



OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA
GENERAL JURISDICTION DIVISION

For more information visit
www.dgs.ca.gov/oah

FINDINGS AND DECLARATION OF DEFAULT; ORDER OF REMAND
(Gov. Code § 11520)

Case Name In the Matter of the Accusation against Monique Wellin		OAH Case Number 2018050497
Name of Agency Emergency Medical Services Authority (EMSA)		Agency Case Number 17-0279
Agency Attorney Cheryl Hsu	Respondent/Appellant/Petitioner Monique Wellin	Respondent/Appellant/Petitioner Attorney

FINDINGS

A Notice of Hearing dated May 11, 2018 was served on Respondent/Appellant/Petitioner on May 11, 2018.

The Notice of Hearing was served on Respondent/Appellant/Petitioner by (method of service)

Certified Mail Regular US Mail Other _____

at (address of service)

- The address provided by Respondent/Appellant/Petitioner in the Notice of Defense
 The address maintained by the Agency as the Address of Record for Respondent/Appellant/Petitioner
 Other address provided by Respondent/Appellant/Petitioner

The Notice of Hearing provided notice that a hearing would take place on (date) August 27, 2018 at (time) 9:00 a.m.
at (location):

- SACRAMENTO
2349 GATEWAY OAKS DR., SUITE 200
SACRAMENTO, CA 95833
Phone 916-263-0550 FAX 916-376-6349
- LOS ANGELES
320 WEST FOURTH STREET, SUITE 630
LOS ANGELES, CA 90013
Phone 213-576-7200 FAX 916-376-6324

- OAKLAND
1515 CLAY STREET, SUITE 206
OAKLAND, CA 94612
Phone 510-622-2722 FAX 916-376-6323
- SAN DIEGO
1350 FRONT STREET, ROOM 3005
SAN DIEGO, CA 92101
Phone 619-525-4475 FAX 916-376-6325

OTHER LOCATION: _____

The matter was called for hearing at the date, time and location set forth in the Notice of Hearing. Counsel for the Agency appeared for hearing. Service of the Notice of Hearing was proper.

There was no appearance by or on behalf of Respondent/Appellant/Petitioner. At (time) 9:30 AM a default was declared.

Agency counsel has moved for remand of the matter for Agency action under Government Code section 11520.

ORDER OF REMAND

Based upon Respondent/Appellant/Petitioner's failure to appear at the hearing, the Agency's motion is granted. This matter is remanded to the Agency under Government Code section 11520.

DATED: <u>8/27/18</u>	ADMINISTRATIVE LAW JUDGE (Print): <u>BRENDAN WHITE</u>	ADMINISTRATIVE LAW JUDGE (Signature):
--------------------------	---	---

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

<p>In the Matter of the Emergency Medical Technician- Paramedic License Held by:</p> <p>MONIQUE WELIN License No. P18990</p> <hr style="width: 100%;"/> <p style="text-align: right;">Respondent</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Enforcement Matter No.: 17-0279 OAH No. 2018050497</p> <p>DEFAULT DECISION AND ORDER [Gov. Code, § 11520]</p>
---	--	--

SUMMARY

The Director of the California Emergency Medical Services Authority (EMS Authority) decides this matter without a hearing in accordance with the default provisions of California Government Code Section 11520. In rendering this decision, the Director considered the contents of the Authority’s official records in addition to official records of other public agencies.

For the reasons that follow, Respondent **MONIQUE WELIN.**, Emergency Medical Technician-Paramedic (EMT-P) license No. P18990 is revoked for good cause pursuant to the provisions of the California Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act; Health & Saf. Code, § 1797 et seq). Specifically, on or about November 5, 2015, in Tehama County Superior Court, Case No. NCR96836, Respondent was charged with three (3) felony violations of California Penal Code Section 273a(a), Child Abuse; one misdemeanor violation of California Vehicle Code Section 23152(a), Driving Under the Influence of Alcohol; and one misdemeanor violation of California Vehicle Code Section 23152(b), Driving While Having a 0.08% or Higher Blood Alcohol. On May 9, 2016, Respondent was convicted by her plea of “guilty” to a felony

1 violation of California Penal Code Section 273a(a), Child Abuse. Respondent was sentenced
2 to four (4) years of formal probation, serve 120 days in jail, perform 80 hours of community
3 labor, complete an alcohol and drug treatment program, complete a 52-week child abuser
4 treatment program, and pay restitution and fines.

5 Respondent's actions violate the following provisions of EMS Act Section 1798.200,
6 subdivision (c), and warrant revocation of his EMT-P license:

7 (6) Conviction of any crime which is substantially related to the
8 qualifications, functions, and duties of prehospital personnel. The record of
9 conviction or a certified copy of the record shall be conclusive evidence of
the conviction. ¶

10 1. The EMSA conducted an investigation of the arrest and conviction described
11 above and determined that Respondent had been convicted of child abuse, a violation of Section
12 1798.200(c)(6) in that she was convicted of a crime that is substantially related to the
13 qualifications, functions, and duties of prehospital personnel.

14 The conviction of driving after drinking alcohol and the misuse of alcohol by
15 Respondent as described above constitute a threat to the public health and safety because of the
16 necessity for Respondent to drive a vehicle and provide medical care to the public.

17 Respondent's arrests and conviction reflect a lack of sound professional and personal judgment
18 that is relevant to a paramedic's fitness to perform his duties as a paramedic. The consumption
19 of alcohol quickly affects normal driving ability, and driving after drinking alcohol threatens
20 personal safety and places the safety of the public in jeopardy. Driving after drinking alcohol
21 shows an inability or unwillingness to obey the law prohibiting drinking and driving and is a
22 breach of Respondent's duty owed to society. These are essential to the duties of a paramedic;
23 they undermine public confidence and respect for the profession.

24 ///

25 ///

1 **PARTIES**

2 2. Sean Trask (Complainant), Chief of the California Emergency Medical Services
3 Authority (Authority) EMS Personnel Division, filed the Accusation in this matter in his official
4 capacity.

5 3. At all times here relevant, Respondent held Emergency Medical Technician-
6 Paramedic (“EMT-P”) license number P18990 that was first issued on August 2, 2002 and her
7 license lapsed on November 30, 2010.

8 **PROCEDURAL FINDINGS**

9 4. The administrative adjudication provisions of the California Administrative
10 Procedure Act (Gov. Code, §§ 11500 — 11529) apply to this proceeding against Respondent’s
11 EMT-P license (EMS Act, § 1798.200, subd. [b]).

12 5. On February 1, 2018, the EMS Authority served the following documents upon
13 Respondent in accordance with Government Code Section 11505: Accusation seeking
14 revocation of Respondent’s EMT-P license; Statement to Respondent; Notice of Defense form;
15 copies of Government Code Sections 11507.5, 11507.6, and 11507.7; and Request for
16 Discovery, Service on Respondent was made by U.S. Certified mail, postage prepaid, at
17 Respondent’s address of record on file with the EMS Authority.

18 6. The EMS Authority’s regulations require EMT-P licensees to notify the Authority
19 of their proper and current mailing address:

20 The paramedic shall be responsible for notifying the Authority of her/his
21 proper and current mailing address and shall notify the Authority in writing
22 within thirty (30) calendar days of any and all changes of the mailing
23 address, giving both the old and the new address, and paramedic license
24 number.

25 (Cal. Code Regs., Tit. 22, § 100165, subdivision [g]).¹

¹ All further citations to regulations refer to California Code of Regulations, Title 22.

1 7. Service of the Accusation upon Respondent by registered mail was effective
2 under Government Code Section 11505, subdivision (c), which states in relevant part:

3 Service by registered mail shall be effective if a statute or agency rule
4 requires the respondent to file the respondent's address with the agency and
5 to notify the agency of any change, and if the letter containing the
6 accusation and accompanying material is mailed, addressed to the
7 respondent at the latest address on file with the agency.

8 8. On May 11, 2018, the EMS Authority served the following documents upon
9 Respondent in accordance with Government Code Section 11505: Notice of Hearing provided
10 notice that a hearing would take place on August 27, 2018 at 9 a.m. at the Office of
11 Administrative Hearings, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833.

12 9. The matter was called for hearing at the date, time and location set forth in the
13 Notice of Hearing. Service of the Notice of Hearing was proper. There was no appearance by
14 or on behalf of Respondent. On August 27, 2018, at 9:30 a.m., a default was declared. Agency
15 counsel moved for remand of the matter for Agency action and in accordance with the default
16 provisions of Government Code Section 11520, subdivision (a),

17 If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express
19 admissions or upon other evidence and affidavits may be used as evidence
20 without any notice to respondent.

21 10. Based upon Respondent's failure to appear at the hearing, the Agency's motion
22 was granted, and the matter remanded to the Agency under Government Code Section 11520.

23 **GOVERNING STATUTES AND REGULATIONS**

24 11. The Authority has sole jurisdiction over EMT-P licensure and licensure renewal
25 in California (EMS Act, § 1797.172, subd. [c]).

 12. Section 1798.200 of the EMS Act authorizes the Authority to take disciplinary
action against an EMT-P license or to deny a license for acts deemed to constitute a threat to the
public health and safety. In relevant part, Section 1798.200 declares:

1 (b) The authority may deny, suspend, or revoke any EMT-P license issued
2 under this division or may place any EMT-P licenseholder on probation upon
3 the finding by the director of the occurrence of any of the actions listed in
4 subdivision (c).

5 (c) Any of the following actions shall be considered evidence of a threat to the
6 public health and safety and may result in the denial, suspension or revocation
7 of a certificate or license issued under this division, or in the placement on
8 probation of a certificate or licenseholder under this division:

9 (6) Conviction of any crime which is substantially related to the
10 qualifications, functions, and duties of prehospital personnel. The record of
11 conviction or a certified copy of the record shall be conclusive evidence of
12 the conviction.

13 13. California Code of Regulations, Title 22, Section 100175, states the criteria for
14 determining when a crime or act is substantially related to an EMT-P's qualifications, functions,
15 or duties:

16 Substantial Relationship Criteria for the Denial, Placement on Probation,
17 Suspension, or Revocation of a License.

18 (a) For the purposes of denial, placement on probation, suspension, or
19 revocation, of a license, pursuant to Section 1798.200 of the Health and
20 Safety Code, or imposing an administrative fine pursuant to Section
21 1798.210 of the Health and Safety Code, a crime or act shall be
22 substantially related to the qualifications, functions and/or duties of a person
23 holding a paramedic license under Division 2.5 of the Health and Safety
24 Code. A crime or act shall be considered to be substantially related to the
25 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.

FACTUAL FINDINGS

14. On November 5, 2015 in Tehama County Superior Court, Case No. NCR96836,
Respondent was charged with three (3) felony violations of California Penal Code Section
273a(a), Child Abuse; one misdemeanor violation of California Vehicle Code Section 23152(a),
Driving Under the Influence of Alcohol; and one misdemeanor violation of California Vehicle

1 Code Section 23152(b), Driving While Having a 0.08% or Higher Blood Alcohol. On May 9,
2 2016, Respondent was convicted by her plea of “guilty” to a felony violation of California Penal
3 Code Section 273a(a), Child Abuse. Respondent was sentenced to four (4) years of formal
4 probation, serve 120 days in jail, perform 80 hours of community labor, complete an alcohol
5 and drug treatment program, complete a 52-week child abuser treatment program, and pay
6 restitution and fines.

7 **LEGAL CONCLUSIONS**

8 15. As detailed in the Factual Findings above, Respondent was convicted of a crime
9 that is substantially related to the qualifications, functions, and duties of prehospital personnel,
10 in violation of Health and Safety Code Section 1798.200, subdivision (c)(6), as the conviction
11 of any crime that is substantially related to the qualifications, functions, and duties of
12 prehospital personnel which demonstrates present or potential unfitness of a paramedic to
13 perform the functions authorized by the EMT-P license in a manner consistent with the public
14 health and safety.

15 16. Respondent’s actions of driving after drinking alcohol and conviction of driving
16 after drinking alcohol constitute a violation of Section 1798.200(c)(9), showing a misuse of
17 alcoholic beverages felony violations of California Penal Code Section 273a(a), Child Abuse.
18 Respondent’s actions reveal an inability or unwillingness to obey the law and constitute a
19 breach of Respondent’s duty owed to society.

20 17. The record establishes by clear and convincing evidence that Respondent
21 **MONIQUE WELIN** committed acts that demonstrate she is unfit to perform the functions
22 authorized by an EMT-P license in a manner consistent with the public health and safety,
23 warranting revocation of her EMT-P license under EMS Act Section 1798.200.

24 ///


25 ///

1 **ORDER**

2 Emergency Medical Technician-Paramedic license number P18990, issued to Respondent
3 **MONIQUE WELIN.**, is hereby revoked. This decision shall become effective 20 days after the
4 date below.

5 IT IS SO ORDERED:

6
7 Dated: August 30, 2018

8 
9 _____
10 Howard Backer, MD, MPH, FACEP
11 Director, Emergency Medical Services Authority
12 State of California
13
14
15
16
17
18
19
20
21
22
23
24
25