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

In the Matter of the Accusation Against: Maria Ivana Cabrera, PTGL Physician's and Surgeon's Certificate No. PTGL 602 Respondent.	Case No. 800-2022-089897

DECISION

The attached Default Decision and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 12, 2024. IT IS SO ORDERED December 14, 2023.

MEDICAL BOARD OF CALIFORNIA

Reji Varghese
Executive Director

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

In the Matter of the Accusation Against, **MARIA IVANA CABRERA** **416 Blackburn Ct.** **Watsonville, CA 95076-5000** **Polysomnographic Technologist** **No. PTGL 602** Respondent.	Case No. 800-2022-089897 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 4, 2023, Complainant Reji Varghese, in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, filed Accusation No. 800-2022-089897 against MARIA IVANA CABRERA (Respondent) before the Medical Board of California.

2. On or about February 4, 2014, the Medical Board of California (Board) issued Polysomnographic Technologist No. PTGL 602 to Respondent. The Polysomnographic Technologist was in full force and effect at all times relevant to the charges brought herein and

will expire on January 31, 2024, unless renewed.[1] (Exhibit Package, Exhibit 1, Certificate of Licensure.)

3. On March 27, 2023, in the *People of the State of California v. Maria Ivana Cabrera*, Kern County Superior Court Case No. SM126626A, Respondent pled guilty to violating Vehicle Code section 23152(b), a misdemeanor, for driving a vehicle with a BAC of .08% or more. Respondent also admitted to the enhancement of driving with a BAC in excess of 0.20% and refused to take a chemical test, pursuant to Vehicle Code section 23538(b)(2). (Exhibit Package, Exhibit 2, Certified Conviction.)

4. On or about August 4, 2023, Samuel Guardado, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. 800-2022-089897, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 416 Blackburn Ct., Watsonville, CA 95076-5000. (Exhibit Package, Exhibit 3, copy of the Accusation and accompanying documents, and Declarations of Service.)

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

6. On or about August 14, 2023, the aforementioned documents were returned by the U.S. Postal Service marked "Return to Sender. Attempted – Not Known. Unable to Forward." A copy of the United States Postal Service history for this package was drawn from the following location, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70211970000139277099%2C&tABt=false. (Exhibit Package, Exhibit 4, U.S. P.S. Tracking History and copy of U.S.P.S. Return Envelope of Accusation No. 800-2022-089897.)

7. On or about August 23, 2023, counsel for Complainant served a Courtesy Notice of Default upon Respondent at Respondent's address of record and via E-mail. The Notice of Default provided Respondent with a copy of the Accusation, the Statement to Respondent, a

[1] The evidence in support of this Default Decision and Order is submitted herewith as the "Exhibit Package."

Notice of Defense, Request for Discovery, and discovery statutes, and advised Respondent that she was in default. (Exhibit Package, Exhibit 5, copy of the Courtesy Notice of Default and Declaration of Service.)

8. The Courtesy Notice of Default sent to Respondent was also returned by the United States Postal Service, after it was unable to deliver the envelope. A review of the U.S. Postal Service Tracking System shows on August 25, 2023, a delivery attempt was made and a "Notice Left (No Authorized Recipient Available)." A copy of the United States Postal Service history for this package was drawn from the following location, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=9414726699042197668259%2C (Exhibit Package, Exhibit 6, U.S.P.S. Tracking History and copy of U.S.P.S. Return Envelope of Courtesy Notice of Default and Declaration of Service.)

9. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 800-2022-089897.

10. Pursuant to the Business and Professions Code section 125.3, the Board finds that the costs of investigation and enforcement of the case prayed for in Accusation No. 800-2022-089897 total $4,588.75. (Exhibit Package, Exhibit 7, Certification of Prosecution Costs: Declaration of Kendra S. Rivas.)

STATUTORY AUTHORITY

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

. . .

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

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

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence

and affidavits may be used as evidence without any notice to respondent.

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

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the 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 Respondent's express admissions by way of default and the evidence before it, contained in **Exhibits 1, 2, 3, 4, 5, 6, and 7** finds that the allegations in Accusation No. 800-2022-089897 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent MARIA IVANA CABRERA has subjected her Polysomnographic Technologist No. PTGL 602 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached to the Exhibit Package.

3. The agency has jurisdiction to adjudicate this case by default.

4. 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 Respondent's express admissions by way of default and the evidence before it, contained in the Exhibit Package finds that the allegations in Accusation No. 800-2022-089897 are true:

a. Respondent is subject to disciplinary action under Code sections 3576, subdivision (a)(3) [conviction of a crime], and/or 3576, subdivision (a)(4) [violating or attempting to violate the chapter], and/or 3576.3, subdivision (a) [unprofessional conduct], and/or 3576.3, subdivision (c) [conviction of a crime] because Respondent engaged in unprofessional conduct in that on March 27, 2023, in a criminal proceeding entitled *People of the State of California v. Maria Ivana Cabrera*, Kern County Superior Court Case No. SM126626A, Respondent pleaded

guilty to violating Vehicle Code section 23152(b), driving on July 9, 2022, with a BAC in excess of .08% or more. Additionally, Respondent admitted to the enhancement of driving with a BAC in excess of 0.20% and refused to take a chemical test, pursuant to Vehicle Code section 23538(b)(2).

5. The Medical Board of California is authorized to revoke Respondent's Polysomnographic Technologist based upon the above-referenced violations alleged in Accusation 800-2022-089897.

6. Pursuant to Business and Professions Code section 125.3, the Board finds that the costs of investigation and enforcement of the case prayed for in Accusation 800-2022-089897 total $4,588.75.

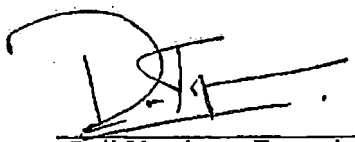
ORDER

IT IS SO ORDERED that Polysomnographic Technologist No. PTGL 602, heretofore issued to Respondent MARIA IVANA CABRERA, is revoked. Respondent MARIA IVANA CABRERA is ordered to pay the Board the costs of the investigation and enforcement of this case in the amount of $4,588.75.

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

This Decision shall become effective at 5:00 p.m. on January 12, 2024

It is so ORDERED December 14, 2023



Reji Varghese, Executive Director
FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

SF2023400931/Cabrera Default Decision and Order -Final

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

In the Matter of the Accusation Against: **Maria Ivana Cabrera, PTGL** **416 Blackburn Court** **Watsonville, CA 95076-5000** **Polysomnographic Technologist** **No. PTGL 602,** Respondent.	Case No. 800-2022-089897 **ACCUSATION**

PARTIES

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

2. On February 4, 2014, the Medical Board issued Polysomnographic Technologist Number PTGL 602 to Maria Ivana Cabrera, PTGL (Respondent). The Polysomnographic Technologist registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2024, unless 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 2001.1 of the Code states:

Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

5. Section 2227 of the Code provides that a licensee 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.

6. Section 3576 of the Code, in pertinent part, states:

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

...

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

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

(b) Proceedings under this section shall be conducted in accordance with 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.

7. Section 3576.3 of the Code states:

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

(b) The use of any controlled substance or the use of any of the dangerous drugs 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 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, 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.

(c) A plea or verdict of guilty or a conviction following a plea of nolo 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 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 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 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.

8. Section 480 of the Code, in pertinent part, 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. ...

...

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

10. On July 9, 2022, at approximately 11:35 a.m., California Highway Patrol arrested Respondent for driving under the influence of alcohol after striking the rear of another vehicle. Respondent had a blood alcohol content (BAC) of 0.27% after her arrest while at a California Highway Patrol Office.

11. On March 27, 2023, in the *People of the State of California v. Maria Ivana Cabrera*, Kern County Superior Court Case No. SM126626A, Respondent pleaded guilty to violating Vehicle Code section 23152(b), a misdemeanor, for driving a vehicle with a BAC of .08% or more. Respondent also admitted to the enhancement of driving with a BAC in excess of 0.20% and refused to take a chemical test, pursuant to Vehicle Code section 23538(b)(2). Respondent was placed on three years of probation, two days of jail time, with standard DUI terms, such as completing DUI School for nine months or longer, submitting to blood, breath, or urine test upon request by a peace officer, participating in victim impact panel, and paying fees and fines.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Criminal Conviction/Dangerous Use of Alcohol)

12. Paragraphs 10 through 11 are incorporated by reference as if fully set forth herein.

13. Respondent is subject to disciplinary action under section 3576, subdivision (a)(3) [conviction of a crime], and/or 3576, subdivision (a)(4) [violating or attempting to violate the chapter], and/or 3576.3, subdivision (a) [unprofessional conduct], and/or 3576.3, subdivision (c) [conviction of a crime] because Respondent engaged in unprofessional conduct in that on March 27, 2023, in a criminal proceeding entitled *People of the State of California v. Maria Ivana*

Cabrera, Kern County Superior Court Case No. SM126626A, Respondent pleaded guilty to violating Vehicle Code section 23152(b), driving on July 9, 2022, with a BAC in excess of .08% or more. Additionally, Respondent admitted to the enhancement of driving with a BAC in excess of 0.20% and refused to take a chemical test, pursuant to Vehicle Code section 23538(b)(2).

PRAYER

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

1. Revoking or suspending Polysomnographic Technologist Number PTGL 602, issued to Respondent Maria Ivana Cabrera, PTGL;

2. Ordering Respondent Maria Ivana Cabrera, PTGL, to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

3. Taking such other and further action as deemed necessary and proper.

DATED: AUG 04 2023

REJI VARGHESE
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant