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

In the Matter of the Accusation Against:

KITANA EUGENIO CENIZAL
753 Stallion Cir.
Fairfield, CA 94533

**Pharmacy Technician Registration
No. TCH 176295**

Respondent.

Case No. 7346

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 26, 2022, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 7346 against Kitana Eugenio Cenizal (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 31, 2020, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 176295 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 7346 and will expire on December 31, 2023, unless renewed.

3. On or about November 4, 2022, Respondent was served by Certified Mail copies of the Accusation No. 7346, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7), at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is: 753 Stallion Cir., Fairfield, CA 94533.

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

1 5. Government Code section 11506(c) states, in pertinent part:

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

7 6. The Board takes official notice of its records and the fact that Respondent failed to
8 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
9 waived her right to a hearing on the merits of Accusation No. 7346.

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

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

15 8. Pursuant to its authority under Government Code section 11520, the Board finds that
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
18 finds that the charges and allegations in Accusation No. 7346 are, separately and severally, true
19 and correct by clear and convincing evidence.

20 9. The Board finds that the actual costs for Investigation and Enforcement are \$2,909.00
21 as of December 22, 2022.

22 **DETERMINATION OF ISSUES**

23 1. Based on the foregoing findings of fact, Respondent Kitana Eugenio Cenizal has
24 subjected her Pharmacy Technician Registration No. TCH 176295 to discipline.

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

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

a. Violation of Business and Professions Code (Code) section 490 and/or 4301,
subdivision (l), in that Respondent was convicted of an offense that is substantially related to the
qualifications, functions, or duties of a registrant;

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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6 Facsimile: (415) 703-5480
Attorneys for Complainant
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7346

13 **KITANA EUGENIO CENIZAL**
14 **753 Stallion Cir.**
Fairfield, CA 94533

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 176295**

17 Respondent.

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19 **PARTIES**

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

22 2. On or about January 31, 2020, the Board issued Pharmacy Technician Registration
23 Number TCH 176295 to Kitana Eugenio Cenizal (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2023, 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 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

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

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

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

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

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

“(4) Revoking his or her license.

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

...

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

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1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.”

14 **REGULATORY PROVISIONS**

15 9. California Code of Regulations, title 16, section 1770, states:

16 “(a) For the purpose of denial, suspension, or revocation of a personal or facility license
17 pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and
18 Professions Code, a crime, professional misconduct, or act shall be considered substantially
19 related to the qualifications, functions or duties of the practice, profession, or occupation that may
20 be performed under the license type sought or held if to a substantial degree it evidences present
21 or potential unfitness of an applicant or licensee to perform the functions authorized by the
22 license in a manner consistent with the public health, safety, or welfare.

23 “(b) In making the substantial relationship determination required under subdivision (a) for
24 a crime, the board will consider the following criteria:

- 25 (1) The nature and gravity of the offense;
26 (2) The number of years elapsed since the date of the offense; and
27 (3) The nature and duties of the practice, profession, or occupation that may be performed
28 under the license type sought or held.

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 11. Respondent is subject to disciplinary action under Code sections 490 and/or 4301,
4 subdivision (l), in that Respondent was convicted of a crime substantially related to the
5 qualifications, functions, or duties of a Pharmacy Technician. On or about May 25, 2022, in a
6 criminal matter titled *The People of the State of California v. Kitana Eugenio Cenizal*, San Mateo
7 County Superior Court Case No. 21-SF-001236-A, Respondent pled no contest to, and was
8 convicted of, driving with 0.08 percent or more of alcohol in her blood causing injury (Veh.
9 Code, § 23152 (b)), a felony, with an enhancement for great bodily injury (Penal Code, § 12022.7
10 (a)).

11 12. The underlying offense occurred on or about November 7, 2020, when Respondent
12 drove her vehicle while intoxicated and hit another vehicle, causing both to collide with a
13 concrete median barrier. Respondent informed the officer at the time of her arrest that she was
14 unsure what happened and was just following her GPS when she “felt a hit.” Respondent denied
15 consuming any alcohol but was unable to successfully complete field sobriety tests. Respondent
16 registered preliminary blood alcohol readings of .130% (at 0220 hours) and .136% at (0222
17 hours), and a blood test (taken at 0355 hours) later indicated her blood alcohol level was 0.114%.
18 A passenger of the other car involved in the accident was transported to hospital with substantial
19 injuries, including broken ribs.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Conviction Involving Consumption of Alcoholic Beverage)**

22 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (k),
23 in that Respondent was convicted of a felony involving the use, consumption, or self-
24 administration of alcohol. The circumstances are described in paragraphs 11 and 12, above.

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THIRD CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages in a Dangerous Manner)

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (h), in that Respondent used alcohol to an extent or in a manner dangerous to herself, to others, or to the public. The circumstances are described in paragraphs 11 and 12, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 176295, issued to Kitana Eugenio Cenizal;
2. Ordering Kitana Eugenio Cenizal to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as is deemed necessary and proper.

DATED: 10/26/2022

Sodergren,
Anne@DCA
ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

Digitally signed by Sodergren,
Anne@DCA
Date: 2022.10.26 21:03:25 -07'00'

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