

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 5816

12 **TIA ALISHA MACK**
13 **2923 Fulam Ct.**
Rescue, CA 95672

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **110199**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 23, 2011, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 110199 to Tia Alisha Mack (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and will
24 expire on January 31, 2017, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 of the Code provides that every license issued may be suspended or
2 revoked.

3 5. Section 4300.1 of the Code states:

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

9 6. Section 4301 of the Code states in pertinent part:

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

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

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

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

23 (i) The conviction of a crime substantially related to the qualifications, functions, and duties
24 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

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

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

16 7. Section 4022 of the Code states:

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

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

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

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

26 8. Section 4060 of the Code states in pertinent part:

27 "No person shall possess any controlled substance, except that furnished to a person upon
28 the prescription of a physician..."

1 9. Health and Safety Code section 11170 states:

2 "No person shall prescribe, administer, or furnish a controlled substance for himself."

3 10. Health and Safety Code section 11171 states:

4 "No person shall prescribe, administer, or furnish a controlled substance except under the
5 conditions and in the manner provided by this division."

6 11. Health and Safety Code section 11173 states in pertinent part:

7 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or
8 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
9 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

10 **DRUGS**

11 12. : Hydrocodone and hydrocodone combination products are dangerous drugs pursuant
12 to Code section 4022 and effective October 6, 2014, hydrocodone combination products were
13 reclassified on a federal level from Schedule III to Schedule II (21 CFR 1308.12 (b)(1)); this
14 includes hydrocodone combined with acetaminophen products. The brand name for hydrocodone
15 with acetaminophen 10-325 mg is Norco 10.

16 13. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
17 section 11055, subdivision (b)(1)(M), and a dangerous drug as defined by Code section 4022.
18 Oxycodone 20 mg is known by the brand name Roxicodone. Oxycodone 30 mg is known by the
19 brand name Oxycontin. Oxycodone with acetaminophen 10-325 mg is known by the brand name
20 Percocet.

21 14. Acetaminophen with codeine is a Scheduled III controlled substance as defined by
22 Health and Safety Code section 11056, subdivision (e)(2), and a dangerous drug as defined by
23 Code section 4022. The brand name of acetaminophen with codeine 300mg/30 mg is Tylenol #3
24 and the brand name of acetaminophen with codeine 300mg/60 mg is Tylenol #4.

25 15. Alprazolam is a Schedule IV controlled substance as defined by Health and Safety
26 Code section 11057, subdivision (d)(1), and a dangerous drug as defined by Code section 4022.
27 Alprazolam is known by the brand name Xanax.

28 ///

1 16. Carisoprodol is a Schedule IV controlled substance as defined by Health and Safety
2 Code section 11057, subdivision (d)(1), and a dangerous drug as defined by Code section 4022.

3 Carisoprodol is known by the brand name Soma.

4 17. Diazepam is a Schedule IV controlled substance as defined by Health and Safety Code
5 section 11057, subdivision (d)(9), and a dangerous drug as defined by Code section 4022.

6 Diazepam is known by the brand name Valium.

7 18. Promethazine with codeine is a Schedule V controlled substance as defined by Health
8 and Safety Code section 11058, and a dangerous drug as defined by Code section 4022. The
9 brand name for promethazine with codeine is Phenergan with codeine. The brand name for
10 promethazine with phenylephrine and codeine is Phenergan VC with codeine.

11 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Substantially Related Criminal Conviction)**

18 20. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
19 section 4301, subdivision (I), in that on or about January 22, 2016, in El Dorado County Superior
20 Court case number P15CRM0506, entitled *People v. Tia Alisha Mack*, Respondent was convicted
21 after her plea of no contest to violating Vehicle Code section 23152, subdivision (e), driving a
22 vehicle while under the influence of a drug, a misdemeanor. The circumstances are that on or
23 about February 13, 2015, Respondent drove a motor vehicle upon a public roadway while under
24 the influence of a drug.

25 ///

26 ///

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Use of Controlled Substances or Dangerous Drugs to an Extent or in a Manner as to be**
3 **Dangerous or Injurious to Oneself or Others)**

4 21. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
5 section 4301, subdivision (h), in that on or about February 13, 2015, Respondent consumed a
6 controlled substance to an extent or in a manner unsafe for herself or others. The circumstances
7 are as set forth in paragraph 20, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Dishonest, Fraudulent, Corrupt, and Deceitful Acts)**

10 22. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
11 section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude,
12 dishonesty, fraud, deceit, or corruption by embezzling controlled substances from her employer
13 while she was employed at Walmart Pharmacy in Placerville. The circumstances are as follows:

14 23. On or about May 29, 2015, Walmart Pharmacy in Placerville discovered that
15 Respondent had been embezzling dangerous drugs and controlled substances. Several things
16 coincided to begin an investigation, including a loose pill that was found on the floor of the
17 pharmacy where it should not be, and several consumer complaints were received that their
18 prescriptions were missing medication. Walmart's investigation concluded with a review of the
19 pharmacy's video equipment showing Respondent concealing drugs about her person and
20 consuming Promethazine with Codeine while she worked. Respondent was interviewed and wrote
21 a confession stating that she had been stealing controlled substances and dangerous drugs from the
22 pharmacy and consuming them for approximately the previous two (2) months. An audit by
23 Walmart showed that Respondent stole 10 tablets of Tylenol #3 and 330 tablets of Tylenol #4, 568
24 tablets of Xanax .5 mg, 1 mg, and 2 mg, 956 tablets of Soma, 563 tablets of Valium 2 mg, 5 mg,
25 and 10 mg, 19 tablets of Norco 10, 29 tablets of Roxicodone, 3 tablets of Oxycontin, 21 tablets of
26 Percocet, and 719 ml of Phenergan with Codeine and Phenergan VC with Codeine. This is a total
27 of 2,499 tablets of controlled substances and dangerous drugs.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violation of Laws Governing Controlled Substances)**

3 24. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
4 section 4301, subdivision (j), in that Respondent violated the statutes of this state regulating
5 controlled substances or dangerous drugs. The circumstances are as follows:

6 25. Between approximately March 2015, and May 2015, Respondent administered and
7 furnished controlled substances to herself in violation of Health and Safety Code section 11170
8 and 11171, as set forth in paragraph 23, above.

9 26. Between approximately March 2015, and May 2015, Respondent obtained controlled
10 substances by fraud, deceit, misrepresentation, or subterfuge in violation of Health and Safety
11 Code section 11173, as set forth in paragraph 23, above.

12 27. Between approximately March 2015, and May 2015, Respondent possessed controlled
13 substances without a valid prescription in violation of Code section 4060, as set forth in paragraph
14 23, above.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Violation of Laws Governing Pharmacy)**

17 28. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
18 section 4301, subdivision (o), in that Respondent committed violations of the federal and state
19 laws and regulations governing pharmacy. The circumstances are as set forth in paragraphs 20-27,
20 above.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 110199,
25 issued to Tia Alisha Mack;

26 ///

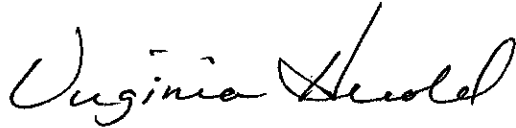
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 2. Ordering Tia Alisha Mack 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.

DATED: 9/16/16



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SA2016101739
32546558.doc