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BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Emergency Medical Technician- Paramedic License of:) Enforcement Matter No.: 16-0098
) OAH No.: 2017061038
)
DAMON L. PETERS) **DECISION AND ORDER**
License No. P20551)
Respondent.)
_____)

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:
April 17, 2018



Howard Backer MD, MPH
Director
Emergency Medical Services Authority

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DAMON L. PETERS,

Respondent.

Case No. 16-0098

OAH No. 2017061038

PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, on February 13, 2018, in Los Angeles.

Cheryl W. Hsu, Staff Counsel, represented complainant.

David J. Givot, Attorney at Law, represented Damon L. Peters, who was present.

Oral and documentary evidence was received. The record was held open for the parties to file closing briefs by March 16, 2018. The parties timely filed their closing briefs, which were marked as follows: complainant's brief was marked as Exhibit 13, and respondent's brief was marked as Exhibit B. The matter was submitted and the record was closed on March 16, 2018.

FACTUAL FINDINGS

1. Complainant Sean Trask filed the Accusation in his official capacity as the Chief, EMS Personnel Division of the Emergency Medical Services Authority of the State of California (EMSA).

2. On November 13, 2003, the EMSA issued Emergency Medical Technician-Paramedic (EMT-P) license number P20551 to Damon L. Peters (respondent). The license is valid through November 30, 2017, unless it is renewed, revoked or suspended as provided by law.

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Respondent's Conviction

3. (A) On October 24, 2016, in the Superior Court, County of Los Angeles, case number 6AN03019, respondent was convicted on his plea of nolo contendere to one count of violating Vehicle Code section 23103 (reckless driving), a misdemeanor. The criminal complaint originally charged respondent with driving under the influence (DUI) in violation of Vehicle Code section 23152. Pursuant to a plea agreement, the section 23152 charge was reduced to reckless driving, resulting in what is commonly known as a "wet reckless" conviction. (*People v. Claire* (1991) 229 Cal.App.3d 647, 650; Veh. Code, § 23103.5.)

(B) Respondent was placed on summary probation for a period of 24 months under terms and conditions including, but not limited to, pay various fines and assessments totaling \$880, enroll in a licensed alcohol and drug education program pursuant to Vehicle Code section 23103.5, subdivision (e), complete the Victim Impact Program of Mothers Against Drunk Driving, not drive any vehicle with any measurable amount of alcohol or drugs in his blood or refuse to take and complete any blood alcohol or drug chemical test, any field sobriety test, or any preliminary alcohol screening test when requested by any peace officer, and abstain from the use of alcoholic beverages and stay out of places where they are the chief items for sale.

4. (A) The facts and circumstances underlying the conviction are: On April 11, 2016, at approximately 6:58 p.m., California Highway Patrol (CHP) officer Stephen Taggart responded to the intersection of State Route 138 (SR-138) and 170th Street West in Lancaster on a report of a vehicle stuck in the mud. SR-138 is a two-lane state highway that runs east-west. 170th Street West is a two-lane roadway that runs north-south. At this intersection, each lane of traffic on 170th Street West is controlled by a stop sign.

(B) Upon arriving at the scene, Officer Taggart saw respondent standing near the open driver's door of a 2011 Volkswagen Jetta. The car was stopped on a dirt berm at the southeast corner of 170th Street West at SR-138. The car was facing in a southeasterly direction and had minor damage to the left front bumper fascia. There was between one to four inches of water at the southeast corner of the intersection where respondent's car was located. There was water on the northbound lane of 170th Street West in the area of the stop sign and limit line at this corner.

(C) After parking his patrol car, Officer Taggart contacted respondent. Initially, respondent handed Officer Taggart his paramedic certification card and stated, "I just live down the road." (Exh. 6, p. 080.) The officer asked respondent for his driver's license, which respondent provided. Respondent told the officer he was driving home from his friend's house in Neenach. Respondent stated he was traveling eastbound on SR-138 towards 170th Street West at approximately 55 miles per hour. He slowed to approximately 35 miles per hour to turn right onto the southbound lane of 170th Street West and his car slipped in the mud and became stuck.

(D) While conversing with respondent, Officer Taggart saw that respondent's eyes were red and watery and his speech was slow and slurred. The officer also smelled a faint odor of an alcoholic beverage on respondent's breath. Officer Taggart asked respondent if he had been drinking. Respondent admitted to drinking two to three shots of tequila at his friend's house two hours earlier. Officer Taggart administered field sobriety tests to respondent, which respondent failed to complete satisfactorily. During the field sobriety tests, respondent was unsteady on his feet, he swayed from side-to-side on one test and in a circular motion on another test, he began one test before being instructed to do so, and he displayed eyelid tremors. Respondent's performance on the field sobriety tests indicated signs of alcohol intoxication.

(E) Based on respondent's traffic accident, his objective signs of intoxication, his poor performance on the field sobriety tests, and his admission of drinking alcohol, Officer Taggart formed the opinion that respondent drove his vehicle while under the influence of an alcoholic beverage. Officer Taggart placed respondent under arrest for driving under the influence of alcohol in violation of Vehicle Code section 23152. Respondent refused the preliminary alcohol screening (PAS) test, which was his right. Respondent chose to submit to a blood test. Officer Taggart transported respondent to a hospital where a blood sample was drawn. Subsequent testing of respondent's sample for blood-alcohol content found the sample had a blood-alcohol concentration of 0.15 percent.

5. (A) Officer Taggart testified at the hearing. He has worked as a CHP officer for 19 years. Officer Taggart testified credibly regarding the circumstances of respondent's arrest and the Driving Under the Influence Arrest-Investigation Report (arrest report) he prepared (Exh. 6).

(B) Officer Taggart described respondent's demeanor at the time of his arrest as "upset." During the drive to the hospital for the blood test, respondent told Officer Taggart that he should have just let him go because he was a paramedic and he "just lived down the road." Respondent had initially given Officer Taggart his paramedic card instead of his driver's license. Officer Taggart felt respondent was seeking a professional courtesy because he was paramedic. Officer Taggart testified that respondent was off-duty as a paramedic at the time of the arrest. Officer Taggart told respondent that, as a paramedic, he should know more than the average person about the dangers of driving under the influence of alcohol.

(C) Officer Taggart had driven by the intersection of 170th Street West and SR-138 approximately 15 minutes before being notified of a car stuck in the mud, and respondent's car was not in the area. He was monitoring traffic at this intersection because a drain was clogged and water needed to be cleared from the roadway. He had requested CalTrans to put up a minor hazard sign. He did not think that flares were necessary to warn passing motorists.

6. The arrest report includes a diagram of the accident scene. (Exh. 6, p. 077.) Respondent failed to complete a right turn from SR-138 onto the southbound lane of 170th Street West. He overshot the turn and his car continued through the intersection and ended up in the mud on the southeast corner of the intersection. His car was facing in a southeasterly direction when it stopped on the dirt berm. There was no evidence of any hazardous road condition in respondent's lane of travel on SR-138 or the southbound lane of 170th Street West where he intended to make a right turn.

7. Somavadey Neal testified at the hearing. Ms. Neal has been a Senior Criminalist, Forensic Alcohol Analyst, with the Los Angeles County Sheriff's Department crime lab for 10 years. She holds a bachelor's degree in biochemistry. Ms. Neal performed the testing of respondent's blood sample and prepared a written report of the test results. (Exh. 7.) Ms. Neal testified credibly regarding the testing of respondent's blood sample. The test results measured the blood-alcohol concentration of respondent's blood sample at 0.15 percent. Ms. Neal opined that individuals with a 0.15 percent blood-alcohol level are mentally impaired to drive a motor vehicle safely.

Respondent's Testimony

8. Respondent has been licensed for 13 years as a paramedic. He has no history of prior discipline against his paramedic license. At the time of his arrest on April 11, 2016, and up to the present, respondent was and is self-employed and owns his own small business providing first aid staff for events and for educational purposes. He does not currently practice as a paramedic. He testified that he needs his paramedic license for his business for quality assurance purposes when training paramedics.

9. At the time of his arrest on April 11, 2016, respondent was not on-duty as a paramedic. He was not working on an ambulance and could not be called to provide paramedic services. Respondent testified it would be difficult for him to find work on an ambulance if his paramedic license is placed on probation. Respondent testified he cannot work as a paramedic outside of a base hospital.

10. Respondent testified regarding the incident on April 11, 2016, that resulted in his criminal conviction. Respondent was driving home after visiting his friend's house in Neenach. Respondent's wife had passed away in February 2015 and April 11 was their wedding anniversary. Respondent was upset about the loss of his wife and their wedding anniversary, so he went to his friend's house for a visit. (Officer Taggart's report makes no mention of any statement by respondent regarding his wedding anniversary or his wife's death.) Respondent testified he had three tequila shots over a 20 to 30-minute period at his friend's house, and then he drove home. Respondent testified that, while driving home, he did not feel the effects of the alcohol he consumed at his friend's house. He testified that his friend's house was approximately 10 minutes from the accident scene.

11. Respondent admitted that he made a huge mistake by drinking alcohol and driving. He testified he was seeing a grief counselor at the time of the April 11, 2016 incident. He testified that, since his conviction, he has learned he should not drink and drive and has also learned not to allow his emotions to overwhelm him and lead him to make bad decisions. Respondent testified he is not an alcoholic and does not currently drink alcohol. He testified that he will lose his livelihood if he loses his paramedic license. Respondent apologized for his conduct and admitted that he "made a horrible decision."

12. Respondent testified he is complying with his criminal probation. He is scheduled to remain on probation until October 2019. Respondent did not testify specifically as to what he has done to comply with his probation and offered no documentation regarding compliance with his probation (e.g., course completion certificates, receipts for payment of fines, etc.). The court record presented at the hearing (Exh. 8) corroborated only that respondent filed proof of enrollment in a three-month DUI program on November 14, 2016.

LEGAL CONCLUSIONS

1. The EMSA is the state agency "responsible for the coordination and integration of all state activities concerning emergency medical services." (Health and Safety Code, section 1797.1.) Emergency medical services (EMS) are "the services utilized in responding to a medical emergency." (Health & Saf. Code, § 1797.72.)

2. A paramedic is a health care professional. (Health & Saf. Code, § 1798.6, subd. (a) [describing paramedics and other prehospital emergency personnel as "health care professional[s]".]) 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.)

3. Pursuant to Health and Safety Code section 1798.200, subdivision (b), the EMSA may deny, suspend, revoke, or place on probation any EMT-P license upon the finding of the occurrence of any of the actions listed in subdivision (c). Subdivision (c) reads in pertinent part as follows:

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 holder or license holder 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 a certified copy of the record shall be conclusive evidence of the conviction. [¶] ... [¶]

(9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages

4. California Code of Regulations, title 22, section 100175 provides in pertinent 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 his/her license in a manner consistent with the public health and safety."

First Cause for Discipline

5. Cause exists to discipline respondent's EMT-P license, pursuant to Health and Safety Code section 1798.200, subdivision (c)(6), and California Code of Regulations, title 22, section 100175, in that, on October 24, 2016, respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed paramedic, based on Factual Findings 3-7.

6. Respondent was convicted of reckless driving involving alcohol consumption, which is a "substantially related" crime because, to a substantial degree, it evidences respondent's present or potential unfitness to perform the functions authorized by his paramedic license in a manner consistent with the public health and safety. (Cal. Code Regs., tit. 22, § 100175.) "One who willfully consumes alcoholic beverages to the point of intoxication, knowing that he thereafter must operate a motor vehicle . . . reasonably may be held to exhibit conscious disregard of the safety of others." (*People v. Watson* (1981) 30 Cal.3d 290, 300-301.)

7. (A) 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 (*Griffiths*), the court found that a physician's convictions involving alcohol consumption had a logical connection to his fitness to practice medicine and could be the basis for license discipline. The court explained:

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.

(*Griffiths, supra*, 96 Cal.App.4th at p. 770; citation omitted.)

(B) The above-quoted language applies with equal force to respondent's circumstances as a licensed paramedic. There is no language in the *Griffiths* case that its holding was limited only to the facts of that case (i.e., a physician with multiple drunk driving convictions).

8. Furthermore, the 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. The scope of paramedic practice includes services performed "while at the scene of a medical emergency or during transport, or during interfacility transfer." (Cal. Code Regs., tit. 22, § 100146, subd. (c).)

9. Respondent contends there is no logical connection between his conviction and his fitness for duty as a paramedic because, at the time of his arrest, "[he] was not on duty, he was not in a position to provide patient care, [and] he was not subject to emergency (or any other) response." (Exh. B [respondent's brief, pp. 4-5].) At the time of his arrest, respondent was self-employed, he was not driving to or from work as paramedic, and he was not working on an ambulance. But the court in *Griffiths* rejected the same argument for a physician, noting that "[s]ubstantial 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, supra*, 96 Cal.App.4th at p. 771.) Similarly here, respondent's off-duty behavior reflects on his fitness and qualifications to perform duties authorized by his paramedic license. Respondent was not employed as a paramedic at the time of his arrest, and is not currently employed as a paramedic. Nonetheless, as the holder of a valid paramedic license, he remains empowered to perform paramedic functions authorized by his license and is subject to all obligations imposed on him by the license.

Second Cause for Discipline

10. Cause exists to discipline respondent's EMT-P license, pursuant to Health and Safety Code section 1798.200, subdivision (c)(9), in that, on April 11, 2016, respondent misused alcoholic beverages by drinking alcohol (tequila) and then driving his vehicle, based on Factual Findings 3-7.

11. Respondent denies that he drove his vehicle while under the influence of alcohol. Although respondent admitted to drinking three shots of tequila before driving home from his friend's house, he contends he did not feel the effects of the tequila until after he was contacted by Officer Taggart at the accident scene. He contends his solo traffic accident was due to hazardous road conditions, which caused his car to get stuck in the mud. He denies engaging in any misuse of alcoholic beverages.

12. Despite his belief to the contrary, the evidence established that respondent drove his vehicle while under the influence of alcohol, resulting in the solo traffic accident that left his car stuck in the mud. Respondent exhibited objective symptoms of intoxication

at the accident scene, which were observed by Officer Taggert. Respondent's eyes were red and watery, his speech was slow and slurred, and there was a faint odor of an alcoholic beverage on his breath. He admitted drinking three shots of tequila before driving. In addition, respondent failed to satisfactorily perform field sobriety tests administered by the officer. Subsequent testing of his blood sample yielded a blood-alcohol concentration of 0.15 percent.¹ The circumstances of respondent's traffic accident support a reasonable inference the accident was the result of his driving under the influence of alcohol, and not a hazardous road condition. The totality of the evidence established that respondent misused alcoholic beverages.

Level of Discipline

13. Administrative proceedings to revoke, suspend or impose discipline on a professional license are non-criminal and non-penal; they are not intended to punish the licensee, but rather to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786.)

14. "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).)

15. The Guidelines set forth categories of violations and the recommended level of discipline for each category. For a substantially related criminal conviction, the maximum discipline is revocation and the minimum discipline is revocation stayed, with one year probation. For the excessive use or misuse of alcohol, the maximum discipline is revocation and the minimum is revocation stayed, with three years' probation. (Guidelines, pp. 6-7.)

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

(1) *Nature and severity of the act(s), offense(s), or crime(s) under consideration:* Respondent drove his vehicle in a reckless manner after consuming alcohol and was involved in a solo traffic accident. He suffered a "wet reckless" conviction after the original charges for driving under the influence of alcohol were reduced to reckless driving.

(2) *Actual or potential harm to the public:* Respondent's conduct posed a serious risk of harm to himself and other motorists, evidenced by his solo vehicle traffic accident.

¹ Vehicle Code section 23152, subdivision (b), provides: "It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle."

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

(4) *Prior disciplinary record:* No evidence was presented that respondent has a prior disciplinary record.

(5) *Prior warnings on record or prior remediation:* No evidence was presented of any prior warnings on record or prior remediation.

(6) *Number and/or variety of current violations:* Respondent committed two violations, but they arose from a single incident.

(7) *Aggravating evidence:* No aggravating evidence was presented.

(8) *Mitigating evidence:* According to respondent's testimony, he was upset on April 11, 2016, the date of his arrest, because it was his wedding anniversary and he was still grieving for his wife who passed away in 2015. This testimony, at most, provides a possible motivation for respondent's conduct on April 11, 2016, but it does not establish excuse or mitigation for his conduct. No evidence was presented to corroborate respondent's testimony, such as a letter from the friend he was visiting or live testimony by the friend. Furthermore, there was no mention in Officer Taggart's arrest report of any statement made by respondent to the officer about his wedding anniversary or his wife's death.

(9) *Any discipline imposed by the paramedic's employer for the same occurrence of that conduct:* Not applicable.

(10) *Rehabilitation evidence:* Respondent apologized for his conduct and admitted he made a horrible decision and a huge mistake. He stated he has learned his lesson and will not drink alcohol before driving. He denied being an alcoholic and stated he does not currently drink alcohol. Respondent offered no testimony of any specific actions he has taken in the form of rehabilitation; rather, he spoke of what he has learned as a result of his arrest and conviction. He offered no evidence of rehabilitation from sources other than himself. Evidence from outside sources could lend credibility or substance to respondent's own testimony of rehabilitation. "Favorable testimony of acquaintances, neighbors, friends, associates and employers with reference to their observation of the daily conduct and mode of living" can be helpful in determining whether a person seeking licensure is rehabilitated. (See *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309, 317 – 318.) Respondent's testimony, standing alone, is insufficient to establish he is rehabilitated from his conviction.

(11) *In case of a criminal conviction, compliance with terms of the sentence and/or court-ordered probation:* Respondent testified he has complied with his criminal probation, but failed to state which probation terms he has complied with and presented no documentation to corroborate his testimony of compliance, such as course completion

certificates and receipts for payment of fines. The court records established only that respondent filed proof of enrollment in a three-month DUI program on November 14, 2016.

(12) *Overall criminal record:* No evidence was presented that respondent has any other criminal convictions or arrests.

(13) *Time that has elapsed since the act(s) or offense(s) occurred:* Two years have passed since the April 11, 2016 incident that resulted in respondent's arrest and conviction.

(14) *If applicable, evidence of expungement proceedings pursuant to Penal Code 1203.4:* Not applicable. Respondent is scheduled to remain on criminal probation until October 2019 and, thus, is not eligible to petition for expungement of his conviction at this time.

17. Based on consideration of the above factors, the appropriate level of discipline in this case is a revocation stayed with three years' probation. The public protection concern with respondent is the misuse of alcohol and driving under the influence. Respondent has been self-employed and not working as a paramedic since at least April 2016. Consequently, he has not been subject to any outside supervision as a paramedic during that time. Respondent denied being an alcoholic and asserted that he does not drink alcohol, but he presented no documentation or other evidence to corroborate that claim. A probation period will ensure that respondent, in fact, maintains sobriety and does not engage in similar alcohol-related misconduct in the future. The optional probation conditions that he abstain from the use of alcohol beverages and submit to random alcohol testing are appropriate. The optional probation conditions related to drug detoxification/diversion and abstaining from drug use and possession are unwarranted for respondent. The probation conditions set forth in the Order below will protect the public health and safety.

18. The Order below does not include Standard Condition 6 (Functioning as a Paramedic) which provides, in pertinent part: "The period of probation shall not run anytime that the respondent is not practicing as a paramedic within the jurisdiction of California." (Exh. 11, p. 174 [Guidelines, p. 13].) Since respondent is not working as a paramedic but, instead, is self-employed, imposing Standard Condition 6 as a probation condition would toll respondent's probation from the outset. Respondent's self-employed status should not delay the start of his probation period. As discussed in Legal Conclusion 17, a period of supervision and monitoring is appropriate. If respondent obtains employment as a paramedic in the future, Standard Condition 4 (Employment Notification) requires him to notify the EMSA and any current or prospective EMS employer regarding the terms and conditions of his probation.

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ORDER

License Number P20551 issued to the respondent, Damon L. Peters, is revoked. However, such revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. Probation Compliance:

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

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

2. Personal Appearances:

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

3. Quarterly Report Requirements:

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

4. Employment Notification:

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

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

The respondent authorizes any EMS employer to submit performance evaluations and other reports which the EMSA may request that relate to the qualifications, functions, and duties of prehospital personnel.

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

5. Notification of Termination:

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

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

6. Functioning as a Paramedic:

The period of probation shall not run anytime that the respondent is not practicing as a paramedic within the jurisdiction of California.

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

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

7. Obey All Related Laws:

The respondent shall obey all federal, state and local laws, statutes, regulations, written policies, protocols and rules governing the practice of medical care as a paramedic. The respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to Section 1798.200. To permit monitoring of compliance with this term, if the respondent has not submitted fingerprints to the EMSA in the past as a condition of licensure, then the respondent shall submit his fingerprints by Live Scan or by fingerprint cards and pay the appropriate fees within 45 days of the effective date of this decision.

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

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

8. Completion of Probation:

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

9. Violation of Probation:

If during the period of probation the respondent fails to comply with any term of probation, the EMSA may initiate action to terminate probation and implement actual license suspension/revocation. Upon the initiation of such an action, or the giving of a notice to the respondent of the intent to initiate such an action, the period of probation shall remain in effect until such time as a decision on the matter has been adopted by the EMSA. An action to terminate probation and implement actual license suspension/revocation shall be initiated and conducted pursuant to the hearing provisions of the California Administrative Procedure Act.

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

10. Abstinence from the Use of Alcoholic Beverages:

The respondent shall abstain from the use of alcoholic beverages.

11. Biological Fluid Testing:

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

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

DATED: April 13, 2018

DocuSigned by:
Erlinda Shrenger
782882046244108
ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings