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Complainant

BEFORE THE  
CONTRA COSTA COUNTY  
EMERGENCY MEDICAL SERVICES AGENCY

In the Matter of the Probationary Emergency  
Medical Technician Certificate Held By:

**CHRISTOPHER AREVALO TAPIA**  
EMT Certificate No.: E030364,

Respondent.

Enforcement Case No.: 18-0020  
OAH Case No.: 2018100428

**DECISION AND ORDER**

**DECISION**

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

**ORDER**

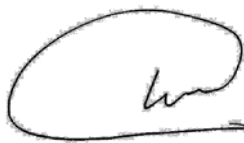
The probationary emergency medical technician certificate issued to Respondent  
**CHRISTOPHER AREVALO TAPIA** (EMT Certificate No. E030364) is hereby **REVOKED** by the  
Contra Costa County Emergency Medical Services Agency.

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.

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

4 Notice to Respondent: You are entitled to request a review by the Superior Court of this Decision  
5 and Order no later than 90 days following the date on which the decision becomes final (Cal. Code of  
6 Civil Procedure §§ 1094.5 and 1094.6). Eligibility to reapply for EMT Certification is governed by  
7 tit. 22, Cal. Code of Regulations, § 100214.3(h).  
8

9  
10 **IT IS SO ORDERED:**



11  
12 Dated: January 11, 2019

13 \_\_\_\_\_  
14 DAVID GOLDSTEIN, M.D.  
15 EMS Medical Director  
16 Emergency Medical Services Agency  
17 Contra Costa County  
18

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

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

CHRISTOPHER AREVALO TAPIA,  
Certificate No. E030364

Respondent.

Case No. 18-0020

OAH No. 2018100428

**PROPOSED DECISION**

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on October 31, 2018, in Oakland, California.

Karl K. Sung, Deputy County Counsel, represented complainant Patricia Frost, RN, MS, PNP, Director of Emergency Medical Services, Contra Costa County Emergency Medical Services Agency.

Nicole Valentine, Attorney at Law, represented respondent Christopher Arevalo Tapia, who was present at the hearing.

The matter was submitted for decision on October 31, 2018.

**FACTUAL FINDINGS**

1. Respondent Christopher Arevalo Tapia holds Emergency Medical Technician (EMT) Certificate No. E030364, issued by the Contra Costa County Emergency Medical Services Agency (Agency). As described more fully below, the certificate was revoked, the revocation stayed, and the certificate was placed on probation. Complainant Patricia Frost seeks to terminate probation, lift the stay, and revoke the certificate. Although the pleading in this matter is styled as an "Accusation," in light of the relief sought, the pleading is more accurately characterized as a Petition to Revoke Probation. The standard of proof for a petition to revoke probation is a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441.)



### *Military conviction*

2. On July 13, 2005, respondent was convicted at a court-martial, of a violation of Uniform Code of Military Justice, Article 112a (wrongful use of amphetamines). Respondent was sentenced to a reduction in rank, forfeiture of pay, and 30 days in confinement. As a result of the conviction, respondent was discharged from the United States Marine Corps under other than honorable conditions due to drug abuse. Respondent was 19 years old at the time of the offense. Respondent initially told his sergeant that his positive urine test was due to an over the counter supplement he was taking. He later admitted that he had taken a pill that was given to him by another marine while on leave.

### *History of non-disclosure*

3. Respondent first applied for an EMT certificate in Alameda County in 2009. On the application, respondent was asked, under penalty of perjury, whether he had ever been convicted of a criminal offense. Respondent falsely responded that he had not, and Alameda County issued the certificate. In 2011, respondent applied to renew his certificate in Alameda County. Once again, respondent falsely responded that he had never been convicted of a criminal offense.

4. On March 30, 2011, Scott Salter, Prehospital Care Coordinator for the Alameda County Emergency Medical Services Agency, sent respondent a letter notifying him that there was an administrative investigation underway into his failure to disclose his criminal conviction on his two applications. Respondent was afforded an opportunity to reply in writing.

5. In response to Salter's letter, respondent wrote:

I received a letter via certified mail that I had allegedly failed to disclose my previous history in the military. After reviewing the application I realized that I misread what was being asked of me. I interpreted the question as "currently being under investigation." It was never my intention to deliberately attempt to hide any convictions that I received in the past when I first submitted my EMT application on February 23, 2009.

During my time in the marines I did in fact consume a pill that was given to me by a fellow marine, which I was under the impression was a caffeine pill. The following day we were mandated to submit a urine test which I did without hesitation because I knew that I had never consumed any illegal drugs. . . . the results of the urine test came back and it stated that I had consumed amphetamines. I was completely surprised when I was informed of this; upon research of the pill I realized that the caffeine pill was in fact Adderall.



6. Alameda County took no further action against respondent's EMT certificate. In January 2015, respondent submitted an application for EMT recertification to the Agency, because respondent was now employed with the Richmond Fire Department and working in Contra Costa County rather than Alameda County. Once again, respondent was asked if he had ever been convicted of a crime. Once again, respondent falsely responded, "no." The Agency discovered that respondent's answer was false, and issued an accusation against respondent on July 28, 2015.

*Stipulated settlement and terms of probation*

7. Respondent entered into a Stipulated Settlement and Probation Agreement (Agreement) with the Agency in August 2015. Pursuant to the Agreement, respondent's EMT certificate was revoked, the revocation stayed, the certificate was suspended for 60 days, and respondent was placed on probation for three years. In the Agreement, respondent admitted that he violated Health and Safety Code section 1798.200, subdivisions (c)(1) (fraud in the procurement of any certificate), (c)(5) (commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel) and (c)(7) (violating laws pertaining to prehospital personnel).

8. Condition 7 of respondent's probation states, in part:

**Obey All Related Laws:** The Respondent shall obey all federal, state and local laws, statutes, regulations, and local written policies, protocols and rules governing the practice of medical care as an EMT. The Respondent shall not engage in any conduct that is grounds for disciplinary action pursuant to section 1798.200 of the California Health and Safety Code. The Respondent shall be honest, forthcoming and cooperative in all investigations or inquiries made by the Agency or his relevant employer.

9. Condition 10 of respondent's probation states, in part:

**Violation of Probation:** If, during the period of probation, the Respondent fails to comply with any term of probation, the Agency may initiate action to terminate probation and implement actual certification revocation.

10. Respondent's probation commenced on October 16, 2015.

*August 12, 2018 incident and aftermath*

11. On the evening of August 11, 2018, respondent and his spouse travelled by Uber to Livermore for dinner and drinks. They had a steak dinner at a restaurant, and then



went to two drinking establishments in downtown Livermore. Respondent and his wife were in an establishment called "The Venue," and got into an argument about whether to go home or stay out later.

Shortly after midnight, respondent's wife walked out of The Venue, and respondent followed after her. Respondent caught up to her and reached for her arm to make her stop walking. Livermore police officers believed a physical altercation was imminent and intervened to separate the couple.

12. Body camera videos which begin shortly after the police separated the couple were admitted into evidence. This footage establishes that respondent was uncooperative, obnoxious, and repeatedly taunted the officers. An officer asked respondent if he and his wife "had too much to drink in there" and respondent replied, "I think so." A second officer waiting with respondent's wife told her that respondent would be taken to jail "to sober up," suggesting that this officer likewise formed the opinion that respondent was intoxicated.

13. Respondent was taken into custody and transported to Santa Rita Jail, on suspicion of public intoxication, in violation of Penal Code section 647, subdivision (f). The arresting officer wrote that he asked respondent to leave the area and respondent refused, was uncooperative and argumentative, and made statements suggesting that he should be treated with leniency because he is a firefighter. The arresting officer wrote:

As I spoke to [respondent], he displayed the following symptoms of intoxication: red watery eyes, slurred speech, an unsteady stance and the strong odor of an alcoholic beverage on his breath. [Respondent] was argumentative and uncooperative during the entire encounter, further displaying his poor judgement due to his level of intoxication. [¶] I felt, by [respondent's] symptoms of intoxication and his demeanor, he was unable to care for himself due to his level of intoxication.

14. Respondent was released the following morning. As of the date of the hearing, no criminal charges against respondent pertaining to the incident had been filed. Respondent testified that he was advised by an employee in the District Attorney's office that he would not be prosecuted.

Respondent received a "Detention Certificate" from the Livermore Police Department, dated September 14, 2018. The certificate states that pursuant to Penal Code section 851.6, the taking into custody of respondent on August 12, 2018, was "a detention only, not an arrest."

15. Respondent called Aaron Doyle, Pre Hospital Coordinator for the Agency, on the Monday following his arrest. He told Doyle that he had been arrested in Livermore but stated that he did not know why he was arrested, did not recall what occurred, and "woke up



on the ground.” Doyle felt that respondent was not forthcoming and did not provide a full and detailed explanation. Respondent declined Doyle’s request for an interview.

16. Respondent contacted numerous Richmond Fire Department personnel in the days after his arrest, including his captain, his battalion chief, and Fire Chief Adrian Sheppard. Respondent testified that he told Chief Sheppard that “I could not recall why I was arrested.” In a letter to the Agency dated October 22, 2018, Chief Sheppard wrote,

[O]n or about August 13, 2018, I received a telephone call from [respondent] informing me that he had been arrested in the City of Livermore. [Respondent] told me during our telephone conversation that he could not remember the details of his arrest or why he was arrested because he was intoxicated.

17. On September 17, 2018, the Medical Director for the Agency issued a temporary suspension order of respondent’s probationary EMT certificate, pursuant to California Code of Regulations, title 16, section 100213, subdivision (a). The certificate remains suspended.

#### *Respondent’s evidence*

18. Respondent testified that he loved serving in the Marines and had hoped to have a long career in the military. After he was discharged, he decided to seek a career in the fire service because he wanted to experience a similar “brotherhood” as he experienced in the Marine Corps. Respondent studied emergency medicine and fire science at Chabot College. He worked for the Alameda County Fire Department as a reserve firefighter for about a year and one half, while he continued his education and training.

19. Respondent was hired by the Richmond Fire Department in 2013. A valid EMT certificate is a minimum requirement for employment. When respondent entered into the Agreement in 2015, he was still a probationary employee with the Department. Once his certificate was suspended, he was terminated. After the completion of the 60-day suspension period, however, he was rehired, effective October 24, 2015. Respondent successfully completed his probation, and promoted to the position of Firefighter Engineer in 2017.

20. Respondent denied intentionally misrepresenting his criminal history on the three certification applications. He stated that he has “learned to seek assistance with paperwork.” Respondent added that he had not thought it necessary to disclose his conviction when he first sought recertification in Contra Costa County in light of the fact that he was never disciplined in Alameda County after its agency discovered the conviction.

21. Respondent denied excessive use of alcohol on the night of his detention. He related that he consumed four mixed drinks over the course of several hours, and that he had very little sleep over the prior three days because he had completed a 48-hour shift on the morning of August 11. He denied being aggressive with his wife and stated that he reached



out to hold her hand so that she would stop walking and he could order an Uber. Respondent claimed that the police surrounded them for no reason. He denied that alcohol played any role in his disrespectful behavior towards the police and instead attributed his behavior to "frustration" at the police officers' failure to respond to his questions. Respondent stated that he refused to move when asked because "there was no reason to go." He added that "the location where we were at is where the Uber was going to pick us up," even though no Uber had been ordered. He also stated that he refused to leave the area because he did not want to leave his wife behind.

Respondent denied seeking special treatment by telling the police officers that he was a firefighter, and said he told them because he wanted them "to feel comfortable" with him.

Respondent noted that when he reported his arrest, he told the Agency and his superiors at the Fire Department that he "couldn't recall why he was arrested." However, he admitted that the police department had given him a "slip of paper to appear in court for being drunk in public."

Respondent's testimony about the incident was not credible.

22. Respondent expressed disappointment in Chief Sheppard, because he feels that the chief turned his back on him. Respondent was critical of Chief Sheppard's leadership.

23. Respondent does not take responsibility for his actions and views himself as a victim, stating "once again something is being taken away from me that I really wanted," referring to his loss of a military career and possible loss of his career as a firefighter.

24. Respondent is recently married. He and his wife have three children between them, ages 11, 9 and 2. Respondent's wife, Chelsea Staley-Tapia, testified at hearing and largely corroborated respondent's testimony. She testified that respondent was not altered by alcohol in any way on the night of his detention. Her testimony about the incident was not credible. She persuasively testified that respondent is a dedicated husband, father, and firefighter.

25. Richmond Fire Department Battalion Chief Victor Bontempo testified at hearing on behalf of respondent. He has known respondent since respondent joined the Department. Bontempo believes respondent has good character, a standout work ethic, is hardworking, and is empathetic to patients.

Respondent called Bontempo from jail, but did not reach him. Bontempo spoke with respondent the day following his arrest. Respondent denied an altercation took place, but did not provide details about the incident. Nonetheless, Bontempo supports respondent.

26. Fire Captain Michael Rodriguez also testified on respondent's behalf. He has known respondent since respondent joined the Richmond Fire Department. Rodriguez



supervises respondent on a three-person engine crew. He related that respondent has a strong work ethic, strong EMT skills, and is an asset to the Department.

Respondent called Rodriguez the day after his arrest. He told Rodriguez that he had been outside a bar when police put him in handcuffs and threw him in jail. He did not mention that he had been arrested for public intoxication. Rodriguez directed respondent to notify the Agency.

Rodriguez has socialized with respondent has known respondent to drink responsibly.

27. Numerous colleagues from the Richmond Fire Department wrote strong letters in support of respondent. The letter writers praise respondent as a model firefighter with an exemplary work ethic, who is a great mentor and role model to new employees. He is viewed by these colleagues as an asset to the Fire Department because of his professionalism, empathy, clinical skills, dedication, and Spanish-language ability.

One letter writer, Fire Captain Richard R. Bargas, wrote that he joined respondent and his wife for a drink at about 10 p.m. on the evening of respondent's detention. They parted ways at around 11 p.m. Bargas did not perceive respondent to be intoxicated.

28. Respondent's performance evaluations establish that he has performed well since he was hired at the Richmond Fire Department. His work is assessed at meeting or exceeding standards in all areas. Respondent received a citation for his involvement in a March 4, 2016 motor vehicle accident. He received a Certificate of Special Congressional Recognition dated March 10, 2017, for his "outstanding and invaluable service to the community." Respondent volunteered for training to become a hazardous materials specialist.

29. Respondent consulted a therapist after his detention. In October, respondent enrolled in an eight-session Anger Management class through Kaiser Permanente. At the time of the hearing, he had completed three classes.

30. Respondent underwent an addiction consultation by Mark F. Towns, M.D., F.A.S.M. Dr. Towns authored a report, dated October 23, 2018. Dr. Towns concluded that respondent does not meet the criteria of substance use disorder or alcohol use disorder. He found that respondent "is at low to moderate risk for the development of alcohol use disorder at this time based on the information that I have obtained." Dr. Towns concluded, "I believe that [respondent] is not dependent upon drugs or alcohol, or has problems with drugs or alcohol that might reasonably affect his ability to function safely and competently as an EMT, he can perform the functions of an EMT in a safe and competent manner."

Dr. Towns's report contained the following summary of respondent's military conviction, which differs somewhat from that which respondent has provided previously:



[Respondent's] teammate gave him some Adderall (a prescription amphetamine) which he tried. He and his friend thereafter had an altercation which led to his arrest. His UDS was positive for amphetamine (consistent with Adderall ingestion). . . .

### *Ultimate Finding*

31. A preponderance of the evidence established that respondent's consumption of alcohol on the evening of August 11-12, 2018, was excessive. Police officers observed objective signs of intoxication, resulting in respondent being taken into custody. Respondent's uncooperative and taunting behavior evidenced use of alcohol that impaired his judgment. Respondent agreed with the officer when asked if he had had too much to drink.

### LEGAL CONCLUSIONS

1. Health and Safety Code section 1798.200, subdivision (c)(9), provides that the Medical Director may impose discipline on a EMT certificate holder for "addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances."

2. Condition 7 of respondent's probation requires him not to engage in any conduct that is grounds for disciplinary action pursuant to section 1798.200 of the California Health and Safety Code. Condition 10 of respondent's probation provides that the Board may revoke probation if respondent fails to comply with the terms and conditions of probation in any respect. Cause for revocation was established pursuant to Condition 7 and Condition 10, in light of the matters set forth in Finding 31 and Legal Conclusion 1.

3. Respondent suffered one conviction in 2005 at age 19. This conviction could have been a minor setback. Instead, because of respondent's proclivity for dishonesty when he believes that it will further his interests, this conviction continues to cast a shadow on his career.

Respondent was placed on probation because of his history of dishonesty on three applications for EMT certification. Respondent violated his probation by drinking excessively. Once again, respondent was dishonest in an attempt to minimize the consequences of his behavior. He was not candid with the Agency or with his supervisors when he reported his arrest. Respondent declined to tell them the reason for his arrest, even though he had been given a "slip" with a court date which indicated the arrest was for public intoxication. Consistent with this history of dishonesty, respondent's testimony at hearing was not credible.

Honesty and trustworthiness are integral qualities for pre-hospital personnel. Because respondent cannot be trusted to be honest and forthcoming, especially in circumstances

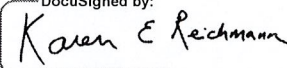


where he fears the truth could harm him, revocation is warranted. It would pose a risk to public safety to permit him to retain an EMT certificate.

### ORDER

The petition to revoke probation is granted and the stay of revocation is set aside. The order revoking EMT Certificate No. E030364, issued to respondent Christopher Arevalo Tapia, is imposed.

DATED: November 21, 2018

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KAREN REICHMANN  
Administrative Law Judge  
Office of Administrative Hearings

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COURT CLERK

EMERGENCY MEDICAL SERVICES