

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

In the Matter of the Accusation Against:

Case No. 4954

**TIA LASHA KELLY**  
8760 Jamacha Road, 2G  
Spring Valley, CA 91977

Pharmacy Technician Registration No.  
TCH 80650

Respondent.

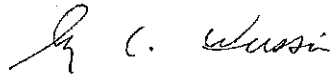
**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 20, 2014.

It is so ORDERED on October 15, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
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E-mail: Adrian.Contreras@doj.ca.gov  
8 *Attorneys for Complainant*

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

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Case No. 4954

13 **TIA LASHA KELLY**  
14 **8760 Jamacha Road, 2G**  
**Spring Valley, CA 91977**

OAH No. 2014030594

15 **Pharmacy Technician Registration No. TCH**  
16 **80650**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17 Respondent.

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
21 the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will  
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
25 She brought this action solely in her official capacity and is represented in this matter by Kamala  
26 D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney  
27 General.

28 2. Tia Lasha Kelly (Respondent) is representing herself in this proceeding and has  
chosen not to exercise her right to be represented by counsel.





1           1.    The surrender of Respondent's Pharmacy Technician Registration and the acceptance  
2 of the surrendered license by the Board shall constitute the imposition of discipline against  
3 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
4 Respondent's license history with the Board of Pharmacy.

5           2.    Respondent shall lose all rights and privileges as a Pharmacy Technician in California  
6 as of the effective date of the Board's Decision and Order.

7           3.    Respondent shall cause to be delivered to the Board her pocket license and, if one was  
8 issued, her wall certificate on or before the effective date of the Decision and Order.

9           4.    If Respondent ever applies for licensure or petitions for reinstatement in the State of  
10 California, the Board shall treat it as a new application for licensure. Respondent may not apply  
11 for any license, permit, or registration from the board for three years from the effective date of  
12 this decision. Respondent stipulates that should she apply for any license from the board on or  
13 after the effective date of this decision, all allegations set forth in the Accusation shall be deemed  
14 to be true, correct, and admitted by respondent when the board determines whether to grant or  
15 deny the application. Respondent shall satisfy all requirements applicable to that license as of the  
16 date the application is submitted to the board, including, but not limited to certification by a  
17 nationally recognized body prior to the issuance of a new license. Respondent is required to  
18 report this surrender as disciplinary action.

19           5.    Respondent shall pay the agency its costs of investigation and enforcement in the  
20 amount of \$3,145.50 before issuance of a new or reinstated license.

21           6.    If Respondent should ever apply or reapply for a new license or certification, or  
22 petition for reinstatement of a license, by any other health care licensing agency in the State of  
23 California, all of the charges and allegations contained in Accusation No. 4954 shall be deemed to  
24 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
25 other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 8-21-14   
TIA LASHA KELLY  
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 9/24/14  
Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
  
ADRIAN R. CONTRERAS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4954**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
4 State Bar No. 267200  
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E-mail: Adrian.Contreras@doj.ca.gov  
8 *Attorneys for Complainant*

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14 **8760 Jamacha Road, 2G**  
**Spring Valley, CA 91977**

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

15 **Pharmacy Technician Registration No. TCH**  
16 **80650**

17 Respondent.

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 January 8, 2008, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 80650 to Tia Lasha Kelly (Respondent). The Pharmacy Technician  
24 Registration expired on August 31, 2013, and has not been 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           "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
2 benefit himself or herself or another, or substantially injure another.

3           "[3](B) The board may deny a license pursuant to this subdivision only if the crime or act is  
4 substantially related to the qualifications, functions, or duties of the business or profession for  
5 which application is made.

6           ". . . ."

7           7.     Section 482 of the Code states:

8           "Each board under the provisions of this code shall develop criteria to evaluate the  
9 rehabilitation of a person when:

10           (a) Considering the denial of a license by the board under Section 480; or

11           (b) Considering suspension or revocation of a license under Section 490.

12           "Each board shall take into account all competent evidence of rehabilitation furnished by  
13 the applicant or licensee."

14           8.     Section 490 of the Code provides, in pertinent part, that a board may suspend or  
15 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
16 to the qualifications, functions, or duties of the business or profession for which the license was  
17 issued.

18           9.     Section 493 of the Code states:

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

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

1           10. Section 4301 of the Code states:

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 or  
21 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 "(p) Actions or conduct that would have warranted denial of a license.

5 "...."

6 11. Section 4060 of the Code states:

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

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

### 21 REGULATORY PROVISIONS

22 12. California Code of Regulations, title 16, section 1769, states:

23 "...

24 "(b) When considering the suspension or revocation of a facility or a personal license on the  
25 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating  
26 the rehabilitation of such person and his present eligibility for a license will consider the  
27 following criteria:

28 "(1) Nature and severity of the act(s) or offense(s).



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(December 20, 2011, Criminal Conviction for Grand Theft**

3 **Between October 25 and 31, 2011)**

4 17. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision  
5 (l) of the Code in that she was convicted of a crime substantially related to the qualifications,  
6 functions, and duties of a licensee. The circumstances are as follows:

7 18. On or about December 20, 2011, in a criminal proceeding entitled *People v. Kelly*, in  
8 San Diego County Superior Court, case number CD237403, Respondent was convicted on her  
9 plea of guilty of violating Penal Code section 487, subdivision (a), grand theft, a felony. As a  
10 result of a plea agreement, one count of violating Health and Safety Code section 11351,  
11 possession for sale of a controlled substance, a felony, and one count of violating Health and  
12 Safety Code section 11375, subdivision (b)(1), possession for sale of a designated controlled  
13 substance, a felony, were dismissed.

14 19. As a result of the conviction, Respondent was sentenced to three years summary  
15 probation, and ordered to pay fines and fees.

16 20. The facts that led to the conviction are that in October 2011, Respondent worked as a  
17 pharmacy technician at the CVS Pharmacy on El Cajon Boulevard in San Diego. During her  
18 employment, she stole from CVS Pharmacy 2500 tablets of alprazolam and 8000 tablets of Norco  
19 and gave them to a drug dealer.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct-Act of Moral Turpitude or Dishonesty)**

22 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)  
23 in that Respondent committed grand theft, an act of moral turpitude or dishonesty. Complainant  
24 re-alleges and incorporates by reference the allegations set forth above in paragraphs 17-20.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Violation of Laws Regulating Controlled Substances**  
3 **and Dangerous Drugs)**

4 22. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)  
5 in that Respondent violated laws regulating controlled substances and dangerous drugs.

6 Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs  
7 17-20. The laws include the following:

- 8 a. **Code section 4059**: furnishing a controlled substance without a prescription.  
9 b. **Code section 4060**: possession of a controlled substance without a prescription.  
10 c. **Health and Safety Code section 11350, subd. (a)**: possession of a designated  
11 controlled substance.  
12 d. **Health and Safety Code section 11352, subd. (a)**: giving away a designated  
13 controlled substance.  
14 e. **Health and Safety Code section 11375, subd. (b)(1)**: possession for sale of a  
15 designated controlled substance.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct-Act Warranting Denial of Licensure)**

18 23. Respondent is subject to disciplinary action under section 4301, subdivision (p), in  
19 that she committed an act that would have warranted denial of a license by stealing the controlled  
20 substances alprazolam and Norco from her place of employment, an act enumerated in Code  
21 section 480, subdivision (a)(2), which is cause for denial of a license to an applicant who  
22 committed an act of dishonesty with the intent to substantially benefit herself or another.  
23 Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs  
24 17-20.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
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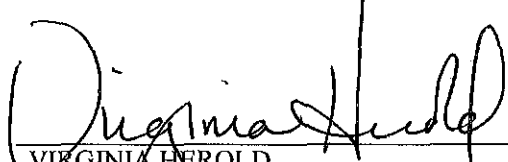
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1. Revoking or suspending Pharmacy Technician Registration Number TCH 80650,  
issued to Tia Lasha Kelly;

2. Ordering Tia Lasha Kelly 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: 2/3/14



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

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