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BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

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

) Enforcement Matter No.: 14-0120
) OAH No.: 2015020640

6 **JAIME R. PARSONS**
7 License No. P32783

) **DECISION AND ORDER**

8 Respondent.

The attached Proposed Decision and order dated April 13, 2015, is hereby adopted by the
Emergency Medical Services Authority as its Decision in this matter.

This decision shall become effective 30 days after the date of signature.

It is so ordered.

DATED:

April 20, 2015


Howard Backer, MD, MPH, FACEP
Director
Emergency Medical Services Authority

BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

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

JAMIE R. PARSONS
License No. P32783

Respondent.

Enforcement Matter No. 14-0120

OAH No. 2015020640

PROPOSED DECISION

This matter was heard on March 30, 2015, in Sacramento, before Administrative Law Judge, Erin R. Koch-Goodman, Office of Administrative Hearings, State of California.

Stephen Egan, Staff Counsel III, represented complainant, Sean Trask, Chief, Emergency Medical Services Personnel Division, Emergency Medical Services Authority (EMSA), State of California.

Respondent, Jamie R. Parsons, appeared and represented herself.

Evidence and argument were received. The matter was submitted and the record was closed on March 30, 2015.

FACTUAL FINDINGS

1. On December 9, 2014, complainant, in his official capacity, issued and served the instant Accusation on respondent. Respondent timely requested a hearing by filing a Notice of Defense. An administrative hearing was held pursuant to Government Code section 11505.

2. On December 21, 2013, EMSA issued respondent an Emergency Medical Technician-Paramedic (EMT- P) license, number P32783. The license is valid through December 31, 2015.

3. Respondent's license allows her to perform various medical procedures, including advanced life support procedures, while at the scene of a medical emergency,

during transport of an injured or ill person to a medical facility, or during transfer of a patient between medical facilities. Respondent held her license at the time she committed the criminal offense set forth below.

Conviction

4. On March 27, 2014, California Highway Patrol Officer John Bright responded to a report of a collision on Crow Canyon Road. Respondent identified herself as the driver. Officer Bright noted a strong odor of alcohol coming from respondent and that respondent's eyes were red and watery. He asked respondent if she had been drinking and respondent replied that she had. Officer Bright asked respondent to perform field sobriety tests, which respondent was unable to perform properly. Preliminary alcohol screening showed respondent had a blood alcohol content of .16 percent. She was arrested for driving under the influence of alcohol. A subsequent blood alcohol test showed a blood-alcohol content of .19 percent.

5. Respondent was charged with driving under the influence of alcohol and driving with a blood-alcohol level over .08 percent. On September 22, 2014, in the Superior Court of Alameda County, respondent pled no contest to a misdemeanor violation of California Vehicle Code section 23152, subdivision (b).¹ She was granted three years' probation, with the following terms: serve 1 day in sheriff's work alternative project, pay \$1993 in fines, and enroll in and complete a three-month First Offender Alcohol program.

6. Driving under the influence of alcohol is substantially related to the qualifications and duties of a paramedic (See Factual Finding 3). A paramedic must be able to safely drive first responder vehicles and competently provide medical care to the public. The consumption of alcohol quickly affects normal driving ability and judgment. Driving under the influence of alcohol threatens personal safety and places the safety of the public in jeopardy. Driving under the influence of alcohol reflects a lack of sound professional judgment and an inability or unwillingness to obey the laws prohibiting drinking and driving. This conduct on the part of a first responder greatly undermines public confidence in and respect for the profession.

Rehabilitation

7. In determining the discipline, if any, to impose on a licensee, it is necessary to examine the factors which may justify, mitigate or aggravate the offenses. It is also necessary to determine whether the licensee is presently of good character and has rehabilitated herself.

8. In this case, respondent submitted no evidence of rehabilitation. Respondent has failed to take reasonable steps to comply with the terms and conditions of her criminal

¹ Respondent admitted her conviction at hearing. Complainant did not submit certified court records of respondent's conviction.

probation and her conviction occurred more than six months ago. Respondent has not completed her three-month DUI class, which requires attendance at two Alcoholics Anonymous meetings, which respondent has yet to attend; she has not completed her required community service hours, because she arrived late to her scheduled community service and was turned away; and she has paid only \$325 toward her total \$1993 in fines to the Court.

9. Respondent testified that she “will never drink again” and “will never drink and drive again.” She wishes she could “take it back” and believes that she is a “completely different person since the conviction.” Respondent stressed that she “takes [her] job seriously;” and would “never put a patient in danger;” she “love[s her] job;” and is “good at [her] job.” However, given respondent’s lack of commitment to her court ordered rehabilitation, respondent’s testimony is not compelling.

10. In closing, complainant argued for a three month suspension of respondent’s license, as well as three years of monitored probation. Both a suspension and a probationary term is appropriate in this case; respondent’s conduct must be monitored for a period of time long enough to assure EMSA that respondent does not pose a risk to the public.

LEGAL CONCLUSIONS

1. The statutes and regulations which govern the licensing of Emergency Medical Technicians-Paramedics are contained in division 2.5 of the Health and Safety Code commencing with section 1797 and Chapter 4 of Division 9 of the California Code of Regulations (CCR), title 22.

2. Health and Safety Code section 1798.200 provides in pertinent part:

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c)...

(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 or licenseholder under this division:

[¶] . . . [¶]

(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel.

The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

[¶] . . . [¶]

(9) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs or controlled substances.

3. CCR, title 22, section 100174 provides:

(a) 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.

(b) For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction. "Conviction" means the final judgement on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

4. It has been established by clear and convincing evidence that respondent violated Health and Safety Code section 1798.200, subdivision (c)(6) (conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel) as set forth in the Factual Findings 3 through 6. Therefore, cause exists for discipline of respondent's license because of this violation.

5. It has been established by clear and convincing evidence that respondent violated Health and Safety Code section 1798.200, subdivision (c)(9) (misuse of alcoholic beverage) as set forth in the Factual Findings 4 and 5. Therefore, cause exists for discipline of respondent's license because of this violation.

6. Respondent bears the burden of proving that she is currently of such good character that she does not pose a threat to the public that she serves. As set forth in the Factual Findings 9 through 11, respondent has not demonstrated compliance with the terms of her criminal probation, nor provided sufficient evidence of rehabilitation. As such, a suspension and a period of monitoring are necessary to assure EMSA that respondent no longer poses a risk to the public.

ORDER

Certification Number P32783 is REVOKED. However, the revocation is STAYED and respondent's license is placed on probation for a period of three years upon the following terms and conditions:

1. Suspension

Respondent's certificate is SUSPENDED for a period of three months, commencing on the effective date of this decision.

2. Probation Compliance:

The respondent shall fully comply with all terms and conditions of the probationary order. The respondent shall fully cooperate with the EMSA in its monitoring, investigation, and evaluation of the respondent's compliance with the terms and conditions of his probationary order.

The respondent shall immediately execute and submit to the EMSA all Release of Information forms that the EMSA may require of the respondent.

3. Personal Appearances:

As directed by the EMSA, the respondent shall appear in person for interviews, meetings, and/or evaluations of the respondent's compliance with the terms and conditions of the probationary order. The respondent shall be responsible for all of her costs associated with this requirement.

4. Quarterly Report Requirements:

During the probationary period, the respondent shall submit quarterly reports covering each calendar quarter which shall certify, under penalty of perjury, and document compliance by the respondent with all the terms and conditions of her probation. If the respondent submits her quarterly reports by mail, it shall be sent as registered mail.

5. Employment Notification:

During the probationary period, the respondent shall notify the EMSA in writing of any EMS employment. The respondent shall inform the EMSA in writing of the name and address of any prospective EMS employer prior to accepting employment.

Additionally, the respondent shall submit proof in writing to the EMSA of disclosure, by the respondent, to the current and any prospective EMS employer of the reasons for and terms and conditions of the respondent's probation.

The respondent authorizes any EMS employer to submit performance evaluations and other reports which the EMSA may request that relate to the qualifications, functions, and duties of an EMT-P.

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

6. Notification of Termination:

During the probationary period, the respondent shall notify the EMSA within seventy-two (72) hours after termination, for any reason, with her prehospital medical care employer. The respondent must provide a full, detailed written explanation of the reasons for and circumstances of her termination.

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

7. Functioning as an EMT-P:

The period of probation shall not run anytime that the respondent is not practicing as an EMT-P within the jurisdiction of California.

If the respondent, during her probationary period, leaves the jurisdiction of California to practice as an EMT-P, the respondent must immediately notify the EMSA, in writing, of the date of such departure and the date of return to California, if the respondent returns.

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

8. Obey All Related Laws:

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

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

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

9. Completion of Probation:

The respondent's certification shall be fully restored upon successful completion of probation.

10. Violation of Probation:

If during the period of probation the respondent fails to comply with any term of probation, the EMSA may initiate action to terminate probation and implement actual certificate suspension/revocation. Upon the initiation of such an action, or the giving of a notice to the respondent of the intent to initiate such an action, the period of probation shall remain in effect until such time as a decision on the matter has been adopted by the EMSA. An action to terminate probation and implement actual certificate suspension/revocation shall be initiated and conducted pursuant to the hearing provisions of either Chapter 6 of the California Code of Regulations, Title 22, Division 9, or the California Administrative Procedure Act, whichever process was used by the EMSA.

The issues to be resolved shall be limited to whether the respondent has violated any term of her probation sufficient to warrant termination of probation and implementation of actual suspension/revocation. The respondent and the EMSA shall be bound by the admissions contained in the terms of probation and neither party shall have a right to litigate the validity or invalidity of such admissions.

11. Abstinance from the Use of Alcoholic Beverages:

The respondent shall abstain from the use of alcoholic beverages.

12. Biological Fluid Testing:

The respondent shall submit to routine and random biological fluid testing or drug/alcohol screening as directed by the LEMSA or its designee. Respondent may use a lab pre-approved by the LEMSA or may provide to the LEMSA the name and location of an independent laboratory or drug/alcohol testing facility for approval by the LEMSA. Lab approval shall be based on criteria regulating professional laboratories and drug/alcohol testing facilities as set

forth in Chapter 3, Division 2, of the Business and Professions Code and Division 1 of Title 17 of the California Code of Regulations. When the LEMSA requests a random test, the respondent shall provide the required blood/urine sample by the time specified, or within twelve (12) hours of the request if no time is specified. When the EMSA requests a random test, the respondent shall ensure that any positive test results are conveyed telephonically by the lab to the EMSA within forty-eight (48) hours, and all written positive or negative results are provided directly by the lab to the EMSA within ten (10) days. The respondent shall be responsible for all costs associated with the drug/alcohol screening.

The LEMSA may allow the random drug testing to be conducted by a laboratory under contract with the respondent's employer to meet the requirement of random drug testing as set forth in this section. The results of the employer's random drug testing shall be made available to the LEMSA in the time frames described above.

13. **Alcohol/Detoxification/Diversion Program:**
Within 30 days of the effective date of this decision, the respondent shall enroll and participate in an alcohol/detoxification/diversion program approved by the EMSA. The respondent shall participate in the program until appropriate medical supervision determines that further treatment and rehabilitation is no longer necessary.

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

Dated: April 13, 2015



Erin R. Koch-Goodman
Administrative Law Judge
Office of Administrative Hearings