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BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Emergency Medical  
Technician- Paramedic License Held by:  
**PATRICK SULLIVAN**  
License No. P30813  
Respondent.

)  
) Enforcement Matter No.: 18-0055  
) OAH No.: 2019061236  
)


) **DECISION AND ORDER**  
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The attached Proposed Decision and Order dated October 4, 2019, 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:

*10/8/19*

  
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**Dave Duncan MD,**  
Director  
Emergency Medical Services Authority

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

**In the Matter of the Accusation against:**

**PATRICK SULLIVAN**

**Emergency Medical Technician License No. P30813**

**Respondent.**

**Case No. 18-0055**

**OAH No. 2019061236**

**PROPOSED DECISION**

Administrative Law Judge Michael C. Starkey, State of California, Office of Administrative Hearings, heard this matter on September 4, 2019, in Oakland, California.

Cynthia Curry, Attorney, represented complainant Sean Trask, Chief, EMS Personnel Division, Emergency Medical Services Authority, State of California.

Lee Maranto, Attorney at Law, represented respondent Patrick Sullivan.

The record closed and the matter was submitted on September 4, 2019.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On May 2, 2019, Sean Trask brought the accusation in his official capacity as Chief of the EMS Personnel Division of the Emergency Medical Services Authority of the State of California (EMSA). Respondent timely filed a notice of defense. This proceeding followed.

2. Respondent Patrick Sullivan currently holds Emergency Medical Technician-Paramedic (EMT-P) License No. P30813, which was first issued on March 21, 2012, and will expire on March 31, 2020, unless renewed.

### **Criminal Conviction**

3. On February 27, 2019, respondent was convicted in the Superior Court of California, County of Alameda, upon his plea of no contest, of a violation of Vehicle Code section 23103/23103.5 (reckless driving involving alcohol), a misdemeanor. Imposition of sentence was suspended and respondent was placed on court probation for a period of two years on conditions including that he serve two days in Alameda County Jail (with credit for two days served), pay fines, refrain from driving a motor vehicle with any measureable amount of alcohol in his blood, complete a three-month driving under the influence (DUI) program, and refrain from consuming intoxicants to excess.

4. The facts and circumstances of this offense are that on March 22, 2018, a Fremont police officer observed respondent's vehicle veer into an adjacent lane and then abruptly correct on a public road. The officer also observed that the vehicle bore an expired registration tag. The officer initiated a traffic stop. Respondent was the

driver. The officer immediately detected the odor of alcoholic beverages on respondent's person. Respondent told the officer that he had consumed "a couple" of bottles of "IPA" beer at a friend's house nearby. The officer administered field sobriety tests and told respondent that he believed respondent had consumed more than two beers. Respondent stated that he drank four to five beers over a period of a few hours. Respondent refused to take the Passive Alcohol Screening Test. He was arrested and transported to Santa Rita Jail in Dublin, where he consented to a breath chemical test. The results of that test showed respondent had a blood alcohol content (BAC) of 0.14 percent.

### **Respondent's Evidence**

5. Respondent is 32 years old. He earned an associate's degree, attended fire academy, and worked as a seasonal fire fighter. He later attended paramedic school and worked for four years for the Copperopolis Fire Department in Calaveras County. Respondent currently works in his licensed capacity for a large technology company in its research and development department, assessing and monitoring participants in user studies. Respondent believes he will be terminated from that position if his EMT-P license is revoked, suspended, or placed on probation.

6. Respondent also reports that he has been "rushing" to complete his bachelor's degree in order to apply to the United States Army's Warrant Officer Candidate School (WOCS) for flight training. His goal is to become a helicopter pilot. He believes that if his EMT-P license is revoked, suspended, or placed on probation, he will not be accepted to WOCS.

7. Regarding his alcohol-related driving offense, respondent explained that he stopped drinking alcohol three hours before he drove, which he thought was

sufficient time to metabolize the alcohol he had consumed. He believed at the time that he was able to drive safely, but now realizes that he was wrong.

8. Respondent has completed all the affirmative conditions of his probation and his probation is scheduled to end on February 26, 2021.

9. Respondent voluntarily attended 21 Alcoholics Anonymous (AA) meetings between April 9, 2018 and September 26, 2018. Respondent was "shaken" by his alcohol-related arrest and began attending AA meetings shortly thereafter. He reports that he "got a lot out of" the meetings, including a good sense of morals and ethics and methods to handle stress. He stopped attending the meetings after he concluded that he is not addicted to alcohol. Since July 11, 2019, respondent attended an additional eight AA meetings to demonstrate his resolve not to reoffend.

10. On April 24, 2019, at the suggestion of an EMSA investigator, respondent completed a chemical dependency evaluation at the Kaiser Permanente Alcohol and Drug Program in Cupertino. Respondent's BAC was measured at zero percent. He also provided a urine sample which tested negative for mind-altering substances. Respondent also answered a questionnaire. Based upon his self-reporting, the results of the evaluation were that respondent was not recommended for treatment for chemical dependency.

11. Respondent reports that he abstained from the consumption of alcohol for three months following his arrest. He reports that he now copes with stress by exercising and meditation. He spends most of his time working and going to school. He does not believe that he will ever drive while intoxicated again because he is better educated about the effects of alcohol, he is ashamed of his offense which led to

introspection, and he is aware of the serious potential consequences. He reports that he now regularly uses a ride-sharing service.

12. Respondent submitted two recent letters of support from a current and former colleague. Both authors are familiar with respondent's offense and this proceeding. Both reported that respondent has been an exemplary employee and they regard his offense as uncharacteristic.

## **LEGAL CONCLUSIONS**

1. The standard of proof applied in making the factual findings set forth above is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

### **First Cause for Discipline (Substantially Related Conviction)**

2. The EMSA may discipline the EMT-P license of a licensee who is convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensee. (Health & Saf. Code, § 1798.200, subd. (c)(6).)<sup>1</sup> A crime is substantially related to the qualifications, functions, and duties of prehospital personnel if to a substantial degree it evidences a present unfitness of the licensee to perform the functions authorized by his license in a manner consistent with public safety. (Cal. Code Regs., tit. 22, § 100208, subd. (a).) Respondent was recently convicted of reckless driving involving alcohol. (Factual Finding 3.) That offense evidences to a substantial degree a present unfitness of respondent to perform the functions

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<sup>1</sup> All subsequent statutory references are to the Health and Safety Code.

authorized by his license in a manner consistent with public safety. Cause exists to discipline respondent's EMT-P license under section 1798.200, subdivision (c)(6).

### **Second Cause for Discipline (Misuse of Alcohol)**

3. The EMSA may discipline the EMT-P license of a licensee who misuses alcoholic beverages. (§ 1798.200, subd. (c)(9).) On March 22, 2018, respondent drove a motor vehicle on a public road with a BAC well above the legal limit. (Factual Finding 4.) That conduct constitutes the misuse of alcoholic beverages. Cause exists to discipline respondent's EMT-P license under section 1798.200, subdivision (c)(9).

### **Determination of Discipline**

4. The EMSA uses the "EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation," dated July 26, 2008 (Guidelines), to determine discipline when a EMT-P licensee is found to be in violation of section 1798.200. (Cal. Code Regs., tit. 22, § 100173, subd. (c).) Under the Guidelines, the maximum recommended discipline for respondent's violation of section 1798.200, subdivision (c)(9), is revocation and the minimum recommended action is a stayed revocation with three years' probation, with substance abuse conditions. The factors used to determine the appropriate discipline include: the nature and severity of the acts or crimes; time elapsed; compliance with probation conditions; and evidence of rehabilitation. (Cal. Code Regs., tit. 22, § 100176.) The EMSA's highest priority is protection of the public.

5. At hearing, complainant recommended the minimum discipline under the Guidelines. Respondent argued for a reprimand and maximum fine.

6. Respondent has been licensed since 2012 and has no prior record of discipline. The 2019 conviction is his only criminal offense. He presented significant evidence of rehabilitation. He has completed all the affirmative conditions of his probation. He voluntarily attended AA meetings. The results of the chemical dependency evaluation were negative. He submitted two letters of support from colleagues. He acknowledges the wrongfulness of, and accepts responsibility for, his misconduct. He abstained from the use of alcohol for three months. He now better understands the dangers of driving intoxicated and uses a ride-sharing service regularly. He is finishing his bachelor's degree and plans to attend flight school. However, respondent's alcohol-related driving offense was recent and his BAC level was high. He is scheduled to remain on criminal probation until February 2021. The chemical dependency evaluation was based almost entirely on his self-report. Respondent did not present evidence sufficient to deviate from the Guidelines' minimum recommended discipline. Public protection requires imposition of revocation, stayed, with a three-year term of probation, with standard and substance abuse conditions.

## **ORDER**

Emergency Medical Technician-Paramedic License Number P30813, issued to respondent Patrick Sullivan, is revoked pursuant to legal conclusions 2 and 3, jointly and separately. However, such revocation is stayed and respondent is placed on probation for three 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 quarterly reports by mail, they 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, by his prehospital medical care employer. Respondent must provide a full, detailed written explanation of the reasons for and circumstances of his termination.

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

6. Functioning as a Paramedic:

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

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

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

7. Obey All Related Laws:

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

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

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

8. 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. Abstinance 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 fourteen 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 fourteen 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. Drug/Detoxification/Diversion Program:

Within 45 days of the effective date of this decision, respondent shall enroll and participate in a drug/detoxification/diversion program approved by the EMSA.

Respondent shall participate in the program until appropriate medical supervision determines that further treatment and rehabilitation is no longer necessary.

If respondent voluntarily withdraws from the drug/detoxification/diversion program or respondent is expelled from the program, such withdrawal or expulsion shall constitute a violation of probation by respondent. Respondent shall be responsible for all costs associated with such drug/detoxification/diversion program.

14. Educational Course Work:

Within 180 days of the effective date of this decision, respondent shall submit to the EMSA proof of completion of eight hours of education in areas substantially related to the offense as stated in the accusation and to the satisfaction of the EMSA.

Any educational program may include community service to reinforce the learning objectives of the educational program.

All courses must be approved by the EMSA. Within 35 days after completing the course work, respondent shall submit evidence of competency in the required education. Submittal of a certificate or letter from the instructor attesting to respondent's competency shall suffice.

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

15. Psychiatric Evaluation:

Within 90 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.

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.

DATE: October 4, 2019

DocuSigned by:  
*Michael C. Starkey*  
28451CFC37284CA  
MICHAEL C. STARKEY

Administrative Law Judge

Office of Administrative Hearings