

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

**In the Matter of the Statement of Issues Against:**

**SCOTT M. RAPER, Respondent**

**Agency Case No. 24-0066**

**OAH No. 2024081030**

**PROPOSED DECISION**

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter via videoconference on January 28, 2025, from Sacramento, California.

Brent Jex, Deputy Attorney General, represented complainant Kim Lew, Chief, Emergency Medical Service Personnel Division, Emergency Medical Services Authority (EMSA), State of California.

Respondent Scott M. Raper appeared at the hearing and represented himself.

Evidence was received, the record closed, and the matter submitted for decision on January 28, 2025.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. In approximately 2004, the EMSA issued respondent Emergency Medical Technician-Paramedic (paramedic or EMT-P) license number P22646. Effective on September 24, 2020, respondent surrendered his license. On February 6, 2024, EMSA received from respondent an application for reinstatement of his license. On June 27, 2024, EMSA denied the application. Respondent timely appealed.

2. On August 15, 2024, complainant, acting solely in her official capacity, filed the Statement of Issues seeking to deny respondent's license for violating Health and Safety Code section 1798.200, subdivision (c)(12)(c) and California Code of Regulations Title 22, section 100174. Complainant alleged that an EMSA investigation determined that respondent committed a sexually related offense as specified under Penal Code section 290. Specifically, sexual battery as defined by Penal Code section 243.4.

3. Respondent timely filed a notice of defense. The matter was 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.

### **Patient Complaint and EMSA Investigation**

4. On or about March 18, 2020, respondent was working as an EMT-P for Sierra Valley Ambulance. Respondent transported a patient from one hospital to another. In approximately July 2020, the patient filed a complaint with Sierra Valley Ambulance claiming that respondent had touched her face and abdomen, made

comments about her breasts, touched her breasts, gave her his phone number and later sent her a text message.

5. The incident was eventually reported to the EMSA. Jeff Vimoche, an investigator with EMSA was assigned to investigate the complaint. He interviewed the patient which he documented in a memorandum. He also obtained a written statement from respondent. Mr. Vimoche did not testify at hearing. No investigation report was offered at hearing. Respondent was verbally told about the allegations made by the patient. He was not given any type of written complaint to review.

6. In response to the verbal description of the patient's allegations, respondent provided Mr. Vimoche a written response. Respondent admitted that he touched the patient's abdomen when he assessed the pain she reported. Respondent "palpated her belly two times to ascertain the location of the pain." He also touched her face when he placed a nasal cannula in her nose to administer oxygen. Respondent explained that the "only time that [he] had touched anywhere near her breasts would be to either place, remove, or adjust a lead ECG sticker." He further explained that if he did "touch a woman's breast it would be during the placement of a 12 lead and then at that time it would be with the back of my hand." During the ambulance ride, respondent also administered the patient narcotic pain medication.

Respondent also wrote that he shared with the patient that he suffered from Post-Traumatic Stress Disorder (PTSD) from his time in the Army and the topic of weight loss was discussed, including how weight loss affected the patient's breasts. At one point the patient shared that she had breast implants and asked respondent if he wanted to touch her breast. He declined.

Respondent also admitted that he gave the patient his telephone number. He explained that he asked the patient if she wanted his phone number. He did so because the patient had also shared that she suffered from PTSD. He asked if she wanted to talk more about it and offered to answer any questions. She agreed. A few weeks later respondent sent the patient a text message asking how she was doing. The patient did not reply. Respondent did not contact her again.

## **License Surrender**

7. The EMSA did not file an Accusation or statement of charges against respondent. On September 23, 2020, respondent signed a Stipulated Settlement Agreement and Order (Settlement). Respondent was not represented by counsel. The Settlement contains the following under "ACKNOWLEDGMENTS:"

4. For the purpose of resolving this matter without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for license discipline. Respondent hereby gives up his right to contest any charges and he agrees to be bound by the Order entered pursuant to this Stipulation.

8. There is no "factual basis," charges, or allegations of respondent's alleged conduct set forth in the Settlement. There is no accusation or statement of charges attached to the Settlement which sets forth any "factual basis," charges, or allegations.

9. The Settlement also contains the following information regarding seeking license reinstatement:

2. RE-APPLICATION FOR LICENSE. Respondent understands and agrees that he shall comply with all the laws, regulations and procedures necessary for an initial license application in effect at the time any application is submitted by him. Respondent agrees that he will not re-apply for licensure for at least one year following the effective date of this decision.

### **Respondent's Evidence**

10. Respondent admits his conduct towards the patient was inappropriate and unprofessional. When speaking to the patient about how weight loss affected her breasts, he made a comment about her "perky breasts," which he described as "dumb" and "stupid." However, he denied that he touched the patient's breasts. He also asked for her permission before palpating her stomach and conducting any type of assessment or treatment.

11. Respondent also explained that it was his practice to share his number with patients if he had developed a rapport with the patient and if there was an interesting medical situation with the patient they wanted to share. Respondent wrote his name and phone number on a piece of paper he gave to the patient. Respondent contends that he did not give the patient his number to pursue her romantically.

12. In all the years he has worked as a paramedic, respondent has never been accused of inappropriately touching a patient or making sexual advances towards a patient. Respondent explained that the first time he received any written information about the patient's complaint or statements was October 2024, when he was given the information by EMSA in preparation for the hearing. He noted that the

patient repeatedly said the name of the paramedic she was complaining about was "Roger," which is not his name or the name he wrote on the piece of paper he gave her with his number.

13. When respondent was offered the option to resolve the patient's complaint by surrendering his license, he did so because he needed to focus on his health. He believed his poor judgment in how he spoke to the patient was a symptom of a larger problem. Respondent understood that he could reapply for his license in one year. Respondent decided to take that time to address his unhealthy lifestyle. Respondent had been a paramedic for 16 years at that time. He was working over a 100 hours per week. He was consuming energy drinks to maintain his stamina. Respondent was also prescribed medication for PTSD, which he realized in hindsight was exacerbating his health problems.

14. Respondent sought help with his PTSD from the Veterans Administration. He is part of an intensive outpatient PTSD treatment program. Through the program and personal work, he has come to understand that he was not dealing with trauma from his many years as a paramedic. Mental health services were not available or encouraged for paramedics. As a result, respondent was not dealing with the trauma that was accumulating, and his behavior was a symptom.

15. Respondent is currently working for Star Non-Emergent Transport performing wheelchair and gurney transfers. The owner asked respondent to start a Basic Life Support program. Respondent would like his license reinstated so that he can teach new paramedics. Respondent wants to use his experience and mistakes as a cautionary tale to new paramedics, particularly focusing on the importance of seeking mental health services and supports.

16. Respondent submitted eight letters of support from colleagues, employers and friends. They describe respondent as professional, competent and caring.

## **Analysis**

17. Complainant alleged two causes for denial of respondent's application for committing a sexually related offense as defined under Penal Code section 290. However, neither of the bases for denial was established. The Statement of Issues alleges the EMSA determined through an investigation that respondent committed sexual battery as defined by Penal Code section 243.4. However, no EMSA investigator testified at hearing. No investigation report was presented. No accusation was filed against respondent and no written statement of charges was given to respondent. Also, there are no factual allegations referenced in the Settlement. Although respondent admitted there was a "factual basis for license discipline," no facts about respondent's alleged conduct or reference to sexual battery as defined by Penal Code section 243.4 is in the Settlement.

18. Pursuant to Health and Safety Code Section 1798.200, respondent should have been served with an accusation and notification of his right to a hearing. This was not done. Additionally, the Administrative Procedures Act also requires the EMSA to provide a statement to respondent regarding his rights and include copies of Government Code section 11507.5, 11507.6, and 11507.7. (Gov. Code, § 11505.) There is no evidence this was done prior to respondent entering into the Settlement. Because the EMSA did not serve an accusation with the required accompanying information, respondent did not have notice of the reason for the discipline of his license, and he had no ability to challenge the accuracy of the information upon which the discipline was based. Thus, respondent has been deprived of due process and an

opportunity to meaningfully contest the discipline of his license prior to entering into the Settlement.

19. The only evidence presented at hearing regarding the allegations made by the patient was an interview of the patient conducted by Mr. Vimoche. However, Mr. Vimoche did not testify at hearing. The memorandum Mr. Vimoche prepared concerning his interview contains statements attributed to the patient. However, this document contains multiple levels of hearsay and is not admissible. “[M]ultiple hearsay is admissible for its truth only if each hearsay layer separately meets the requirements of a hearsay exception.” (*People v. Arias* (1996) 13 Cal.4th 92, 149; see also *People v. Williams* (1997) 16 Cal.4th 153, 199, fn. 3, as modified (Sept. 24, 1997) [“The admission of multiple hearsay is permissible where each hearsay level falls within a hearsay exception.”].)

20. Additionally, even if the statements of the patient to Mr. Vimoche were admissible, there was no opportunity to assess the patient’s credibility. (See Evid. Code §780.) Facts that weigh against her credibility include that she filed her complaint several months after the alleged incident. The patient was under the influence of narcotic pain medication during the time of her interactions with respondent. She complained about a paramedic named “Roger” despite being given a piece of paper with respondent’s name and phone number.

21. In contrast, respondent’s testimony was credible and sincere. He is deeply remorseful for his conduct. He admitted to behaving unprofessionally and making an inappropriate comment to the patient about her breasts. After the surrender of his license, he undertook extensive efforts to address his health issues and learn from his mistakes. He understands the importance of seeking mental health support and plans to share this knowledge with new paramedics.

22. When all the evidence is considered, respondent proved by a preponderance of the evidence that there is no cause to deny his application. Because there is no cause, it is not necessary to evaluate respondent's rehabilitation. Therefore, his application for licensure is granted.

## **LEGAL CONCLUSIONS**

### **Burden of Proof**

1. Respondent has the burden of proving by a preponderance of the evidence that he is fit for the license he seeks and that his license application should be granted. (Evid. Code, § 115.)

### **Applicable Law**

2. Under the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (Health & Saf. Code § 1797 et seq.) ("the Act"), the EMSA is responsible for the licensing of emergency medical responders, including paramedics. To exercise these powers and perform the duties conferred upon it, the EMSA has adopted rules and regulations to carry out the purposes of the Act. (Health & Saf. Code § 1797.107.)

3. Health and Safety Code section 1798.200, subdivision (c), lists actions that shall be considered evidence of a threat to the public health and safety and may result in the denial of paramedic license for the following:

(c) 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:

[¶] ... [¶]

(12) Unprofessional conduct exhibited by any of the following:

[¶] ... [¶]

(C) The commission of any sexually related offense specified under Section 290 of the Penal Code.

4. Pursuant to California Code of Regulations, title 22, section 100174, subsection (a)(1), EMSA shall deny a paramedic license if the applicant has "committed any sexually related offense specified under section 290 of the Penal Code."

### **No Cause for Denial**

5. There is no evidence respondent committed a sexually related offense as specified in Penal Code section 290. As a result, there is no cause for denial of his application under Health and Safety Code section 1798.200, subdivision (c)(12)(c) or California Code of Regulations, title 22, section 100174, subdivision (a)(1).

6. When all the evidence is considered, there are no grounds to deny respondent's application.

## ORDER

The application for reinstatement of surrendered license by respondent Scott M. Raper is GRANTED. A license SHALL BE ISSUED to respondent upon successful completion of all licensing requirements.

DATE: February 4, 2025

*Marcie Larson*

[Marcie Larson \(Feb 4, 2025 14:37 PST\)](#)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings