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

In the Matter of the Accusation Against:

**JANITA KIRAN
4661 Whirlaway Lane
Tracy, CA 95377**

**Pharmacy Technician Registration No. TCH
64948**

Respondent.

Case No. 7193

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 11, 2021, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 7193 against Janita Kiran (Respondent) before the Board of Pharmacy (Board). (Accusation attached as Exhibit A.)

2. On or about September 19, 2005, the Board issued Pharmacy Technician Registration No. TCH 64948 to Respondent. The Pharmacy Technician Registration was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 7193 and will expire on
2 January 31, 2023, unless renewed.

3 3. On or about February 23, 2022, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 7193, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of
8 record was and is: 4661 Whirlaway Lane, Tracy, CA 95377¹.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505(c) and/or Business and Professions Code section 124.

11 5. Government Code section 11506(c) 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
14 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
15 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
16 discretion may nevertheless grant a hearing.

17 6. The Board takes official notice of its records and the fact that Respondent failed to
18 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
19 waived her right to a hearing on the merits of Accusation No. 7193.

20 7. California Government Code section 11520(a) states, in pertinent part:

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
28 as well as taking official notice of all the investigatory reports, exhibits and statements contained
therein on file at the Board's offices regarding the allegations contained in Accusation No. 7193,

¹ Respondent was initially served on or about October 15, 2021, however, due to a
typographical error the address of record was incorrect, and the service was made at 4461
Whirlaway Lane, Tracy, CA 95377.

1 finds that the charges and allegations in Accusation No. 7193, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 9. The Board finds that the actual costs for Investigation and Enforcement are \$3,245.00
4 as of April 20, 2022.

5 **DETERMINATION OF ISSUES**

6 1. Based on the foregoing findings of fact, Respondent Janita Kiran has subjected her
7 Pharmacy Technician Registration No. TCH 64948 to discipline.

8 2. The agency has jurisdiction to adjudicate this case by default.

9 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
10 Registration based upon the following violations alleged in the Accusation which are supported
11 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

12 a. Respondent is subject to disciplinary action under Code section 490, subdivision (a),
13 and 4301 subdivision (l);

14 b. Respondent is subject to disciplinary action under Code section 4301 subdivision (h);

15 c. Respondent is subject to disciplinary action under Code section 4301, subdivision (k).

16 **ORDER**

17 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 64948, issued to
18 Respondent Janita Kiran, is revoked.

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

23 This Decision shall become effective at 5:00 p.m. on June 23, 2022.

24 It is so ORDERED on May 24, 2022.



25
26

Seung W. Oh, Pharm.D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 KAREN R. DENVER
Supervising Deputy Attorney General
3 KATELYN E. DOCHERTY
Deputy Attorney General
4 State Bar No. 322028
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6277
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7193

13 **JANITA KIRAN**
14 **4461 Whirlaway Lane**
Tracy, CA 95377

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **64948**

17 Respondent.

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21 **PARTIES**

22 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about September 19, 2005, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 64948 to Janita Kiran (Respondent). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on January 31, 2023, unless renewed.

28 ///

1 **JURISDICTION**

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

5 4. Section 4300 of the Code states, in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the board,
8 whose default has been entered or whose case has been heard by the board and found
9 guilty, by any of the following methods:

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

12 (3) Suspending his or her right to practice for a period not exceeding one year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board in
15 its discretion may deem proper.

16 ...

17 (e) The proceedings under this article shall be conducted in accordance with
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
19 Government Code, and the board shall have all the powers granted therein. The
20 action shall be final, except that the propriety of the action is subject to review by the
21 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

22 5. Section 4300.1 of the Code states:

23 The expiration, cancellation, forfeiture, or suspension of a board-issued license
24 by operation of law or by order or decision of the board or a court of law, the
25 placement of a license on a retired status, or the voluntary surrender of a license by a
26 licensee shall not deprive the board of jurisdiction to commence or proceed with any
27 investigation of, or action or disciplinary proceeding against, the licensee or to render
28 a decision suspending or revoking the license.

24 **STATUTORY PROVISIONS**

25 6. Section 409 of the Code states, in pertinent part:

26 (a) In addition to any other action that a board is permitted to take against a
27 licensee, a board may suspend or revoke a license on the ground that the licensee has
28 been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

1 7. Section 4301 of the Code states, in pertinent part:

2 The board shall take action against any holder of a license who is guilty of
3 unprofessional conduct or whose license has been issued by mistake. Unprofessional
4 conduct shall include, but is not limited to, any of the following:

5 ...

6 (h) The administering to oneself, of any controlled substance, or the use of any
7 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
8 injurious to oneself, to a person holding a license under this chapter, or to any other person
9 or to the public, or to the extent that the use impairs the ability of the person to conduct with
10 safety to the public the practice authorized by the license.

11 ...

12 (k) The conviction of more than one misdemeanor or any felony involving the
13 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
14 or any combination of those substances.

15 (l) The conviction of a crime substantially related to the qualifications, functions, and
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
18 substances or of a violation of the statutes of this state regulating controlled substances or
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases,
20 the record of conviction shall be conclusive evidence only of the fact that the conviction
21 occurred. The board may inquire into the circumstances surrounding the commission of the
22 crime, in order to fix the degree of discipline or, in the case of a conviction not involving
23 controlled substances or dangerous drugs, to determine if the conviction is of an offense
24 substantially related to the qualifications, functions, and duties of a licensee under this
25 chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is
26 deemed to be a conviction within the meaning of this provision. The board may take action
27 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on
28 appeal or when an order granting probation is made suspending the imposition of sentence,
irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
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, information, or indictment.

COST RECOVERY

8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate 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.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 9. Respondent is subject to disciplinary action under Code section 490, subdivision (a),
4 and 4301, subdivision (I), in that Respondent was convicted of a crime substantially related to the
5 practice of pharmacy. The circumstances are as follows:

6 10. On June 16, 2021, in the criminal matter titled *People v. Janita Kiran* (San Joaquin
7 County Superior Court Case No. CR-2020-12557), Respondent pled no contest and was
8 convicted of a misdemeanor violation of Vehicle Code section 23152(b) (driving with a blood
9 alcohol content (BAC) of .08 percent or higher). Respondent also admitted to special
10 enhancements of having a prior DUI conviction, and having a BAC of .15 or more (Vehicle Code
11 sections 23540 and 23578). The Court granted Respondent probation for a period of three years
12 under terms and conditions to include paying a fine in the amount of \$1,611, serving 20 days in
13 the custody of the San Joaquin County Sheriff’s Department and completion of an 18-month DUI
14 program. The underlying circumstances were as follows:

15 11. On September 30, 2020, Respondent crashed her vehicle off the embankment of I-580
16 near Patterson Pass Road in Manteca, California. An officer with the California Highway Patrol
17 responded to the crash. Respondent told the officer that another driver had cut her off, causing her
18 to swerve and drive off the road. The Respondent then changed her statement, to say that another
19 vehicle had rear-ended her, causing the accident. The officer noticed Respondent had watery
20 eyes, slurred speech, and was emitting a strong odor of alcoholic beverage. Respondent admitted
21 to the officer that she had “one glass of wine while at work.”. Respondent was unable to
22 successfully complete subsequent field sobriety testing and was arrested for driving under the
23 influence. Respondent was transported to the Tracy CHP office where her blood alcohol content
24 was determined to be 0.24% through a chemical breath test. The officer responded to the incident
25 at 2137 hours and began the breath collection at 2303 hours.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 12. Respondent is subject to disciplinary action under Code section 4301 subdivision (h)
4 in that she used alcoholic beverages to the extent or in a manner dangerous or injurious to her and
5 the public, as alleged in greater detail above in paragraphs 10-11.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Conviction of Multiple Misdemeanors Involving Use, Consumption or Self-
8 Administration of Alcohol)**

9 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (k),
10 in that she was convicted of more than one misdemeanor involving the use, consumption or self-
11 administration of alcohol. In addition to the misdemeanor conviction alleged above in paragraph
12 10, which is incorporated herein by reference, Respondent experienced prior misdemeanor
13 convictions for driving under the influence of alcohol, as follows:

14 14. On or about January 30, 2019, in the criminal matter titled *People v. Janita Kiran*,
15 (San Joaquin County Superior Court Case Number CR-2018-0014835), Respondent was
16 convicted on her plea of no contest for driving while having a blood alcohol content of 0.08% or
17 higher, in violation of Vehicle Code section 23152, subdivision (b), and an enhancement for
18 having a blood alcohol level of .15% or higher, in violation of Vehicle Code Section 23578.

19 **DISCIPLINE CONSIDERATIONS**

20 15. To determine the degree of discipline, if any, to be imposed on Respondent,
21 Complainant alleges that on or about March 6, 2019, the Board of Pharmacy issued Citation and
22 Fine number CI-2018-82407 to Respondent for committed the following offenses: (i) the
23 administering to oneself of any controlled substance, or the use of any dangerous drug or of
24 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself,
25 pursuant to Code section 4301, subdivision (h); and (ii) conviction of a substantially related
26 crime, pursuant to Code section 4301, subdivision (I). The circumstances providing the basis for
27 this citation are the same as those described in paragraph 10-11 above, each of which are
28

1 incorporated herein by reference. The citation has since become final, and Respondent has paid
2 the \$1,200 fine imposed thereby.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 64948,
7 issued to Janita Kiran;

8 2. Ordering Janita Kiran to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and,

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

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15 DATED: 10/11/2021

Signature on File

16 _____
17 ANNE SODERGREN
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 *Complainant*

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