Patricia Frost, RN, MS, PNP
Director of Emergency Medical Services
Contra Costa County
1340 Arnold Drive, Suite 126
Martinez, CA 94553
Tel. (925) 646-4690
Fax. (925) 646-4379

Complainant

BEFORE THE
CONTRA COSTA COUNTY
EMERGENCY MEDICAL SERVICES AGENCY

In the Matter of the Emergency Medical Technician Certification held by: **JOHN SHERIF CONLEY** EMT Certification No.: E074035 Respondent.	Enforcement Case No.: 17-0030 OAH Case No.: 2018020119 **FINAL DECISION AND ORDER [REVOCATION]**

DECISION

After a thorough review of the administrative record, the attached Proposed Decision of Administrative Law Judge Melissa G. Crowell is adopted as my final decision in this matter.

ORDER

The emergency medical technician certificate issued to Respondent **JOHN SHERIF CONLEY** (EMT Certificate No. E074035) is hereby **REVOKED** by the Contra Costa County Emergency Medical Services Agency.

This Decision and Order shall become effective immediately. Respondent is directed to report this revocation within 10 working days to any LEMSA or certifying entity and relevant employer in whose jurisdiction Respondent used the EMT certificate.

CONTRA COSTA HEALTH SERVICES
Emergency Medical Services Agency
1340 Arnold Drive, Suite 126, Martinez, CA 94553-1229

The Respondent shall not hold himself out or otherwise represent himself as an EMT. The Respondent is ordered to surrender the EMT wallet card to the Agency within 10 days of the date of this Decision.

IT IS SO ORDERED:

Dated: March 27, 2018

DAVID GOLDSTEIN, M.D.
EMS Medical Director
Emergency Medical Services Agency
Contra Costa County

CONTRA COSTA HEALTH SERVICES
Emergency Medical Services Agency
1340 Arnold Drive, Suite 126, Martinez, CA 94553-1229

DECLARATION OF SERVICE BY U.S. REGISTERED MAIL, RETURN RECEIPT REQUESTED

In the Matter of the Emergency Medical Technician Certificate Held by:

JOHN SHERIF CONLEY
LEMSA Case No.: 17-0030

I, CAROL GRAY, declare:

I am employed by the County of Contra Costa - Emergency Medical Services Agency. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Agency for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Agency has the postage affixed by the County's mailroom and is thereafter deposited with the United States Postal Service that same day in the ordinary course of business.

On March 28, 2018, I caused the following attached documents to be served:

- **FINAL DECISION AND ORDER**

By placing a true copy thereof enclosed in a sealed envelope for the affixation of fully prepaid postage by the County of Contra Costa's Central Services Department (Mail Department), and a true copy thereof enclosed in a sealed envelope with registered delivery postage to be affixed by the Contra Costa County Central Services (Mailroom), and to be thereon fully prepaid in the internal mail collection system at the Contra Costa County Emergency Medical Services Agency, 1340 Arnold Drive, Suite 126, Martinez, California 94553, addressed as follows:

Respondent:
Mr. John Sherif Conley
2437 East 23rd Street
Oakland, CA 94601
(Via United States Registered Mail)

Dated: March 28, 2018

Carol Gray
CAROL GRAY

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

In the Matter of Emergency Medical Technician Certificate held by: JOHN SHERIF CONLEY, EMT Certificate E116409, Respondent.	Enforcement Case No. 17-0030 OAH No. 2018020119

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter on February 26, 2018, in Oakland, California.

Prehospital Care Coordinator Aaron Doyle, Professional Standards Division, appeared on behalf of complainant Patricia Frost, RN, MS, PNP, Director of Emergency Medical Services, Contra Costa County Emergency Medical Services Agency.

Respondent John Sherif Conley was present and represented himself.

The record closed and the matter was submitted for decision on February 26, 2018.

FACTUAL FINDINGS

1. On January 3, 2018, complainant Patricia Frost, RN, MS, PNP, in her official capacity as Director of Emergency Medical Services, Contra Costa County Emergency Medical Services Agency, filed an accusation against respondent John Sherif Conley. Respondent filed a timely notice of defense. This hearing followed.

2. The Contra Costa County Emergency Medical Services Agency (Agency) is a local Emergency Medical Services Agency. (Health & Saf. Code, § 1797.200; Cal. Code Regs., tit. 22, Div. 9.)

3. On August 27, 2015, the Santa Clara County Emergency Medical Services Agency issued to respondent Emergency Medical Technician (EMT) Certificate No.

E116409.[1] The certificate expired on August 31, 2017, but is subject to renewal and reinstatement unless it is revoked or suspended. (Cal. Code Regs., tit. 22, §§ 100080 & 100081.)

Renewal Application

4. On September 2, 2017, respondent submitted an electronic EMT Recertification Application to the Agency. Respondent signed the application under penalty of perjury, certifying that all the information he provided was truthful, and that he understood that falsification or omission of material facts could cause forfeiture of all rights to certification or licensure.

One of the questions asked on the renewal application is whether the applicant has ever been convicted of a crime. The full text of the question is as follows:

> Have you ever been convicted of a crime in any state or place, including offenses punishable under the Uniform Code of Military Justice (court martial or summary court martial proceedings)? You MUST answer yes even if you have been convicted of a crime based on a plea of no contest (nolo contendere) or where the conviction has been expunged, records sealed, or set aside (including those set aside pursuant to California Penal Code section 1203.4 or dismissed or reduced pursuant to Prop. 36).

Respondent answered "no" to this question. This answer was false, as respondent had been convicted of two misdemeanors in 2005, as forth in Finding 5, *post*.

In order for applicants to appreciate the significance of their answers to this question, it is preceded by the heading "Notice and Advisement" setting forth the following in large font:

> YOU MUST DISCLOSE ALL CRIMINAL CONVICTIONS, WHETHER THEY HAVE BEEN SET ASIDE, DISMISSED, OR EXPUNGED PURSUANT TO PENAL CODE SECTION 1203.4 YOU MUST ALSO DISCLOSE ALL CONVICTIONS AND CHARGES UNDER THE UNIFORM CODE OF MILITARY JUSTICE. YOU ARE RESPONSIBLE FOR INVESTIGATING AND ACCURATELY REPORTING THE STATUS OF ANY ARREST OR CRIMINAL CHARGE. FAILURE TO DISCLOSE ANY CRIMINAL CONVICTION, BACKGROUND INFORMATION, OR THE

[1] Some of the Agency's documents to refer to respondent's EMT certificate by the number E074035. That appears to be in error.

> FALSIFICATION, MISREPRESENTTION [*sic*] OR OMISSION OF ANY FACT IN THIS APPLICATION WILL RESULT IN THE DENIAL OF YOUR APPLICATION AND MAY BE GROUNDS FOR DISCIPLINARY ACTION.

Agency Investigation

5. During the processing of the respondent's application the Agency determined that respondent had two prior misdemeanor convictions: a January 2005 conviction of violating Vehicle Code section 14601.1, subdivision (a) (driving with a suspended license), and a September 2005 conviction of violating Vehicle Code section 12500, subdivision (a) (driving without a license).

As a consequence of discovering this criminal record the Agency opened an administrative investigation. On September 25, 2017, the Agency notified respondent of the administrative investigation, and that it was based on his failure to disclose the January 2005 conviction of violating Vehicle Code section 14601.1, subdivision (a).[2] The Agency requested respondent to provide a written explanation for his failure to disclose the criminal offense on the renewal application. Respondent was advised that he was required to be truthful during the investigation, and that providing false or misleading information during the investigation could provide cause for disciplinary action.

6. Respondent submitted a response letter dated October 2, 2017, where he stated in part:

> While the criminal conviction is true, it is false, [*sic*] that I did not mention this in my application because I was trying to be fraudulent, dishonest, or corrupt in regard to my duties as prehospital personnel. I was not attempting to violate any provisions or regulations adopted by the authority pertaining to prehospital personnel. *I have confessed this information upon receiving my original certification in Santa Clara County* and simply forgot to put it on my recertification for Contra Costa County. The driving on a suspended license is something I did in 2005, and is not in my everyday thoughts. I do not consider myself a criminal, as the suspension was due to unpaid parking tickets and other unpaid tickets.

(Emphasis added.) As set forth in Finding 7, *post*, this statement was also false. Respondent did not disclose the conviction on his Santa Clara County application.

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[2] Respondent was not asked to explain the omission of the September 2005 conviction.

7. The Agency obtained a copy of respondent's August 24, 2015 application to the Santa Clara County Emergency Medical Services Agency, through which he obtained his initial EMT certificate. In reviewing the application, the Agency determined that respondent did not disclose his prior criminal record to Santa Clara as he said he had in the October 2 letter to the Agency.

The Santa Clara County EMT application asked respondent about prior criminal convictions:

> Have you ever been have you been [*sic*] convicted of a crime (misdemeanor or felony), plead guilty, including nolo contendere, accepted a plea bargain, or been given a suspended sentence by any court (traffic, criminal, military); been placed on probation, placed on parole, been made ward of any court, including any conviction which has been expunged (set aside) or records sealed or have been placed on censure?

Respondent answered "no" to this question, and signed the application under penalty of perjury, certifying to the truth of his answers. Respondent also filed online in Santa Clara County an ID badge application on November 30, 2015. He similarly declared under penalty of perjury that he had never been convicted of a crime.

8. The Agency sent respondent a second request for information on October 24, 2017. This request asked respondent to provide "a detailed written response explaining your confession to Santa Clara County. Please include dates and names of individuals, if applicable, in your response."

9. Respondent submitted a response letter to the Agency dated October 30, 2017. He stated:

> When I first applied for my certification in Santa Clara, the process was similar to the recertification process in Contra Costa. Everything was done online. I simply checked the appropriate box that stated my criminal history and wrote traffic violations or something to that nature. I don't remember exactly what I wrote, but it was something like that.

As set forth in Finding 7, *ante*, respondent's statement to Agency was false: he had not checked the appropriate box and disclosed the prior record.

10. The Agency requested additional information from respondent in a letter dated November 22, 2017. In this letter, the Agency told respondent that it had reviewed his Santa Clara application and that he had not disclosed his prior conviction as he had stated in his letters of October 2 and 30. The Agency also informed respondent that it had reviewed both of his Santa Clara County applications. The Agency provided both applications to

respondent and requested that he file a written response explaining the discrepancies in his written responses to the Agency and what he disclosed on his two applications to Santa Clara County.

11. Respondent did not respond to this letter.

Respondent's Evidence

12. With respect to the renewal application, respondent testified that he answered no because he had forgotten about the 12-year-old conviction stemming from traffic citations. With respect to his written responses to the Agency, he testified he was in "panic mode" and in a rush to get the certification approved. He did not research what he had written on his Santa Clara applications; he assumed that he had made the necessary disclosures as Santa Clara had issued him an EMT certificate.

13. Respondent started as an EMT in October 2015 with a company named Rural Medical, which was bought out by American Medical Response (AMR). With AMR respondent held positions as Field Training Officer and Acting Supervisor. He was placed on leave the date his certificate expired. He has been told that AMR is keeping a position for him.

14. Respondent did not present any performance evaluations or letters from his employer. He was told that AMR would not allow letters to be written. He presented a letter from Derek Lamboy, a registered nurse he has worked with as an EMT for about two years. Lamboy wrote the letter in a private capacity, not on behalf of AMR. Lamboy has found respondent to be an exceptional EMT, field training officer, and supervisor. Respondent has a good work ethic, works well with patients, and is a person of good character.

15. Respondent has not worked in any capacity since AMR. He has financial difficulties and is anxious to get back to work.

16. Respondent has filed a renewal application with Santa Clara County. That application is pending.

17. Respondent was both emotional and defensive at hearing. He purports to understand that attention to detail, providing accurate patient documentation, working effectively under pressure and acting with integrity are required of EMT's, but he does not believe these traits are in conflict with his conduct set forth above. He does not believe his conduct was fraudulent, because he thought he was telling the truth at the time. Respondent states that he has learned hard lessons from this experience, and he would handle things differently next time. But he does not believe this should impact his ability to work as an EMT.

LEGAL CONCLUSIONS

1. In an action to revoke an EMT certificate, the agency bears the burden of proof by a preponderance of the evidence. (*Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441.)

2. Pursuant to Health and Safety Code section 1798.200, subdivision (a)(3), the medical director of the local EMS agency may impose discipline on any EMT-I or EMT-II certificate, where the certificate holder engages in any of the actions set forth in Health and Safety Code section 1798.200, subdivision (c).

Causes for Discipline

3. Pursuant to Health and Safety Code section 1798.200, subdivision (c)(5), the Medical Director may impose discipline upon a EMT certificate holder for the commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel. An act is substantially related to the qualifications, functions, and duties of prehospital personnel if it evidences a present unfitness of the certificate holder to perform the functions authorized by his certificate in a manner consistent with public safety. (Cal. Code Regs., tit. 22, § 100208, subd. (a).) Respondent committed dishonest acts when he provided false information about his criminal record on the renewal application, and provided false information in his letters to the Agency during the investigation. These acts are substantially related to the qualifications, functions, and duties of prehospital personnel as they evidence a present unfitness of the certificate holder to perform the functions authorized by his certificate in a manner consistent with public safety. Cause for discipline exists by reason of the matters set forth in Findings 4, 6 and 9.

4. Pursuant to Health and Safety Code section 1798.200, subdivision (c)(7), the Medical Director may impose discipline upon a EMT certificate holder for violating, attempting to violate, or conspiring to violate,, any law or regulation pertaining to prehospital personnel. Complainant does not cite in the accusation a law or regulation pertaining to prehospital personnel that was violated by respondent's conduct. Cause for discipline pursuant to Health and Safety Code section 1798.200, subdivision (c)(7), has not been established.

Disciplinary Determination

5. The Agency utilizes the Model Disciplinary Orders, also known as the Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT (Guidelines), dated April 1, 2010. (Cal. Code Regs., tit. 22, § 100206.4.) Under the Guidelines, the maximum recommended discipline for respondent's violation of Health and Safety Code section 1798.200 is revocation and the minimum recommended action is a stayed revocation with three years' probation. The factors used to determine the appropriate discipline include: the nature and severity of the acts or crimes;

actual or potential harm to the public, including harm to any patient; prior discipline; prior warnings; number and/or variety of current violations; rehabilitation evidence; and mitigating or aggravating evidence. (Cal. Code Regs., tit. 22, § 100208, subd. (c).)

6. In determining whether or not license revocation is appropriate in any case, the overriding concern is the protection of the public. In the instant case respondent provided false information on a renewal application he executed under penalty of perjury. He provided false information in two letters he wrote to the Agency in connection with its administrative investigation of his renewal application, an investigation during which he had been warned that providing untruthful information could lead to discipline of his EMT certificate. Respondent has not demonstrated that he has any real insight into why his conduct is of such great concern to the Agency. Respondent has not presented any significant evidence of rehabilitation or mitigation. Respondent's primary motivation is to get back to work; the Agency's primary motivation is public protection. On this record, the Agency lacks assurances that respondent can be trusted to perform the duties authorized by his certificate in a manner consistent with integrity, attention to detail, and public protection. Revocation of respondent's certificate is the only appropriate discipline.

ORDER

Emergency Medical Technician Certificate No. E116409 issued to respondent John Sherif Conley is revoked.

DATED: March 26, 2018

DocuSigned by:
Melissa G. Crowell
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MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings