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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Souvanthong Khambouapha, PTRN
751 Hilltop Dr. Apt 3
Redding, CA 96003-3794**

**Polysomnographic Trainee Registration
No. PTRN 851,**

Respondent.

Case No. 800-2023-096533

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 31, 2024, Complainant Reji Varghese, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2023-096533 against Souvanthong Khambouapha, PTRN (Respondent) before the Medical Board of California.

2. On or about October 10, 2016, the Medical Board of California (Board) issued Polysomnographic Trainee Registration No. PTRN 851 to Respondent. The Polysomnographic Trainee Registration expired on September 30, 2020, and has not been renewed. A true and

1 correct copy of Respondent's certified license history is attached as Exhibit 1 to the
2 accompanying Default Decision Evidence Packet.¹

3 3. On or about May 31, 2024, Merlene Francis, an employee of the Complainant
4 Agency, served by Certified Mail a copy of the Accusation No. 800-2023-096533, Statement to
5 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
6 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 751
7 Hilltop Dr. Apt 3, Redding, CA 96003-3794. A copy of the Accusation, the related documents,
8 and Declaration of Service are attached as Exhibit 2, and are incorporated herein by reference.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c).

11 5. On or about June 19, 2024, the aforementioned documents were returned by the U.S.
12 Postal Service marked "Vacant, Unable to Forward." A copy of the envelope returned by the post
13 office is attached as Exhibit 3, and is incorporated herein by reference.

14 6. On or about June 19, 2024, Traci Routt, an employee of the Department of Justice,
15 served by Certified Mail a Courtesy Notice of Default; including a copy of the May 31, 2024
16 Accusation and accompanying documents, to Respondent's address of record with the Board
17 which was and is: 751 Hilltop Dr. Apt 3, Redding, CA 96003-3794. An additional copy of the
18 Courtesy Notice of Default; including a copy of the May 31, 2024 Accusation and accompanying
19 documents, were also served by Certified Mail to a possible secondary address of: 3892
20 Bloomsbury Ave., Shasta Lake, CA 96019. A copy of the Courtesy Notice of Default, including
21 the accompanying documents, and Declaration of Service are attached as Exhibit 4, and is
22 incorporated herein by reference.

23 7. On or about June 22, 2024, the U.S. Postal Service delivered the aforementioned
24 documents to an individual at 3892 Bloomsbury Ave., Shasta Lake, CA 96019. Printouts of the
25 online U.S. Postal Service delivery and notice is attached as Exhibit 5, and is incorporated herein
26 by reference.

27 ¹ All exhibits are true and correct copies of the originals, and are attached to the
28 accompanying Default Decision Evidence Packet. The Default Decision Evidence Packet is
hereby incorporated by reference, in its entirety, as if fully set forth herein.

1 8. On or about July 26, 2024, the aforementioned documents that were served by
2 Certified Mail to Respondent's address of record: 751 Hilltop Dr. Apt 3, Redding, CA 96003-
3 3794, were returned by the U.S. Postal Service marked "Return to Sender, Not Deliverable As
4 Addressed, Unable To Forward." A copy of the envelope returned by the post office is attached
5 as Exhibit 6, and is incorporated herein by reference.

6 9. Business and Professions Code section 118 states, in pertinent part:

7 (b) The suspension, expiration, or forfeiture by operation of law of a license
8 issued by a board in the department, or its suspension, forfeiture, or cancellation by
9 order of the board or by order of a court of law, or its surrender without the written
10 consent of the board, shall not, during any period in which it may be renewed,
11 restored, reissued, or reinstated, deprive the board of its authority to institute or
12 continue a disciplinary proceeding against the licensee upon any ground provided by
13 law or to enter an order suspending or revoking the license or otherwise taking
14 disciplinary action against the license on any such ground.

11 10. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts
14 of the accusation not expressly admitted. Failure to file a notice of defense shall
15 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
16 may nevertheless grant a hearing.

17 11. Respondent failed to file a Notice of Defense within 15 days after service upon his of
18 the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 800-
19 2023-096533.

20 12. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
24 respondent.

25 13. Business and Professions Code section 125.3 states, in pertinent part:

26 (a) Except as otherwise provided by law, in any order issued in resolution of a
27 disciplinary proceeding before any board within the department or before the
28 osteopathic Medical Board, upon request of the entity bringing the proceeding, the
administrative law judge may direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case.

 14. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on

1 Respondent's express admissions by way of default and the evidence before it, contained in
2 Exhibits 1, 2, 3, 4, 5 and 6, finds that the allegations in Accusation No. 800-2023-096533 are true.

3 15. The Medical Board of California further finds that pursuant to Business and
4 Professions Code section 125.3, the costs of investigation and enforcement of the case prayed for
5 in the Accusation total \$11,584.50 based on the Certification of Costs contained in Exhibits 7.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Souvanthong Khambouapha,
8 PTRN has subjected his Polysomnographic Trainee Registration No. PTRN 851 to discipline.

9 2. A copy of the Accusation and the related documents and Declaration of Service are
10 attached here as Exhibit 2.

11 3. The Board has jurisdiction to adjudicate this case by default.

12 4. Pursuant to Business and Professions Code section 125.3, the Board is authorized to
13 order Respondent to pay the Board the reasonable costs of investigation and enforcement of the
14 case prayed for in the Accusation total \$11,584.50, based on the Certification of Costs attached as
15 Exhibits 7 in the Exhibit Package.

16 5. The Medical Board of California is authorized to revoke Respondent's
17 Polysomnographic Trainee Registration based upon the following violations alleged in the
18 Accusation:

19 **FACTUAL ALLEGATIONS**

20 **March 11, 2023 – Arrest**

21 6. On or about March 11, 2023, at approximately 12:57 a.m., California Highway Patrol
22 (CHP) officers on routine patrol on the northbound Interstate 5 within Shasta County, California,
23 observed a vehicle traveling northbound passing the flow of traffic at a high rate of speed of 95
24 miles per hour in a 65 mile per hour zone. CHP officers initiated an enforcement stop of the
25 vehicle which yielded on the right shoulder of Interstate 5.

26 7. Respondent was identified as the driver of vehicle and sole occupant of the vehicle.
27 When CHP officers contacted Respondent they observed the distinct odor of alcohol emitting
28 from within the vehicle, and Respondent displayed the objective signs and symptoms of alcohol

1 intoxication such as, red and watery eyes, slurred speech, the distinct odor of alcohol emitting
2 from Respondent's breath, and an unsteady gait. Respondent claimed that he drank only "1 shot
3 and 2 beers" when asked how many alcoholic beverages he consumed before driving.

4 8. Based on the totality of circumstances, law enforcement officers formed the opinion
5 that Respondent was under the influence of alcohol and had Respondent perform a series of field
6 sobriety tests (FST's). According to the CHP officers, Respondent performed poorly on the FST's
7 and was placed under arrest for suspicion of operating a motor vehicle while under the influence
8 of alcohol. Respondent submitted to an Evidentiary Preliminary Alcohol Screening Test (BPAS),
9 which yielded a result of 0.16%, and 0.16% blood alcohol content (BAC). Respondent was then
10 transported to the Shasta County Jail and booked on the charges of violating California Vehicle
11 Code §23152, subdivision (a) [driving a vehicle under the influence of alcohol], and §23152,
12 subdivision (b) [driving a vehicle with a blood alcohol content over 0.08%].

13 March 4, 2024 – Conviction

14 9. On or about February 5, 2024, the Shasta County District Attorney filed a criminal
15 complaint against Respondent in the matter entitled, *The People of the State of California v.*
16 *Souvanthong Khambouapha*, Shasta County Superior Court Case No. 24CT-00761, for violations
17 of California Vehicle Code §23152, subdivisions (a) [driving under the influence of alcohol] and
18 (b) [driving with a BAC of 0.08% or higher] in two separate counts with the enhancement of
19 violating California Vehicle Code §23578 [driving with a blood alcohol content at or above
20 0.15%].

21 10. On or about March 4, 2024, Respondent was convicted upon his plea of nolo
22 contendere to count two of the criminal complaint in the matter entitled, *The People of the State*
23 *of California v. Souvanthong Khambouapha*, Shasta County Superior Court Case No. 24CT-
24 00761, to misdemeanor violation California Vehicle Code §23152, subdivision (b) [driving with a
25 BAC of 0.08% or higher] with an admission to the BAC of 0.16%.

26 11. Respondent was sentenced to three years' summary probation with five days of jail
27 custody and was subject to various terms and conditions, including two days of custody time in
28 jail, not to operate a motor vehicle with any measurable amount of alcohol, complete a First

1 Offender DUI program, installation of an Interlock Ignition Device (IID), restitution for damages,
2 fines, and fees.

3 October 8, 2023 – Arrest

4 12. On or about October 8, 2023, at approximately 11:55 p.m., CHP officers on routine
5 patrol within Shasta County, California, observed a vehicle make a left turn at an unsafe speed
6 and enter a parking lot. CHP officers conducted a traffic enforcement stop in which the driver of
7 the vehicle was slow to yield and then accelerated quickly causing the rear tires to squeal or break
8 traction. The vehicle continued forward and finally stopped and then parked.

9 13. Respondent was identified as the driver of vehicle and sole occupant of the vehicle.
10 When CHP officers contacted Respondent they observed the distinct odor of alcohol emitting
11 from within the vehicle, and Respondent displayed the objective signs and symptoms of alcohol
12 intoxication such as, red and watery eyes, slurred speech, the distinct odor of alcohol emitting
13 from Respondent's breath, and an unsteady gait. Respondent claimed that he drank two beers
14 when asked how many alcoholic beverages he consumed before driving.

15 14. Based on the totality of circumstances, law enforcement officers formed the opinion
16 that Respondent was under the influence of alcohol and had Respondent perform a series of
17 FST's. According to the CHP officers, Respondent failed to complete the FST's as explained
18 and/or demonstrated and was placed under arrest for suspicion of operating a motor vehicle while
19 under the influence of alcohol. Respondent submitted to a blood draw, which later yielded a result
20 of 0.248% BAC. Respondent was transported to the Shasta County Jail and booked on the
21 charges of violating California Vehicle Code §23152, subdivision (a) [driving a vehicle under the
22 influence of alcohol], and §23152, subdivision (b) [driving a vehicle with a blood alcohol content
23 over 0.08%].

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use of Any Alcoholic Beverage to the Extent, or in Such a Manner as to be Dangerous to**
3 **the Licensee, Another Person or the Public)**

4 15. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
5 Trainee Registration No. PTRN 851 to disciplinary action under sections 3576, subdivision (a),
6 sub-paragraph (3), and 3576.3, subdivision (b), of the Code, in that he used alcoholic beverages,
7 to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other
8 person or to the public, as more particularly alleged hereafter:

9 16. Complainant realleges paragraphs 6 through 14, and those paragraphs are
10 incorporated by reference as if fully set forth herein.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Conviction of a Crime Substantially Related to the Qualifications, Functions or Duties of a**
13 **Polysomnographic Technologist)**

14 17. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
15 Trainee Registration No. PTRN 851 to disciplinary action under sections 480, 490, 3576,
16 subdivision (a), sub-paragraphs (3) and (4), and 3576.3, subdivision (c), of the Code, in that he
17 was convicted of a crime substantially related to the qualifications, functions or duties of a
18 polysomnographic technologist, as more particularly alleged in paragraphs 6 through 14, above,
19 which are hereby incorporated by reference and realleged as if fully set forth herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(General Unprofessional Conduct)**

22 18. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
23 Trainee Registration No. PTRN 851 to disciplinary action under sections 3576, subdivision (a),
24 sub-paragraphs (3) and (4), and 3576.3, subdivision (a), of the Code, in that he engaged in
25 conduct which breached the rules or ethical code of the polysomnographic technologist
26 profession or which was unbecoming a member in good standing of the polysomnographic
27 technologist profession, and which demonstrates an unfitness to practice polysomnography, as
28 more particularly alleged in paragraphs 6 through 17, above, are hereby incorporated by reference
and realleged as if fully set forth herein.

1 **ORDER**

2 IT IS SO ORDERED that Polysomnographic Trainee Registration No. PTRN 851,
3 heretofore issued to Respondent Souvanthong Khambouapha, PTRN, is revoked. For each of the
4 violations, separately and severally, of the California Business and Professions Code found in the
5 Determination of Issues, above.

6 If Respondent ever files an application for relicensure or reinstatement in the State of
7 California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent
8 must comply with all laws, regulations, and procedures for reinstatement of a revoked license in
9 effect at the time the petition for reinstatement is filed.

10 Respondent Souvanthong Khambouapha, PTRN is ordered to pay the Board the costs of the
11 investigation and enforcement of this case in the amount of \$11,584.50. The filing of bankruptcy
12 by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its
13 costs. Respondent's Polysomnographic Trainee Registration License may not be renewed or
14 reinstated unless all costs ordered under Business and Professions Code section 125.3 have been
15 paid.

16 **Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a**
17 **written motion requesting that the Decision be vacated and stating the grounds relied on**
18 **within seven (7) days after service of the Decision on Respondent.** The Board in its discretion
19 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
20 statute.

21 This Decision shall become effective at 5:00 p.m. on SEP 30 2024.

22 It is so ORDERED AUG 30 2024

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24
25 JENNA JONES FOR
26 REJI VARGHESE
27 EXECUTIVE DIRECTOR
28 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Default Decision Evidence Packet

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8 *Attorneys for Complainant*

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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2023-096533

14 **Souvanthong Khambouapha, PTRN**
751 Hilltop Dr. Apt 3
15 Redding, CA 96003-3794

A C C U S A T I O N

16 **Polysomnographic Trainee Registration**
No. PTRN 851,

17 Respondent.
18

19 **PARTIES**

20 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
21 the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about October 10, 2016, the Medical Board issued Polysomnographic Trainee
24 Registration No. PTRN 851 to Souvanthong Khambouapha, PTRN (Respondent). The
25 Polysomnographic Trainee Registration expired on September 30, 2020, and has not been
26 renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 3575 of the Code states, pertinent part:

“(a) For the purposes of this chapter, the following definitions shall apply:

(1) “Board” means the Medical Board of California.

...”

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

7. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee’s choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

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STATUTORY PROVISIONS

8. Section 480 of the Code states:

(a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

(i) Chapter 6 (commencing with Section 6500) of Division 3.

(ii) Chapter 9 (commencing with Section 7000) of Division 3.

(iii) Chapter 11.3 (commencing with Section 7512) of Division 3.

(iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.

(v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement. Formal discipline that occurred earlier than seven years preceding the date of application may be grounds for denial of a license only if the formal discipline was for conduct that, if committed in this state by a

1 physician and surgeon licensed pursuant to Chapter 5 (commencing with Section
2 2000) of Division 2, would have constituted an act of sexual abuse, misconduct, or
3 relations with a patient pursuant to Section 726 or sexual exploitation as defined in
4 subdivision (a) of Section 729.

5 (b) Notwithstanding any other provision of this code, a person shall not be
6 denied a license on the basis that the person has been convicted of a crime, or on the
7 basis of acts underlying a conviction for a crime, if that person has obtained a
8 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of
9 Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state
10 or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

11 (c) Notwithstanding any other provision of this code, a person shall not be
12 denied a license on the basis of any conviction, or on the basis of the acts underlying
13 the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41,
14 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.
15 An applicant who has a conviction that has been dismissed pursuant to Section
16 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the
17 dismissal if it is not reflected on the report furnished by the Department of Justice.

18 (d) Notwithstanding any other provision of this code, a board shall not deny a
19 license on the basis of an arrest that resulted in a disposition other than a conviction,
20 including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

21 (e) A board may deny a license regulated by this code on the ground that the
22 applicant knowingly made a false statement of fact that is required to be revealed in
23 the application for the license. A board shall not deny a license based solely on an
24 applicant's failure to disclose a fact that would not have been cause for denial of the
25 license had it been disclosed.

26 (f) A board shall follow the following procedures in requesting or acting on an
27 applicant's criminal history information:

28 (1) A board issuing a license pursuant to Chapter 3 (commencing with Section
5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with
Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3
(commencing with Section 9880), of Division 3, or Chapter 3 (commencing with
Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may
require applicants for licensure under those chapters to disclose criminal conviction
history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant
for licensure to disclose any information or documentation regarding the applicant's
criminal history. However, a board may request mitigating information from an
applicant regarding the applicant's criminal history for purposes of determining
substantial relation or demonstrating evidence of rehabilitation, provided that the
applicant is informed that disclosure is voluntary and that the applicant's decision not
to disclose any information shall not be a factor in a board's decision to grant or deny
an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part
on the applicant's conviction history, the board shall notify the applicant in writing of
all of the following:

(A) The denial or disqualification of licensure.

1 (B) Any existing procedure the board has for the applicant to challenge the
decision or to request reconsideration.

2 (C) That the applicant has the right to appeal the board's decision.

3 (D) The processes for the applicant to request a copy of the applicant's
4 complete conviction history and question the accuracy or completeness of the record
pursuant to Sections 11122 to 11127 of the Penal Code.

5 (g) (1) For a minimum of three years, each board under this code shall retain
6 application forms and other documents submitted by an applicant, any notice
provided to an applicant, all other communications received from and provided to an
7 applicant, and criminal history reports of an applicant.

8 (2) Each board under this code shall retain the number of applications received
for each license and the number of applications requiring inquiries regarding criminal
9 history. In addition, each licensing authority shall retain all of the following
information:

10 (A) The number of applicants with a criminal record who received notice of
denial or disqualification of licensure.

11 (B) The number of applicants with a criminal record who provided evidence of
12 mitigation or rehabilitation.

13 (C) The number of applicants with a criminal record who appealed any denial
14 or disqualification of licensure.

15 (D) The final disposition and demographic information, consisting of
voluntarily provided information on race or gender, of any applicant described in
16 subparagraph (A), (B), or (C).

17 (3) (A) Each board under this code shall annually make available to the public
through the board's internet website and through a report submitted to the appropriate
18 policy committees of the Legislature deidentified information collected pursuant to
this subdivision. Each board shall ensure confidentiality of the individual applicants.

19 (B) A report pursuant to subparagraph (A) shall be submitted in compliance
20 with Section 9795 of the Government Code.

21 (h) "Conviction" as used in this section shall have the same meaning as defined
in Section 7.5.

22 (i) This section does not in any way modify or otherwise affect the existing
23 authority of the following entities in regard to licensure:

24 (1) The State Athletic Commission.

25 (2) The Bureau for Private Postsecondary Education.

26 (3) The California Horse Racing Board.

27 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
28 revoke a license on the ground that the licensee has been convicted of a crime substantially

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 10. Section 493 of the Code states:

4 (a) Notwithstanding any other law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or
6 revoke a license or otherwise take disciplinary action against a person who holds a
7 license, upon the ground that the applicant or the licensee has been convicted of a
crime substantially related to the qualifications, functions, and duties of the licensee
in question, the record of conviction of the crime shall be conclusive evidence of the
fact that the conviction occurred, but only of that fact.

8 (b) (1) Criteria for determining whether a crime is substantially related to the
9 qualifications, functions, or duties of the business or profession the board regulates
shall include all of the following:

10 (A) The nature and gravity of the offense.

11 (B) The number of years elapsed since the date of the offense.

12 (C) The nature and duties of the profession.

13 (2) A board shall not categorically bar an applicant based solely on the type of
14 conviction without considering evidence of rehabilitation.

15 (c) As used in this section, "license" includes "certificate," "permit,"
"authority," and "registration."

16 (d) This section does not in any way modify or otherwise affect the existing
17 authority of the following entities in regard to licensure:

18 (1) The State Athletic Commission.

19 (2) The Bureau for Private Postsecondary Education.

20 (3) The California Horse Racing Board.

21 (e) This section shall become operative on July 1, 2020.

22 11. Section 3576 of the Code states:

23 (a) A registration under this chapter may be denied, suspended, revoked, placed
24 on probation, or otherwise subjected to discipline for any of the following by the
holder:

25 (1) Incompetence, gross negligence, or repeated similar negligent acts
performed by the registrant.

26 (2) An act of dishonesty or fraud.

27 (3) Committing any act or being convicted of a crime constituting grounds for
28 denial of licensure or registration under Section 480.

1 (4) Violating or attempting to violate this chapter or any regulation adopted
under this chapter.

2 (b) Proceedings under this section shall be conducted in accordance with
3 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
Government Code, and the board shall have all powers granted therein.

4 12. Section 3576.3 of the Code states:

5 (a) The board may suspend or revoke the registration of a polysomnographic
6 technologist, polysomnographic technician, or polysomnographic trainee for
unprofessional conduct¹ as described in this section.

7 (b) The use of any controlled substance or the use of any of the dangerous drugs
8 specified in Section 4022, or of alcoholic beverages, to the extent, or in such a
manner as to be dangerous or injurious to the registrant, or to any other person or to
9 the public, or to the extent that this use impairs the ability of the registrant to practice
safely or more than one misdemeanor or any felony conviction involving the use,
10 consumption, or self-administration of any of the substances referred to in this
section, or any combination thereof, constitutes unprofessional conduct. The record of
the conviction is conclusive evidence of this unprofessional conduct.

11 (c) A plea or verdict of guilty or a conviction following a plea of nolo
12 contendere is deemed to be a conviction within the meaning of this section. The board
may order discipline of the registrant in accordance with Section 2227 or may order
13 the denial of the registration when the time for appeal has elapsed or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
14 suspending imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing this person to withdraw his
15 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, complaint, information, or indictment.

16 COST RECOVERY

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
21 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
22 included in a stipulated settlement.

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27 ¹ Unprofessional conduct is conduct which breaches the rules of the ethical code of the profession,
28 or conduct which is unbecoming to a member in good standing of a profession. (*Shea v. Board of Medical
Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 FACTUAL ALLEGATIONS

2 March 11, 2023 – Arrest

3 14. On or about March 11, 2023, at approximately 12:57 a.m., California Highway Patrol
4 (CHP) officers on routine patrol on the northbound Interstate 5 within Shasta County, California,
5 observed a vehicle traveling northbound passing the flow of traffic at a high rate of speed of 95
6 miles per hour in a 65 mile per hour zone. CHP officers initiated an enforcement stop of the
7 vehicle which yielded on the right shoulder of Interstate 5.

8 15. Respondent was identified as the driver of vehicle and sole occupant of the vehicle.
9 When CHP officers contacted Respondent they observed the distinct odor of alcohol emitting
10 from within the vehicle, and Respondent displayed the objective signs and symptoms of alcohol
11 intoxication such as, red and watery eyes, slurred speech, the distinct odor of alcohol emitting
12 from Respondent's breath, and an unsteady gait. Respondent claimed that he drank only "1 shot
13 and 2 beers" when asked how many alcoholic beverages he consumed before driving.

14 16. Based on the totality of circumstances, law enforcement officers formed the opinion
15 that Respondent was under the influence of alcohol and had Respondent perform a series of field
16 sobriety tests (FST's). According to the CHP officers, Respondent performed poorly on the FST's
17 and was placed under arrest for suspicion of operating a motor vehicle while under the influence
18 of alcohol. Respondent submitted to an Evidentiary Preliminary Alcohol Screening Test (BPAS),
19 which yielded a result of 0.16% and 0.16% blood alcohol content (BAC). Respondent was then
20 transported to the Shasta County Jail and booked on the charges of violating California Vehicle
21 Code §23152, subdivision (a) [driving a vehicle under the influence of alcohol], and §23152,
22 subdivision (b) [driving a vehicle with a blood alcohol content over 0.08%].

23 March 4, 2024 – Conviction

24 17. On or about February 5, 2024, the Shasta County District Attorney filed a criminal
25 complaint against Respondent in the matter entitled, *The People of the State of California v.*
26 *Souvanthong Khambouapha*, Shasta County Superior Court Case No. 24CT-00761, for violations
27 of California Vehicle Code §23152, subdivisions (a) [driving under the influence of alcohol] and
28 (b) [driving with a BAC of 0.08% or higher] in two separate counts with the enhancement of

1 violating California Vehicle Code §23578 [driving with a blood alcohol content at or above
2 0.15%].

3 18. On or about March 4, 2024, Respondent was convicted upon his plea of nolo
4 contendere to count two of the criminal complaint in the matter entitled, *The People of the State*
5 *of California v. Souvanthong Khambouapha*, Shasta County Superior Court Case No. 24CT-
6 00761, to misdemeanor violation California Vehicle Code §23152, subdivision (b) [driving with a
7 BAC of 0.08% or higher] with an admission to the BAC of 0.16%.

8 19. Respondent was sentenced to three years' summary probation with five days of jail
9 custody and was subject to various terms and conditions, including two days of custody time in
10 jail, not to operate a motor vehicle with any measurable amount of alcohol, complete a First
11 Offender DUI program, installation of an Interlock Ignition Device (IID), restitution for damages,
12 fines, and fees.

13 October 8, 2023 -- Arrest

14 20. On or about October 8, 2023, at approximately 11:55 p.m., CHP officers on routine
15 patrol within Shasta County, California, observed a vehicle make a left turn at an unsafe speed
16 and enter a parking lot. CHP officers conducted a traffic enforcement stop in which the driver of
17 the vehicle was slow to yield and then accelerated quickly causing the rear tires to squeal or break
18 traction. The vehicle continued forward and finally stopped and then parked.

19 21. Respondent was identified as the driver of vehicle and sole occupant of the vehicle.
20 When CHP officers contacted Respondent they observed the distinct odor of alcohol emitting
21 from within the vehicle, and Respondent displayed the objective signs and symptoms of alcohol
22 intoxication such as, red and watery eyes, slurred speech, the distinct odor of alcohol emitting
23 from Respondent's breath, and an unsteady gait. Respondent claimed that he drank two beers
24 when asked how many alcoholic beverages he consumed before driving.

25 22. Based on the totality of circumstances, law enforcement officers formed the opinion
26 that Respondent was under the influence of alcohol and had Respondent perform a series of
27 FST's. According to the CHP officers, Respondent failed to complete the FST's as explained
28 and/or demonstrated and was placed under arrest for suspicion of operating a motor vehicle while

1 under the influence of alcohol. Respondent submitted to a blood draw, which later yielded a result
2 of 0.248% BAC. Respondent was transported to the Shasta County Jail and booked on the
3 charges of violating California Vehicle Code §23152, subdivision (a) [driving a vehicle under the
4 influence of alcohol], and §23152, subdivision (b) [driving a vehicle with a blood alcohol content
5 over 0.08%].

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Use of Any Alcoholic Beverage to the Extent, or in Such a Manner as to be Dangerous to
the Licensee, Another Person or the Public)**

8 23. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
9 Trainee Registration No. PTRN 851 to disciplinary action under sections 3576, subdivision (a),
10 sub-paragraph (3), and 3576.3, subdivision (b), of the Code, in that he used alcoholic beverages,
11 to the extent, or in such a manner as to be dangerous or injurious to the registrant, or to any other
12 person or to the public, as more particularly alleged hereafter:

13 24. Complainant realleges paragraphs 14 through 22, and those paragraphs are
14 incorporated by reference as if fully set forth herein.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Conviction of a Crime Substantially Related to the Qualifications, Functions or Duties of a
17 Polysomnographic Technologist)**

18 25. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
19 Trainee Registration No. PTRN 851 to disciplinary action under sections 480, 490, 3576,
20 subdivision (a), sub-paragraphs (3) and (4), and 3576.3, subdivision (c), of the Code, in that he
21 was convicted of a crime substantially related to the qualifications, functions or duties of a
22 polysomnographic technologist, as more particularly alleged in paragraphs 14 through 22, above,
23 which are hereby incorporated by reference and realleged as if fully set forth herein.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(General Unprofessional Conduct)**

26 26. Respondent Souvanthong Khambouapha, PTRN has subjected his Polysomnographic
27 Trainee Registration No. PTRN 851 to disciplinary action under sections 3576, subdivision (a),
28 sub-paragraphs (3) and (4), and 3576.3, subdivision (a), of the Code, in that he engaged in


1 conduct which breached the rules or ethical code of the polysomnographic technologist
2 profession or which was unbecoming a member in good standing of the polysomnographic
3 technologist profession, and which demonstrates an unfitness to practice polysomnography, as
4 more particularly alleged in paragraphs 14 through 25, above, are hereby incorporated by
5 reference and realleged as if fully set forth herein.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Medical Board of California issue a decision:

- 9 1. Revoking or suspending Polysomnographic Trainee Registration No. PTRN 851,
10 issued to Respondent Souvanthong Khambouapha, PTRN;
11 2. Ordering Respondent Souvanthong Khambouapha, PTRN, to pay the Board the costs
12 of the investigation and enforcement of this case, and if placed on probation, the costs of
13 probation monitoring; and
14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: MAY 31 2024

17 
18 REJI VARGHESE
19 Executive Director
20 Medical Board of California
21 Department of Consumer Affairs
22 State of California
23 Complainant

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