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

In the Matter of the First Amended Accusation Against: Ryan Joseph Rocha, PTGL Physician's and Surgeon's Certificate No. PTGL 26 Respondent.	Case No. 800-2022-086558

DECISION

The attached Stipulated Surrender of License 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 February 9, 2024.

IT IS SO ORDERED January 12, 2024.

MEDICAL BOARD OF CALIFORNIA

Jenna Jones for
Reji Varghese
Executive Director

ROB BONTA
Attorney General of California
GREG W. CHAMBERS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: **RYAN JOSEPH ROCHA, PTGL** **1571 Shore Drive** **San Jose, CA 95131-4010** **Polysomnographic Technologist No. PTGL 26** Respondent.	Case No. 800-2022-086558 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Kendra S. Rivas, Deputy Attorney General.

2. Ryan Joseph Rocha, PTGL (Respondent) is represented in this proceeding by attorney Lucy S. McAllister, whose address is: 255 N. Market Street, Suite 100, San Jose, CA 95110.

3. On or about October 25, 2012, the Board issued Polysomnographic Technologist No. PTGL 26 to Respondent. That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2022-086558 and expires on October 31, 2024, unless renewed.

JURISDICTION

4. Accusation No. 800-2022-086558 was filed before the Board, and along with other statutorily required documents were properly served on Respondent on June 16, 2023. Respondent timely filed his Notice of Defense contesting the Accusation. The First Amended Accusation was filed and served on August 4, 2023. A copy of First Amended Accusation No. 800-2022-086558 is attached as exhibit A.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2022-086558. Respondent has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 800-2022-086558, agrees that cause exists for discipline and hereby surrenders his Polysomnographic Technologist No. PTGL 26 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Polysomnographic Technologist without further process.

CONTINGENCY

10. Business and Professions Code section 2224, subdivision (b), provides, in pertinent part, that the Medical Board "shall delegate to its executive director the authority to adopt a ... stipulation for surrender of a license."

11. Respondent understands that, by signing this stipulation, he enables the Executive Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his Polysomnographic Technologist No. PTGL 26 without further notice to, or opportunity to be heard by, Respondent.

12. This Stipulated Surrender of License and Disciplinary Order shall be subject to the approval of the Executive Director on behalf of the Board. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive Director for his consideration in the above-entitled matter and, further, that the Executive Director shall have a reasonable period of time in which to consider and act on this Stipulated Surrender of License and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board, considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Executive Director on behalf of the Board does not, in his discretion, approve and adopt this

Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties agree that copies of this Stipulated Surrender of License and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

16. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Polysomnographic Technologist No. PTGL 26, issued to Respondent Ryan Joseph Rocha, PTGL, is surrendered and accepted by the Board.

1. The surrender of Respondent Ryan Joseph Rocha's Polysomnographic Technologist license, No. PTGL 26, and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent Ryan Joseph Rocha. This stipulation constitutes a record of the discipline and shall become a part of Respondent Ryan Joseph Rocha's license history with the Board.

2. Respondent Ryan Joseph Rocha shall lose all rights and privileges as a Polysomnographic Technologist in California as of the effective date of the Board's Decision and Order.

3. Respondent Ryan Joseph Rocha shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent Ryan Joseph Rocha ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in First Amended Accusation No. 800-2022-086558 shall be deemed to be true, correct and admitted by Respondent Ryan Joseph Rocha when the Board determines whether to grant or deny the petition.

5. If Respondent Ryan Joseph Rocha should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in First Amended Accusation No. 800-2022-086558 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent Ryan Joseph Rocha shall pay the agency its costs of investigation and enforcement in the amount of $13,487.25 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Lucy S. McAllister. I understand the stipulation and the effect it will have on my Polysomnographic Technologist license. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12/12/2023

DocuSigned by:
Ryan Rocha
0EF57BCA3B9B4F5...

RYAN JOSEPH ROCHA, PTGL
Respondent

I have read and fully discussed with Respondent Ryan Joseph Rocha, PTGL the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12/12/2023

DocuSigned by:
LUCY MCALLISTER
2BC1A09798A34B0...

LUCY S. MCALLISTER
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 12/12/2023

Respectfully submitted,

ROB BONTA
Attorney General of California
GREG W. CHAMBERS
Supervising Deputy Attorney General

/s/ Kendra Rivas

KENDRA S. RIVAS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2022-086558

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Attorneys for Complainant

BEFORE THE
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In the Matter of the First Amended Accusation Against: **RYAN JOSEPH ROCHA, PTGL** **1571 Shore Drive** **San Jose, CA 95131-4010** **Polysomnographic Technologist License No. PTGL 26,** Respondent.	Case No. 800-2022-086558 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about October 25, 2012, the Medical Board issued Polysomnographic Technologist License No. PTGL 26 to Ryan Joseph Rocha, PTGL (Respondent). The Polysomnographic Technologist license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2024, unless renewed.

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JURISDICTION

3. This First Amended 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 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.

5. Section 2234 of the Code, in pertinent part, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

. . .

(f) Any action or conduct that would have warranted the denial of a certificate.

6. Section 2236 of the Code, in pertinent part, states:

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a licensee constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

. . .

(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

7. Section 2239 of the Code states:

(a) The use or prescribing for or administering to himself or herself, 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 licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee

to practice medicine safely or more than one misdemeanor or any felony 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 such unprofessional conduct.

(b) 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 Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license 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 such 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. California Code of Regulations, title 16, section 1360, states:

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

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 violated the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. Licensee's

failure to comply will result in the license 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 or about March 4, 2022, at approximately 12:50 a.m., Respondent was arrested for driving under the influence of alcohol after being spotted repeatedly crossing double yellow lines while driving in Amador County. Respondent had a BAC of 0.38% at the scene.

11. On or about June 15, 2022, in a criminal proceeding entitled *People of the State of California v. Ryan Joseph Rocha*, in the Amador County Superior Court, Case No. 22CR31617, Respondent was convicted by plea of "no contest" to violating California Vehicle Code section 23152(b), driving with a blood alcohol content (BAC) in excess of .08%, and violating Vehicle Code Section 23578, driving with a BAC greater that .20%. Respondent was placed on 3 years' probation with standard DUI terms, including, serving 10 days in jail, participating and successfully completing the First Offender Program, ignition interlock device ordered installed on any vehicle owned or operated for a term of 6 months, and payment of fees and fines.

CAUSE FOR DISCIPLINE

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

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

13. Respondent is subject to disciplinary action for engaging in unprofessional conduct, pursuant to section 2234 of the Code by virtue of the fact that Respondent drove a vehicle while under the influence of an excessive amount of alcohol in a manner dangerous to Respondent and others in violation of section 2239 of the Code. Further, Respondent is subject to disciplinary action by virtue of his criminal conviction in *People of the State of California v. Ryan Joseph Rocha*, in the Amador County Superior Court, Case No. 22CR31617, which is substantially related to the qualifications, functions and duties of a physician and surgeon, and constitutes unprofessional conduct and cause for discipline pursuant to sections 2234 and 2236 of the Code, and title 16, section 1360 of the California Code of Regulations.

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 License Number PTGL 26, issued to Ryan Joseph Rocha, PTGL;

2. Ordering Ryan Joseph Rocha, 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.

DATED: AUG 04 2023

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