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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. 4772

13 **SHAUNA MARIE LINARES**  
14 15780 Rushford St.  
15 Whittier, CA 90603

**DEFAULT DECISION AND ORDER**

16 **Pharmacy Technician Registration No. TCH**  
17 **23782**

[Gov. Code, §11520]

18 Respondent.

19  
20 **FINDINGS OF FACT**

21 1. On or about December 2, 2013, Complainant Virginia Herold, in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
23 Accusation No. 4772 against Shauna Marie Linares (Respondent) before the Board of Pharmacy.  
24 (Accusation attached as Exhibit A.)

25 2. On or about September 18, 1997, the Board of Pharmacy (Board) issued Pharmacy  
26 Technician Registration No. TCH 23782 to Respondent. The Pharmacy Technician Registration  
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 4772.  
28 The license expired on October 31, 2013, and has not unless renewed. "This lapse in licensure,

1 however, pursuant to Business and Professions Code section 118(b) and/or agency-specific  
2 statute does not deprive the [Board] of its authority to institute or continue this disciplinary  
3 proceeding."

4 3. On or about December 26, 2013, Respondent was served by Certified Mail copies of  
5 the Accusation No. 4772, Statement to Respondent, Notice of Defense, Request for Discovery,  
6 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
8 is required to be reported and maintained with the Board. Respondent's address of record was  
9 and is:

10 15780 Rushford St.  
11 Whittier, CA 90603.

12 4. Service of the Accusation was effective as a matter of law under the provisions of  
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
14 124.

15 5. On or about January 2, 2014, the aforementioned documents were received by  
16 certified mail at Respondent's address on file with the Board. It was confirmed by the United  
17 States Postal Service tracking system. Furthermore, a signed receipt of service of certified mail  
18 was returned.

19 6. Government Code section 11506 states, in pertinent part:

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

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
26 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4772.

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

28 (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.

9. 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 the relevant evidence contained in the Default Decision Evidence Packet in this matter, 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. 4772, finds that the charges and allegations in Accusation No. 4772, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$3,873.50 as of February 10, 2014.

### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Shauna Marie Linares has subjected her Pharmacy Technician Registration No. TCH 23782 to discipline.

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

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

a. Respondent is subject to disciplinary action under sections 490, 4300 and 4301, subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

b. On August 10, 2012, Respondent was charged with two misdemeanor counts of Penal Code section 508 [embezzlement: clerk who fraudulently appropriates to his own use any property of another which has come into his control by virtue of his employment]; Penal Code section 470(b)[forgery]; Business and Professions Code 4324(a) [forgery: attempts to pass along any prescription for any drug]; and Penal Code 4575(a) [possession of a wireless communication device in a local correctional facility] in the criminal proceeding entitled *The People of the State of California v. Shauna Linares*, (Super Ct. Los Angeles County, 2012, No. 2CA16032). On

1 February 25, 2013, the Court placed Respondent on 36 months deferred entry of judgment for  
2 violating Penal Code Section 4575(a).

3 c. Respondent is subject to disciplinary action under sections 4301, subdivision (j),  
4 4022, and 4059 of the Code on the grounds of unprofessional conduct in that Respondent  
5 possessed a dangerous drug without an authorized prescriber's prescription.

6 d. Respondent is subject to disciplinary action under sections 4301, subdivision (j) and  
7 492 of the Code on the grounds of unprofessional conduct because Respondent committed an act  
8 in violation of a statute of this state, of any other state, or of the United States regulating  
9 controlled substances and dangerous drugs.

10 e. Respondent is subject to disciplinary action under sections 4300 and 4301,  
11 subdivision (f) of the Code on the grounds of unprofessional conduct as Respondent committed  
12 an act involving moral turpitude, dishonesty, fraud, deceit and corruption, whether the act was  
13 committed in the course of relations as a licensee or otherwise, and whether the act is a felony or  
14 misdemeanor or not.

15 f. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
16 Code, on the grounds of unprofessional conduct violating or attempting to violate, directly, or  
17 indirectly, any provision of the applicable federal and state law and regulations governing  
18 pharmacy, including regulations established by the Board in that Respondent was convicted of a  
19 crime and committed an act that was in violation of the Pharmacy Act.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 23782, heretofore issued to Respondent Shauna Marie Linares, is revoked.

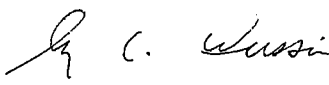
Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant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

This Decision shall become effective on April 28, 2014.

It is so ORDERED March 28, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
STAN C. WEISSER  
Board President

51453793.DOC  
DOJ Matter ID:LA2013509953

Attachment:  
Exhibit A: Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 CHRISTINE J. LEE  
Deputy Attorney General  
4 State Bar No. 282502  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4772

12 **SHAUNA MARIE LINARES**  
15780 Rushford St.  
13 Whittier, CA 90603

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
**23782**

15 Respondent.  
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17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California State Board of Pharmacy.

22 2. On or about September 18, 1997, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 23782 to Shauna Marie Linares (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on October 31, 2013, 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:

"The board shall administer and enforce this chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 1 commencing with Section 11000) of the Health and Safety Code)."

5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

## STATUTORY PROVISIONS

7. Section 490 of the Code states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has 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.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take

1 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
2 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
3 made suspending the imposition of sentence, irrespective of a subsequent order under the  
4 provisions of Section 1203.4 of the Penal Code."

5 8. Section 492 of the Code states:

6 "Notwithstanding any other provision of law, successful completion of any diversion  
7 program under the Penal Code, or successful completion of an alcohol and drug problem  
8 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
9 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
10 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
11 division, from taking disciplinary action against a licensee or from denying a license for  
12 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
13 record pertaining to an arrest.

14 This section shall not be construed to apply to any drug diversion program operated by any  
15 agency established under Division 2 (commencing with Section 500) of this code, or any  
16 initiative act referred to in that division."

17 9. Section 493 of the Code states:

18 "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
19 the department pursuant to law to deny an application for a license or to suspend or revoke a  
20 license or otherwise take disciplinary action against a person who holds a license, upon the  
21 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
22 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
23 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
24 and the board may inquire into the circumstances surrounding the commission of the crime in  
25 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
26 qualifications, functions, and duties of the licensee in question."

27 As used in this section, "license" includes "certificate," "permit," "authority," and  
28 "registration."



1        10. 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 unprofessional  
3        conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4        Unprofessional conduct shall include, but is not limited to, any of the following:

5        ...

6        "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
7        corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
8        whether the act is a felony or misdemeanor or not.

9        ...

10        "(j) The violation of any of the statutes of this state, or any other state, or of the United  
11        States regulating controlled substances and dangerous drugs.)

12        ...

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

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
2 indictment.

3 ...

4 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
5 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
6 federal and state laws and regulations governing pharmacy, including regulations established by  
7 the board or by any other state or federal regulatory agency."

8 11. Section 4022 of the Code states:

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self use in  
10 humans or animals, and includes the following:

11 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
12 prescription," "Rx only," or words of similar import.

13 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
14 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
15 in with the designation of the practitioner licensed to use or order use of the device.

16 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
17 prescription or furnished pursuant to Section 4006."

18 12. Section 4059 of the Code states:

19 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
20 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
21 3640.7."

## 22 REGULATORY PROVISIONS

23 13. California Code of Regulations, title 16, section 1770, states:

24 "For the purpose of denial, suspension, or revocation of a personal or facility license  
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
28

1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

### 3 DANGEROUS DRUG

4 14. Cyclobenzaprine, or Flexeril as it is known by its brand name is a muscle relaxer.  
5 Cyclobenzaprine is prescribed for short-term relief of muscle spasms associated with acute  
6 painful muscle and skeletal conditions. It is a dangerous drug pursuant to section 4022 of the  
7 Code.

### 8 COST RECOVERY

9 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

### 13 FACTUAL ALLEGATIONS

14 16. On or about May 10, 2012, Respondent, a pharmacy technician employed at the  
15 Twin Towers Correctional Facility in Los Angeles, California, was observed on video  
16 surveillance removing a bottle of dangerous drugs from the pharmacy shelf and placing the bottle  
17 in her purse. The Los Angeles County Sheriff's Department was called to investigate. The Deputy  
18 searched Respondent's purse and found an unopened bottle of Cyclobenzaprine, 100 count, 10mg  
19 each. When the Deputy asked Respondent if someone gave her permission to get the bottle or  
20 instructed her to get the bottle, Respondent said no. The Deputy also searched Respondent's desk  
21 and found a wireless phone, which due to security concerns is a violation at the correctional  
22 facility.

### 23 FIRST CAUSE FOR DISCIPLINE

#### 24 (Conviction of a Substantially-Related Crime)

25 17. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,  
26 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section  
27 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime  
28 substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

1 a. On August 10, 2012, Respondent was charged with two misdemeanor counts of  
2 Penal Code section 508 [embezzlement: clerk who fraudulently appropriates to his own use any  
3 property of another which has come into his control by virtue of his employment]; Penal Code  
4 section 470(b)[forgery]; Business and Professions Code 4324(a) [forgery: attempts to pass along  
5 any prescription for any drug]; and Penal Code 4575(a) [possession of a wireless communication  
6 device in a local correctional facility] in the criminal proceeding entitled *The People of the State*  
7 *of California v. Shauna Linares*, (Super Ct. Los Angeles County, 2012, No. 2CA16032). On  
8 February 25, 2013, the Court placed Respondent on 36 months deferred entry of judgment for  
9 violating Penal Code Section 4575(a).

10 b. Complainant refers to and by this reference incorporates, the allegations set  
11 forth above in paragraph 16, as though set forth fully.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct- Unlawful Possession of a Dangerous Drug)**

14 18. Respondent is subject to disciplinary action under sections 4301, subdivision (j),  
15 4022, and 4059 of the Code on the grounds of unprofessional conduct in that Respondent  
16 possessed a dangerous drug without an authorized prescriber's prescription. Complainant refers  
17 to, and by this reference incorporates, the allegations set forth above in paragraph 16 as though  
18 set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violation of a Statute Involving Controlled Substances and Dangerous Drugs)**

21 19. Respondent is subject to disciplinary action under sections 4301, subdivision (j) and  
22 492 of the Code on the grounds of unprofessional conduct because Respondent committed an act  
23 in violation of a statute of this state, of any other state, or of the United States regulating  
24 controlled substances and dangerous drugs. Complainant refers to and by this reference  
25 incorporates, the allegations set forth above in paragraphs 16 through 17, inclusive, as though set  
26 forth fully.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 20. Respondent is subject to disciplinary action under sections 4300 and 4301,  
4 subdivision (f) of the Code on the grounds of unprofessional conduct as Respondent committed  
5 an act involving moral turpitude, dishonesty, fraud, deceit and corruption, whether the act was  
6 committed in the course of relations as a licensee or otherwise, and whether the act is a felony or  
7 misdemeanor or not. Complainant refers to, and by this reference incorporates, the allegations set  
8 forth above in paragraph 16 as though set forth fully.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violation of Pharmacy Act)**

11 21. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
12 Code, on the grounds of unprofessional conduct violating or attempting to violate, directly, or  
13 indirectly, any provision of the applicable federal and state law and regulations governing  
14 pharmacy, including regulations established by the Board in that Respondent was convicted of a  
15 crime and committed an act that was in violation of the Pharmacy Act. Complainant refers to,  
16 and by this reference incorporates, the allegations set forth above in paragraphs 16 through 20,  
17 inclusive, as though set forth fully.

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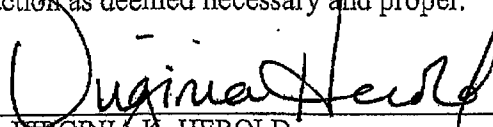
PRAAYER

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

1. Revoking or suspending issued Pharmacy Technician Registration Number TCH 23782 to Shauna Marie Linares;
2. Ordering Shauna Marie Linares to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

12/2/13

  
VIRGINIA K. HEROLD  
Executive Officer  
California State Board of Pharmacy  
State of California  
Complainant

LA2013509953  
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10/24/13