BEFORE THE
EMERGENCY MEDICAL SERVICES AUTHORITY
STATE OF CALIFORNIA

In the Matter of the Accusation and First Amendment to Accusation Against: MILLARD STARLING, JR., EMT-P License No. P04769, Respondent.	Enforcement Matter No. 12-0408 OAH No. 2014010337

PROPOSED DECISION

Administrative Law Judge Hannah H. Rose, State of California, Office of Administrative Hearings, heard this matter on January 27, 2014, and February 10, 2014, in Oakland, California.

Complainant Sean Trask, Chief, Emergency Medical Services Authority (EMS Authority or EMSA), EMS Personnel Division, was represented by Michael Jacobs, Senior Staff Counsel.

The respondent, Millard Starling, Jr., was present and represented himself, with the assistance of Nathan Merritt, Shop Steward.

At the hearing, the Authority filed a First Amendment to Accusation that added a Second Cause for Discipline, which was admitted into evidence as Exhibit 11. There was no objection to the First Amendment to Accusation.

The matter was submitted for decision on February 10, 2014.

FACTUAL FINDINGS

1. On or about January 1, 1993, the Emergency Medical Services Agency, State of California, issued Emergency Medical Technician- Paramedic License No. P04769 to respondent Millard Starling, Jr. The license is renewed through December 31, 2014. On December 16, 2013, the license was suspended by a Temporary Suspension Order of the Alameda County Emergency Medical Services Agency. That temporary suspension was

upheld by the State of California EMSA on December 18, 2013. On December 31, 2013, Howard Backer, M.D., M.P.H., F.A.C.E.P., Director, EMS Authority, State of California, issued an Order for Temporary Suspension Pending Hearing. These orders arise out of the same events that are the subject of this proceeding, and they remain in effect until the current matter is concluded. On December 18, 2007, respondent's license was revoked pursuant to a previous discipline by the EMSA, the revocation was stayed and respondent was placed on probation for three years until December 17, 2010.

2. Sean Trask, Chief, Emergency Medical Services Authority, EMS Personnel Division, State of California, filed the Accusation and First Amendment to Accusation against respondent. The Accusation and First Amendment to Accusation allege that respondent acted unprofessionally and demonstrated irrational behavior when he physically threatened and used excessive force against a patient under his care on December 3, 2013. Respondent filed a notice of defense.

3. On December 3, 2013, respondent was employed by Paramedics Plus, LLC (Paramedics Plus), as an Emergency Medical Technician - Paramedic (EMT-P, or paramedic). On that day, he was assigned to an ambulance staffed by himself and Emergency Medical Technician (EMT) Isaac Thomas.

4. Shortly before 9:00 p.m. on December 3, 2013, respondent's ambulance was dispatched to an unknown location in East Oakland in response to a 911 call from the Oakland Police Department. Respondent and Thomas were informed that the officers had an individual in custody on a "5150" hold, a reference to Welfare and Institutions Code section 5150 which allows an individual with a mental disorder to be held for evaluation and treatment if he presents a danger to himself or others. When respondent and Thomas arrived, patient F. was seated on the curb and handcuffed behind his back. The patient was shouting racial and ethnic slurs at whoever was in his sight. When Thomas and respondent arrived, he was cursing at the police officers, but then shifted his focus from the police to them.

5. Respondent and Thomas transferred patient F. to a gurney, where they strapped his hands into wrist restraints attached to the gurney, and placed seatbelt-like straps over his chest, knees and ankles. Thomas remained in the back of the ambulance and respondent drove for the approximately 10-minute drive to Highland Hospital. During the ride, the patient's chest seatbelt came off when he twisted, and even though the other restraints remained secure, this enabled him to partially raise his upper body off the gurney. On the way to the hospital, respondent called to alert staff that they were coming in with a combative 5150 patient. While in route, F. continued to direct non-stop epithets toward both respondent, who is African American, and Thomas, who is Hispanic. He repeatedly used offensive racial slurs when he yelled at respondent. He also threatened to find respondent at a place where he knew the ambulance drivers waited for calls, and kill him. F. also yelled racial epithets at Thomas, calling him, among other things, a "tattooed freak" and "fat fucking Mexican."

6. When the ambulance arrived at the Highland Hospital ambulance bay, triage nurse Aura Gomes met the ambulance outside and determined that the patient did not need to be medicated before being brought inside to the triage area of the emergency room (ER). Thomas was at the head of the gurney, and respondent was at the foot while transporting F. into the ER. Patient F. continued yelling racial epithets, primarily directed at respondent, during this part of the transport. One member of the EMT team is required to stay with the gurney at all times until the responsibility for the patient has been transferred to hospital staff, and once inside the ER, respondent remained at the foot of the gurney while Thomas moved away to give a report to Nurse Gomes. Silent video footage of the triage area of the ER shows that respondent and Thomas entered the ER at 9:09:13 and placed the gurney against the right wall of the room. Patient F. was restrained at his wrists, knees and ankles, but his chest and head were raised in a semi-upright position. At 9:09:19, Thomas began to move away from the head of the gurney, while respondent remained at the foot. At 9:09:21, respondent is seen moving away from the foot and toward the left side of the gurney, and he hands his laptop computer to Deputy Sheriff Jeffrey Smith. At 9:09:22, respondent is standing next to the left side of the gurney, his feet set in a staggered stance with one foot in front of the other, his left arm extended toward the patient, and his right arm pulled back with a balled fist, as if ready to deliver a punch. Deputy Sheriff Shawn Sobrero is positioned at the head of the gurney, behind the patient's head. Between 9:09:23-24, respondent is seen moving forward along the patient's right side, and leaning into the patient's upper chest area. Respondent's body blocks the camera view of his right arm. At 9:21:30, Medical Technician Alexander Gurevich moves in to pull respondent away from the patient. A few seconds later, Security Guard Timothy Ware steps in to assist in pulling respondent away from patient F. At 9:24, the video shows respondent standing back at the foot of the gurney.

7. On December 3, 2013, Alameda County Deputy Jeffrey Smith was assigned to Police Services at Highland Hospital in Oakland to provide security and to help with combative patients. He was working with his partner, Deputy Sobrero, in the ER area when respondent and Thomas came in with patient F. After being notified of the arrival of an extremely combative patient, Smith and Sobrero were standing by to offer assistance. When respondent and Thomas pulled the gurney inside, Smith observed that F. was extremely verbally abusive toward respondent. He repeatedly used the word "nigger," called respondent an "Uncle Tom," and threatened to find him, gut him, and kill him. F. was kicking and bucking on the gurney, and seemed to be trying to kick at respondent. Soon after arriving inside, respondent handed his laptop to Smith, saying, "Hold this." Smith thought respondent was going to re-adjust the patient's leg restraints, but instead he saw respondent take a staggered stance, pull his right arm back, ball his fist, and yell, "I am not afraid." While holding the laptop in his left hand, Smith tried to hold down F.'s right leg. While his view of F.'s upper body was partially blocked by respondent, Sobrero heard respondent continue to yell at F., and he believed that respondent was getting too upset to reasonably restrain F. Smith moved to push respondent back with his right hand, but other staff had already pulled respondent away. As respondent walked back past him, Smith handed back the laptop so that he had two free hands with which to assist Sobrero in controlling F. Smith then tightened the safety belt restraining F.'s legs across his knees.

8. Deputy Sobrero testified that when respondent and Thomas came in to the ambulance bay with patient F., he met them while they were still outside. He noted that the patient was unable to raise his arms as they were restrained at the wrist, and that although he had seatbelts across his legs in two places, he could turn his head and rise up on his left hip. F. was "extremely agitated" and yelling at respondent, but respondent did not say anything in response while outside. Sobrero followed behind Thomas, who was at the head of the gurney, and once inside, he moved to Thomas' position at the head of the gurney when Thomas moved off to give the report to Gomes. Sobrero saw respondent pull back his arm and raise his fist, but he checked his punch and did not strike F. Sobrero pulled the patient's upper body back down, and respondent moved forward and pushed down with both hands on F.'s upper chest. Gurevich and Ware pulled respondent off F., and respondent resisted being pulled away. Although F. yelled, "He's choking me; the motherfucker is choking me," Sobrero did not think F. was being choked because he would not have been able to yell if his airway had been restricted. F. also repeatedly yelled at respondent, "Nigger, you ain't black!" Sobrero thought respondent's actions in threatening and holding F.'s chest were "inappropriate," as it was not necessary to use force to further restrain patient F. Sobrero had control of the patient at the head of the gurney.

9. Nurse Gomes returned inside the triage area before the respondent came in with the gurney. She described F. as very angry and upset, and screaming, yelling, and swearing, primarily at respondent. She saw respondent place his hand on F.'s upper chest area, and observed that he "appeared to be aggressively pushing down on the patient." Gomes did not think the amount of force applied was necessary, and that respondent's actions were "inappropriate." Gomes has been a nurse at Highland Hospital for 10 years, and she has never seen a patient restrained by someone pushing on his chest. At the instruction of her charge nurse, Gomes reported the incident to Paramedics Plus.

10. Timothy Ware was the shift supervisor for HSS Security, providing private security services for Highland Hospital. On December 3, 2013, he was filling in for an officer in the ambulance bay. He recalled that when patient F. was brought in, he was using verbally provocative statements and threats directed at respondent. F. threatened respondent, saying "If I see you on the street, it's over." Ware saw F. kick his feet toward respondent before respondent moved toward F. Respondent's right fist was balled as if to strike, but respondent did not strike F., and instead put both of his hands above patient F.'s shoulders, in the collarbone area of the F.'s chest. When he noticed that respondent was being "overly aggressive," Ware moved in to help Gurevich pull respondent off patient F. Respondent resisted their efforts to pull him away. They released respondent when he calmed down. Ware, who has been trained to "keep cool" under similar circumstances as part of his job, never saw an attempt to restrain a patient in this manner in the four and a half years he worked at Highland Hospital.

11. Alexander Gurevich was an Emergency Room Technician at Highland Hospital on December 3, 2013. He was in the triage area when respondent came in with patient F. The patient was verbally assaulting respondent. Gurevich has had training on how to handle similar situations, although he acknowledged that it is often not easy to verbally de-

escalate a patient as agitated as F. was that night. Gurevich had experience during wartime in Russia, and he felt that he was very good at reading facial expressions, a skill often necessary to survive in that situation. On that evening, he saw respondent's face change quickly to anger when he cocked his right hand and put his left hand on F.'s shoulder. Although he felt the cocked hand was just a threat, Gurevich decided to intervene "to tamp down the situation and make sure no stupid mistakes occurred." He moved in first to pull respondent off patient F. Gurevich also did not believe that F. was actually being choked because he was able to continue yelling non-stop. Gurevich felt that respondent's actions were not appropriate under the circumstances.

12. Kymberly Mitchell is a Special Investigator for the EMSA. She investigated respondent's case relating to the events of December 3, 2013. Mitchell has also been a licensed paramedic for 19 years. Before working for the EMSA, Mitchell was a Sergeant with the California Highway Patrol, where she was a flight paramedic, instructed EMT courses, and conducted paramedic skills training. She was qualified as an expert witness in pre-hospital emergency care and paramedic qualifications. Mitchell explained that basic paramedic training involves instruction on how to deal with combative patients by turning a deaf ear and tuning out their verbal rants. Mitchell further explained that the ultimate responsibility of the paramedic is to provide adequate care for the patient, to protect the patient, to render help, unless refused, and to get the patient to a higher level of care. In order to carry out these responsibilities professionally, the paramedic must remain level headed, must listen to the patient for complaint information in order to provide treatment, but then must tune out the rest.

13. When Mitchell interviewed respondent on December 23, 2013, he told her that he had little tolerance for racism and that he did not allow a patient to speak the way F. spoke in his ambulance. He stated, "I am not ashamed to say it was just too much and it was the straw that broke the camel's back." Respondent admitted to Mitchell that he lost his composure on December 3, telling her that "the patient was verbally attacking me and I just lost my cool. I just lost my cool for 30 seconds." He told her that he approached the patient because F. needed to submit, and he believed that if he could control patient F. long enough, F. would run out of gas. Respondent did not tell Mitchell that he was attempting to secure the patient's chest seatbelt or prevent the gurney from tipping over.

14. Mitchell reviewed respondent's license renewal application, and the continuing education coursework taken by respondent to qualify for the renewal of his license. In 2012, respondent took three courses related to covering behavioral emergencies. These included Emergency Medical Services Response to Crime Scenes, Illegal Drugs, Overdose, and Addiction, and Altered Mental Status. Respondent also took an EMSA mandated course in Anger Management as a condition of his earlier probation. (Factual Finding 1.) In his license renewal application, respondent was asked: "Have you ever had a healthcare certification, accreditation, or license denied, suspended, revoked, or placed on probation, or are you under investigation at this time?" Respondent checked the "No" box in response to this question. When Mitchell asked respondent about his answer to the question, respondent said he was confused, and that he spoke to someone at the EMSA who told him

that there was no need to report his prior discipline. He also told her that he relied on personnel at Paramedics Plus who reviewed the renewal before it was sent in, and would have told him if he had been required to disclose his prior discipline.

15. As an expert witness, Mitchell opined that respondent's acts in approaching patient F. with his arm cocked and his fist balled, and forcibly placing his hands on F.'s upper chest, were acts that threatened the public health and safety. It is, in Mitchell's opinion, unprofessional to posture threateningly or to lunge at a patient whether or not there is intent to follow through with the threatened conduct. In her opinion this constituted unprofessional conduct by the mistreatment of a patient by use of force in excess of what a reasonable and prudent paramedic would use in similar circumstances. As a trained professional, a paramedic is not supposed to act out in this way and respondent's threatening behavior was unnecessary and excessive under the circumstances, and unprofessional. In addition, Mitchell's opined that respondent's application of forceful physical pressure to a restrained patient was not rational behavior because it was not calm and reassuring to the patient, as paramedics are trained to be, and because none of the other professionals in the room felt the need to act similarly or to forcefully further restrain patient F.

16. Nicole Spencer testified that she is an EMT with Paramedics Plus, and that she was in the ambulance bay at Highland Hospital when respondent pulled in with patient F. She had just brought in another patient, and was outside when respondent arrived. She saw patient F. quiet on the gurney, until Nurse Gomes approached, and kicked the gurney, asking the patient if he was asleep. After Gomes kicked the gurney, F. started yelling racial invectives, primarily directed at respondent. She believed that even though the patient was restrained, he seemed to have "wiggle room," and this concerned her. Before the gurney was taken into the triage area, Spencer lowered the gurney so that it would be more stable.[1] She then returned to her own ambulance for a short time, and returned to the ER triage area while respondent was being pulled off patient F. Although Spencer testified that she witnessed "the whole thing," she is not in any of the video pictures until Gurevich and Ware are seen pulling respondent away from F. Spencer testified that she has seen a gurney tip over, and that if that were to happen to an EMT working for Paramedics Plus, the EMT would be fired. Spencer, as an EMT, did not think that respondent's actions in the triage area were excessive or inappropriate.

17. Isaac Thomas testified that he has been an EMT for 13 years. He was respondent's partner on the night of December 3, 2013. On their arrival in East Oakland, and in the ambulance, patient F. was continually yelling obscenities at both Thomas and respondent. Thomas took charge removing the patient from the ambulance because he felt

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[1] In a written incident report prepared for Paramedics Plus, Spencer wrote that she took over for respondent at the foot of the gurney and rolled the gurney into the triage area of the ER. She wrote that she then went back outside to her own ambulance before she returned to the triage area while respondent pushed on patient F.'s upper chest area and other officers grabbed patient F.'s feet and other body parts. This description is not supported by the video footage of the sequence of events.

that F. was more verbally abusive toward respondent and he wanted to shield respondent from the abuse. When they entered the triage area, Thomas left the head of the gurney to give his report to Gomes. He was not paying attention to respondent, until he heard the commotion, and when he looked over, his view of respondent and F. was blocked. Thomas asserted that sometimes an EMT has to push a patient down to re-adjust restraints. Although he had never read the accusation or amendment to the accusation in this matter, he thought that the EMSA's disciplinary action of respondent was not justified.

Thomas testified that he had seen a video of a gurney tipping over on an uneven surface at a training class. He understood from that class that it is important to make sure that one hand is on the gurney at all times. Thomas had confidence in the safety of the gurney with respondent at the foot.

Respondent's Testimony

18. Respondent is 61 years old, and was employed as an EMT-P by Paramedics Plus, on December 3, 2012. Respondent's career as an EMT began as a Medic in the United States Army, where he served for 10 years. He has been licensed as an EMT in Texas, Alaska and California. Respondent is certified in Adult and Pediatric Advanced Life Support, Basic Life Support, Cardio-Pulmonary Resuscitation, Pre-Hospital Trauma Life Support. He has also been trained as an Emergency Vehicle Operators Course instructor, and served as a member of an honor guard to honor fallen EMS personnel. Respondent worked as an EMT-P for Paramedics Plus from November 1, 2011 until December 17, 2013. He described his employment with Paramedics Plus as "less than ideal," and he resigned their employ as a condition of a racial discrimination lawsuit settlement with the company.

19. When respondent and Thomas arrived to pick up patient F., the patient was screaming obscenities and cursing at the police while handcuffed and seated on the curb. After securing F. on a gurney, respondent turned his care over to Thomas, as the patient did not need advanced life support, and respondent drove the ambulance. The window between the cab and the back was open, and respondent could hear F. shouting obscenities at Thomas. When they arrived at the Highland Hospital ambulance bay, and nurse Gomes came out to initially assess the patient, she kicked the gurney to wake F. who appeared to be quiet or sleeping. Patient F., apparently thinking that respondent had kicked the gurney, began yelling at respondent and continued to yell at him thereafter while in the ER triage area. He called respondent a "black motherfucker" and "Uncle Tom," and repeatedly used the word "nigger" in his rants. He also yelled, "Next chance I get to stab you, I will, and cut your guts out," and called respondent a "white man's dog." F. also described having seen respondent with another partner at a specific ambulance staging location in Oakland, and threatened to kill him if he ever saw him there again.

20. Respondent testified that he is very concerned with the possibility of "gurney failure" (tipping over), and that he taught a course on the subject to employees at American Medical Response when he worked for the company. He showed a video (Exhibit B) of a

television news broadcast showing a gurney failure while a patient was being transported by two EMT's in an upright position, over an uneven surface.

21. Respondent described what happened in the ER as follows: He testified that F. kicked his elbow, which pushed his elbow into his ribs that had been previously broken and were sensitive. In response, respondent explained that he approached the patient to stop his bucking up and down, and shouted "Enough! Stay still!" Respondent admitted that this was a "brief irrational moment." It was when he moved in close to the gurney that he saw that the chest-restraint seatbelt was hanging down the side of the gurney against the wall, and he decided to try to get around the patient to secure the belt so that the gurney would not tip over. Respondent pushed on patient F.'s upper chest while at the same time he planned to reach over F. to the fallen seatbelt. The gurney used to transport F. was lower to the ground and more stable than the gurney that was shown to have tipped over in Exhibit B. On cross examination, respondent testified that before he approached F., and took a stance with his fist pulled back, F. had yelled "I'm going to cut you and leave you in a pool of blood," and that respondent then "lost my temper for an instant," and told F. "I'm not afraid" as he approached him. Respondent admitted that he was angry when he cocked his arm and balled his fist, but explained that "something else" then crossed his vision, and he checked his swing before he moved in to subdue F. in order to secure the seatbelt. He admitted that his cocked hand put F. in apprehension of being struck, but asserted that when he put his hands on F. he was not angry and had regained control, and was only trying to keep F. flat on the gurney so it would not tip. Respondent acknowledged that although he was taught not to be aggressive toward patients, "I have feelings and he got underneath them."

22. Respondent admitted that when he completed his license renewal application in August 2012, he answered "NO" to the question regarding prior discipline. (Factual Finding 14.) He explained that the question confused him, and that he thought it was meant to discern whether he was currently under discipline, on probation, or under investigation. He knew he was not on probation at the time, and he testified that he called the EMSA to ask only if he were under investigation, and was told that he was not. He then asked his manager at work if the application was all right, and he was told it was, so he submitted it with the negative answer to the question above. The question was unambiguous. Respondent's license had previously been revoked, the revocation was stayed, and respondent completed three years probation less than two years before he filled out the application for renewal. His explanation as to why he did not answer truthfully was not credible.

23. Respondent had taken and completed an anger management class as a condition of his earlier probation. After Highland Hospital reported the December 3, 2013 incident to Paramedics Plus, the company issued an Employee Corrective Action and Plan for Improvement on December 16, 2013, which required respondent to attend an anger management class. Respondent resigned from Paramedics Plus on December 17, 2013, as part of a stipulated settlement of a lawsuit against the company for racial discrimination that had been initiated two years earlier. Respondent has not attended any anger management class other that that required by his 2007 probation.

Discussion

24. Mitchell is an exceptionally well-qualified expert on pre-hospital emergency care and paramedic qualifications. Her opinion that respondent's conduct was unprofessional in that it constituted the mistreatment or physical abuse of a patient by use of force in excess of what a reasonable and prudent paramedic would do in similar circumstances was well reasoned and well founded. Respondent's admission that he lost control and acted out of anger, even for a short time while he appeared ready to strike patient F., is sufficient to support Mitchell's opinion. Respondent's explanation that he was trying to prevent the gurney from tipping by forcibly restraining F. in order to secure his chest seatbelt is not credible. Respondent's account is contradicted by Mitchell's interview of him on December 23, 2013 when he did not offer this explanation for his actions, by the video footage of the events, and by the observations of the deputy sheriffs, the security guard, and the ER technician with respondent at the time of the events.

LEGAL CONCLUSIONS

1. The standard of proof applied in making the factual findings set forth above is clear and convincing evidence to a reasonable certainty.

First cause for discipline

2. Health and Safety Code section 1798.200, subdivision (c)(12)(A), provides that disciplinary action may be taken against an EMT-P license for unprofessional conduct that constitutes a threat to the public health and safety. That section defines "unprofessional conduct" as "the mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance."

Respondent acted unprofessionally in that he lost control and acted in a threatening manner when he raised his fist as if to strike a patient, and then lunged at the patient, forcefully pushing the patient down on the gurney by pressing his hands into the patient's upper chest, while yelling at the patient. By reason of Factual Findings 6 through 11, 13, 15, and 21, cause is established to discipline respondent's license under Health and Safety Code section 1798.200, subdivision (c)(12)(A).

Second Cause for Discipline

3. Health and Safety Code section 1798.200, subdivision (c), provides that disciplinary action may be taken against an EMT-P license for any of the specifically listed actions that shall be considered a threat to the public health and safety. Health and Safety Code section 1798.200, subdivision (c)(11) describes a threat to the public health and safety as a "demonstration of irrational behavior or occurrence of a physical disability to the extent

that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired."

Respondent acted irrationally in that he lost control and acted in a threatening and angry manner when he raised his fist as if to strike a patient, and then yelled and lunged at the patient, to an extent that a reasonable and prudent person would have reasonable cause to believe that his ability to perform the duties normally expected of him as a licensed paramedic may be impaired. By reason of Factual Findings 6 through 11, 13, 15, and 21, cause is established to discipline respondent's license under Health and Safety Code section 1798.200, subdivision (c)(11).

Disciplinary Considerations

4. California Code of Regulations, title 22, section 100176, provides that when considering the denial, placement on probation, suspension, or revocation of a license pursuant to Health and Safety Code section 1798.200, the following criteria shall be considered:

1. Nature and severity of the act(s) or crimes under consideration.

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.

3. The time that has elapsed since commission of the act(s) or crimes(s) referred to above.

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.

5. The Authority's Recommended Guidelines for Disciplinary Orders require that the administrative law judge use the following disciplinary consideration factors as a guide in making his/her recommendations for discipline to the EMSA.

1. Nature and severity of the act(s) or crimes under consideration;

2. Actual or potential harm to the public;

3. Actual or potential harm to any patient;

4. Prior disciplinary record;

5. Prior warnings on record or prior remediation;

6. Number and/or variety of current violations;

7. Aggravating evidence;

8. Mitigating evidence;

9. Any discipline imposed by the paramedic's employer for the same occurrence of that conduct;

10. Rehabilitation evidence;

11. In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation;

12. Overall criminal record;

13. Time that has elapsed since the act(s) or offense(s) occurred;

14. If applicable, evidence of expungement proceedings pursuant to Penal Code section 1203.4.

6. This was an egregious incident. Respondent lost control of his temper and threatened a restrained and defenseless patient. By so doing he not only failed to calm and reassure the patient, but also likely exacerbated the patient's anxiety and agitation, thus demonstrating either the potential for or actual harm to the patient. Respondent's actions demonstrate that he cannot perform the duties of an EMT-P in a manner consistent with public health and safety. Only a short time has elapsed since the incident. Respondent has presented no evidence of any meaningful rehabilitation. Respondent admits that he lost control, but does not accept responsibility for his misconduct and continues to assert that his actions were understandable in the face of the patient's verbal attack on him and perceived instability of the gurney. Respondent has a record of prior discipline against his license, and that discipline included the requirement that he take a class in anger management. Although he has been an EMT-P for 20 years, it would be contrary to the public interest under these circumstances to allow respondent to retain an EMT-P license, even on a probationary basis.

ORDER

Emergency Medical Technician Paramedic License No. P04769 issued to respondent Millard Starling, Jr. is revoked.

DATED: March 10, 2014

HANNAH H. ROSE
Administrative Law Judge
Office of Administrative Hearings