at Respondent's address of record which, pursuant to Business and Professions Code (Code) section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is 215 E. Emerson Street, Chula Vista, CA 91911.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and Code section 124.
- 5. On July 31, 2017, the domestic return receipt for the aforementioned documents was returned by the U.S. Postal Service indicating Respondent's signature acknowledging delivery.
 - 6. Government Code section 11506(c) 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.
- 7. The Board takes official notice of its records and the fact that 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. 6116.
 - 8. California Government Code section 11520(a) 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
- 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. 6116, finds that the charges and allegations in Accusation No. 6116, 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 \$3,516.75 as of August 11, 2017.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Shannon Nichole Ruiz has subjected her Pharmacy Technician Registration No. TCH 94884 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 has subjected her registration to disciplinary action under Code section 4301, subdivision (f) in that Respondent committed acts involving dishonesty, fraud, deceit, or corruption, in that Respondent stole controlled substances from her employer.
- b. Respondent has subjected her registration to disciplinary action under Code section 4301, subdivision (h) in that Respondent administered to herself controlled substances to the extent or in a manner as to be dangerous or injurious to herself or the public.
- c. Respondent has subjected her registration to disciplinary action under Code section 4301, subdivision (j) for violation of Health and Safety Code sections 11170, in that Respondent illegally obtained and administered to herself, controlled substances, and Health and Safety Code section 111350, in that Respondent possessed controlled substances without prescriptions.
- d. Respondent has subjected her registration to disciplinary action under Code section 4301, subdivision (o) for violation of Code sections 4059 and 4060, in that Respondent illegally furnished controlled substances to herself and illegally possessed controlled substances without legitimate prescriptions and Code section 4327, in that Respondent sold and dispensed drugs while under the influence of controlled substances.

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ORDER 1 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 94884, heretofore 2 issued to Respondent Shannon Nichole Ruiz, is revoked. 3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a 4 written motion requesting that the Decision be vacated and stating the grounds relied on within 5 seven (7) days after service of the Decision on Respondent. The agency in its discretion may 6 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute. 7 This Decision shall become effective at 5:00 p.m. on November 3, 2017. 8 It is so ORDERED on October 4, 2017. Q. 10 **BOARD OF PHARMACY** 11 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 12 13 14 15 By Amy Gutierrez, Pharm.D. 16 **Board President** 17 18 19 DIK:JRL 20 81787021.DOC DOJ Matter ID:SD2017705078 21 Attachment: 22 Exhibit A: Accusation 23 24 25 26 27 28

Exhibit A

Accusation

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1	XAVIER BECERRA			
2	Attorney General of California GREGORY J. SALUTE			
3	Supervising Deputy Attorney General DESIREE I. KELLOGG			
4	Deputy Attorney General State Bar No. 126461	·		
5	600 West Broadway, Suite 1800 San Diego, CA 92101			
6	P.O. Box 85266 San Diego, CA 92186-5266			
7	Telephone: (619) 738-9429 Facsimile: (619) 645-2061			
8	Attorneys for Complainant			
9	BEFORE THE BOARD OF PHARMACY			
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
11				
12	In the Matter of the Accusation Against:	Case No. 6116		
13	SHANNON NICHOLE RUIZ 215 E. Emerson Street			
14	Chula Vista, CA 91911	ACCUSATION		
15	Pharmacy Technician Registration No. TCH 94884			
16	Respondent			
17	And the second s			
18	Complainant alleges:			
19	PARTIES			
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity			
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.			
22	2. On or about March 22, 2010, the Board of Pharmacy issued Pharmacy Technician			
23	Registration Number TCH 94884 to Shannon Nichole Ruiz (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 August 31, 2017, unless renewed.			
26				
27				
28				
		1		
	(SHANNON NICHOLE RUIZ) ACCUSATION			

JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."
 - 5. 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

6. Section 4301 of the Code states:

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

- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

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

7. Section 4059 of the Code states:

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

8. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

9 Section 4327 of the Code states:

Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverage shall be guilty of a misdemeanor.

10. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

COST RECOVERY

11. Section 125.3 of the Code provides, 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.

DRUGS

- 12. <u>Norco</u> is the brand name for hydrocodone/acetaminophen, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(l) and a dangerous drug pursuant to Business and Professions Code section 4022.
- 13. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

- 14. At all times relevant herein, Respondent was employed as a pharmacy technician at Community, a Walgreens Pharmacy in San Diego, California.
- 15. In 2015-2016, Respondent diverted and stole approximately three bottles (300 tablets) of oxycodone IR 15mg, and one bottle (500 tablets) of Norco. Respondent did this by taking a handful at times she accessed the narcotic cabinet. Her employer submitted a DEA 106 form, reporting losses of Norco and oxycodone during the time period when Respondent was a pharmacy technician at Community.
- 16. In approximately 2015-2016, Respondent self-administered eight tablets a day of Norco or oxycodone without a prescription. She practiced as a pharmacy technician while under the influence of oxycodone or Norco.

FIRST CAUSE FOR DISCIPLINE

(Dishonest Acts)

17. Respondent has subjected her registration to disciplinary action under section 4301, subdivision (f) of the Code in that Respondent committed acts involving dishonesty, fraud, deceit, or corruption, in that Respondent stole controlled substances from her employer, as detailed in paragraphs 14 through 16, above, which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Use of Controlled Substances in Dangerous Manner)

18. Respondent has subjected her registration to disciplinary action under section 4301, subdivision (h) of the Code in that Respondent administered to herself controlled substances to the extent or in a manner as to be dangerous or injurious to herself or the public, as detailed in paragraphs 14 through 16, above, and which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Violating Statutes Regulating Controlled Substances)

19. Respondent has subjected her registration to disciplinary action under section 4301, subdivision (j) of the Code for violation of Health and Safety Code sections 11170, in that Respondent illegally obtained and administered to herself, controlled substances and Health and Safety Code section 111350, in that Respondent possessed controlled substances without prescriptions, as detailed in paragraphs 14 through 16, above, and which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Violating Laws Governing Pharmacy)

20. Respondent has subjected her registration to disciplinary action under section 4301, subdivision (o) of the Code for violation of Code sections 4059 and 4060, in that Respondent illegally furnished controlled substances to herself and illegally possessed controlled substances without legitimate prescriptions and Code section 4327, in that Respondent sold and dispensed drugs while under the influence of controlled substances, as detailed in paragraphs 14 through 16, above, and which are incorporated herein by reference.

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 94884, issued to Shannon Nichole Ruiz;
- 2. Ordering Shannon Nichole Ruiz 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 deemed necessary and proper.

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DATED:	77/117	

VIRGINIA HEROLD
Executive Officer

Board of Pharmacy Department of Consumer Affairs

State of California
Complainant

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