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BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

**JESSE A. WOOD**

Respondent.

)  
) Enforcement Matter No.: 15-0191  
) OAH No.: 2015100897  
)


) **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 immediately after the date below. It is so ordered.

DATED:

*April 25, 2016*

  
Howard Backer MD, MPH  
Director  
Emergency Medical Services Authority

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

JESSE A. WOOD,

Respondent.

Case No. 15-0191

OAH No. 2015100897

**PROPOSED DECISION**

Theresa M. Brehl, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on March 30, 2016.

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

Stacie L. Patterson, Attorney at Law, represented respondent, Jesse A. Wood.

This matter was submitted on March 30, 2016.

**SUMMARY**

Complainant contended Mr. Wood's application for an Emergency Medical Technician-Paramedic (EMT-P) license should be denied because Mr. Wood failed to disclose a criminal conviction on his license application, and he was convicted of a crime substantially related to the qualifications, functions, and duties of prehospital personnel.

Mr. Wood was convicted of a felony in March 2005, which was later expunged under Penal Code section 1203.4. He asserted that he made a mistake when he failed to disclose the conviction on his application, he has been rehabilitated, and he is of sufficient good character so that granting his application would not pose any danger to the public.

The issue to be decided is: Should Mr. Wood's application for an EMT-P license be granted or denied?

Based on the evidence presented, Mr. Wood's application for an EMT-P license should be granted.

## FACTUAL FINDINGS

### *Respondent's Application*

1. On June 11, 2015, Mr. Wood signed a Paramedic License application under penalty of perjury. Mr. Wood responded "No" to question number 1, which asked:

Have you ever been convicted of any felony or misdemeanor offense in California or in any other state or place, including entering a plea of nolo contendere or no contest and, including any conviction which has been expunged (set aside) or records sealed under Penal Code Section 1203.4?

2. The Emergency Medical Services Authority (EMSA) sent a letter to Mr. Wood on July 2, 2015, notifying him (in bold print) that his application was incomplete for the following reason:

**You answered "No" to the question regarding past convictions or criminal charges currently pending. However, we received information from the Department of Justice that stated otherwise. You must attach a detailed statement describing the crime(s), date, location, court, sentence served, and parole for each conviction.**

3. On July 9, 2015, Mr. Wood provided EMSA a Disclosure Statement in which he stated that he had been convicted of a felony on March 17, 2005, which was reduced to a misdemeanor and dismissed on October 8, 2008, pursuant to Penal Code section 1203.4. He submitted a letter with his Disclosure Statement explaining the circumstances surrounding the conviction and his activities since the conviction. He also submitted a letter of recommendation from a co-worker, who was a fire fighter paramedic with the San Diego Fire-Rescue Department.

4. Mr. Wood's application was pending when the statement of issues was filed.

### *The March 17, 2005, Conviction*

5. On March 17, 2005, Mr. Wood was convicted, on his plea of guilty, of violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon (motor vehicle), a felony, in Orange County Superior Court Case Number 04HF1053. The court placed Mr. Wood on three years formal probation. The court also ordered him to pay fees,

fines, and restitution; abstain from the use of weapons, drugs, and alcohol; perform community service; and submit to random blood, breath, and urine testing.

6. The conviction resulted from an incident that occurred on July 9, 2004, when Mr. Wood was 18 years old and a senior in high school. He was at a party in Newport Beach on July 9, 2004, when a fight broke out between Mr. Wood along with his friends and several men in a parking lot outside a party. When the police arrived, they observed injuries to the fight participants and took statements.<sup>1</sup> The police did not observe the fight and the police report did not contain any statements attributed to Mr. Wood. Mr. Wood was the only witness who testified at the hearing regarding the fight.

7. According to Mr. Wood, he was at a house party with his high school friends on July 9, 2004, and he was drinking. An uninvited group of men tried to get into the party, a fight started at the door, and the fight moved into the parking lot. Mr. Wood became involved in the fight after he saw someone on top of one of his friends. Mr. Wood then exchanged some punches with one of the other men. He and that man were on top of a car while they were fighting. The uninvited group accused Mr. Wood and his friends of “mugging” them and stealing their beer, which Mr. Wood denied.<sup>2</sup>

8. Mr. Wood and four of his friends were each charged with five crimes; one count of robbery, three counts of felony assault with a deadly weapon other than a firearm, and one count of misdemeanor assault with a deadly weapon other than a fire arm. If convicted of all the charges, Mr. Wood could have faced a 7 to 12 year prison sentence. Mr. Wood pled guilty to one count of the charges against him based on advice of his attorney. At

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<sup>1</sup> The police report was admitted into evidence and contains notations of direct observations by the responding officers and statements by witnesses. It does not contain any statements by respondent. *Lake v. Reed* (1997) 16 Cal.4th 448 considered the admissibility of police reports in administrative proceedings. In *Lake*, an officer’s direct observations memorialized in the police report were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and admissions by a party memorialized in the police report were admissible under Evidence Code section 1220. (*Id.* at pp. 461-462.) The *Lake* court noted that other witness statements in the police report, which were not otherwise admissible under any hearsay exception, could be used to supplement or explain other admissible evidence, citing Government Code section 11513. (*Id.* at p. 461.) Government Code section 11513, subdivision (d), states: “Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.”

<sup>2</sup> While respondent was allowed to present “evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation. . . . [A]n inquiry into the circumstances surrounding the offense ‘should not form the basis of impeaching a prior conviction.’ [Citation.]” (*Arenson v. Fox* (1980) 28 Cal.3d 440, 449.)

the time he decided to accept the plea, Mr. Wood believed that after he served three years' probation, the charge would eventually be reduced to a misdemeanor and then be dismissed.

9. Mr. Wood complied with all court orders and terms of probation. On October 14, 2008, the court reduced the charge to a misdemeanor, set aside his guilty plea, entered a plea of not guilty, and dismissed the case pursuant to Penal Code section 1203.4. Mr. Wood thought that meant the charge "disappeared."

*Mr. Wood's Explanation for Failing to Disclose the Conviction on His Application*

10. Mr. Wood disclosed the conviction when he applied for his emergency medical technician certificate in 2010 and when he later applied to work as a fire fighter for the City of San Diego. The last time he disclosed it before he applied for the EMT-P license was when he applied to work for the City of San Diego. He then went over the court documents in detail with the City's human resources department. The woman from the City's human resources department told him then that "it was dismissed." Based his discussion with human resources about the court records, he believed he "no longer had a conviction."

11. When he filled out the Paramedic License Application, which clearly noted that convictions expunged under Penal Code section 1203.4 must be disclosed, he claimed he did not understand what the reference to Penal Code section 1203.4 meant. He was not trying to hide anything. When he later received the July 2, 2015, letter from EMSA, he fully disclosed the circumstances that led to the 2005 conviction. He has since gained a better understanding of Penal Code section 1203.4 as a result of the proceedings in this case. Based on his more educated understanding of section 1203.4, he agreed during his testimony that he should have answered "yes" to the question that asked whether he had any convictions.

*Mitigation and Rehabilitation Evidence*

12. Mr. Wood graduated from San Diego State University with a Bachelor of Science degree in 2009. After graduation he considered attending law school and attended a pre-law LSAT program, but he ultimately decided he wanted to become a fire fighter. While he was in training to become a fire fighter, he worked as a waiter to support his family.

13. Mr. Wood received his EMT-B certification through Miramar College in March 2010. He originally wanted to become a paramedic because he believed it would make him a more desirable candidate for employment with the fire department. He had already taken the City of San Diego's test (to attend the fire academy) when he began paramedic training at EMSTA College. When he was offered an unpaid, open enrollee slot in the fire academy, he was already part way through his paramedic training at EMSTA College. He decided to accept the fire academy slot, even though there was no guarantee of employment. He had to drop out of the EMSTA College paramedic training program in order to attend the fire academy.

14. Mr. Wood attended the San Diego Fire Authority Academy and then worked as a Cal Fire volunteer/reserve fire fighter for almost two years, earning either \$100 or \$0 per shift, depending on how many volunteer/reserve fire fighters were on duty. He then attended the Heartland 22<sup>nd</sup> Fire Academy, where he obtained the certification needed to apply for a fire fighter I position. He was hired as a fire fighter by the City of San Diego Fire-Rescue Department and has worked there for approximately three years.

15. While working as a fire fighter, Mr. Wood believed he possessed the training and skills to help people more during medical emergencies than he was permitted to do with his EMT certification. He was unable to use his skills and training because he was not licensed as a paramedic. He thought he would regret it if he did not go back to paramedic school, finish his training, and become a paramedic. While working as a fire fighter, he reenrolled in the EMSTA Paramedic Program. He completed paramedic training at EMSTA College in March 2015. He was awarded the "Hardship/Heart Award" for completing paramedic school while working full time as a fire fighter for the City of San Diego.

16. As of the date of the hearing, Mr. Wood was serving as an EMT instructor for EMSTA College. If he obtains his EMT-P license, he plans on becoming a paramedic instructor as well. He wants to help mold good people into fire fighters and guide them into the right areas. He believes that teaching makes him better at his job as a fire fighter.

17. Mr. Wood testified that the 2005 conviction shaped who he has become today. Going through the criminal court process was "a tough time for him," and it forced him to grow up. The conviction resulted in his "character being beat up," and he felt he always needed to show people that was "not who he was." He stated he would have disclosed the conviction if he had understood the question. He believed the charges were dropped and that "not guilty" meant that he was "no longer" convicted.

18. Since the July 9, 2004, arrest, Mr. Wood has never had any other arrests or altercations. He has never had any negative reviews. He has not had any other problems with violence. At the time of his June 2014 evaluation at the end of his probationary period of employment for the San Diego Fire Department, his supervisor wrote the following regarding his medical response abilities:

Jesse is aware of the need for more qualified medics on the fire department, and has taken the initiative to put himself through medic school and in this process has proven to me, beyond a shadow of a doubt, to be very dedicated to his career and is willing to do everything possible for the good of his family.

Jesse has received high marks from me over this rating period on his performance on medical aids. He is a competent and reliable EMT/Medic Intern who demonstrates good patient assessment, treatment, and works really well with his paramedic

preceptor. He exercises good bedside manner and treats all patients and coworkers with respect.

### *Character Evidence*

19. Mr. Wood provided reference letter declarations (signed under penalty of perjury) attesting to his good character from Captain Ted Chialtas, Captain Edward Jones, Firefighter Paramedic Michael Aguilera, Firefighter Paramedic Michael Hunter, Firefighter Paramedic Roy Staten, Engineer Shawn Johnson, Firefighter Paramedic Joseph Spaid, Battalion Chief David Picone, Caption Jason Shanley, and Mark Klaus. It was not clear from the letters whether all of the above-mentioned men had been made aware of the reasons for the administrative hearing. Captain Shanley also testified at the hearing, and he stated in his letter and during his testimony that he was aware of the circumstances that led to the administrative hearing.

20. Battalion Chief Picone, Captain Chialtas, Captain Jones, and firefighters Aguilera, Hunter, Staten, and Spaid are all fire fighter paramedics who worked with Mr. Wood at the City of San Diego Fire Department. Engineer Johnson also worked with Mr. Wood. Firefighters Aguilera, Hunter, and Staten, and engineer Johnson have all known and worked with Mr. Wood for the past three years. They all praised his dedication and competence as a firefighter and EMT, his trustworthiness, and his strong moral character. Captain Chialtas was the Paramedic Program Director and an instructor at Mr. Wood's paramedic training program at EMSTA College. He described Mr. Wood as a "natural leader," who provided "compassionate and appropriate medical care," who "constantly displayed a calm, intelligent and pleasant demeanor while interacting with classmates, school staff and clinical/field preceptors." Captain Jones noted that during Mr. Wood's work as a medic intern at the fire department, he "worked diligently and tirelessly during these busy, long, and difficult ambulance shifts. I have seen many people's behavior turn negative when faced with the challenges of these difficult ambulance shifts, but I never saw any hint of inappropriate behavior from Jesse." Battalion Chief Picone wrote: "As Firefighters we are given access to business' [sic], homes and peoples [sic] lives when they are most vulnerable and in need of help. Firefighter Jesse Wood has stepped up to those challenges with integrity, ethical behavior and the deepest compassion, 100% of the time."

21. Captain Shanley noted in his letter that he was aware of Mr. Wood's prior conviction and that Mr. Wood failed to disclose it on his application. Nevertheless, he stated: "I believe beyond a shadow of a doubt, that this incident was completely due to youthful indiscretion, and is completely different from the man that I have had the pleasure of working with, now." He also praised Mr. Wood as "an honest and upright man that wants to do the best for his family, his friends, and the public that he has served for the last 3 years." During his testimony, Captain Shanley commended Mr. Wood's work performance as "outstanding" and stated that he trusted Mr. Wood "with his life."

22. Mr. Klaus is the Chief Executive Officer of Home of Guiding Hands, a community based non-profit organization that assists persons with developmental

disabilities. Mr. Klaus works with Mr. Wood's wife and has known Mr. Wood for over five years. Mr. Klaus wrote about the volunteer work Mr. Wood did for Home of Guiding Hands and described Mr. Wood as "an exceptional person with tremendous skills, a friendly demeanor and a passion to improve his community." He also stated that Mr. Wood was "unique in that he possesses the rare ability to positively interact with and always maintains a positive attitude when dealing with people from all walks of life."

23. Mr. Wood presented a letter from Angelique Hood, Ph.D. LCSW, who performed an assessment of Mr. Wood, which included a Minnesota Multiphasic Personality Inventory (MMPI). According to Dr. Hood, the assessment reflected that Mr. Wood "is a responsible, intelligent citizen with no indication of criminal behavior."

24. Mr. Wood also supplied multiple certificates of the training he received from the California Emergency Management Agency, California Fire Service, National Association of Emergency Medical technicians, U.S. Department of Homeland Security, EMSTA College, and San Diego Fire-Rescue Department.

## LEGAL CONCLUSIONS

### *Standard and Burden of Proof*

1. "As in ordinary civil actions, the party asserting the affirmative in an administrative hearing has the burden of proof going forward and the burden of persuasion by a preponderance of the evidence." (*McCoy v. Board of Retirement* (1986) 183 Cal. App.3d 1044, 1051.) The burden of proof is on respondent to prove by a preponderance of the evidence that his license application should be granted. (*Martin v. Alcoholic Beverage Control Appeals Board* (1950) 52 cal. 2d 259, 264-265.)

2. "Preponderance of the evidence means evidence that has more convincing force than that opposed to it." [Citations.] . . . . The sole focus of the legal definition of "preponderance" in the phrase "preponderance of the evidence" is on the quality of the evidence. The quantity of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314,324-325.) "If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it [citation]." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 663.)

3. The burden of proof is on respondent to produce positive evidence of rehabilitation. (*Epstein v. California Horse Racing Board* (1963) 222 Cal.App.2d 831, 842-843.)



*Applicable Statutory and Regulatory Provisions*

4. EMSA is the state agency “responsible for the coordination and integration of all state activities concerning emergency medical services.” (Health & Saf. Code, § 1797.1.) Emergency medical services (EMS) are “the services utilized in responding to a medical emergency.” (Health & Saf. Code, § 1797.72.) EMSA is “solely responsible for licensure . . . of EMT-Ps who meet the standards and are not precluded from licensure because of any of the reasons listed in . . . Section 1798.200.” (Health & Saf. Code, § 1797.172, subd. (c).)

5. Health and Safety Code section 1798.200, subdivisions (b) and (c), provide, in relevant part:

(b) The authority may deny . . . any EMT-P license . . . 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 denial, 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:

(1) Fraud in the procurement of any certificate or license 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 certified copy of the record shall be conclusive evidence of the conviction. . . .

6. “A voluntary plea of guilty is the equivalent of a conviction of the crime [citation]; all allegations of the offense are admitted by the defendant when he enters his plea. [Citation.] A plea of guilty in a criminal prosecution is ‘a conclusive admission of [his] guilt and of every element entering into the offense charged’ [citation] and constitutes no less than a confession of every factor comprising the charges contained in the pleading.’ [Citation.] . . . [A] plea of guilty means guilty ‘as charged’ in the information, and by it ‘all averments of fact are admitted. . . . The effect is the same as if the defendant had been tried before a jury and had been found guilty upon evidence covering all material facts.’” (*Arenstein v. California State Board of Pharmacy* (1968) 265 Cal. App. 2d 179, 189.)

### *Definition of Fraud*

7. Civil Code section 1572 defines “Actual Fraud” as including: “1.) The suggestion, as a fact, of that which is not true, by one who does not believe it to be true; 2.) The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true; [or] 3.) The suppression of that which is true, by one having knowledge or belief of the fact . . .” (Civ. Code, § 1572.)

8. “A fraudulent state of mind includes not only knowledge of falsity of the misrepresentation but also an ‘intent to . . . induce reliance’ on it.” (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 976; *Lazar v. Superior Court* (1996) 12 Cal.4th 631, 638.) The elements of fraud and negligent misrepresentation are very similar. “However, the state of mind requirements are different. ‘Fraud is an intentional tort, the elements of which are (1) misrepresentation; (2) knowledge of falsity; (3) intent to defraud, i.e., to induce reliance; (4) justifiable reliance; and (5) resulting damage. [Citation.]’ [Citation.] Negligent misrepresentation lacks the element of intent to deceive. Therefore, “[w]here the defendant makes false statements, honestly believing that they are true, but without reasonable ground for such belief, he may be liable for negligent misrepresentation, a form of deceit.’ [Citations.]” (*Moncada v. West Coast Quartz Corp.* (2013) 221 Cal.App.4th 768, 781.)

### *Substantial Relationship of Crime to Qualifications, Functions, and Duties*

9. The conclusion that a conviction justifies the denial of an application for a license requires a reasoned determination that the conduct in question was substantially related to the licensee’s fitness to engage in the profession. Licensing authorities do not have unfettered discretion to determine whether a given conviction is substantially related to the relevant professional qualifications. (*Robbins v. Davi* (2009) 175 Cal.App.4th 118, 124.) Licensing authorities are required to develop criteria to aid them in making that determination. (Bus. & Prof. Code §§ 481 and 482.)

10. “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).)

### *The Existence of Cause to Deny Mr. Wood’s EMT-P License Application*

11. Paramedics are often the first responders to an emergency, and they occupy positions that require clear-headedness and the exercise of impeccable judgment. They must be able to swiftly decide upon and competently administer medical treatment. Any impairment or lapses in judgment may endanger the lives of patients, who are vulnerable due to their emergent medical conditions. Paramedics are in positions that require honesty and trustworthiness, as they may frequently have unrestricted access to a patient’s home and

personal possessions at a time when a patient may be incapacitated. Paramedics routinely exercise independent judgment and discretion; must be relied on to comply with the laws, regulations, and protocols governing their own duties and responsibilities; and must be honest and truthful reporters of situations encountered and actions taken. Others rely on paramedics' representations to make important decisions about proper medical treatment for patients.

12. On his license application, Mr. Wood answered "no" to the question asking whether he had ever been convicted of a crime, even though he knew he had been convicted of a crime in 2005. The question was clear. It specifically instructed Mr. Wood to include convictions even if they had been expunged under Penal Code section 1203.4. However, based on his conversations with the human resources personnel of the City of San Diego, he reasonably, albeit mistakenly, believed the conviction no longer existed and no longer needed to be disclosed. Mr. Wood's conviction was expunged in 2008. He disclosed the conviction in connection with his application for an EMT certificate in 2010 and he disclosed it again when he later applied for a fire fighter position with City of the San Diego. He obtained his EMT license and was hired by the City of San Diego despite having disclosed the conviction. It is therefore reasonable to infer that he did not believe that disclosure of the conviction would cause his EMT-P license application to be denied. When EMSA inquired further about the conviction, Mr. Wood made a full disclosure. These facts support a finding that Mr. Wood did not intend to defraud EMSA when he responded "no" to the question. Rather, he negligently failed to disclose the conviction.

13. Cause does not exist to deny respondent an EMT-P license pursuant to Health and Safety Code section 1798.200, subdivision (c)(1), as alleged in paragraphs 7 and 8 of the accusation. Respondent proved by a preponderance of the evidence that he did not commit fraud when he applied for licensure because he did not intend to hide the truth from or deceive EMSA.

14. Cause exists to deny respondent's application for licensure as an EMT-P under Health and Safety Code section 1798.200, subdivision (c)(6), as alleged in paragraph 9 of the accusation. Respondent was convicted of a violent crime, assault with a deadly weapon other than a fire arm, substantially related to the qualifications, functions, and duties of a paramedic.

#### *Authority Regarding Rehabilitation*

15. California Code of Regulations, title 22, section 100176, subdivision (a), sets forth the rehabilitation criteria that should be considered by EMSA when considering denial of a prehospital personnel license application:

When considering the denial . . . of a license pursuant to Section 1798.200 of the Health and Safety Code . . . the Authority in evaluating the rehabilitation of the applicant and present eligibility for a license, shall consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s).
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, placement on probation, suspension, or revocation which also could be considered grounds for denial, placement on probation, suspension, or revocation under Section 1798.200 of the Health and Safety Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsection (1) or (2) of this section.
- (4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the person.

16. Rehabilitation is a state of mind, and a person who has reformed should be rewarded with the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) “While a candid admission of misconduct and a full acknowledgement of wrongdoing may be a necessary step in the process, it is only a first step. In our view, a truer indication of rehabilitation will be presented if petitioner can demonstrate by his sustained conduct over an extended period of time that he is once again fit to practice. . . .” (*In re Conflenti* (1981) 29 Cal.3d 120, 124-125.)

17. The evidentiary significance of 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.) Since persons under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that an individual did not commit additional crimes while on probation. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

#### *Disciplinary Guidelines*

18. EMSA developed “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” dated July 26, 2008 (Guidelines), which are incorporated by reference in EMSA’s regulations at California Code of Regulations, title 22, section 100173, subdivision (c). “The administrative law judge shall use the [Guidelines] as a guide in making any recommendations to the Authority for discipline of a paramedic applicant or license holder found to be in violation of Section 1798.200 . . . of the Health and Safety Code.” (Cal. Code Regs., tit. 22, § 100173, subd. (d).)

19. Section II of the Guidelines sets forth factors to be considered when determining the appropriate discipline to be imposed in a given case. The factors include: the nature and severity of the act, offense, or crime under consideration; the actual or potential harm to the public or any patient; prior disciplinary record; prior warnings on record or prior remediation; the number and/or variety of current violations; aggravating evidence; mitigating evidence; any discipline imposed by the paramedic's employer for the same occurrence of that conduct; rehabilitation evidence; in cases with a criminal conviction, compliance with the terms of the sentence or court-ordered probation; overall criminal record; time that has elapsed since the act or offense occurred; and, if applicable, evidence of expungement proceedings under Penal Code section 1203.4.

*Evaluation*

20. Mr. Wood was convicted of a serious and violent crime, assault with a deadly weapon, in 2005. The conviction and the conduct that resulted in the conviction occurred over fifteen years ago, when Mr. Wood was in high school. He complied with the terms of his probation and his conviction was expunged under Penal Code section 1203.4. Mr. Wood was a young man at the time he committed the crime, and he exercised poor judgment. He has learned from the experience. He has not engaged in similar conduct since his 2004 arrest.

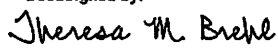
21. Mr. Wood provided compelling evidence that he has led an exemplary life since his conviction, working as a fire fighter, completing paramedic training while working full time as a fire fighter, and acting as an EMT instructor. He presented letters signed under penalty of perjury from many of his superiors and peers at the fire department, and others, each commending him on his medic skills, dedication to the community, and good moral character. He was also praised for exhibiting the ability to handle high pressure situations without engaging in negative behavior.

22. Mr. Wood has shown that he has been rehabilitated and that he would not pose a danger to the public if he is allowed to practice as a paramedic. His application should be granted.

ORDER

Jesse A. Wood's application for licensure as an Emergency Medical Technician-Paramedic is granted.

DATED: April 22, 2016

DocuSigned by:  
  
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\_\_\_\_\_  
THERESA M. BREHL  
Administrative Law Judge  
Office of Administrative Hearings