side and front to rear in a random manner from center, approximately two inches, and estimated 41 seconds as 30 seconds.² He also missed touching the tip of his nose on some attempts during the “finger-to-nose” test, walked slowly and deliberately on the “walk-and-turn” test, and counted one number twice during the “one-leg stand” test.³

9. The officer asked respondent to submit to a Preliminary Alcohol Screening Test (PAS),⁴ but respondent refused. Based on his symptoms of intoxication and performance on the field sobriety tests, the officer placed respondent under arrest for driving under the influence of alcohol at about 6:26 p.m. Before transporting respondent to the police station, Officer Relles gave him the choice of either a breath or blood test to determine his BAC.⁵ Respondent chose a breath test.

¹ “ ‘ “Nystagmus is an involuntary rapid movement of the eyeball, which may be horizontal, vertical, or rotary. [Citation.] An inability of the eyes to maintain visual fixation as they are turned from side to side (in other words, jerking or bouncing) is known as horizontal gaze nystagmus, or HGN. [Citation.] Some investigators believe alcohol intoxication increases the frequency and amplitude of HGN and causes HGN to occur at a smaller angle of deviation from the forward direction.” ’ [Citation.]” (*Coffey v. Shiimoto* (2015) 60 Cal.4th 1198, 1203, fn. 2.)

² “In the Romberg test, the driver is ‘asked to stand at attention, close his eyes, tilt his head back, and estimate the passage of 30 seconds.’ [Citation.]” (*Coffey v. Shiimoto, supra*, 60 Cal.4th at p. 1204, fn. 5.)

³ “In the ‘one-leg stand’ test, after listening to the instructions, ‘the subject must raise one leg, either leg, with the foot approximately six inches off the ground, keeping raised foot parallel to the ground. While looking at the elevated foot, count out loud in the following manner:’ [¶] ‘ “[O]ne thousand and one”, “one thousand and two”, “one thousand and three” until told to stop. This divides the subject’s attention between balancing (standing on one foot) and small muscle control (counting out loud).’ [¶] . . . [¶] [Citation.]” (*Coffey v. Shiimoto, supra*, 60 Cal.4th at p. 1204, fn. 4.)

⁴ “Pursuant to [Vehicle Code] section 23612, subdivision (h), a PAS is an investigative tool used to determine whether there is reasonable cause for arrest. ‘[A] preliminary test is “distinguished from the chemical testing of a driver’s blood, breath or urine contemplated by the implied consent law [citation] which is administered after the driver is arrested, [and is] sometimes referred to as ‘evidentiary’ [or evidential] testing.” ’ [Citation.]” (*Coffey v. Shiimoto, supra*, 60 Cal.4th at p. 1205, fn. 6.)

⁵ Every driver in California is deemed to have consented to a breath or blood test if lawfully arrested for allegedly driving under the influence of alcohol. (Veh. Code, § 23612, subd. (a)(1)(A).)

10. Officer Relles drove respondent to the Los Angeles Sheriff's Office – Lost Hills Station, and administered a breath test. Respondent's breath samples at 7:05 p.m. and 7:08 p.m. both showed a BAC of 0.09 percent. The officer recorded the results on Department of Motor Vehicles form DS 367, certifying under penalty of perjury that he obtained them in the regular course of his duties, was qualified to operate the equipment, and administered the tests pursuant to the requirements of title 17 of the California Code of Regulations. He also signed a checklist cautioning him to observe respondent continuously for at least 15 minutes before collecting the breath sample.

11. Respondent refused further testing, and was booked without incident.

Criminal Conviction

12. On July 25, 2016, after pleading nolo contendere in the Superior Court of California, County of Los Angeles, Case No. 6VV06418, respondent was convicted of reckless driving, a misdemeanor, for the incident on February 22, 2016. (Veh. Code, § 23103.) The plea was a substitute for original charges under Vehicle Code section 23152 that he drove under the influence of alcohol and with a BAC of 0.08 percent or more, and is commonly known as a "wet reckless" conviction. (*People v. Claire* (1991) 229 Cal.App.3d 647, 650; Veh. Code, § 23103.5.) The court placed him on 24 months' summary probation, under terms including orders to enroll in a licensed alcohol and drug education program, complete the Mothers Against Drunk Driving (MADD) Victim Impact Program, and pay fines, fees, and assessments.

Respondent's Testimony

13. Respondent testified he was not feeling the effects of alcohol when Officer Relles stopped him, but had consumed alcohol earlier at a restaurant. He was off duty when the officer pulled him over. He thinks about the incident every day, and is glad he did not hurt anyone. He makes no excuses for his conduct.

14. According to respondent, his probation was terminated early after he completed all of its requirements, including a three-month alcohol and drug program, six Alcoholics Anonymous meetings, and the MADD Victim Impact Panel. He did not present documentary evidence of the early termination.

15. Respondent was working as a paramedic for McCormick Ambulance when he was arrested. He kept working there afterwards, but later accepted a job at the California Department of Forestry and Fire Protection. As of the hearing date, he had been hired as a paramedic by the Fire Department of New York, and was scheduled to start working there in mid-June 2017.

LEGAL CONCLUSIONS

Legal Standards

1. The EMSA may suspend or revoke respondent's EMT-P license, or place him or the license on probation, "upon a finding by the director of the occurrence of any of the actions listed in subdivision (c)" of Health and Safety Code section 1798.200. (Health & Saf. Code, § 1798.200, subd. (b).) Subdivision (c) of Health and Safety Code section 1798.200 lists twelve actions that "shall be considered evidence of a threat to the public health and safety . . ." (Health & Saf. Code, § 1798.200, subd. (c).) Two of them are "[c]onviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel," and "[a]ddiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances." (Health & Saf. Code, § 1798.200, subd. (c)(6) and (9).) Under the EMSA's regulations, "[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).)

2. A paramedic is a health care professional. (See Health & Saf. Code, § 1798.6, subd. (a).) To impose discipline on a professional license, complainant must prove cause for discipline by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence "requires a finding of high probability," and has been described as "requiring that the evidence be "so clear as to leave no substantial doubt"; "sufficiently strong to command the unhesitating assent of every reasonable mind." [Citation.]" (*In re Angelia P.* (1981) 28 Cal.3d 908, 919.)

First Cause for Discipline

3. The First Cause for Discipline alleges respondent was convicted of a crime that is "substantially related to the qualifications, functions, and duties of prehospital personnel." (Health & Saf. Code, § 1798.200, subd. (c)(6).)

4. Complainant established this cause for discipline. Respondent was convicted of reckless driving involving alcohol consumption (Factual Finding 12), which "to a substantial degree . . . 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).) Convictions involving alcohol consumption reflect a lack of sound professional and personal judgment that is relevant to a paramedic's fitness and competence to provide emergency medical care. (See *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770 [same finding as to physicians and the practice of medicine].) Furthermore, safe transportation of patients is an important part of a paramedic's duties, and an alcohol-related driving conviction evidences potential unfitness to

provide safe transportation. (See Cal. Code Regs., tit. 22, §§ 100146, 100152, 100155 [EMT-P training and duties involve transportation of the sick or injured, and interfacility transfers.]

5. Respondent asserts there is no logical connection between his conviction and his fitness for duty as a paramedic, because he was not on duty when Officer Relles stopped him. But the court in *Griffiths v. Superior Court* rejected the same argument for a physician, noting that “[substantial legal authority provides that conduct occurring outside the practice of medicine may form the basis for imposing discipline on a license because such conduct reflects on a licensee’s fitness and qualifications to practice medicine. [Citations.]” (*Griffiths v. Superior Court, supra*, 96 Cal.App.4th at p. 771.) Similarly here, respondent’s off-duty behavior reflects on his fitness and qualifications to provide emergency medical care as a paramedic.

Second Cause for Discipline

6. The Second Cause for Discipline alleges respondent misused alcoholic beverages. (Health & Saf. Code, § 1798.200, subd. (c)(9).)

7. Complainant established this cause for discipline. Respondent’s glassy eyes, slurred speech, and poor performance on some field sobriety tests have a tendency to prove he was intoxicated. (Factual Findings 7-8; see *Coffee v. Shiimoto, supra*, 60 Cal.4th at pp. 1212-1218.) His BAC breath test results were also over the legal limit. (Factual Finding 10; see Veh. Code, § 23152, subd. (b).) Taken together, these facts are clear and convincing evidence he misused alcoholic beverages.

8. Respondent denies he drank to excess before driving, and challenges the validity of the BAC test results. But the officer’s sworn DS 367 statement creates a rebuttable presumption that the BAC results were obtained properly. (*Taxara v. Gutierrez* (2003) 114 Cal.App.4th 945, 949; *Manriquez v. Gourley* (2003) 105 Cal.App.4th 1227, 1232-1233; *McKinney v. Department of Motor Vehicles* (1992) 5 Cal.App.4th 519, 524-525; *Davenport v. Department of Motor Vehicles* (1992) 6 Cal.App.4th 133, 142-143; see also *People v. Williams* (2002) 28 Cal.4th 408, 416-417; *Shannon v. Gourley* (2002) 103 Cal.App.4th 60, 65; *Burge v. Department of Motor Vehicles* (1992) 5 Cal.App.4th 384, 389-390.) Given that sworn statement, the burden was on respondent “to demonstrate that the test was not properly performed.” (*Imachi v. Department of Motor Vehicles* (1992) 2 Cal.App.4th 809, 817.) Among the ways he could have done this was by showing that the BAC testing device malfunctioned, or was improperly calibrated or employed. (*People v. Vangelder* (2013) 58 Cal.4th 1, 34.) But the record includes no evidence of equipment malfunction, improper calibration, or improper use.

9. Respondent asserts that Officer Relles did not observe him continuously for 15 minutes before the administering the BAC breath test, and alleges this rendered the results invalid. But the DS 367 statement includes the officer’s certification that he administered the

test pursuant to the requirements of Title 17 of the California Code of Regulations, which at the time included the 15-minute requirement. (See former Cal. Code Regs., tit. 17, § 1219.3 [repealed effective April 1, 2017].) The officer also signed a checklist cautioning him to observe respondent continuously for at least 15 minutes before collecting the breath sample. (Factual Finding 10.) Furthermore, the officer's descriptions of respondent's arrest and BAC test are consistent with continuous observation, as they indicate the officer and respondent were together for well over 15 minutes before the test. Respondent spent part of that time in the rear seat of the officer's patrol car, but "[o]bservation is not limited to perception by sight . . ." (*Manriquez v. Gourley*, *supra*, 105 Cal.App.4th at pp. 1236-1237 ["use of all of [an] officer's senses enabled him to assure compliance with the continuous observation requirement" while a driver was confined in the rear seat of the officer's patrol car].)

Level of Discipline

10. "The administrative law judge shall use the 'EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation', dated July 26, 2008 [Guidelines], as a guide in making any recommendations to the EMSA for discipline of a paramedic applicant or license holder found in violation of Section 1798.200 of Division 2.5 of the Health and Safety Code." (Cal. Code Regs., tit. 22, § 100173, subd. (d).) The Guidelines include recommended levels of discipline for the actions listed in Health and Safety Code section 1798.200, subdivision (c), as well as minimum and maximum levels of discipline. The recommended discipline for conviction of a crime that is substantially related to a paramedic's qualifications, functions, or duties is "[v]ariable depending on the nature of the crime with terms and conditions." (Guidelines, p. 6.) The recommended discipline for addiction to, excessive use of, or misuse of alcohol or drugs is a stayed revocation with five years of probation, suspension until assessment and successful completion of a drug/alcohol diversion program, and probationary conditions requiring abstinence from drugs and alcohol, biological fluid testing, and a psychiatric/medical evaluation, among other requirements. (*Id.* at p. 7.) The maximum discipline for both violations is revocation, and the minimum is a stayed revocation with either one or three years of probation. (*Id.* at pp. 6, 7.)

11. The Guidelines also list 14 factors that shall be considered when determining the appropriate discipline. (Guidelines, pp. 1-2.) In this case, they apply as follows:

(1) *Nature and severity of the act(s), offense(s), or crime(s) under consideration.* Respondent drove recklessly after consuming alcohol, a misdemeanor offense.

(2) *Actual or potential harm to the public.* Respondent's conduct posed a risk of serious harm to himself and other drivers.

(3) *Actual or potential harm to any patient.* There was no actual or potential harm to any patient.

(4) *Prior disciplinary record.* Complainant presented no evidence that respondent has a prior disciplinary record.

(5) *Prior warnings on record or prior remediation.* There was no evidence of any prior warnings on record or prior remediation.

(6) *Number and/or variety of current violations.* There are two causes for discipline, but they both arose from a single incident.

(7) *Aggravating evidence.* Complainant presented no aggravating evidence.

(8) *Mitigating evidence.* The Guidelines list eight examples of mitigating evidence, including statements from supervisors and counselors, employer performance evaluations, evidence of community service or other educational experiences, and the like. (Guidelines, pp. 9-10.) Respondent presented no such mitigating evidence. The only evidence he presented was his own brief testimony, which did not reveal any mitigating factors.

(9) *Any discipline imposed by the paramedic's employer for the same occurrence of that conduct.* No evidence was presented on this issue.

(10) *Rehabilitation evidence.* Respondent expressed remorse for his conduct and acknowledged wrongdoing, which are some evidence of rehabilitation.

(11) *In case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation.* According to respondent's unchallenged testimony, he has complied with the terms of his probation.

(12) *Overall criminal record.* Complainant presented no evidence that respondent has any other criminal record.

(13) *Time that has elapsed since the act(s) or offense(s) occurred.* The incident occurred in February 2016, which is relatively recent.

(14) *If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4.* Respondent did not present evidence of expungement proceedings concerning his conviction.

12. Considering these factors, the appropriate level of discipline is the level recommended for misuse of alcohol, i.e., a stayed revocation and five years of probation. (Guidelines, p. 7.) This recommended discipline "should be imposed in the absence of any aggravating or mitigating evidence," and such evidence is absent here. (Guidelines, p. 2.)

Respondent's limited rehabilitation evidence and apparent compliance with criminal probation do not justify a lower level of discipline, especially since his misconduct is recent.

13. The recommended discipline for misuse of alcohol includes Optional Condition 4, requiring participation in a drug/alcohol detoxification diversion program, and a suspension until assessment and successful completion of that program. These probation terms are unwarranted here for respondent's single misuse of alcohol. It has not been shown that respondent is addicted to alcohol, and the other probation terms will allow EMSA to monitor him adequately for further misuse of alcohol. His criminal probation also already included a licensed drug and alcohol education program. (Factual Finding 12.) Therefore, Optional Condition 4 and a suspension are not included below.

ORDER

License Number P30301 issued to respondent, Keith G. Richards, is revoked. However, such revocation is stayed and respondent is placed on probation for five 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 Health and Safety Code 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. Completion of Probation:

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

9. 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 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 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 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.

10. Abstinence from Drug Possession and Use:

Respondent shall abstain from 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 14 days of obtaining such a prescription, respondent shall ensure that the prescribing professional provides the EMSA a written report identifying the medication, dosage, the date the medication was prescribed, 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 14 days of the commencement of probation.

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

11. Abstinence from the Use of Alcoholic Beverages:

Respondent shall abstain from the use of alcoholic beverages.

12. 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.

13. Psychiatric/Medical Evaluation:

Within 30 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, or other specialist as determined by the director of the EMSA, respondent shall submit to a psychiatric evaluation. The psychiatrist must be approved by the EMSA prior to the evaluation. Respondent shall be responsible for all costs associated with the evaluation.

Within 60 days of the effective date of this decision, and on a periodic basis as specified by a licensed physician, or other specialist as determined by the director of the EMSA, respondent shall submit to a medical evaluation. The physician must be approved by the EMSA prior to the evaluation. Respondent shall be responsible for all costs associated with the evaluation.

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

DATED: August 9, 2017

DocuSigned by:

Thomas Heller

CFDEA01421714A4

THOMAS HELLER
Administrative Law Judge
Office of Administrative Hearings