

**BEFORE THE
MEDICAL DIRECTOR OF THE
CONTRA COSTA COUNTY
EMERGENCY MEDICAL SERVICES AGENCY**

**In the Matter of the Application for Emergency Medical
Technician Certification by:**

COURTNEY NICOLE ANDERSON, Respondent.

Agency Case No. 21-0020

OAH No. 2021120777

PROPOSED DECISION

Administrative Law Judge Barbara O'Hearn, State of California, Office of Administrative Hearings, heard this matter by videoconference and telephone on February 10, 2022.

Ben Keizer, Prehospital Care Coordinator, represented complainant Marshall Bennett, Director of the Emergency Medical Services Agency, Contra Costa County.

Respondent Courtney Nicole Anderson represented herself.

The matter was submitted for decision on February 10, 2022.

FACTUAL FINDINGS

1. On June 7, 2016, the Superior Court of California, County of Alameda, convicted respondent Courtney Nicole Anderson of a misdemeanor violation of Penal Code section 422, subdivision (a). This subdivision states:

"Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, . . . shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment in the state prison."

2. Imposition of sentence was suspended and respondent was placed on conditional sentence for three years, with a 60-day jail commitment, crediting four days served including two actual days. The court allowed the sentence to be completed through a weekend work program, and ordered respondent to stay away from the victim, pay fines and perform 100 hours of volunteer work.

3. On December 13, 2017, the Bureau of Security and Investigative Services issued respondent a notice of automatic suspension of her security guard registration effective immediately because of her conviction.

4. On June 16, 2021, respondent applied for emergency medical technician (EMT) certification from the Contra Costa County Emergency Medical Services Agency (agency). She applied for her certification at the urging of a prospective employer. In her application, respondent explained her conviction by stating that it had been dismissed under Penal Code section 1203.4.

5. In her application, respondent described the circumstances of her arrest on January 13, 2016, after she went to her neighbor's house with a firearm in hand and pointed it at the neighbor while angrily demanding that the music be turned down. Her neighbor repeatedly blared music, had shouting guests, and his house emitted a strong odor of marijuana that came into respondent's house. In her application statement and in her testimony at the hearing, respondent described her actions as an isolated incident.

6. The Berkeley Police Department received a report about the incident about 10:15 p.m. The police subsequently arrested respondent and held her in custody for about four hours until she was released on bail.

7. On July 8, 2021, the agency notified respondent of its administrative investigation. The agency's prehospital care coordinator conducted an interview with respondent on July 19, 2021. At that time, respondent confirmed that on the night of the incident, she had finally reached her breaking point due to external stress in her life and the long-term stress of the relationship with the neighbor.

8. During the interview, respondent stated that she held a "guard card" for the State of California from 2014 to 2017. When asked about the current status, respondent replied that she "opted not to renew" and added that she had no interest in security. When asked if her guard card had expired, respondent replied, "yes, the card expired." On July 26, 2021, the agency sent respondent a notice of allegation of violation after discovering that respondent gave misleading information about her security guard registration and failed to correct it.

9. On October 20, 2021, complainant Marshall Bennett, in his official capacity as the Director of the agency, sent a letter to respondent notifying her of the

conclusion of the administrative investigation. Based on the investigation, respondent's application for an EMT certificate was denied. Complainant filed a statement of issues alleging that respondent's application should be denied because her actions pose a threat to the public health and safety due to: 1) respondent was convicted of a crime punishable as a felony for which she was incarcerated, 2) the conduct underlying the offense was irrational, and 3) respondent was dishonest during the agency's investigation.

Respondent's Evidence and Contentions

10. Respondent completed the terms of her probation. She contended at hearing that her conviction should not be a basis for denial because: 1) it was a misdemeanor and 2) she was not technically incarcerated. Her first contention is contrary to the law as discussed in Legal Conclusions 3 and 4, below. Her second contention is contrary to the court's order crediting her with time served to be applied to her jail sentence.

11. Respondent testified forthrightly at hearing. She accepted responsibility for her actions. She admitted that she gave a "flippant" answer in response to the status of her guard card. She also admitted that her behavior on the night of her arrest was not normal and was irrational. She described extenuating circumstances of having made multiple calls to the police about her neighbor and attending an unsuccessful mediation with the neighbor to resolve the situation.

12. Describing her stress on that night, respondent initially testified that she and her mother were in the middle of a letter-writing campaign when interrupted by her neighbor's extremely loud noise. She later testified that a few days earlier, she and her mother were turned away when they were about to board a flight to attend a

family member's funeral, because the flight was cancelled. Respondent was still in distress about missing the funeral.

13. Upon her arrest, respondent had support from the community through individuals with whom she worked or volunteered, including at the Red Cross and Merritt College. She received encouragement and direction to continue her community activities.

14. In 2020, respondent became employed on call with the California Medical Assistance Team as an administrative officer, and with the Federal Emergency Management Agency as an emergency management specialist. She is currently interested in pursuing a career in emergency management.

LEGAL CONCLUSIONS

1. This matter is governed by the Emergency Medical Services System (EMS) and Prehospital Emergency Medical Care Personnel Act, Health and Safety Code section 1797 et seq. Respondent bears the burden of proof to establish that she is qualified for the license she seeks. (*Martin v. Alcoholic Beverage Control Appeals Bd.* (1959) 52 Cal.2d 259, 265; Evid. Code, §§ 115, 500.)

First Cause for Denial

2. The medical director of the local EMS agency may deny EMT certification if the applicant has committed fraudulent or dishonest acts that are substantially related to the qualifications, functions and duties of prehospital personnel. (Health & Saf. Code, § 1798.200, subd. (c)(5).) Respondent failed to report the true and honest

reason she no longer had a security guard card. (Finding 8.) Cause exists to deny respondent's EMT application on this basis.

Second Cause for Denial

3. The medical director of the local EMS agency may deny EMT certification if the applicant has been convicted of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. (Health & Saf. Code, § 1798.200, subd. (c)(6).) The medical director *shall deny* an EMT certificate if the applicant has been convicted and released from incarceration for said offense during the preceding 10 years for any offense *punishable* as a felony. (Cal. Code Regs., tit. 22, § 100214.3, subd. (c)(6), emphases added.)

4. Although respondent was convicted of a misdemeanor, it was an offense punishable as a felony and occurred within the past 10 years. (Finding 1.) Despite being held only a few hours, respondent was credited with time served and not released for that offense until she posted bail. (Findings 2 and 6.) Under these circumstances, respondent was released from incarceration as the term is used in this matter.

5. By her testimony, respondent presented evidence of her rehabilitation. (Findings 11, 13, and 14.) Complainant correctly contends, however, that regardless of respondent's rehabilitation evidence, the mandatory language of the applicable regulation precludes issuing respondent an EMT certification. Cause exists to deny respondent's EMT application on this basis.

Third Cause for Denial

6. The medical director of the local EMS agency may deny EMT certification if the applicant has demonstrated irrational behavior to the extent that a reasonable and prudent person would have reasonable cause to believe that respondent's ability to perform the duties normally expected by an EMT may be impaired. (Health & Saf. Code, § 1798.200, subd. (c)(11).) The actions of respondent that led to her arrest demonstrated such irrational behavior. (Finding 5.) Cause exists for denial of respondent's EMT certificate on this basis.

Disciplinary Consideration

7. Respondent is commended for her activities and community service showing rehabilitation evidence, particularly after her conviction on June 7, 2016. Due to the fact that 10 years have not yet elapsed since that date, however, respondent's EMT application must be denied.

ORDER

The Emergency Medical Technician Certification application by Courtney Nicole Anderson is denied.

DATE: 02/17/2022

Barbara O'Hearn

BARBARA O'HEARN

Administrative Law Judge

Office of Administrative Hearings