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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:

)
) Enforcement Matter No.: 18-0076
) OAH No.: 2019061224
)

BRIAN TURNER,
License No. P37318

) **DECISION AND ORDER**
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)
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Respondent.

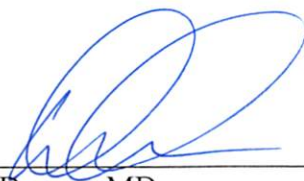
The attached Proposed Decision dated October 9, 2019, is hereby adopted by the Emergency
Medical Services Authority as its Decision in this matter.

This decision shall become effective on November 1, 2019.

It is so ordered.

DATED:

10/11/19



Dave Duncan MD,
Director
Emergency Medical Services Authority

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EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA**

**In the Matter of the Emergency Medical
Technician-Paramedic License Held by:**

BRIAN TURNER,

License No. P37318

Respondent.

Agency Case No. 18-0076

OAH No. 2019061224

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on September 19, 2019, in Oakland, California.

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

Attorney Brett F. Sherman represented respondent Brian Turner, who was present for the hearing.

The matter was submitted for decision on September 19, 2019.

FACTUAL FINDINGS

1. In April 2017, the State of California Emergency Medical Services Authority (Authority) issued Emergency Medical Technician-Paramedic License No. P37318 to respondent Brian Turner. At the time of the hearing, this license was active and was scheduled to expire April 30, 2021.

2. On May 24, 2019, acting in his official capacity as Chief of the EMS Personnel Division of the Authority, complainant Sean Trask served respondent with an accusation seeking disciplinary action against him. The accusation alleges that respondent surreptitiously obtained a patient's telephone number while providing emergency medical treatment to her, and then used that telephone number to communicate with the patient, seeking a personal relationship with her. Complainant characterizes this behavior as unprofessional conduct for a paramedic, and seeks to revoke respondent's license because of it.

3. Respondent timely requested a hearing.

Service Call and Subsequent Personal Contact

4. In April 2018, respondent worked part-time as a paramedic for Rural/Metro Ambulance, an emergency service provider in the City of Santa Clara.

5. On April 6, 2018, respondent was on duty as a paramedic for Rural/Metro Ambulance, working in an ambulance with an emergency medical technician as his shift partner. Just before 6:30 a.m., they responded to a service call at an apartment in Santa Clara.

6. The person who needed emergency medical service complained that she had been vomiting since about 5:00 a.m. She attributed her illness to having drunk too much alcohol the night before, without having eaten a meal. The patient told respondent that her stomach hurt from vomiting, and his report notes that she was "actively heaving" while he and his partner were at her apartment.

7. Respondent evaluated the patient's vital signs, checked her blood glucose, and performed an electrocardiogram. He gave the patient normal saline and an anti-nausea drug intravenously.

8. Respondent and his partner transported the patient to a nearby hospital. Because respondent had started an intravenous line in the patient, he rode in the back of the ambulance with her while his partner drove. The trip to the hospital took less than 10 minutes.

9. The ambulance arrived at the hospital emergency department just before 7:00 a.m. Respondent and his partner turned the patient over to hospital personnel and left the hospital just after 7:15 a.m.

10. Respondent noted the patient's name, address, and telephone number on his pre-hospital care report.

11. Respondent testified that as the ambulance pulled up to the hospital, the patient surprised him by handing him a piece of scrap paper on which she had written her telephone number. He said that as she gave him the paper, she smiled at him and asked him to check on her later. In light of all the evidence, this testimony is not credible. The evidence did not establish that the patient gave respondent her telephone number at any time on April 6, 2018, or for any reason, other than for the pre-hospital care report described above in Finding 10.

12. Less than 20 minutes after leaving the patient at the hospital, and less than 5 minutes after respondent and his partner reported that they had put their ambulance back in service, respondent sent a text message to the patient's telephone number, identifying himself as "Brian the Paramedic" and asking if she was "feeling better." He received an answer more than three hours later, stating "I'm ok."

13. Respondent exchanged several more text messages with the patient during the afternoon and early evening of April 6, 2018.

a. He told her, "I want to make sure you are ok. Would you like to see me after work?"

b. She replied, "I still feel sick," and respondent offered, "I can help you feel better. I can give you a massage and bring you food."

c. After the patient said "I need sleep now," respondent proposed, "We could sleep together :)."

d. The patient texted, "I don't like you Sorry" and "I don't even remember who you are." About 12 hours after respondent had left the patient at the hospital, she sent him the message, "Stop text me."

14. Respondent testified that he was not sure whether the patient meant that he should stop texting her that evening, or forever. This testimony is credible given respondent's later behavior, as described below in Finding 15; but his confusion was unreasonable.

15. On Sunday morning (April 8, 2018) respondent sent the patient another text message to say "good morning." She asked, "Why are you calling me?" and he

answered "to say hi and make sure you're feeling better now." He also asked, "Can I take you out to a nice dinner this week? I want to get to know you."

16. The patient did not answer respondent after the last message described in Finding 15. He sent her another brief message on Sunday afternoon and two more on Monday morning (April 9, 2018). After she failed to answer any of these last messages he stopped attempting to communicate further with her.

17. Within a few days, the patient had complained to the Santa Clara Police Department about respondent's unwelcome text messages.

Additional Evidence

18. Respondent was an emergency medical technician and a volunteer firefighter between 2010 and 2019. Fire Captain Ken Myers from the Santa Clara Cal Fire Unit supervised respondent as a firefighter during part of this time, and provided a reference letter stating that respondent is trustworthy and reliable.

19. Respondent had begun working at Rural/Metro Ambulance in 2013, and had continued after he began his paramedic training in October 2015. Respondent received positive performance reviews from the Woodside Fire Protection District for emergency service calls during his paramedic training.

20. A Santa Clara Police Department representative relayed the patient complaint described in Finding 17 to Rural/Metro Ambulance. Respondent's supervisor at Rural/Metro Ambulance, Darryn Kitzmiller, notified respondent by email on Thursday, April 12, 2018, that Rural/Metro ambulance was investigating "serious misconduct" and that it had placed him on unpaid administrative leave during the investigation.

21. Respondent resigned his position at Rural/Metro Ambulance on Saturday morning, April 14, 2018. The evidence did not establish whether Rural/Metro Ambulance had completed its investigation before respondent resigned.

22. Respondent began working as an emergency medical technician for the Redwood City Fire Department in April 2017. After he received his paramedic license, when a position opened, he became a full-time paramedic there, although he also continued part-time at Rural/Metro Ambulance until he resigned as stated in Finding 21. Respondent has received positive performance evaluations from the Redwood City Fire Department.

23. Blake Washington, a Redwood City Fire Department Fire Captain, testified about respondent's performance and reputation as a paramedic with the Redwood City Fire Department. Washington has supervised respondent, and has accompanied him on emergency calls. Washington considers respondent to be a good paramedic who "knows his medicine" and is professional, calm, and compassionate in patient care.

24. Washington was aware when he testified that this matter involved text messages respondent had sent to a Rural/Metro Ambulance patient. He was not aware until the hearing that the text messages sought a social and possibly sexual relationship. Washington could not recall whether respondent had told Washington specifically that the patient had given respondent her telephone number on a scrap of paper, but said that he simply cannot imagine that respondent would copy any patient's telephone number from medical records and use it to contact the patient socially later.

25. Gerald Thompson worked alongside respondent at Rural/Metro Ambulance, and provided a reference letter for respondent. Thompson, like Washington, describes respondent as a calm, professional emergency medical provider. Thompson does not believe that respondent would "compromise a patient's personal information for any circumstance." The allegations against respondent are inconsistent with Thompson's own observations of respondent's behavior and character.

LEGAL CONCLUSIONS

1. The Authority may discipline respondent's paramedic license upon proof that respondent has violated Health and Safety Code section 1798.200, subdivision (c). (Health & Saf. Code, § 1798.200, subd. (b).) Complainant bears the burden of proving respondent's statutory or regulatory violations, using clear and convincing evidence.

2. Civil Code section 56.10, subdivision (d), prohibits a medical care provider from using "medical information for a purpose not necessary to provide health care services to the patient." "Medical information" under this statute includes the patient's telephone number. (Civ. Code, § 56.05, subd. (j).)

3. Unprofessional conduct, for a paramedic, includes failure to maintain medical information in confidence as required by the Civil Code. (Health & Saf. Code, § 1798.200, subd. (c)(12)(B).) The matters stated in Findings 4 through 16 constitute cause for discipline against respondent for unprofessional conduct as a paramedic.

4. Despite the matters stated in Findings 18 through 25, the unprofessional conduct described in Findings 4 through 16 is egregious. Furthermore, respondent compounded this misconduct by providing an untrue explanation, summarized in

Finding 11. Because his course of conduct does not show respondent to be a good candidate for a period of probation, the public interest requires the Authority to revoke his paramedic license.

ORDER

Emergency Medical Technician-Paramedic License No. P37318, held by respondent Brian Turner, is revoked.

DATE: October 9, 2019

DocuSigned by:
Juliet E. Cox
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JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings