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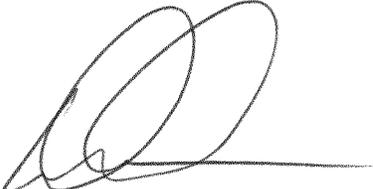
BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Emergency Medical Technician- Paramedic Licenses Held by:) Enforcement Matter Nos. 19-0172 and 18-0315
)
)
VENIAMIN VAKULICH License No.) OAH Nos. 2020060572, 2020060573
P35732 and JEFFREY KLEIN License)
No. P15057,) **DECISION AND ORDER**
)
)
Respondents.)

The attached Proposed Decision and Order dated February 3, 2021, is hereby adopted by the Emergency Medical Services Authority as its Decision in this matter. The Decision shall become effective on March 12, 2021.

It is so ordered.

DATED: February 10, 2021



Dave Duncan MD,
Director
Emergency Medical Services Authority

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

**In the Consolidated Matters of the Emergency Medical
Technician-Paramedic Licenses Held by:**

VENIAMIN VAKULICH and JEFFREY KLEIN, Respondents

Agency Case Nos. 19-0172 and 19-0315

OAH Case Nos. 2020060572 and 2020060573

PROPOSED DECISION

Wim van Rooyen, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on November 12, 2020, from Sacramento, California.

Stephen J. Egan, Attorney at Law, represented Sean Trask (complainant), Chief, Emergency Medical Services (EMS) Personnel Division, EMS Authority of the State of California (Authority).

Anish K. Singh, Attorney at Law, Mastagni Holstedt, represented respondents Veniamin Vakulich (Vakulich) and Jeffrey Klein (Klein).

Evidence was received, and the record left open until January 13, 2021, to allow for closing briefs. On December 14, 2020, complainant filed a closing brief, marked for identification as Exhibit 22; on December 29, 2020, respondents filed a closing brief,

marked for identification as Exhibit C; and on January 12, 2021, complainant filed a reply brief, marked for identification as Exhibit 23. On January 13, 2021, Exhibits 22, 23, and C were admitted as argument, the record was closed, and the matter was submitted for decision.

FACTUAL FINDINGS

Background and Jurisdictional Matters

1. On September 8, 1998, the Authority issued Klein Emergency Medical Technician-Paramedic (EMT-P) License No. P15057. That license will expire on September 30, 2022, unless renewed or revoked.
2. On December 21, 2015, the Authority issued Vakulich EMT-P License No. P35732. That license will expire on December 31, 2021, unless renewed or revoked.
3. On May 4, 2020, complainant, in his official capacity, signed and thereafter filed Accusation No. 19-0172 against Vakulich alleging four causes for discipline: (1) gross negligence; (2) commission of a fraudulent, dishonest, or corrupt act substantially related to the qualifications, functions, and duties of prehospital personnel; (3) violating, or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or regulation pertaining to prehospital personnel; and (4) functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification. Complainant seeks revocation of Vakulich's EMT-P license.

4. On May 4, 2020, complainant, in his official capacity, also signed and thereafter filed Accusation No. 19-0315 against Klein alleging three causes for discipline: (1) commission of a fraudulent, dishonest, or corrupt act substantially related to the qualifications, functions, and duties of prehospital personnel; (2) violating, or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or regulation pertaining to prehospital personnel; and (3) functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification. Complainant seeks revocation of Klein's EMT-P license.

5. Respondents timely filed Notices of Defense. On June 19, 2020, the matters pertaining to Vakulich and Klein were consolidated as they arose from the same October 25, 2018 incident, discussed below. The consolidated matter was then set for an evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Events Preceding October 25, 2018 Incident

6. On October 23, 2018, around 4:34 p.m., 74-year old Joan E. (Joan)¹ went to the Kaiser South Sacramento (Kaiser) Emergency Department (ED) following her recent trip to Mexico. She presented with severe diarrhea, stomach pain, chest pain, a 103-degree fever, high blood pressure (172/77), and a 91 percent blood oxygen level.²

¹ To protect her privacy interests, this Decision refers to the patient and her family members by their first names only.

² A normal blood oxygen level is usually between 95 and 100 percent.

ED staff ran tests, monitored her vitals, and administered hydrocodone-acetaminophen (Norco). Over the course of the evening, Joan's fever and blood pressure decreased, and her blood oxygen level increased to 96 percent. Around 11:36 p.m., Joan was discharged from the ED with instructions to rest and take Tylenol. Her diagnosis was unclear, but blood tests later revealed that she had "picked up some type of bug" in Mexico. Joan's husband, Ronald E. (Ronald) drove her home, where she continued resting.

October 25, 2018 Incident

7. On October 25, 2018, around 02:46 a.m., Ronald called 9-1-1 requesting that Joan be transported to the hospital by ambulance. He reported that Joan was breathing normally, but had a high temperature, "whole body pain," and just wanted to go to sleep.

8. Truck Six with the City of Sacramento Fire Department (SFD) initially responded to the couple's home, with an ambulance arriving later. Truck Six consisted of Klein, the captain and paramedic, who has been employed with the SFD for approximately 19 years; Vakulich, a firefighter and the lead paramedic, who has been employed with the SFD for approximately four years; Roberto Padilla (Padilla), a firefighter and emergency medical technician (EMT), who has been employed by the SFD for approximately 19 years; and Paul Brust (Brust), a fire engineer, who has been employed by the SFD for approximately 26 years.

9. Truck Six arrived at Joan and Ronald's home at 02:54 a.m. Brust stayed with the truck while Klein, Vakulich, and Padilla entered the home and spoke with the couple. After Ronald signed an Against Medical Advice (AMA) release on Joan's behalf,

Klein, Vakulich, and Padilla departed the home at 03:02 a.m., informing the ambulance medics just outside the house that no transport would be necessary.

10. That same day, around 10:00 a.m., Joan and Ronald's son, Michael E. (Michael), arrived at his parents' home. After Joan reported feeling very ill with a pain level of eight or nine, Michael drove her to the Kaiser ED.

11. An intake examination was conducted at 11:17 a.m. Joan had a temperature of 98.8 degrees Fahrenheit, a blood pressure of 139/64, respirations of 16, a pulse reading of 88, and a blood oxygen level of 92 percent. She complained of nausea, vomiting, and continuous "all over body pain" with a pain score of nine. An X-ray showed possible pneumonia. Joan was admitted and remained in the hospital until her discharge on October 30, 2018.

Disputed Versions of the October 25, 2018 Incident

12. Apart from Factual Finding Nos. 6 through 11, there was significant conflicting testimony concerning the October 25, 2018 incident: the testimonies of Joan and Ronald, on the one hand, and respondents, on the other hand. Both versions are summarized below.

JOAN AND RONALD'S VERSION

13. Joan and Ronald largely testified consistently concerning their version of events on October 25, 2018. In the early morning hours, Joan had severe pain and diarrhea, but she was unable to get out of bed to use the bathroom. She could not sit up and even had difficulty rolling over. She did not want Ronald to take her to the hospital, because they lived in a flood plain house with steep steps from the front door down to the street level, and she was concerned she could not make it down the steps.

However, she eventually agreed to go to the hospital if Ronald called 9-1-1 for an ambulance.

14. When the Truck Six firefighters entered the couple's home, they did not have a gurney or any equipment with them, other than a tablet computer. Two firefighters entered Joan's room, one standing on each side of Joan's bed, with Joan lying down. The third firefighter stood in the doorway with the tablet. One of the firefighters by Joan's side asked her if she knew the year and who the president was, which she correctly answered. The firefighters had no further dialogue with Joan, and they never touched her. They never used any medical equipment to take Joan's vital signs. They never asked Joan to sign anything. At one point, the firefighters asked Ronald for Joan's Kaiser discharge documentation, which Ronald located and provided in approximately one minute.

15. The firefighters then "lecture[d]" Ronald about cold and flu symptoms, noting that such symptoms can take days or weeks to resolve. They never offered to transport Joan to the hospital or expressed any concern for Joan's condition. Instead, they accused Joan of attempting to "game the system," claiming she would not receive treatment at the hospital any more quickly if she arrived by ambulance. Indeed, she may have to sit in an uncomfortable chair in the waiting room for hours.

16. Next, the firefighter with the tablet asked Ronald for his signature on the tablet's screen, which was ostensibly needed for billing purposes. The firefighters never explained any AMA procedure, Ronald did not know he was signing an electronic AMA document, and Ronald was not Joan's designated agent pursuant to a Durable Power of Attorney for Health Care (DPAHC). The couple never refused transport to the hospital. Nevertheless, "all of a sudden," the firefighters just left.

17. Ronald did not question or raise any objection with the firefighters as they were leaving, because "it was obvious they would be leaving," "things had turned negative," and he was "shocked and stunned." Ronald did not attempt to call 9-1-1 again until the arrival of Michael, who took Joan to the Kaiser ED. Joan suffered unnecessary pain and discomfort as a result of her delayed admission to the hospital.

18. Joan and Ronald believe they received poor service from the firefighters, because they had a "No on Measure U" sign in their front yard. The "No on Measure U" campaign opposed additional funding for the SFD. Additionally, Ronald frequently spoke at Sacramento City Council meetings against Local 522, the union for Sacramento area firefighters, referring to them as "money suckers" and accusing them of "buying elections." At hearing, Ronald affirmed that he feels Local 522 is too powerful and that fire captains make too much money. Nevertheless, neither Joan nor Ronald knew any of the individual Truck Six firefighters and harbored no personal animosity towards them.

RESPONDENTS' VERSION

19. Klein, Vakulich, Padilla, and Brust largely testified consistently concerning the events on October 25, 2018. They all volunteered to respond to Ronald's 9-1-1 call. Upon their arrival, Vakulich and Padilla grabbed the Advanced Life Support (ALS) bag, oxygen tank, and electrocardiogram (EKG) monitor, which they took with them into the home. It took approximately 30 seconds to get the equipment into the home. They left the gurney at the bottom of the steps to the front door. Because the gurney is very heavy, they do not typically bring it up steps until they determine that it is needed for transport.

20. Upon their entry to Joan's room, Joan was sitting upright in the bed. She complained of a fever for two days and body aches, but denied any shortness of breath, chest pain, headache, nausea and vomiting, or dizziness. She did not report any lower abdominal issues. Vakulich asked Joan approximately five standard questions to determine whether she had an altered mental state. He also requested and reviewed Joan's prior Kaiser discharge instructions. In the meantime, Padilla took Joan's vital signs, which he shouted out to Klein, who then entered them into the tablet. Joan had a blood pressure of 140,³ respiration rate of 18,⁴ pulse rate of 100,⁵ and a blood oxygen level of 98 percent. Vakulich also used a stethoscope to listen to her lungs, which had normal breath sounds. He did not use the EKG to monitor her heart, because she did not complain of chest pain or other cardiac symptoms. The process of obtaining Joan's vitals took approximately one minute.

21. Subsequently, Vakulich explained the symptoms of a cold, flu, and sepsis that could potentially lead to death. He also outlined Joan's options, including an offer of transport to the hospital. None of the firefighters attempted to dissuade Joan from ambulance transport, but Vakulich explained the triage process at the ED and that ambulance transport does not guarantee earlier assessment by ED staff. Joan declined

³ The Patient Care Report (PCR) contained only the systolic, but not diastolic, blood pressure reading. A systolic blood pressure of 140 is higher than normal, but does not require immediate medical intervention.

⁴ The normal respiration rate for healthy adults ranges from 12 to 20 per minute.

⁵ The normal pulse for healthy adults ranges from 60 to 100 beats per minute.

transportation and elected to have Ronald take her to the hospital if necessary. Vakulich and Klein believed Joan's choice to be reasonable, because she was alert, her blood oxygen level was good, and her other vital signs were largely normal. Nevertheless, they encouraged her to follow up with her primary care provider.

22. Thereafter, Klein provided Joan and Ronald with his standard explanation of the AMA form and billing authorization, which Ronald electronically signed on the tablet. Sacramento County EMS Agency Policy No. 2101.17 provides that a next of kin, including a spouse without a DPAHC, does not have legal authority to sign an AMA form. Klein acknowledged that it was preferable to have the patient sign the AMA and that there was no evidence that Ronald was Joan's designated agent pursuant to a DPAHC.

Nevertheless, Klein had Ronald sign because Joan displayed flu-like symptoms during high flu season. In that situation, firefighters previously used a cleaning wipe to decontaminate the tablet after the patient signed. However, by the time of the October 25, 2018 incident, the County of Sacramento had directed EMS personnel to immediately stop using wipes on the tablets, because it damaged the screens. New tablets compatible with cleaning wipes had been ordered, but were not yet available. Consequently, during that interim period, the firefighters routinely requested a spouse not displaying flu-like symptoms to sign the AMA to prevent flu infection.

23. Joan and Ronald were amicable, polite, and profusely apologized for "bothering" the firefighters and wasting their time. The firefighters assured the couple that it was "no bother," and it was their job; Klein also encouraged them to call 9-1-1 again if "anything changed."

24. None of the firefighters noticed anything abnormal about their response to the call. It was not unusual for a patient to decline transport after assessment by the paramedics. Even if Joan had requested transport to the hospital, the ambulance on the scene, and not Truck Six, would have transported her. Either way, Truck Six would have been returned to service to respond to other calls. Thus, there was no practical incentive for the firefighters to refuse transportation.

25. None of the Truck Six firefighters knew either Joan or Ronald, or otherwise noticed the "No on Measure U" sign in their front yard. Even if they had seen it, it would not have affected their treatment of Joan, because they are professionals and do not bring politics into patient treatment.

26. Upon his return to the fire station, Vakulich completed the PCR, which included the vital signs obtained from Joan during the call. Respondents would never falsify a PCR or vital signs; not only is it unethical, but it would result in termination. No evidence was presented that Vakulich or Klein was ever the subject of any prior license or work discipline.

Complaints and Investigations

27. Joan and Ronald submitted a complaint about Joan's treatment to the SFD, which investigated the October 25, 2018 incident. As part of its review, SFD management noted that alleged failure to transport is a "trending issue lately," although the couple's complaint was the first complaint involving Truck Six's specific crew members. SFD's investigator, Patrick Hansen (Hansen) investigated the couple's complaint and issued a finding of "not sustained."

28. Joan and Ronald also filed a complaint with the Authority. Authority Special Investigator Linda Curtis-Smith (Curtis-Smith) investigated the couple's

complaint and credited the couple's allegations, found various violations, and recommended that respondents be disciplined.

Analysis

29. In deciding this matter, the court gives no weight to the investigative findings of Hansen and Curtis-Smith. Although Hansen testified at hearing, his testimony concerning his investigation was guarded, defensive, and at times evasive. Additionally, he never personally interviewed any of the Truck Six firefighters. Furthermore, Curtis-Smith did not testify at hearing. Consequently, the court independently reviews the record evidence.

30. The two versions of events regarding the October 25, 2018 incident are irreconcilable. Thus, as a threshold matter, it is necessary to determine which version is more credible.

CREDIBILITY EVALUATION

31. It is well-settled that the trier of fact may accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted. (*Stevens v. Parke, Davis & Co.* (1973) 9 Cal.3d 51, 67 [citations omitted].) The trier of fact may also "reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material." (*Id.*, at 67-68, quoting from *Nevarov v. Caldwell* (1958) 161 Cal.App.2d 762, 777.) Moreover, the trier of fact may reject the testimony of a witness, even an expert, although not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890.) The testimony of "one credible witness may constitute substantial evidence." (*Kearl v. Bd. of Medical Quality Assurance* (1986) 189 Cal.App.3d 1040, 1052.)

32. Joan and Ronald's testimony concerning the October 25, 2018 incident is less credible for at least two reasons. First, Ronald frequently spoke at Sacramento City Council meetings against Local 522, the union for Sacramento area firefighters, referring to them as "money suckers" and accusing them of "buying elections." Although Ronald has a First Amendment right to express his views, his prior comments displaying a prejudice against firefighters nonetheless factor into his credibility. (*See* Evid. Code, § 780, subd. (f) [the "existence or nonexistence of a bias, interest, or other motive" is relevant to determining witness credibility].)

Second, some of Ronald's actions on October 25, 2018 are inconsistent with his testimony that he was seriously concerned about Joan's condition when Truck Six departed. When the firefighters started leaving "all of a sudden," he did not question them or raise any objection. Even if he were "shocked and stunned" and possibly intimidated by the firefighters on the scene, he did not call 9-1-1 again until his son Michael arrived approximately seven hours later.

33. By contrast, respondents' version of the October 25, 2018 incident is more credible. Given that Joan was alert, her blood oxygen level was good, and her other vital signs were largely normal, it is reasonable to believe that Joan declined ambulance transport to the hospital after the firefighters explained her options. Although the couple claimed that respondents never examined Joan, essentially manufactured Joan's vital signs, and created a false PCR, that claim is implausible for at least two reasons.

First, it is unlikely that three firefighters, with no prior disciplinary records, would have conspired to refuse proper evaluation and generate a fraudulent PCR, thereby risking termination and revocation of their licenses. Although the call lasted only approximately eight minutes, the evidence did not establish this was an unreasonable

amount of time for an experienced and efficient crew to take their equipment into the house (approximately 30 seconds); talk with the couple while taking Joan's vital signs (approximately one minute); obtain and review Joan's discharge instructions (approximately one minute); discuss Joan's options, including the AMA procedure; have Ronald sign the AMA; and return to their truck. Furthermore, any reference to a recent trend of complaints about SFD's alleged failure to transport cannot be given significant weight, because it is vague, lacks any context, and the complaints did not involve respondents.

Second, the firefighters had no practical incentive to commit such serious misconduct, because they would not have been responsible for transporting Joan to the hospital if transport were elected. Under either scenario, the ambulance on the scene would have transported Joan, and Truck Six would have returned to service. Additionally, each of the Truck Six firefighters was forthright and convincing in their testimony that they held no prejudice against Joan and Ronald. They did not notice the "No on Measure U" sign in the couple's front yard. Even if they did, they would not have permitted politics to influence their standard of care as professionals.

That Joan's condition may have worsened following the call and she was later hospitalized by Kaiser with possible pneumonia is not dispositive. At the time of Truck Six's evaluation, Joan's blood oxygen level was normal, and she had normal breath sounds. Possible pneumonia was only later diagnosed by Kaiser with an X-ray, a diagnostic device not available to paramedics in the field. Thus, Joan's subsequent hospitalization does not necessarily demonstrate that respondents performed an inadequate assessment or manufactured her vital signs.

34. In sum, based on the record as a whole, respondents' version of the October 25, 2018 incident is more credible than Joan and Ronald's version. Even

assuming, without deciding, that their conflicting versions were deemed equally credible, the Authority bears the burden of proving that Joan and Ronald's version is more credible. The Authority has not discharged that burden by a preponderance of the evidence, let alone by clear and convincing evidence as required.

CAUSE FOR DISCIPLINE

35. Given the foregoing, complainant has not demonstrated that either Vakulich or Klein committed gross negligence; any fraudulent, dishonest, or corrupt act; or any violation of applicable statutes or regulations adopted by the Authority pertaining to prehospital personnel.

36. However, it is undisputed that Klein had Ronald sign the electronic AMA form even though Ronald was not Joan's designated agent under a DPAHC. Sacramento County EMS Agency Policy No. 2101.17 provides that a next of kin, including a spouse without a DPAHC, does not have legal authority to sign an AMA form. That policy does not contain an exemption for patients displaying flu-like symptoms, and respondents provided no documentation of an official Sacramento County EMS directive suspending the patient signature requirement in those circumstances. Nor did they document in the PCR their reason for not having Joan sign the AMA.

Although Klein's concerns about flu infection and his consequent decision to have Ronald sign on Joan's behalf are understandable, he nonetheless violated Policy No. 2101.17, thereby acting outside the authority of his license and contrary to required protocol. Likewise, as the lead paramedic on the scene, Vakulich ultimately bears responsibility for failing to ensure that Policy No. 2101.17 was followed. Consequently, cause exists to discipline respondents' licenses for functioning outside

the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

APPROPRIATE DISCIPLINE

37. The Authority has adopted Recommended Guidelines for Disciplinary Orders and Conditions of Probation, dated July 26, 2008 (Guidelines). The Guidelines require consideration of the following factors to determine appropriate discipline: (1) nature and severity of the acts or offenses; (2) actual or potential harm to the public; (3) actual or potential harm to any patient; (4) prior disciplinary record; (5) prior warnings on record or prior remediation; (6) number and/or variety of current violations; (7) aggravating evidence; (8) mitigating evidence; (9) any discipline imposed by the paramedic's employer for the same occurrence of that conduct; (10) rehabilitation evidence; (11) for a criminal conviction, compliance with sentence or probation; (12) overall criminal record; (13) time that has elapsed since the acts or offenses occurred; and (14) evidence of expungement proceedings, if applicable.

38. For a violation that involves functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification, the Guidelines recommend a stayed revocation, 15-day suspension, and one year of probation. However, the Guidelines also provide that an administrative fine between \$250 and \$2,500 may be imposed if the violation was minor and did not result in actual harm to the patient, and the paramedic has not been disciplined by the Authority for any other act committed within the immediately preceding five-year period. (*See also* Health & Saf. Code, § 1798.210, subd. (a).) There is no evidentiary basis to deviate from the Guidelines here.

39. In this case, respondents have no prior record of license or work discipline. They committed a single violation of allowing a spouse, who was not the patient's designated agent under a DPAHC, to sign an AMA form. Although it is important to receive proper authorization when a patient declines transport, the violation here did not result in any actual patient or public harm. Indeed, in his reply brief, complainant's counsel characterized it as a "minor violation." Moreover, respondents were not motivated by any improper purpose, but in good faith attempted to avoid potential flu spread.

40. When all the evidence is considered, an administrative fine at the lower end of the range, instead of suspension, probation, or revocation, is the appropriate discipline. More specifically, a \$500 fine for each respondent is sufficient to remind respondents of the importance of complying with AMA documentation procedures.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proving the allegations in the Accusation and establishing cause for discipline. The standard of proof in an administrative action seeking to discipline a license that requires substantial education, training, and testing is "clear and convincing evidence." (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Cause for Discipline

2. The Authority may discipline a licensed paramedic "upon the finding by the director of the occurrence of any of the actions listed in subdivision (c)." (Health & Saf. Code, § 1798.200, subd. (b).) "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 licenseholder under this division: . . . (2) Gross negligence; . . . (5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel; . . . (7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel; (10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification;" (*Id.*, § 1798.200, subd. (c).)

3. Based on the Factual Findings as a whole, and specifically, Factual Finding 35, neither Vakulich nor Klein committed gross negligence; any fraudulent, dishonest, or corrupt act; or any violation of applicable statutes or regulations adopted by the Authority pertaining to prehospital personnel. Thus, no cause exists to discipline Vakulich pursuant to Health and Safety Code section 1798.200, subdivisions (c)(2), (c)(5), or (c)(7), or Klein pursuant to Health and Safety Code section 1798.200, subdivisions (c)(5) or (c)(7).

4. Based on the Factual Findings as a whole, and specifically, Factual Finding 36, Vakulich and Klein functioned outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license

or certification, when they violated Policy No. 2101.17. Thus, cause exists to discipline Vakulich and Klein pursuant to Health and Safety Code section 1798.200, subdivision (c)(10).

Appropriate Discipline

5. Based on the Factual Findings as a whole, and specifically, Factual Findings 37 through 40, a \$500 administrative fine for each respondent is the appropriate discipline.

ORDER

1. Respondent Veniamin Vakulich shall pay the Authority a \$500 administrative fine within 60 days of this decision or pursuant to a payment plan approved by the Authority.

2. Respondent Jeffrey Klein shall pay the Authority a \$500 administrative fine within 60 days of this decision or pursuant to a payment plan approved by the Authority.

DATE: February 3, 2021

Wim van Rooyen
Wim van Rooyen [Feb 3, 2021 14:12 PST]

WIM VAN ROOYEN

Administrative Law Judge

Office of Administrative Hearings