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BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

In the Matter of the Emergency Medical  
Technician- Paramedic License of:  
**JON R. STROUSE**  
License No. P20279  
Respondent.

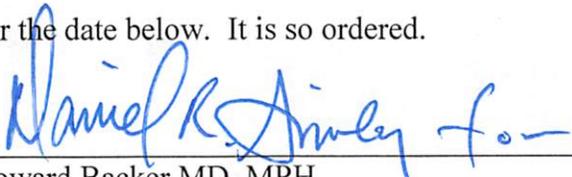
)  
) Enforcement Matter No.: 14-0309  
) OAH No.: 2015100899  
)  
) **DECISION AND ORDER**  
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The attached Proposed Decision is hereby adopted by the Emergency Medical Services Authority as its Decision in this matter.

This decision shall become effective 20 days after the date below. It is so ordered.

DATED:

4/22/16

  
\_\_\_\_\_  
Howard Backer MD, MPH  
Director  
Emergency Medical Services Authority

BEFORE THE  
EMERGENCY MEDICAL SERVICES AUTHORITY  
STATE OF CALIFORNIA

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

JON R. STROUSE,

License No. P20279,

Respondent.

Case No. 14-0309

OAH No. 2015100899

**PROPOSED DECISION**

Theresa M. Brehl, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on March 30, 2016.

Craig L. Stevenson, Senior Staff Counsel, represented complainant, Sean Trask, Chief of the Emergency Medical Services (EMS) Personnel Division of the Emergency Medical Services Authority (EMSA), State of California.

David J. Givot, Attorney at Law, represented respondent, Jonathon R. Strouse.<sup>1</sup>

This matter was submitted on March 30, 2016.

**SUMMARY**

Complainant sought to revoke Mr. Strouse’s Emergency Medical Technician-Paramedic (EMT-P) license. Complainant alleged Mr. Strouse was convicted of crimes substantially related to the qualifications, functions, and duties of prehospital personnel, and respondent engaged in the excessive use of alcoholic beverages.

Respondent was convicted twice for driving with a blood alcohol level of 0.08 percent or above in violation of Vehicle Code section 23152, subdivision (b). Respondent acknowledged that he is an alcoholic, and he contended that he has been rehabilitated.

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<sup>1</sup> Mr. Strouse identified himself by his full name, “Jonathon R. Strouse,” at the hearing. His EMT-P license is held in the name “Jon R. Strouse.”

The issues to be decided are: Does cause exist to impose discipline on Mr. Strouse's license? And, if so, what is the appropriate discipline to protect the public from harm?

Based on the evidence presented, cause exists to revoke Mr. Strouse's license. The appropriate discipline is revocation, stayed, with an actual suspension until Mr. Strouse has successfully completed psychiatric and medical assessments and participated in a drug/alcohol treatment/diversion program acceptable to EMSA, and a five year term of probation.

## FACTUAL FINDINGS

### *Respondent's License, Training, and Employment History*

1. EMSA issued EMT-P license number P20279 to Mr. Strouse on August 21, 2003. Mr. Strouse's license was valid through August 31, 2015, when it expired. The status of his license at the time of the hearing was "lapsed." No prior discipline has been sought against Mr. Strouse's license.

2. Paramedics have more advanced medical training than emergency medical technicians. Paramedics may provide a wide range of medical treatments, including administering oral medication and intravenous drugs; defibrillating the heart; and inserting interceptor tubes to clear a patient's airways. Mr. Strouse obtained his training from The Paramedic Training Institute in Los Angeles, California.

3. Mr. Strouse has worked for Cal Fire, Riverside Unit, for over seven years as a Fire Fighter II Paramedic. Before working for Cal Fire, he worked as a fire fighter for the Torrance and Long Beach fire departments. Before becoming a fire fighter, Mr. Strouse worked as an ambulance operator for the Long Beach Fire Department. Mr. Strouse was "raised in fire service." His father was a fire fighter for 32 years, and his uncle and brother both became fire fighters. Mr. Strouse has never considered doing anything else.

4. Cal Fire placed Mr. Strouse on unpaid leave in May 2015, and he will remain on unpaid leave until August 2016. He needs an EMT-P license to perform his job at Cal Fire because all the fire fighters in his department are also required to be paramedics. If the issues with his EMT-P license are not resolved by August 2016, he will lose his job.

### *The Riverside County Superior Court Conviction*

5. On April 29, 2015, Mr. Strouse was convicted, on his plea of guilty, of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of 0.08 percent or more, a misdemeanor, in Riverside County Superior Court Case Number

SWM1405833.<sup>2</sup> The court placed Mr. Strouse on 36 months summary probation. The court also ordered him to serve 12 days in custody, with 2 days credit and 10 days to be served in the work release program; enroll in the electronic monitoring (ankle bracelet) program; pay fines, penalties, and restitution; participate in a DUI program; attend two Alcoholics Anonymous (AA) or approved alternative meetings; and attend a Mothers Against Drunk Drivers (MADD) impact panel.

6. The conviction resulted from an incident that occurred on June 19, 2014, when Mr. Strouse lost control of his vehicle on State Route 79, in Riverside County, on his way to Idyllwild, California. His vehicle was totaled from the accident. Mr. Strouse was the only person in the vehicle, and no other vehicles were involved. When the California Highway Patrol (CHP) officer arrived at the scene, he observed that Mr. Strouse had a strong odor of alcohol on his breath; his eyes were red and glassy; he was lethargic; and his speech was slow and slurred.<sup>3</sup> Mr. Strouse was not asked to perform certain field sobriety tests due to injuries he sustained in the accident. He failed the sobriety tests the officer asked him to perform. He declined to give a breath sample and consented to giving a blood sample, which was taken when he arrived at the hospital. The blood alcohol content measured from his blood sample was 0.23 percent.

7. While at the accident scene, Mr. Strouse provided the CHP officer with a statement regarding the collision, which the officer summarized in the Arrest-Investigation Report as follows:

Strouse related in essence that he was driving his GMC Yukon eastbound on SR-79 at approximately 60-70 mph while driving to work in Idyllwild. Strouse stated his vision was obscured by

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<sup>2</sup> Although the accusation alleged he was convicted by the Riverside County Superior Court on May 4, 2015, the sentencing memorandum was actually signed by the judicial officer on April 29, 2015.

<sup>3</sup> Police reports for both of his recent arrests were admitted into evidence and contained notations of direct observations by the responding officers, statements by witnesses, and statements by respondent. *Lake v. Reed* (1997) 16 Cal.4th 448 considered the admissibility of police reports in administrative proceedings. In *Lake*, an officer's direct observations memorialized in the police report were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and admissions by a party memorialized in the police report were admissible under Evidence Code section 1220. (*Id.* at pp. 461-462.) The *Lake* court noted that other witness statements in the police report, which were not otherwise admissible under any hearsay exception, could be used to supplement or explain other admissible evidence, citing Government Code section 11513. (*Id.* at p. 461.) Government Code section 11513, subdivision (d), states: "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions."

the early morning sunlight which caused him to drive off the edge of the road and lose control of the steering. Strouse then remembers rolling the GMC within the eastbound lane and coming to rest on all four tires.

As I was talking to Strouse, I noticed an odor of alcoholic beverage emitting from his person, his eyes were red and glassy, and his speech was thick and slurred. I asked Strouse if he had consumed an alcoholic beverage and he admitted to having a beer at his home in San Diego the night before. . . .

8. Mr. Strouse's testimony regarding the events leading up to the accident and arrest conflicted with what he told the CHP officer. Mr. Strouse was scheduled to work on June 19, 2014. According to Mr. Strouse, when he woke up that morning, he was contemplating calling in sick to work because he was not feeling well due to personal issues. He had previously been diagnosed with severe anxiety and depressive disorder. He got dressed for work and left his home in his car. He claimed that although he planned to call in sick to work, he left home before 6:00 a.m. to drive somewhere to call work where his girlfriend, who was still in their home getting ready for work, would not hear him. He claimed that he planned to return home after she had left for work, to drink at home to de-stress. His mind was spinning, and as soon as it was 6:00 a.m., he went to a store and bought alcohol. He drank it in the parking lot. He claimed the accident occurred before he had a chance to call in sick to work.

9. It does not make sense that Mr. Strouse would have been driving eastbound on State Route 79, in Riverside County, if he planned to stay home that day. Mr. Strouse's home was miles away, in a coastal, beach community in the City of San Diego. Additionally, his testimony directly conflicts with the statement he gave to the CHP officer that he was on his way to work in Idyllwild, California. It is more likely that he was on his way to work when he was arrested, as he stated to the officer at the time of the arrest.

#### *The San Diego County Superior Court Conviction*

10. On May 4, 2015, Mr. Strouse was convicted, on his plea of guilty, of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of 0.08 percent or more, a misdemeanor, in San Diego County Superior Court Case Number C348313. The court placed Mr. Strouse on five years' summary probation. The court also ordered him to pay fines, penalties, and restitution; participate in a DUI program; and attend a MADD impact panel.

11. The conviction resulted from an incident that occurred on January 31, 2015. That day, U.S. Border Patrol officers pulled Mr. Strouse over on Interstate Highway 8 eastbound, near Buckman Springs Road, and called the CHP because they suspected Mr. Strouse was under the influence of alcohol. When the CHP officer arrived, she observed Mr. Strouse had a "strong, pungent" odor of an alcoholic beverage; watery/glassy eyes; and slow,

slurred, repetitive speech. She described Mr. Strouse's demeanor as "uncooperative." Mr. Strouse denied that he had consumed any alcohol and told the officer he had not consumed alcohol since Christmas. He called the female officer "Sir" several times. Mr. Strouse was unable to perform the field sobriety tests requested, and he blamed some of his problems on the cold temperature. According to the CHP officer's Arrest-Investigative Report, "[d]ue to the fact Strouse was having extreme difficulties standing without losing his balance, and was unable to follow simple and basic instructions, no further tests were administered." Mr. Strouse submitted to a breathalyzer test, and the results measured a 0.116 percent blood alcohol content. He also submitted a blood sample after he was transported to the police station. The final results from the blood sample were a blood alcohol content of 0.16 percent.

12. Mr. Strouse was scheduled to work on January 31, 2015. However, he claimed during his testimony that he planned to call in sick that day. Similar to the events on June 19, 2014, Mr. Strouse claimed he planned to stay home and drink on January 31, 2015. That morning, he purchased alcohol as soon as a store opened and drank in the parking lot of the store. He claimed he planned to call in sick at 7:00 a.m., but he was pulled over before he had a chance to make that call. He also claimed that he was "heading in the opposite direction" from work.

13. It does not make sense that Mr. Strouse would be driving eastbound on the 8 freeway, in the eastern portion of San Diego County, if he planned to stay home in the western beach area of the City of San Diego on January 31, 2015.

14. Mr. Strouse has remained in compliance with all the terms and conditions of his probations. He attended the required MADD Impact Panel on May 21, 2015. He attended the San Diego State University Center on Substance Abuse first offender course on April 14, 2015. He also claimed he completed an 18-month DUI program over a year before the administrative hearing.<sup>4</sup> He has continued to see a counselor once a week, and he will need to continue to do so for another six months, as a requirement of his probation. He obtained a restricted driver's license approximately six months before the hearing. He was unsure when he may be able to obtain an unrestricted driver's license.

#### *Mr. Strouse's Alcohol Addiction and Treatment*

15. The June 19, 2014, and January 31, 2015, arrests were not the only times Mr. Strouse was pulled over for driving under the influence of alcohol. In March 2001, before he obtained his EMT-P license, he was convicted of driving under the influence of alcohol. Although no court documents were presented at the hearing about that conviction, Mr.

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<sup>4</sup> Although documentation showing completion of a three month first offender DUI program was submitted into evidence, no documents were submitted to show completion of an 18-month DUI program. Unless he enrolled in the 18-month course before his sentencing, it does not make sense that he could have completed it over one year before the March 30, 2016, administrative hearing, as he claimed.

Strouse disclosed the following information to EMSA in a written statement, dated June 29, 2013:

On December 28, 1999, I was "pulled over" for not coming to a complete stop at a stop sign. I was coming home from a friends [sic] house who lived about five minutes away. I had been drinking that night and I guess I felt a false sense of security because I knew the area so well. I was cited for driving while under the influence of alcohol. I was advised to hire a lawyer to represent me in this very important decision for my future. The lawyer only prolonged my conviction date with the same fine. On March 13, 2001, I was fined \$1291.00, given three years of a 'no tolerance' probation and I also had to attend a series of alcohol awareness classes.

This event remains to be the worst mistake of my life, which seems to continually haunt me in my chosen career. I have learned a valuable lesson from this night and since I have never driven with any amount of alcohol in my system. I am thankful that myself [sic] and no others were hurt by my poor decision. If you have any questions about the conviction or the fine, please call me.

16. Mr. Strouse claimed he stopped drinking for about two and one-half years between 1999 and 2013. However, his testimony regarding when and why he drank again was confusing. Mr. Strouse claimed he began drinking again socially with his teammates when he played soccer at San Diego State University. He graduated from San Diego State in 2000, and he played soccer from 1997 to 1999, most of which was before December 1999, when he was pulled over for driving under the influence of alcohol. He also claimed he began to "run loose without supervision" when his father passed away in 2009. His father was his mentor, and he believed that losing his father caused him to turn to alcohol.

17. Between 2011 and 2013, Mr. Strouse called in sick from work approximately six times to stay home and drink alcohol. He hid the fact that he was missing work in order to drink from his family. He denied that he ever drank while at work or that he ever went to work under the influence of alcohol. He claimed he would not have gone to work if he was "not able to function."

18. Two days before the January 31, 2015, arrest, Mr. Strouse's family staged an intervention, with a psychiatrist and a former Los Angeles Police Department detective, to try to convince him to seek treatment. His mother, brother, and sister-in-law also participated in the intervention. They each told him their concerns and they read a letter. They discussed negative experiences at family vacations and holidays resulting from his drinking and told him that he drank more than his friends and family. He knew that his drinking negatively affected his personality and lifestyle and was disturbing to his family. It

hurt him to know that he was hurting his family. Although he agreed to attend a 30-day rehabilitation program, he told his family he needed time to think about it because he was afraid going into treatment might negatively impact his career.

19. As of the time of the hearing, Mr. Strouse stated that he considered himself to be an alcoholic. He said he suffered from severe anxiety and depressive disorder, and he turned to alcohol to medicate himself. Drinking alcohol was the only way he knew how to cope. It was a way for him to fall asleep and to make his anxiety and stress subside. He has been diagnosed by doctors as an alcoholic. He understands that there is no cure for alcoholism, and he will always have a problem with alcohol.

20. Mr. Strouse admitted himself into a 30-day program at Hoag Memorial Hospital Presbyterian Chemical Dependency Recovery Center (Hoag Hospital) in Newport Beach in February 2015. His family paid for the program because his insurance only covered out-patient treatment. He began a seven day in-patient detoxification program on February 2, 2015, at Hoag Hospital. Immediately after he completed that portion of the program, he moved to a sober living house called "Summit Coastal Living" on February 9, 2015, where he submitted to urine and breathalyzer tests and attended daily AA meetings. According to a letter written by the owner of the sober living house, he was "urine tested 2-3 times per week and the sample analyzed at the lab. He always tested negative. . . ." Mr. Strouse testified that he was tested daily while at the sober living facility. While he was at the sober living home, he participated in the out-patient program at Hoag Hospital from 8:00 a.m. until 5:00 p.m. He completed the out-patient program on March 10, 2015.

21. After completing the 30-day Hoag Hospital program, Mr. Strouse moved back to his home in San Diego, and he immediately began receiving services through Kaiser Permanente's Addiction Medicine Department in San Diego. He met with a therapist and participated in all of the programs covered by his insurance at the Kaiser facility near his home, including attending five alcohol awareness classes, a stress management program, an anger management program, and AA meetings at Kaiser on Mondays, Wednesdays, and Fridays. He was involved in the programs at Kaiser for approximately two and one-half months, when his insurance coverage ran out. According to a letter dated April 30, 2015, from Meredith Hanna, MFT, of Kaiser Permanente's Addiction Medicine department, as of the date of the letter, he had "attended 5 individual therapy sessions, 2 MD appointments and 5 group sessions . . . [and] completed the CDRP course."

22. Mr. Strouse claimed he has attended "thousands" of AA meetings with a group of persons he feels comfortable with at the North Shores Alano Club (Alano Club), which is only five minutes from his house. He has continued to attend one to two AA meetings per day, which amounts to approximately seven to ten meetings per week. (Because Mr. Strouse began treatment in February 2015, his testimony that he has attended "thousands" of AA meetings seemed to be an exaggeration.) Mr. Strouse asked one of his co-workers, who has been sober for 16 years, to be his AA sponsor. Mr. Strouse did not provide any testimony regarding the steps of the AA 12-step program he has worked. He has developed friends in the AA community and has developed "a closeness with god." He has accepted that there is

a higher power that he has given himself to, as part of his involvement with AA. He has not yet joined any congregation. He is still exploring different religious denominations.

23. Approximately four months before the hearing, Mr. Strouse was invited to attend an AA group comprised of fire fighters and law enforcement officers that meets on Tuesday nights. He attended those meetings "off and on" for about one month before the hearing.

24. Although Mr. Strouse entered treatment on February 2, 2015, his date of sobriety was November 9, 2015. As of the date of the hearing, he had remained sober 143 days. His date of sobriety was November 9, 2015, because he relapsed and drank beer on November 8, 2015, while he was having dinner with his girlfriend. They got into an argument, and she ordered drinks, so he drank. He did not drive after he drank that time. He is still with his girlfriend. She drinks alcohol, but not in his presence.

25. Mr. Strouse believed he would not pose any threat to the public if he were allowed to work as a paramedic. He claimed he had gained strength, and he had learned how to cope and to handle his anger. If faced with stress, he claimed he would cope by praying, using breathing therapy, or calling someone. He has a passion for helping others and he wants to contribute. He wants to use his alcohol experiences to help educate his peers. He was confident that he would not drink as of the date of the hearing. Although he did not anticipate failing, he was not sure he could promise that he would never have another drink. He conceded that his work as a fire fighter paramedic was stressful, and his work may have contributed to the stress he felt in the past. Because he has been on leave from his job since May 2015, there was no evidence to demonstrate Mr. Strouse's actual ability to cope with the rigors of working as a paramedic and/or fire fighter without using alcohol.

26. Mr. Strouse submitted meeting logs, showing his attendance at 12-step meetings from late March 2015, through early July 2015, and from mid- September 2015, through March 29, 2016.

#### *Character Evidence*

27. Mr. Strouse submitted letters and emails dated in March 2016 from Lori Korhummel, Brandon Cruz, Robert Hladik, Jai Wurfain, MSc, Catherine M. Butler, Ed.D., LMFT, Mark C. Spehar, Shannon Strouse, and Kathy Strouse. He also submitted an undated email from Colbie Hurt and a letter dated September 1, 2006, from Ken Mays. None of the letters or emails was signed under penalty of perjury.

28. Mr. Hladik and Mr. Spehar, who have worked with Mr. Strouse, praised his work ethic and professionalism. Mr. Hladik has known Mr. Strouse for seven years and served as his company officer at Cal Fire. Mr. Spehar met Mr. Strouse when he was assigned to the Riverside County Fire Station. Mr. Spehar said Mr. Strouse has an "excellent work ethic and always did what was expected of him and more without being asked. His skills as a paramedic are very professional." Mr. Hladik stated that he saw Mr. Strouse

“show great compassion, professionalism, integrity, and moral ethical quality.” Mr. Hladik, who also suffers from alcoholism and has been sober for 16 years, has been Mr. Strouse’s AA sponsor. He stated Mr. Strouse has “shown remorse, reached out to me for help, and asked me to be his sponsor.” He noted that Mr. Strouse “genuinely accepted responsibility for his actions by immediately taking steps to become sober . . . ,” and he “has never blamed anyone but himself for where he is in his life right now which shows his moral and ethical attitude toward the wrong he committed.”

29. Mr. Strouse’s mother, Kathy Strouse, and sister-in-law, Shannon Strouse, attested to the manner in which Mr. Strouse has dealt with his alcoholism since his two recent convictions. His mother wrote about her participation in Mr. Strouse’s treatment and her continuing support. She attended one week of family therapy as part of his treatment at the Hoag Hospital program, and she has visited and attended AA meetings with her son at the Alano Club. She stated she has observed him “become a much more patient and compassionate man.” She also noted that he had become “much more attentive and concerned about the future of his seven yr. old son and wants to be a better role model.”<sup>5</sup> His sister-in-law, who has known him for nine years, and works in the medical profession as a pediatric nurse, stated “it has always been apparent that he truly has a passion to care for others.” She also noted the difficult toll his father’s death had on him and stated her belief that he “has realized that he did not deal with his stressors in the best way and has now found tools to utilize to cope with the stressors of life and that a paramedic may endure.”

30. Ms. Korhummel, Mr. Cruz, and Mr. Wurfbain, acquaintances of Mr. Strouse, were aware of Mr. Strouse’s recent participation in 12-step programs. Ms. Korhummel is a non-medical care provider who has known Mr. Strouse for the past three years. She attested to his sobriety for the “past 18 months,” having “witnessed him working diligently to maintain his sobriety.” She described him as a “good man with good intentions.” She was aware of his DUI convictions and knew he was seeking to maintain his paramedic license. She noted that “[h]e is highly remorseful and has also abandoned his drinking habit.” Mr. Cruz, one of Mr. Strouse’s neighbors who has known him for five years, described Mr. Strouse as an “ambitious, dedicated go-getter . . . ” and “the kind of neighbor everyone appreciates.” Mr. Cruz noted that Mr. Strouse appeared “to be dedicated to his sobriety as he wants nothing more than to remain sober and return to service at the fire department.” Mr. Wurfbain described Mr. Strouse as a regular fixture at the Alano Club, and attested to the work he had put into his sobriety. He stated Mr. Strouse had “proven himself to be trustworthy, reliable and devoted to his sobriety.”

31. Mr. Hurt has known Mr. Strouse for approximately 30 years. (Part of his letter was cut off and illegible.) He stated that Mr. Strouse had helped him “through many tough calls . . . ” and praised Mr. Strouse as “humble and non judgmental [sic] in his opinions and advice.” It was unclear from Mr. Hurt’s email whether he was aware of Mr. Strouse’s DUIs or his struggles with alcohol.

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<sup>5</sup> Mr. Strouse did not testify about his relationship with his son.

32. Ms. Butler, of Butler Therapy, Inc., wrote a letter confirming that Mr. Strouse sought counseling on June 25, 2014, and remained in treatment through November 13, 2014.

33. Mr. Mays was a training coordinator at El Camino Fire Academy. He described Mr. Strouse as one of the academy's "top recruits." His letter was written in September 2006, before Mr. Strouse's DUIs, and it was a general letter of recommendation. He described Mr. Strouse as a "class leader," who was "looked up to by the other recruits due to his strong work ethic and dependability and his ability to get along well with others."

## LEGAL CONCLUSIONS

1. EMSA is the state agency "responsible for the coordination and integration of all state activities concerning emergency medical services." (Health & Saf. Code, § 1797.1.) Emergency medical services (EMS) are "the services utilized in responding to a medical emergency." (Health & Saf. Code, § 1797.72.)

2. The main purpose of administrative disciplinary proceedings is to protect the public through the prevention of future harm and the improvement and rehabilitation of the licensee. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) "[S]uch administrative proceedings are not intended to punish the licensee, but rather to protect the public." *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4<sup>th</sup> 763, 785.) It is far more desirable to impose discipline before a licensee harms any patient than after harm has occurred. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 772.)

### *Standard and Burden of Proof*

3. Complainant bears the burden of proof of establishing that the charges in the accusation are true. (*Martin v. State Personnel Board* (1972) 26 Cal.App.3d 573, 583.)

4. The standard of proof in an administrative proceeding seeking to suspend or revoke a license that requires substantial education, training, and testing, such as the EMT-P license at issue here, is "clear and convincing evidence" to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) "'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.' [Citation.]" (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

5. In a disciplinary proceeding, the burden of proof is on respondent to produce positive evidence of rehabilitation. (*Epstein v. California Horse Racing Board* (1963) 222 Cal.App.2d 831, 842-843.)

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*Applicable Disciplinary Statutes and Regulations*

6. Health and Safety Code section 1798.200 provides, in relevant part:

(b) The authority may deny, suspend, or revoke 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 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. . . .

7. “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, a crime or act shall be substantially related to the qualifications, functions and/or duties of a person holding a paramedic license . . . 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.” (Cal. Code Regs., tit. 22, § 100175, subd. (a)).<sup>6</sup>

8. Driving while under the influence of alcohol demonstrates an inability or unwillingness to obey the legal prohibition against drinking and driving, and it “constitutes a serious breach of a duty owed to society.” (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 770-771.)

9. At the hearing, respondent’s counsel argued that because respondent was not on duty at the time of his arrests and had no prior history of discipline, his convictions were

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<sup>6</sup> The accusation erroneously cited this portion of the California Code of Regulations as section 100174.

not substantially related to the qualifications, functions, and duties of a paramedic, and the *Griffiths* case should not apply. In *Griffiths*, the court explained the serious impact of alcohol abuse on a licensee's fitness to provide medical care and concluded convictions involving alcohol consumption were logically related to fitness to practice medicine, stating: "Convictions involving alcohol consumption reflect a lack of sound professional and personal judgment that is relevant to a physician's fitness and competence to practice medicine. Alcohol consumption quickly affects normal driving ability, and driving under the influence of alcohol threatens personal safety and places the safety of the public in jeopardy. It further shows a disregard of medical knowledge concerning the effects of alcohol on vision, reaction time, motor skills, judgment, coordination and memory, and the ability to judge speed, dimensions, and distance. [Citation.]" (*Id.* at p. 770.) Additionally, in response to the argument in *Griffiths* that there was no evidence that showed that alcohol use impaired the licensee's medical practice, the court stated: "In relation to multiple convictions involving driving and alcohol consumption, we reject the argument that a physician can seal off or compartmentalize personal conduct so it does not affect the physician's professional practice. [Citation.]" (*Id.* at p. 771.)

#### *Cause Exists to Discipline Respondent's EMT-P License*

10. Paramedics occupy positions that require clear-headedness and the exercise of impeccable judgment. They respond to medical emergencies and must be able to swiftly decide upon and competently administer emergency medical treatment. Any impairment or lapses in judgment may endanger the lives of patients, who are vulnerable due to their emergent medical conditions.

11. Cause exists to discipline respondent's EMT-P license pursuant to Health and Safety Code section 1798.200, subdivision (c)(6), as alleged in paragraphs 8 through 12 of the accusation. Complainant proved by clear and convincing evidence that Mr. Strouse was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level of 0.08 percent or more, a misdemeanor, in Riverside County Superior Court Case Number SWM1405833, and in San Diego County Superior Court Case Number C0348313. Complainant also proved by clear and convincing evidence that respondent's convictions were substantially related to the qualifications, functions, and duties of a paramedic.

12. Cause exists to discipline respondent's EMT-P license pursuant to Health and Safety Code section 1798.200, subdivision (c)(9), as alleged in paragraphs 13 through 15 of the accusation. Complainant proved by clear and convincing evidence that Mr. Strouse suffered from alcoholism, consumed excessive amounts of alcohol, misused alcohol when he drank and drove, and engaged in conduct that constituted a threat to himself and to the public.

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*Authority Regarding Rehabilitation and Appropriate Discipline*

13. California Code of Regulations, title 22, section 100176, subdivision (a), provides the following criteria EMSA should consider when determining appropriate discipline:

When considering the denial, placement on probation, suspension, or revocation of a license pursuant to Section 1798.200 of the Health and Safety Code, . . . the Authority in evaluating the rehabilitation of the applicant and present eligibility for a license, shall consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s).
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, placement on probation, suspension, or revocation which also could be considered grounds for denial, placement on probation, suspension, or revocation under Section 1798.200 of the Health and Safety Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsection (1) or (2) of this section.
- (4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the person.

14. Rehabilitation is a state of mind, and a person who has reformed should be rewarded with the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) “While a candid admission of misconduct and a full acknowledgement of wrongdoing may be a necessary step in the process, it is only a first step. In our view, a truer indication of rehabilitation will be presented if petitioner can demonstrate by his sustained conduct over an extended period of time that he is once again fit to practice. . . .” (*In re Conflenti* (1981) 29 Cal.3d 120, 124-125.)

15. When considering an individual’s rehabilitation from substance abuse, consideration must be given to the nature and extent of that abuse and its impact upon the individual. Through continued abstinence, a substance abuser may arrest the deleterious

manifestations of the disease. The length of time necessary to show meaningful and sustained rehabilitation varies from case to case. (*In re Billings* (1990) 50 Cal.3d 358, 367.)

16. “The evidentiary significance of an applicant’s misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct.” (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Because persons “under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that an individual did not commit additional crimes or continue addictive behavior while in prison or while on probation or on parole.” (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

### *Disciplinary Guidelines*

17. EMSA developed “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” dated July 26, 2008 (Guidelines), which are incorporated by reference in EMSA’s regulations at California Code of Regulations, title 22, section 100173, subdivision (c). “The administrative law judge shall use the [Guidelines] as a guide in making any recommendations to the Authority for discipline of a paramedic applicant or license holder found to be in violation of Section 1798.200 . . . of the Health and Safety Code.” (Cal. Code Regs., tit. 22, § 100173, subd. (d).)

18. Section III of the Guidelines sets forth categories of violations and the recommended level of discipline that should be imposed for each category. For conviction of any crime that is substantially related to the qualifications, functions, and duties of prehospital personnel, the maximum discipline is revocation; the recommended discipline varies depending on the nature of the crime; and the minimum discipline is revocation stayed, with one year of probation. (Guidelines, p. 6.) For alcohol addiction, alcohol abuse or an excessive use of alcohol, the maximum discipline is revocation; the recommended discipline is revocation, stayed, with an actual “suspension until completion of psychiatric and medical assessments and a drug/alcohol detoxification diversion program to the satisfaction of the authority, and 5 years’ probation”; and the minimum discipline is revocation stayed, with three years’ probation. (Guidelines, p. 9.)

19. Section II of the Guidelines sets forth factors to be considered when determining the appropriate discipline to be imposed in a given case. The factors include: The nature and severity of the act, offense, or crime under consideration; the actual or potential harm to the public or any patient; prior disciplinary record; prior warnings on record or prior remediation; the number and/or variety of current violations; aggravating evidence; mitigating evidence; any discipline imposed by the paramedic’s employer for the same occurrence of that conduct; rehabilitation evidence; in cases with a criminal conviction, compliance with the terms of the sentence or court-ordered probation; overall criminal record; time that has elapsed since the act or offense occurred; and, if applicable, evidence of expungement proceedings under Penal Code section 1203.4. (Guidelines, pp. 1-2.) Health and Safety Code section 1798.211 requires EMSA to “give credit for discipline imposed by the employer . . . .”

20. Section IV of the Guidelines provides additional criteria when considering rehabilitation for alcohol abuse. The criteria include successful completion of an alcohol treatment program for a minimum of six months, which may be an “in-patient/out-patient and aftercare program”; and a minimum of six months employment with a pre-hospital care provider with substantiation that the employer was aware of the previous alcohol abuse problem, that there was no evidence of continued use of alcohol, and that “respondent performed paramedic functions in a safe and competent manner.” (Guidelines, p. 9.)

#### *Evaluation Regarding the Degree of Discipline*

21. The circumstances of Mr. Strouse’s convictions were very serious and posed a substantial risk of injury to himself and the public. Indeed, he totaled his vehicle as a result of driving under the influence of alcohol in June 2014. Luckily, no patients or members of the public were injured. Mr. Strouse has a history of repeatedly driving while under the influence of alcohol and very little time has elapsed since his most recent offenses. He had a prior conviction over fifteen years ago, in 2001, for driving under the influence of alcohol. It has only been approximately one year since his April and May 2015 convictions and less than two years since the June 2014 and January 2015 arrests that resulted in his recent convictions. While Mr. Strouse has remained in compliance with the terms of his court ordered probations, he has not yet completed his court ordered probations. Mr. Strouse’s claim that he was actually planning on staying home to drink on the days he was arrested, when he was arrested far from his home and told the CHP officer at his first arrest that he was actually on his way to work, is disconcerting. It appeared that he was attempting to minimize the seriousness of his conduct, which raises a considerable concern that he has not yet accepted full responsibility for his conduct.

22. Mr. Strouse began treatment for his alcoholism in February 2015, attending one week of inpatient detoxification, living in a sober living home for three weeks while participating in an out-patient program at Hoag Hospital, then participating in the out-patient programs offered at Kaiser for over two months, and attending AA meetings on a regular basis at the Alano Club. He has continued to work on his recovery, has found a supportive AA community at the Alano Club, and has the support of his family and friends. But he drank again in November 2015, making his date of sobriety November 9, 2015, less than six months before the hearing.

23. Mr. Strouse acknowledged that his work as a fire fighter paramedic was stressful and may have contributed to his alcohol abuse. His employer disciplined him by placing him on an unpaid leave since May 2015; allowing him time to focus on his treatment. Even though he was given the opportunity to attend AA meetings with other fire fighters and law enforcement officers four months before the hearing in this matter, he did not take advantage of that opportunity until approximately one month before the hearing, and even then he only attended those meetings “off and on.” Given the stressful nature of his work, combined with the fact that he has not been working since May 2015, and the fact that he drank again in November 2015, after he got into an argument with his girlfriend, reasonable

and serious concerns exist regarding whether Mr. Strouse has yet reached a point in his rehabilitation to safely practice as a paramedic.

24. Mr. Strouse has no prior disciplinary record. Mr. Strouse worked diligently to establish himself as a reliable, moral, and safe firefighter; he received very positive reviews from his peers; and he was praised by friends, family, and acquaintances for his efforts to achieve and maintain his sobriety. However, not all the character letters he presented noted an awareness of his DUIs or alcohol abuse. Some of the character letters stated he had been sober for 18 months, which was not the case. One letter was written in 2006, before the convictions.

25. Based on an evaluation of the factors set forth in the Guidelines and California Code of Regulations, title 22, section 100176, and after careful consideration of the facts and circumstances of this case, the appropriate discipline is revocation, stayed, with an actual suspension until completion of psychiatric and medical assessments and a drug/alcohol treatment/diversion program<sup>7</sup> to the satisfaction of the EMSA, and five years' probation. Although Mr. Strouse has been working diligently on his recovery, the rehabilitation evidence he presented was not sufficient to demonstrate that he could safely practice as a paramedic without evaluation by psychiatric and medical professionals and further treatment.

### ORDER

Certification Number P20279 issued to the respondent, Jon R. Strouse, is revoked, stayed, with an actual suspension until completion of psychiatric and medical assessments and a drug/alcohol treatment/diversion program to the satisfaction of EMSA, and 5 years' probation upon the following terms and conditions:

Certification Number P20279 issued to respondent, Jon R. Strouse, is suspended until Mr. Strouse has successfully completed psychiatric and medical assessments and is found to be safe to practice and has successfully participated in a drug/alcohol treatment program acceptable to EMSA, as provided in conditions 13 and 14, set forth below.

#### 1. Probation Compliance:

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

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

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<sup>7</sup> Because Mr. Strouse already went through detoxification at Hoag Hospital, requiring him to again participate in detoxification is not necessary under the circumstances.

**2. Personal Appearances:**

As directed by 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 the costs associated with this requirement.

**3. Quarterly Report Requirements:**

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

**4. Employment Notification:**

During the probationary period, the respondent shall notify EMSA in writing of any EMS employment. The respondent shall inform 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 EMSA of disclosure, by the respondent, to his 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 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:**

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

Any and all notifications to EMSA shall be by certified mail.

**6. Functioning as a Paramedic:**

The period of probation shall not run during anytime that the respondent is not practicing as a paramedic within the jurisdiction of California.

If the respondent, during his probationary period, leaves the jurisdiction of California to practice as a paramedic, the respondent must immediately notify 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 EMSA shall be by certified mail.

**7. 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 a paramedic. 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 EMSA in the past as a condition of licensure, then the respondent shall submit his 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 EMSA a full and detailed account of the circumstances thereof. 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 a paramedic.

Any and all notifications to EMSA shall be by certified mail.

**8. Completion of Probation:**

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

**9. Violation of Probation:**

If during the period of probation the respondent fails to comply with any term of probation, EMSA may initiate action to terminate probation and implement actual license 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 EMSA. An action to terminate probation and implement actual license suspension/revocation shall be initiated and conducted pursuant to the hearing provisions of the California Administrative Procedure Act.

The issues to be resolved shall be limited to whether the respondent has violated any term of his probation sufficient to warrant termination of probation and implementation of actual suspension/revocation. At the hearing, the respondent and 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.

**10. Abstinance from Drug Possession and Use:**

The respondent shall abstain from the possession, injection, or consumption by any route of all controlled substances, dangerous drugs, or any drugs requiring a prescription unless prescribed under federal or state law as part of a documented medical treatment. Within fourteen (14) days of obtaining such a prescription, respondent shall ensure that the prescribing professional provides EMSA a written report identifying the medication, dosage, the date the medication was prescribed, the respondent's diagnosis, and the date the medication will no longer be required. This report must be provided to EMSA directly by the prescribing professional.

If the respondent has a lawful prescription when initially placed on probation, this same report must be provided within fourteen (14) days of the commencement of probation.

Any and all notifications to EMSA shall be by certified mail.

**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 EMSA or its designee. Respondent may use a lab pre-approved by EMSA or may provide to EMSA the name and location of an independent laboratory or drug/alcohol testing facility for approval by EMSA. EMSA shall have sole discretion for lab approval based on criteria regulating professional laboratories and drug/alcohol testing facilities. When EMSA 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 EMSA requests a random test, the respondent shall ensure that any positive test results are conveyed telephonically by the lab to EMSA within forty-eight (48) hours, and all written positive or negative results are provided directly by the lab to EMSA within ten (10) days. The respondent shall be responsible for all costs associated with the drug/alcohol screening.

At EMSA's sole discretion, EMSA may allow the random drug testing to be conducted by the respondent's employer to meet the requirement of random drug testing as set forth above. The results of the employer's random drug testing shall be made available to EMSA in the time frames described above.

**13. Drug/Alcohol Treatment/Diversion Program:**

Within forty-five (45) days of the effective date of this decision, the respondent shall enroll and participate in a drug/alcohol treatment/diversion program approved by 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 drug/alcohol treatment/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 drug program.

**14. Psychiatric/Medical Evaluation:**

Within forty-five (45) days of the effective date of this decision, and on a periodic basis as specified by a psychiatrist certified by the American Board of Psychiatry and Neurology, or other specialist as determined by the medical director of EMSA, the respondent shall submit to a psychiatric evaluation conducted by a psychiatrist or other specialist. The psychiatrist or other specialist must be approved by the medical director of EMSA prior to the evaluation. The approved psychiatrist or other specialist conducting the psychiatric evaluation(s) shall report to the medical director of EMSA in writing determining whether respondent is fit to safely serve as a paramedic. The respondent shall be responsible for all costs associated with the psychiatric evaluation(s).

Within forty-five (45) days of the effective date of this decision, and on a periodic basis as specified by a licensed physician, or other specialist as determined by the medical director of EMSA, the respondent shall submit to a medical evaluation. The approved physician or other specialist conducting the medical evaluation(s) shall report to the medical director of EMSA in writing determining whether respondent is fit to safely serve as a paramedic. The respondent shall be responsible for all costs associated with the medical evaluation(s).

The suspension of respondent's license shall remain in effect until it is determined by the medical director of EMSA that the respondent is fit to safely serve as a paramedic. Once such a determination has been made, EMSA shall notify the respondent, in writing, that he may practice as a paramedic under the terms and conditions of probation set forth herein.

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EMSA shall have the sole discretion to determine if the respondent may continue to practice as a paramedic until such time that the approved psychiatrist, physician, or other approved specialist(s) evaluate and determine that the respondent is mentally and/or physically fit to practice safely as a paramedic.

DATED: April 21, 2016

DocuSigned by:  
*Theresa M. Brehl*  
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THERESA M. BREHL  
Administrative Law Judge  
Office of Administrative Hearings



OFFICE OF ADMINISTRATIVE HEARINGS

State of California

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Department of General Services

Governor Edmund G. Brown Jr.

April 21, 2016

Emergency Medical Services Authority  
10901 Gold Center Drive, Suite 400  
Rancho Cordova, CA 95670-6073

**Subject:** Strouse, Jonathan  
OAH No. 2015100899  
Agency No. 14-0309

Enclosed are the following:

- The original Proposed Decision
- An agency order of adoption. If the Proposed Decision is adopted, please return a copy of the signed adoption order to the Office of Administrative Hearings.
- The original Decision
- Exhibits numbered: 1 – 15 and A – H.  
Please make sure you have received all listed exhibits. If exhibits are missing, please contact OAH immediately.
- Email copy of the Proposed Decision to:
- The above referenced case was resolved prior to conclusion of the hearing. We are returning the enclosed original exhibits 1 – x to you.

TB:gv

Encl.

Transmittal Form  
OAH 60 (Rev. 04/09)

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