BEFORE THE
PARAMEDIC DISCIPLINARY REVIEW BOARD
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Emergency Medical Technician- Paramedic License of: **Sadie Eirich,** License No. P31414 Respondent.	Enforcement Matter No. 24-0228 OAH No. 2024090688 **DECISION AND ORDER**

The attached Proposed Decision is hereby adopted by the Paramedic Disciplinary Review Board, Emergency Medical Services Authority as its Decision in this matter. This Decision shall become effective thirty (30) days after the date below. It is so ordered.

DATED: December 6, 2024

David Konieczny, Chair
Paramedic Disciplinary Review Board
Emergency Medical Services Authority

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against:

SADIE EIRICH, Respondent

Agency Case No. 24-0228

OAH No. 2024090688

PROPOSED DECISION

Patrice De Guzman Huber, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on October 3, 4, and 15, 2024, from Sacramento, California.

Steve J. Pyun, Deputy Attorney General, represented complainant Kim Lew, Chief of the Emergency Medical Services (EMS) Personnel Division of the California Emergency Medical Services Authority (EMSA).

Jeffrey Virnoche, Esq., represented respondent Sadie Eirich, who appeared.

Evidence was received, the record closed, and the matter submitted for decision on October 15, 2024.

FACTUAL FINDINGS

Jurisdiction

1. On September 21, 2012, EMSA issued respondent Emergency Medical Technician Paramedic (EMT-P) License No. P31414 (license). The license expires on September 30, 2026, unless renewed.

2. On September 11, 2024, Nicole Mixon, on behalf of complainant in her official capacity, signed and thereafter filed an Accusation against respondent. Complainant seeks to discipline respondent's license based on care she provided, or care provided by paramedics or trainees under her supervision, between March and July 2024. Specifically, complainant alleges four causes for discipline: (1) gross negligence; (2) repeated negligent acts; (3) violating or attempting to violate, assisting or abetting the violation of, or conspiring to violate, a provision of the EMS Act (Health and Safety Code section 1797 et seq.) or regulations adopted pertaining to hospital personnel; and (4) functioning outside the supervision of medical control. (All statutory references are to the Health and Safety Code unless stated otherwise.)

3. Also on September 11, 2024, EMSA's Director issued an Order for Temporary Suspension Pending Hearing pursuant to section 1798.202 (TSO). The TSO suspended respondent's ability to work or volunteer as an EMT-P until a final determination on the merits of the Accusation.

4. At hearing, complainant moved to amend the Accusation to delete the factual allegations within paragraphs 20, 22, and 28. Respondent did not object and the ALJ granted the motion. As amended, the pleading shall be considered and referred to as the First Amended Accusation (FAA).

5. Respondent timely filed a Notice of Defense to the original Accusation. Her Notice of Defense was deemed responsive to the FAA. (Gov. Code, § 11506, subd. (c).) The matter was set for an evidentiary hearing before an ALJ of the OAH pursuant to Government Code section 11500 et seq.

Calls Between March and July 2024

6. In 2018, Merced County EMS approved respondent to become a Field Training Officer (FTO). As an FTO, respondent supervised and evaluated licensed paramedics seeking accreditation by Merced County (applicant paramedics). On March 1, 2024, respondent was acting in her FTO capacity and supervising applicant paramedic Julian Newberry (Paramedic Newberry). They responded to a cardiac arrest call and contacted a pulseless, non-breathing 72-year-old patient. Paramedic Newberry was the lead on this call. As such, he provided paramedical care. Paramedic Newberry also completed the Patient Care Report (PCR) relating to this call.

During this call, Paramedic Newberry used an i-gel, Merced County EMS's approved brand of supraglottic airway device (SAD), to open the patient's airway. The i-gel brand of SADs comes in a variety of sizes to accommodate a patient's size. After Paramedic Newberry inserted the i-gel, he began measuring the patient's end-tidal carbon dioxide (EtCO2). EtCO2 is the carbon dioxide released when a person exhales. Measuring the EtCO2 shows how much carbon dioxide is carried in the blood back to the lungs and then exhaled. In the PCR relating to this call, Paramedic Newberry documented he had inserted a pediatric size i-gel into this patient's throat. He also documented the first measurement of the patient's EtCO2 nine minutes after placing the i-gel. Paramedic Newberry attached two electrocardiogram (ECG) strips, or electronic printouts, to the PCR.

7. On March 2, 2024, respondent was acting in her capacity as FTO and supervising Paramedic Newberry. They responded to an overdose call and contacted an unconscious patient. Paramedic Newberry was the lead paramedic on this call and provided paramedical care to the patient. He also completed the PCR relating to this call. Prior to respondent and Paramedic Newberry's arrival, the local fire department observed agonal breathing and administered four milligrams of Narcan, an opioid antagonist, to the patient. Paramedic Newberry assessed the patient and documented his respiratory rate (RR) at 18 breaths per minute. Paramedic Newberry then administered another four milligrams of Narcan. In the PCR, Paramedic Newberry noted, "due to [patient] movement[,] crew were unable to obtain proper vital signs." No ECG strips were attached to the PCR.

8. On March 30, 2024, respondent and her Emergency Medical Technician (EMT) partner, Joseph McMullan (EMT McMullan), and a Basic Life Support (BLS) ambulance separately responded to a chest pain call and contacted a 60-year-old patient with a history of hypertension and myocardial infarction. The patient complained of sharp pain on the left side of her chest. Her blood sugar was high despite not having a diabetes diagnosis.

Respondent conducted an Advanced Life Support (ALS) assessment and connected a 12-lead ECG monitor to the patient. The ECG was negative for an ST-elevation myocardial infarction (STEMI). Based on the ECG, respondent downgraded the patient to BLS. A BLS ambulance is able to provide a lower level of care compared to an ALS ambulance. Specifically to treat patients with chest pain, a BLS ambulance can provide oxygen, assess vitals, and administer aspirin and nitroglycerin. In contrast, an ALS ambulance can assess cardiac rhythm by ECG monitor, administer intravenous (IV) fluids, measure EtCO2, and administer anti-nausea medicine.

The patient was transferred to and transported by a BLS ambulance. EMT Isaac Fernandez completed a PCR relating to this call. He did not attach respondent's ECG strips to the PCR.

9. On April 9, 2024, a BLS ambulance responded to a chest pain call and contacted a 79-year-old patient with a history of diabetes and was experiencing chest tightness, shortness of breath, and high blood pressure. The BLS ambulance requested paramedics. Respondent and Mel Sandoval (Paramedic Sandoval), an applicant paramedic, responded. Respondent was acting in her capacity as FTO and supervising Paramedic Sandoval. He conducted an ALS assessment and connected a 12-lead ECG monitor to the patient. Based on the results of the ECG, Paramedic Sandoval downgraded the patient to BLS. EMT Adalrich Montano completed a PCR relating to this call. Neither respondent nor Paramedic Sandoval completed a separate PCR.

10. On May 30, 2024, respondent's ALS ambulance and a BLS ambulance responded to a generalized weakness call and contacted a 76-year-old patient with a history of chronic obstructive pulmonary disease and hypertension. Respondent conducted an ALS assessment. EMT Jose Diaz completed a PCR relating to this call. Respondent did not complete a separate PCR.

11. On June 4, 2024, respondent's ALS ambulance and a BLS ambulance responded to a chest pain call and contacted a 57-year-old patient with a history of low blood pressure and stroke. The patient was hyperglycemic and complained of pain when breathing. Respondent conducted an ALS assessment and connected an ECG monitor to the patient. The ECG showed "sinus rhythm." Based on the ECG, respondent downgraded the patient to BLS. The patient was transported by a BLS ambulance. EMT Diaz completed a PCR relating to this call. Respondent did not complete a separate PCR.

12. On July 21, 2024, respondent's ALS ambulance and a BLS ambulance separately responded to a syncope call and contacted an 87-year-old patient with a history of dementia at her hospice facility. Respondent conducted an ALS assessment and connected an ECG monitor to the patient. EMT Diaz completed a PCR relating to this call. Respondent did not complete a separate PCR.

13. On July 29, 2024, respondent and EMT McMullan and a BLS ambulance responded to a dyspnea call and contacted a 34-year-old patient who was having difficulty breathing. Respondent assessed the patient and found his vitals stable and his oxygen saturation normal. EMT Luis Rodriguez completed a PCR relating to this call. Respondent did not complete a separate PCR.

Merced County EMS Audit and Temporary Suspension

14. Matthew Turpin (Turpin), Merced County's EMS Coordinator, testified. Turpin has been the EMS Coordinator for over one year. In this capacity, he oversees Continuous Quality Improvement (CQI) and reviews PCRs as necessary. Before becoming the EMS Coordinator, Turpin was an EMT for almost eight years and practiced as a licensed paramedic for almost 12 years.

15. In Merced County, an applicant paramedic must respond to either five or 10 calls with an FTO, depending on experience level. Riggs Ambulance (Riggs) has the sole ambulance contract in Merced County. EMTs, paramedics, and applicant paramedics working in Merced County are employed by Riggs.

16. Between January and August 2024, Turpin audited various PCRs relating to applicant paramedics, some of whom had been under respondent's supervision as FTO. Turpin found documentation issues in the PCRs, including Paramedic Newberry's

calls on March 1 and 2, 2024. In January, March, April, and August 2024, Turpin asked Riggs to "educate" respondent on Merced County EMS policies.

17. Turpin concluded respondent violated the following pertinent Merced County EMS policies: Policy No. 540, "Patient Documentation," effective January 2024; Policy No. 702, "Adult Treatment Protocols – Cardiac Arrest," effective September 2023; Policy No. 704, "Adult Treatment Protocols – Chest Pain / Discomfort," effective July 2023; Policy No. 724, Adult ALOC [Altered Level of Consciousness] – Syncope," effective May 2011; and Policy No. 760, "Supraglottic Airway Devices," effective September 2018. At hearing, Turpin stated he believed these versions of the policies were in effect between March and August 2024.

18. On August 26, 2024, based on Turpin's audit, the Merced County EMS Medical Director issued the TSO temporarily suspending respondent's license. The TSO was based on respondent's calls on March 1, 2, and 30; April 9; May 30; June 4; and July 21 and 29, 2024. The TSO alleged respondent's conduct during these calls comprised "wrongful acts and omissions and the commission of gross negligence and fraudulent or dishonest acts that create an immediate threat to the public health and safety."

19. Manuel Garcia-Resendez (Garcia-Resendez), Riggs's Clinical Director, testified. He has been employed by Riggs since 2016. Prior to becoming the Clinical Director in October 2022, Garcia-Resendez was an EMT and a licensed paramedic. In his capacity as Clinical Director, he oversees quality assurance and education. Garcia-Resendez testified that Maribel Hernandez, Riggs's Clinical Manager, told him she discussed the Merced County EMS policies with respondent in January and April 2024. Garcia-Resendez testified respondent trained and mentored him when he was an EMT.

He believes respondent is a "strong paramedic" to whom he would entrust his family's care.

EMSA Investigation

20. Brian Brisco (Brisco), EMSA special investigator, testified. Brisco has held his current position since January 2024. Previously, he worked as an investigator for the Department of Consumer Affairs and the State Compensation Insurance Fund. As an EMSA special investigator, Brisco investigates potential violations of EMSA law. On August 26, 2024, Brisco received a copy of the TSO and was assigned to investigate respondent's conduct.

21. As part of his investigation, Brisco reviewed the TSO, correspondence between Turpin and Riggs regarding respondent, and the relevant PCRs. Brisco also reviewed Merced County EMS policies. Based on Brisco's review, he concluded respondent's conduct violated section 1798.200, subdivisions (c)(3), (5), (7), and (10), and California Code of Regulations, title 22, section 100171. Brisco prepared a report summarizing his findings and conclusions and recommended forwarding the matter to EMSA's legal unit. At hearing, Brisco testified consistently with his report.

Expert Witness

22. Samuel J. Stratton, M.D., testified. Dr. Stratton became a licensed physician in California in 1978 and has practiced emergency medicine since the 1980s. He is also a fellow of the American College of Emergency Physicians. From 1993 until 2003, Dr. Stratton was the Los Angeles County EMS Medical Director. From 2006 until 2019, he was the Orange County EMS Medical Director. In 2019, Dr. Stratton voluntarily stepped down from Medical Director to Senior Program Analyst with the Orange County Health Care Agency, where he continues to practice.

23. In September 2024, EMSA retained Dr. Stratton to opine on respondent's conduct. Dr. Stratton reviewed the TSO, correspondence between Turpin and Riggs regarding respondent, the relevant PCRs, and Brisco's report. Dr. Stratton also reviewed the Merced County EMS policies. When Dr. Stratton completed his review, he prepared a report detailing his opinions. At hearing, he testified consistently with his report.

24. On March 1, 2024, Paramedic Newberry used a pediatric size i-gel on an adult patient. According to Dr. Stratton, the standard of care is to "provide advanced airway support with proper[ly] sized airway devices." Given the significant difference between the pediatric size and an adult size i-gel, Dr. Stratton opined Paramedic Newberry's departure from the standard of care was extreme and constituted gross negligence.

25. Also on March 1, 2024, Paramedic Newberry did not document the patient's EtCO2 until nine minutes after he inserted the i-gel. According to Dr. Stratton, the standard of care is to "immediately assure ventilation is present when an artificial airway [i-gel] is placed." Any delay in monitoring ventilation after insertion of an i-gel means a paramedic may miss information on emergent needs that may require immediate, life-saving intervention. Dr. Stratton opined Paramedic Newberry's nine-minute delay was significant and thus an extreme departure from the standard of care. Dr. Stratton concluded Paramedic Newberry committed gross negligence.

26. On March 2, 2024, Paramedic Newberry documented the patient's vital signs twice, 40 minutes apart, and he failed to document the patient's cardiac rhythm. According to Dr. Stratton, the standard of care is to "immediately assure ventilation is present when an artificial airway [i-gel] is placed." In a case such as this, Dr. Stratton stated the standard is ordinarily a five-minute interval in documenting vital signs. Any

interruption in monitoring the vital signs of a presumed overdose patient with an altered level of consciousness means a paramedic may miss information on emergent needs that may require immediate, life-saving intervention. Dr. Stratton opined a 40-minute interval between only two documentations of vital signs was significant and an extreme departure from the standard of care. Dr. Stratton concluded Paramedic Newberry committed gross negligence.

27. Also on March 2, 2024, Paramedic Newberry noted the patient's breathing was agonal. Prior to Paramedic Newberry and respondent's arrival, the local fire department also noted the patient's breathing was agonal and administered Narcan. Agonal breathing typically has no regular interval and is shallow, limited, and usually eight breaths or fewer per minute. According to Dr. Stratton, the standard of care allows for Narcan to be administered to a patient with agonal breathing.

However, Paramedic Newberry documented the patient's RR at 18 breaths per minute, which is inconsistent with agonal breathing. According to Dr. Stratton, Narcan is contraindicated when a patient's breathing is not agonal, or higher than an RR of approximately eight. He referenced Policy No. 724, effective July 2024, which states Narcan may be administered if the RR is eight or lower. Given the difference between an RR of 18 and an RR of eight, Dr. Stratton opined Paramedic Newberry's administration of Narcan was incompetent. Taken collectively with Paramedic Newberry's failure to diligently monitor and document this patient's vital signs, Dr. Stratton opined Paramedic Newberry's departure from the standard of care was extreme and constituted gross negligence.

28. On March 30, 2024, respondent assessed a patient who complained of chest pain. Respondent concluded the patient should be downgraded to BLS. According to Dr. Stratton, respondent should have concluded this patient was high-

risk for a cardiac event based on her age, the sharp pain on the left side of her chest, hyperglycemia, and her history of myocardial infarction and hypertension. Although the patient was negative for STEMI, Dr. Stratton explained a negative STEMI does not necessarily preclude a cardiac event. Dr. Stratton stated the standard of care for patients who complain of chest pain is to determine their risk for a cardiac event by conducting a physical examination and assessing their history, presentation, and other risk factors. For patients who are high-risk for a cardiac event, the standard of care is to provide ongoing ALS assessment during transport to the hospital, in case a cardiac event occurs.

In Dr. Stratton's opinion, respondent's decision to downgrade this patient indicates she failed to appropriately consider the patient's history, presentation, and risk factors and, consequently, grossly failed to assess her risk of a cardiac event in order to provide appropriate care and monitoring. As a result, this patient was transported to the hospital without potentially life-saving interventions to address a potential cardiac event. According to Dr. Stratton, respondent's decision to downgrade this patient was an extreme departure from the standard of care and constituted gross negligence.

29. Similarly, on April 9, 2024, respondent assessed a patient who complained of chest pain. Respondent concluded the patient should be downgraded to BLS. According to Dr. Stratton, respondent should have concluded this patient was high-risk for a cardiac event based on her advanced age, chest tightness, shortness of breath, high blood pressure, and her history of diabetes. Dr. Stratton stated the standard of care for patients who complain of chest pain is to determine their risk for a cardiac event by conducting a physical examination and assessing their history, presentation, and other risk factors. For patients who are high-risk for a cardiac event,

the standard of care is to provide ongoing ALS assessment during transport to the hospital, in case a cardiac event occurs.

Respondent's decision to downgrade this patient indicates she failed to appropriately consider the patient's history, presentation, and risk factors, grossly failed to assess her risk of a cardiac event, and failed to provide appropriate care and monitoring. As a result, this patient was transported to the hospital without potentially life-saving interventions to address a potential cardiac event. According to Dr. Stratton, respondent's decision to downgrade this patient was an extreme departure from the standard of care and constituted gross negligence.

30. On June 4, 2024, respondent assessed a patient who complained of chest pain. Respondent concluded the patient should be downgraded to BLS. According to Dr. Stratton, respondent should have concluded this patient was high-risk for a cardiac event based on his age and history of stroke. Dr. Stratton stated the standard of care for patients who complain of chest pain is to determine their risk for a cardiac event by conducting a physical examination and assessing their history, presentation, and other risk factors. For patients who are high-risk for a cardiac event, the standard of care is to provide ongoing ALS assessment during transport to the hospital, in case a cardiac event occurs.

Respondent's decision to downgrade this patient indicates she failed to appropriately consider the patient's history, presentation, and risk factors, grossly failed to assess his risk of a cardiac event, and failed to provide appropriate care and monitoring. As a result, this patient was transported to the hospital without potentially life-saving interventions to address a potential cardiac event. According to Dr. Stratton, respondent's decision to downgrade this patient was an extreme departure from the standard of care and constituted gross negligence.

Respondent's Evidence

31. Respondent testified. She has been employed by Riggs for 19 years, with 13 years as a paramedic and six years as an EMT previously. In addition to serving as an FTO, she is also a preceptor for paramedic students. In her 19 years at Riggs, respondent has not received any patient complaints. She was not aware of any documentation issues until she was served the TSO in August 2024.

32. Respondent "love[s] [her] job." The terrorist attacks on September 11, 2001, inspired her to pursue EMS work. She is proud to have received a Star of Life Award from the California Ambulance Association (CAA) for resuscitating and saving a cardiac patient on Christmas Day in 2023. In awarding her a Star of Life, the CAA wrote, "[Respondent's] critical thinking and honed set of skills played a key role in this patient walking out of the hospital."

33. Respondent does not recall the March 1, 2024, call with Paramedic Newberry. She does not recall which size i-gel Paramedic Newberry used on the patient but believes it could not have been a pediatric size. Respondent explained, if Paramedic Newberry had actually used a pediatric size i-gel in an adult patient, the i-gel would not have functioned properly and there would have been a subsequent complication consistent with using an incorrect i-gel. Respondent noted no such complications occurred, which she contended is consistent with Paramedic Newberry having used the correct i-gel size.

34. Respondent recalls the March 2, 2024, patient was "combative." At hearing, she stated she believed the patient's RR was "less than eight" but did not explain why. Respondent does not recall the March 30, 2024, call or the April 9, 2024,

call. She did not explain why she did not complete PCRs for either of these calls. Respondent did not testify as to the May 30, 2024, call.

35. Respondent recalls the June 4, 2024, call. She acknowledged she downgraded the patient to BLS. Respondent explained, based on the 12-lead ECG results, she "ruled out cardiac" and opined BLS treatment was appropriate. At hearing, respondent did not explain why she did not complete a PCR following her assessment of the patient.

36. Respondent recalls the July 21, 2024, call. She acknowledged she downgraded the patient to BLS. When she responded to this call, respondent had a student paramedic with her. At hearing, respondent explained she did not complete a PCR because she was under the impression the student paramedic would do so.

37. Respondent recalls the July 29, 2024, call. She acknowledged she downgraded the patient to BLS. Respondent explained, based on her assessment, the patient was not suffering from shortness of breath and BLS was appropriate. At hearing, respondent explained she did not complete a separate PCR because she believed EMT Diaz's PCR was sufficient.

38. Respondent contended she was following Riggs's practice when she downgraded patients from ALS to BLS. At hearing, she provided a December 2021 email by Michael Garrett, then Clinical Manger at Riggs, which stated: "If [BLS is] available and can respond within ten minutes[,] and your patient condition is appropriate for a BLS scope of practice, a BLS response for transport **is not optional**. You will need to utilize them." (Emphasis in original.) Respondent did not further explain whether or why she believed this email established the standard of care.

PARAMEDIC NEWBERRY

39. Paramedic Newberry testified. He has been a licensed paramedic for approximately a year. Previously, he was an EMT for three years. Respondent acted as Paramedic Newberry's FTO while he sought accreditation by Merced County.

40. Paramedic Newberry recalls the March 1, 2024, call. At hearing, he denied using a pediatric i-gel. He testified he used an adult size i-gel and explained he made a typographical error in his documentation. He admitted he failed to notice the error when he reviewed the PCR later that same day because "there are so many subsections to go through." Paramedic Newberry also explained his delay in measuring the patient's EtCO2 was because the monitor initially connected to the patient was malfunctioning. He had to obtain another monitor, which ultimately worked. Paramedic Newberry acknowledged he did not include this explanation in the PCR.

41. Paramedic Newberry also recalled the March 2, 2024, call. At hearing, he denied the patient's RR was 18. He testified the patient's RR could not have been 18 because his breathing was agonal, which he described as "not really taking a breath." Paramedic Newberry explained the documented RR of 18 was a typographical error because he "use[s] autocorrect a lot." Paramedic Newberry also explained it was "hard" to take the patient's vitals because he was fighting with the emergency personnel and "moving a lot."

DAVID MANN

42. David Mann (Paramedic Mann) testified. Paramedic Mann has been a paramedic since 2009 and currently practices as a travel medic. In 2024, while seeking accreditation by Merced County, respondent was Paramedic Mann's FTO. Paramedic

Mann and respondent responded to calls together for approximately three months. At hearing, Paramedic Mann described respondent as "thorough" and "competent."

CHARACTER LETTERS

43. Leone Pintabona, a Merced County police officer who has known respondent for over 10 years, wrote a letter in support of respondent. He described respondent as professional and dedicated to patient care. He praised her "kindness, integrity, and resilience."

44. Carrie King, a registered nurse, wrote a letter in support of respondent. She has known respondent for 19 years. She described respondent as compassionate and dedicated. She praised respondent's "positive attitude, integrity, communication skills, and ability to work well under pressure."

45. Gonzalo Tafoya, the Emergency Services Clinical Manager at Mercy Medical Center in Merced, California, wrote a letter in support of respondent. He has known respondent for three years. He wrote that respondent "frequently[] goes well above and well beyond her call of duty, works over-time, and helps other professionals (both pre-hospital and hospital) with their own duties – even when her own workload is already unforgiving."

46. Megan Marson, a paramedic, wrote a letter in support of respondent. She has known respondent for six years. She described respondent as "determined, kind hearted, and incredibly smart." She praised respondent as "one of the most caring, empathetic, and compassionate paramedics [she has] had the pleasure to work with."

47. Monserrat Zavala, an EMT, wrote a letter in support of respondent. She described respondent as "the fiercest, yet most kind-hearted health care working [she has] ever encountered." She considers respondent an inspiration.

48. Bryan Akers, respondent's friend of 30 years, wrote a letter in support of respondent. He described respondent as "combin[ing] confident with competence, consistently excelling in her profession." He has been a patient under respondent's care and felt she treated him "with the care and compassion [he] would expect."

Analysis

49. The FAA alleges respondent committed gross negligence in her supervision, as FTO, of Paramedic Newberry on March 1 and 2, 2024, 2024. However, complainant did not produce evidence of an FTO's standard of care. Without that evidence, no determination may be made on whether respondent's supervision of Paramedic Newberry on March 1 and 2, 2024, met or departed from an FTO's standard of care.

50. Moreover, complainant attempts to directly attribute Paramedic Newberry's conduct to respondent as a basis for discipline. However, the FAA does not cite to authority to discipline respondent for the gross negligence of a licensed paramedic she is supervising, where she provided no direct patient care. As a result, determining whether Paramedic Newberry's conduct constituted gross negligence is not relevant to this decision. His conduct cannot form the basis to discipline respondent, without citation to authority.

51. On March 30, 2024, April 9, 2024, and June 4, 2024, respondent downgraded patients who were high-risk for a cardiac event from ALS to BLS. At hearing, she explained she was following Riggs's practice to downgrade such patients

to BLS. However, respondent's explanation is given little weight. There is no evidence supporting the conclusion that Riggs's practice to downgrade to BLS set the standard of care in determining the level of care a high-risk cardiac patient requires. In contrast, Dr. Stratton testified credibly and persuasively that the standard of care required a determination of a patient's risk for a cardiac event by assessing a patient's history, presentation, and risk factors. For high-risk patients, the standard of care requires ongoing ALS monitoring during transport.

Respondent failed to appropriately assess these patients' history, presentation, and risk factors. As a result, these high-risk patients were transported without ongoing monitoring and without potentially life-saving interventions in case a cardiac event occurred during transport. Respondent's failure to appropriately assess these patients' risk and subsequent failure to provide appropriate care constitute an extreme departure from the standard of care. In downgrading these patients, respondent committed gross negligence. Relatedly, because respondent's decision to downgrade these patients departed from the standard of care, her conduct during these three calls also comprise repeated negligent acts.

52. On March 30, 2024, respondent conducted an ALS assessment and connected the patient to an ECG monitor. The ECG strips were not attached to EMT Fernandez's PCR relating to this call. Policy No. 540 states a paramedic is responsible for ensuring a PCR is accurate and specifically requires a PCR to include ECG strips. Respondent violated Policy No. 540 by failing to ensure the PCR relating to this call included the ECG strips from her ALS assessment.

53. The FAA alleges respondent violated Policy No. 540 and California Code of Regulations, title 22, section 100171, when she "did not document a PCR" relating to the calls on April 9, May 30, June 4, July 21, and July 29, 2024. Policy No. 540 and

California Code of Regulations, title 22, section 100171, require a paramedic to ensure the accuracy of a PCR, not to always "document a PCR" regardless of whether other emergency personnel has already completed one. The FAA does not allege respondent failed to ensure the accuracy of the PCRs for the calls in question. The evidence does not show respondent violated Policy No. 540 and California Code of Regulations, title 22, section 100171, on these calls.

54. The FAA alleges respondent functioned outside the supervision of medical control by violating Merced County EMS policies. However, respondent was practicing under her license when she engaged in the misconduct alleged in the FAA. There is no evidence respondent practiced outside the scope of her license or outside the scope of Merced County EMS authority. As a result, the evidence does not show she functioned outside the supervision of medical control.

APPROPRIATE DISCIPLINE

55. EMSA has adopted disciplinary guidelines titled, "EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation," rev. July 26, 2008 (Disciplinary Guidelines), incorporated by reference in California Code of Regulations, title 22, section 100173, subdivision (c). In evaluating a licensee's rehabilitation, the Disciplinary Guidelines set forth the following relevant criteria: (1) nature and severity of the acts; (2) the time elapsed since commission of the acts; (3) actual or potential harm to the public or any patient; (4) prior disciplinary record; (5) any discipline imposed by the licensee's employer for the same acts; and (6) rehabilitation evidence.

56. Respondent's repeated negligent acts and gross negligence on March 30, April 9, and June 4, 2024, are serious. She departed from the standard of care by

failing to appropriately assess the patients' risks and downgrading them to BLS despite their high risk for a cardiac event. As a result, these patients were transported without life-saving interventions in case a cardiac event occurred during transport. Additionally, respondent's failure to ensure the accuracy of the PCR relating to the March 30, 2024, call is also serious. Accuracy ensures continuity of patient care and provides subsequent healthcare professionals a clear and full picture of a patient's health, condition, and complaints. Respondent's repeated negligent acts, gross negligence, and failure to ensure a PCR's accuracy are each substantially related to the qualifications, functions, and duties of an EMT-P because they relate directly to her practice and show a present or potential unfitness to practice as a paramedic.

57. Although respondent's misconduct is recent, there is no evidence of prior misconduct in her 12 years as an EMT-P or during her almost 20 years at Riggs. She is well-respected in the paramedicine field. The CAA recognized her with a Star of Life award for saving a patient's life on Christmas Day in 2023. Paramedics Newberry and Mann and other friends and colleagues in the community praise respondent as a paramedic. Even Riggs's Clinical Director, Garcia-Resendez, holds respondent in high esteem and would entrust his family to respondent's care. Notably, Riggs did not discipline respondent for the same misconduct alleged in the FAA. On balance, respondent's misconduct appears to be an aberration in an otherwise clean licensure history.

58. For gross negligence or violating a local EMS authority's policies, the Disciplinary Guidelines recommend a minimum discipline of revocation, stayed for three years of probation, and a maximum discipline of revocation. For repeated negligent acts, the Disciplinary Guidelines recommend a minimum discipline of revocation, stayed for one year of probation, and a maximum discipline of revocation.

59. The objective of license discipline is to protect the public, not to punish the licensee. (See *Fahmy v. Medical Bd. of Cal.* (1995) 38 Cal.App.4th 810, 817.) When all the evidence is considered, outright revocation of respondent's license is not warranted. The evidence shows that with supervision, respondent would be able to practice as an EMT-P in a manner consistent with the public health, welfare, and safety. Consequently, respondent's license should be placed on three years of probation with appropriate terms and conditions.

LEGAL CONCLUSIONS

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.)

2. EMSA may suspend or revoke an EMT-P license "upon the finding by the director of the occurrence of any of the actions listed in subdivision (c)." (§ 1798.200, subd. (b)(1).) Subdivision (c) provides, in pertinent part:

> (2) Gross negligence.
>
> (3) Repeated negligent acts.
>
> [¶] . . . [¶]

(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.

3. The standard of care requires the exercise of a reasonable degree of skill, knowledge, and care that is ordinarily possessed and exercised by members of the medical profession under similar circumstances. The standard of care applicable to a medical professional must be established by expert testimony and is often a function of custom and practice. (*Elcome v. Chin* (2003) 110 Cal.App.4th 310, 317; *Osborn v. Irwin Memorial Blood Bank* (1992) 5 Cal.App.4th 234, 280.) The courts have defined gross negligence as "the want of even scant care or an extreme departure from the ordinary standard of care." (*Kearl v. Bd. of Medical Quality Assurance* (1986) 189 Cal.App.3rd 1040, 1052.) Simple negligence is merely a departure from the standard of care. A single instance of negligent treatment is not grounds for discipline of a licensed medical professional. (*Gromis v. Medical Bd.* (1992) 8 Cal.App.4th 589, 600.) Repeated negligent acts consist of two or more negligent acts. (*Zabetian v. Medical Bd. of Cal.* (2000) 80 Cal.App.4th 462, 468.)

4. California Code of Regulations, title 22, section 100175, subdivision (a), provides:

> For the purposes of denial, placement on probation, suspension, or revocation, of a license, pursuant to Section 1798.200 of the Health and Safety Code, or imposing an administrative fine pursuant to Section 1798.210 of the Health and Safety Code, a crime or act shall be substantially related to the qualifications, functions and/or duties of a person holding a paramedic license under Division 2.5 of the Health and Safety Code. 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 her/his license in a manner consistent with the public health and safety.

5. California Code of Regulations, title 22, section 100171, subdivision (e), provides, in pertinent part:

> The paramedic is responsible for accurately completing, in a timely manner, the electronic health record referenced in [California Code of Regulations, title 22,] [s]ection 100170(a)(6) compliant with the current versions of the National EMS Information System and the California EMS Information System . . . .

6. "The local EMS agency, using state minimum standards, shall establish policies and procedures approved by the medical director of the local EMS agency to

assure medical control of the EMS system." (§ 1797.220.) In accordance with that mandate, Merced County EMS issued Policy Nos. 540, 702, 704, 724, and 760.

Relevant Merced County EMS Policies

7. Merced County EMS Policy No. 540, "Patient Documentation," effective January 2024, provides in pertinent part that "[p]ersonnel providing patient care are responsible for accurately documenting all available and relevant patient information on the PCR." A PCR must be completed for patients who are transported by ambulance to a hospital and after an ALS assessment by a paramedic prior to the assigned ambulance's arrival at the scene. The PCR must include the following information, in pertinent part:

> [IV. B. 3. d.] At least two (2) complete sets of vital signs for every patient including: pulse, respirations, blood pressure[,] and pulse oximetry. End Tidal Capnography (EtCO2) if applied per protocol. These vital signs should be repeated and documented after drug administration, prior to patient transfer[,] and as needed during transport.
>
> Vital signs should be taken and documented:
>
> - Every five (5) minutes for a Stat Patient[; or]
> - Every fifteen (15) minutes [for a] Non-Stat Patient[.]
>
> [¶] . . . [¶]
>
> If unable to obtain (UTO) any vital signs, the reason must be documented.

[¶] . . . [¶]

[IV. B. 3. m.] Cardiac monitor strip(s) shall be documented and attached to the PCR for all patients placed on the cardiac monitor, which includes the application of a 12-Lead ECG.

Any significant rhythm changes should be documented on the PCR. For cardiac arrests, the initial strip(s), ending strip(s), pre[-] and post[-]defibrillation, and pacing attempts[] should be attached to the PCR.

[¶] . . . [¶]

All crew members are responsible for, and should review, the content of the PCR for accuracy.

8. Merced County EMS Policy No. 702, "Adult Treatment Protocols - Cardiac Arrest," effective September 2023, provides a flowchart of emergency treatment steps to address a patient's complaint or presentation of cardiac arrest.

9. Merced County EMS Policy No. 704, "Adult Treatment Protocols - Chest Pain / Discomfort," effective July 2023, provides a list of BLS protocols and a list of ALS protocols to address a patient's complaint or presentation of chest pain.

10. Merced County EMS Policy No. 724, "Adult ALOC - Syncope," effective May 2011, provides a list of BLS protocols and a list of ALS protocols to address a patient's complaint or presentation of an ALOC or syncope. The policy requires the use of "oral intubation or approved supraglottic airway device," if necessary.

11. Merced County EMS Policy No. 760, "Supraglottic Airway Devices," effective September 2018, states Merced County's approved SAD device is the i-gel brand and mandates that an "[a]ppropriately sized SAD" must be used. Proper procedure in using an i-gel SAD is to:

> a. Don PPE [personal protective equipment][.]
>
> [¶] . . . [¶]
>
> c. Apply monitor (ECG) and pulse oximetry[.]
>
> [¶] . . . [¶]
>
> g. Connect the ETCO2 device to remain in place until arrive at hospital[.]

Causes for Discipline

12. Complainant proved, by clear and convincing evidence, that the standard of care for an EMT-P caring for patients complaining of chest pain is to determine the patients' risk for a cardiac event. For patients who are high-risk for a cardiac event, the standard of care for an EMT-P is to ensure they have access to ALS during transport to a hospital, in case a cardiac event occurs. Complainant further proved, by clear and convincing evidence, that on March 30, April 9, and June 4, 2024, respondent departed from the standard of care. Specifically, while acting as an EMT-P, she failed to appropriately assess the patients' risk for a cardiac event and downgraded them to BLS. As a result, these patients were transported without potentially life-saving interventions in case a cardiac event occurred. Finally, complainant proved by clear and convincing evidence that respondent's departures from the standard of care were extreme. Based thereon, respondent committed gross negligence on March 30, April 9,

and June 4, 2024. Thus, cause exists to discipline respondent's license under section 1798.200, subdivision (c)(3).

13. Complainant proved, by clear and convincing evidence, that the standard of care for an EMT-P caring for patients complaining of chest pain is to determine the patients' risk for a cardiac event. For patients who are high-risk for a cardiac event, the standard of care for an EMT-P is to ensure they have access to ALS during transport to a hospital, in case a cardiac event occurs. Complainant further proved, by clear and convincing evidence, that on March 30, April 9, and June 4, 2024, respondent departed from the standard of care. Specifically, while acting as an EMT-P, she failed to appropriately assess the patients' risk for a cardiac event and downgraded them to BLS. As a result, these patients were transported without potentially life-saving interventions in case a cardiac event occurred. Finally, complainant proved, by clear and convincing evidence, respondent repeatedly departed from the standard of care on March 30, April 9, and June 4, 2024. Thus, cause exists to discipline respondent's license under section 1798.200, subdivision (c)(3).

14. Complainant proved, by clear and convincing evidence, respondent violated Merced County EMS Policy No. 540 by failing to ensure the PCR relating to the March 30, 2024, was accurate and failing to include the ECG strips from her ALS assessment. Thus, cause exists to discipline respondent's license under section 1798.200, subdivision (c)(7).

15. Complainant failed to prove, by clear and convincing evidence, respondent functioned outside the supervision of medical control in Merced County. Thus, cause to discipline respondent's license does not exist under section 1798.200, subdivision (c)(10).

16. Complainant failed to prove, by clear and convincing evidence, respondent committed gross negligence in her supervision of Paramedic Newberry on March 1 and 2, 2024. Further, complainant failed to prove, by clear and convincing evidence, respondent committed gross negligence based on Paramedic Newberry's alleged gross negligence on March 1 and 2, 2024. Thus, cause to discipline respondent's license does not exist, on these bases, under section 1798.200, subdivision (c)(3).

Conclusion

17. When all the evidence is considered, respondent would be able to practice as an EMT-P in a manner consistent with the public health, welfare, and safety while under Board probation. A probation term of three years would serve public protection. Therefore, respondent should be placed on probation on the terms and conditions set forth below.

ORDER

The Temporary Suspension Order issued by Merced County Emergency Medical Services on August 26, 2024, suspending Emergency Medical Technician Paramedic License No. P31414 issued to Sadie Eirich, is VACATED.

Emergency Medical Technician Paramedic License No. P31414 issued to Sadie Eirich is REVOKED. However, such revocation is stayed and the license 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 this Order. Respondent shall fully cooperate with EMSA in its monitoring,

investigation, and evaluation of her compliance with this Order's terms and conditions. Respondent shall immediately execute and submit to EMSA all Release of Information forms that it may require.

2. **Personal Appearances.** As directed by EMSA, respondent shall appear in person for interviews, meetings, or evaluations of her compliance with the terms and conditions of this Order. Respondent shall bear the 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 with all the terms and conditions of probation. If respondent submits her quarterly reports by mail, she shall use certified mail.

4. **Employment Notification.** During the probationary period, respondent shall notify EMSA in writing of any EMS employment. Respondent shall inform EMSA in writing of the name and address of any prospective EMS employer prior to accepting employment. Additionally, respondent shall submit written proof to EMSA of her disclosure to the current or any prospective EMS employer of the reasons for and the terms and conditions of probation. Respondent authorizes any EMS employer to submit performance evaluations and other reports which EMSA may request that relate to the qualifications, functions, and duties of prehospital personnel. Any and all notifications to EMSA shall be by certified mail.

5. **Notification of Termination.** Respondent shall notify EMSA within 72 hours after termination, for any reason, by an EMS employer. Respondent shall provide

a full, detailed written explanation of the reasons for and circumstances of her termination. Any and all notifications to EMSA shall be by certified mail.

6. Functioning as a Paramedic. The probationary period shall be tolled when respondent is not practicing as a paramedic within the jurisdiction of California. If respondent, during the probationary period, leaves California to practice as a paramedic, she must immediately notify EMSA, in writing, of the date of such departure and, if applicable, the date of her return to California. Any and all notifications to 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 paramedic practice. Respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to Health and Safety Code section 1798.200. To permit monitoring of compliance with this term, if respondent has not already submitted fingerprints to EMSA as a condition of licensure, then, within 45 days of this Order, she shall submit her fingerprints by LiveScan or by fingerprint cards and pay the appropriate fees.

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

8. Educational Course Work. No later than six months prior to the end of the probationary term, respondent shall submit to EMSA proof of completion of courses relevant to gross negligence, negligence, or record keeping, to the satisfaction

of EMSA. Course work may include community service to reinforce any applicable learning objectives. All courses must be approved by EMSA. Within 30 days upon completing the relevant courses, respondent shall submit evidence of competency. A certificate or letter from the course instructor attesting to respondent's competency shall suffice. Any and all notifications to EMSA shall be by certified mail.

9. Ethical Practice of EMS. Within 180 days of this Order, respondent shall submit to EMSA, for its prior approval, a course in Ethics. Respondent shall complete this course during the probationary period. Respondent shall submit to EMSA proof of completion of the approved Ethics course. Any and all notifications to EMSA shall be by certified mail.

10. Practical Skills Examination. Within 30 days of this Order, respondent shall submit to and pass a skills examination in subjects relevant to gross negligence, negligence, or record keeping, based on the U.S. Department of Transportation (USDOT) or the National Registry of Emergency Medical Technicians (NREMT) skills examination, when applicable. If the subjects are not addressed by the USDOT or NREMT, EMSA shall identify, approve, and utilize a local standard. The skills examination shall be administered by a board selected by EMSA.

If respondent fails the examination, she may function as a paramedic only while under the direct supervision of a preceptor. Respondent shall not be allowed to function as a sole paramedic until she passes the examination. If respondent fails the examination, she may retake it two additional times. There shall be at least a two-week period between examinations. After three failed attempts, or if respondent chooses not to retake the examination, her license shall be revoked.

11. Oral Examination. Within 30 days of this Order, respondent shall submit to and pass an oral examination in subjects relevant to gross negligence, negligence, or record keeping. The oral examination shall be administered by a board selected by EMSA.

If respondent fails the examination, she may function as a paramedic only while under the direct supervision of a preceptor. Respondent shall not be allowed to function as a sole paramedic until she passes the examination. If respondent fails the examination, she may retake it two additional times. There shall be at least a two-week period between examinations. After three failed attempts, or if respondent chooses not to retake the examination, her license shall be revoked.

12. Performance Improvement Plan. Respondent shall function as a paramedic while on probation, except during the time when the license is suspended by a term or condition of the disciplinary order. Respondent, respondent's employer, the local EMS agency, and EMSA shall develop a Performance Improvement Plan (PIP). The PIP may include education or evaluation in areas relevant to gross negligence, negligence, or record keeping, such as:

- Remedial training by a preceptor in a field or clinical setting.
- Remedial training with performance demonstration.
- Policy review.
- Participation in Quality Assurance/Quality Improvement review audits.

Respondent shall submit to EMSA, on a quarterly basis, PIP reports prepared by her employer, local EMS agency, or approved education provider. The PIP reports shall

document respondent's progress toward goals identified in the PIP. Any and all notifications to EMSA shall be by certified mail.

13. Violation of Probation. If during the probationary period respondent fails to comply with any term of probation, EMSA may initiate action to terminate probation and impose the stayed revocation. An action to terminate probation and impose the stayed revocation shall be pursuant to Government Code section 11500 et seq. The period of probation shall remain in effect until such time that a decision on the matter has been adopted by EMSA.

14. Completion of Probation. Respondent's license shall be fully restored upon successful completion of probation.

DATE: November 14, 2024

PATRICE DE GUZMAN HUBER
Administrative Law Judge
Office of Administrative Hearings