

BEFORE THE  
CONTRA COSTA COUNTY  
EMERGENCY MEDICAL SERVICES AGENCY

In the Matter of the Application for  
Emergency Medical Technician Certificate  
by:

MICHAEL LYMAN FELT,

Respondent.

Case No. 15-0006

OAH No. 2015110900

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on January 4, 2016, in Oakland, California.

Aaron Doyle, Prehospital Care Coordinator, represented complainant Patricia Frost, R.N., M.S., P.N.P., Director of Emergency Medical Services, Contra Costa County Emergency Medical Services Agency.

Respondent Michael Lyman Felt represented himself and was present throughout the administrative hearing.

The matter was submitted for decision on January 4, 2016.

**FACTUAL FINDINGS**

1. Complainant Patricia Frost, R.N., M.S., P.N.P., Director of Emergency Medical Services, Contra Costa County Emergency Medical Services Agency, filed the statement of issues in her official capacity.

2. On February 24, 2015, Michael Lyman Felt (respondent) applied for Emergency Medical Technician (EMT) certification from the Contra Costa County Emergency Medical Services Agency (agency).

*Failure to Disclose Prior Conviction*

3. In the center of the application for EMT certification is a box containing red font and three questions in bold typeface. The second questions asks:

Have you ever been convicted of any felony or misdemeanor offense in California or in any other state or place, including entering a plea of nolo contendere or no contest, and including any conviction which has been expunged (set aside) or records sealed under Penal Code Section 1203.4? Yes \_\_\_\_\_ No \_\_\_\_\_

Respondent checked "No." Respondent certified under penalty of perjury that the information on the application was true and correct, and acknowledged that the falsification or omission of material facts could result in denial of the application.

4. On February 25, 2015, the agency submitted respondent's identification to the Department of Justice for a criminal background check. The Department of Justice notified the agency that respondent had been convicted of misdemeanor possession of drug paraphernalia in the State of Washington in 2004. He was sentenced to 90 days in jail, of which 89 days were suspended, and ordered to pay a fine of \$1,000, of which \$750 was suspended.

5. On March 2, 2015, the agency notified respondent that it planned to conduct an administrative investigation, alleging that he had violated Health and Safety Code section 1798.200, subdivisions (c)(1) (fraud in the procurement of a EMT certification), (c)(5) (dishonest or fraudulent act), and (c)(7) (violation of prehospital personnel regulations).

6. Respondent appeared for an interview with Bruce Kenagy, EMT-P, the agency's Prehospital Care Coordinator. Respondent advised Kenagy that he did not consider the incident to be a conviction, because he was simply issued a ticket, and therefore did not believe he was required to disclose it. Respondent stated further that the marijuana was not his; rather, he claimed that he was transporting medical marijuana for his parents.

The investigation report states, however, that respondent was pulled over for failing to signal, and that when the officer approached the car, he smelled burnt marijuana coming from the car. The officer reported that respondent showed him a pipe with marijuana residue in the center console.

7. Kenagy concluded that respondent's statements were not credible because respondent added details as he spoke, and because his statements conflicted with the Washington State Patrol investigation report. The agency considers truthfulness to be an important trait for EMT's because patients are at times incapacitated and EMT's have unfettered access to patient homes. Based on respondent's inaccurate statement on the application and its concerns about his credibility, the agency denied respondent's application.

### *Respondent's Evidence*

8. Respondent is 40 years old. He has always dreamed of working as a firefighter/EMT. In 2004, respondent attended medical assistant school. From 2004 to 2006, he worked in an occupational health clinic in Vancouver, Washington.

9. Respondent cared for his parents in Washington while they were being treated for cancer. Respondent acknowledges that he was convicted of possession of drug paraphernalia in 2004 in Washington. Respondent states that he did not use marijuana personally, but transported it for his parents' medical treatment. Respondent's parents passed away in 2007 and he moved to California in 2008 to start a new chapter in his life.

10. Respondent is currently working with a data contractor associated with Dow Chemical. A position at Dow Chemical opened up in the Emergency Medical Services and Security Department. Respondent inquired about the position and was told that the employer preferred an applicant with an EMT certification, and that if he became certified he would be hired for the position. Respondent is very interested in the position and therefore applied for his EMT certification.

11. Respondent reports that he failed to report the conviction for several reasons. First, he did not realize that it was considered a conviction; he considered it to be a minor citation. Second, he did not believe that a conviction over seven years old was relevant; most jobs he has applied for only inquired about convictions going back seven years. Finally, respondent states that he did not read the question carefully and thought it only applied to convictions occurring in California. Respondent regrets his error in judgment.

### LEGAL CONCLUSIONS

1. In an appeal from the denial of a license or certification, the burden of proof is on the applicant to establish by a preponderance of the evidence that the appeal should be granted. (*Martin v. Alcohol Beverage Control Appeals Bd.* (1959) 52 Cal.2d 238; Evid. Code, §§ 115, 500.)

2. Pursuant to Health and Safety Code section 1798.200, subdivision (c), the Medical Director of a local emergency medical services agency may deny an application for EMT certification if granting the application would be considered a threat to the public health and safety. Section 1798.200 identifies the following actions to constitute a threat to the public health and safety: fraud in the procurement of a certificate (subd (c)(1)); commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions or duties of prehospital personnel (subd. (c)(5)); and, a violation of any regulation adopted by the authority pertaining to prehospital personnel (subd. (c)(7)).

Respondent's explanations for his failure to disclose his conviction were not persuasive. The application states clearly, in boldface type, with portions in red font color,

that the applicant must disclose any felony or misdemeanor offense in California or in any other state. The application does not limit disclosure based on the number of years that passed since the conviction. Truthfulness and the agency's ability to trust the integrity of its EMT's are critical in light of the EMT's responsibilities and the vulnerable population they serve. Respondent's failure to disclose his conviction is evidence of a threat to the public health and safety. As set forth in Factual Findings 3, 4, 6, 7 and 11, cause exists to deny respondent's application pursuant to Health and Safety Code section 1798.200, subdivisions (c)(1), (c)(5) and (c)(7).

3. When fraud in the procurement of a certificate is established, the disciplinary guidelines<sup>1</sup> recommend denial of the application. The recommended discipline should be imposed in the absence of mitigating evidence. Respondent did not provide sufficient evidence to warrant a deviation from the guidelines.

#### ORDER

The application of Michael Lyman Felt for EMT certification is denied.

DATED: January 28, 2016

DocuSigned by:

*Jill Schlichtmann*

D0097D940B484D9...

---

JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings

---

<sup>1</sup> Recommended Guidelines for Disciplinary Orders and Conditions of Probation for EMT (Basic) and Advanced EMT, effective April 1, 2010.