

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

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

In the Matter of the Accusation Against:

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

**Pharmacy Technician Registration No. TCH  
110199**

Respondent.

Case No. 5816

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FINDINGS OF FACT**

1. On or about September 16, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5816 against Tia Alisha Mack (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 23, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 110199 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5816 and will expire on January 31, 2017, unless renewed.

3. On or about October 6, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5816, 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: 2923 Fulam Court, Rescue, CA 95672.

///  
///  
///

1 4. Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

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

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5816.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board finds  
18 Respondent is in default. The Board will take action without further hearing and, based on the  
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
21 file at the Board's offices regarding the allegations contained in Accusation No. 5816, finds that  
22 the charges and allegations in Accusation No. 5816, are separately and severally, found to be true  
23 and correct by clear and convincing evidence.

24 9. Taking official notice of its own internal records, pursuant to Business and  
25 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
26 and Enforcement is \$6,165.25 as of November 3, 2016.

#### 27 **DETERMINATION OF ISSUES**

28 1. Based on the foregoing findings of fact, Respondent Tia Alisha Mack has subjected  
her Pharmacy Technician Registration No. TCH 110199 to discipline.

///

///

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

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

5           a.     Code section 4301, subdivision (l), substantially related criminal conviction in that on  
6 or about January 22, 2016, Respondent pled no contest to driving a vehicle while under the  
7 influence of a drug, a misdemeanor.

8           b.     Code section 4301, subdivision (h), use of controlled substances or dangerous drugs  
9 to an extent or in a manner as to be dangerous or injurious to oneself or others, in that Respondent  
10 consumed a drug to the extent that she was unable to safely drive a motor vehicle and then drove  
11 a motor vehicle.

12          c.     Code section 4301, subdivision (f), dishonest, fraudulent, corrupt, and deceitful acts,  
13 in that Respondent was terminated from her employment with Walmart Pharmacy in Placerville  
14 after discovering that Respondent had been embezzling dangerous drugs and controlled  
15 substances. Respondent confessed to the embezzlement and some of the theft was recorded on  
16 video. An audit shows that Respondent stole 2,499 tablets of various controlled substances and  
17 dangerous drugs.

18          d.     Code section 4301, subdivision (j), violation of laws governing controlled substances,  
19 in that Respondent violated Health and Safety Code sections 11170, 11171, 11173, and Code  
20 section 4060 by obtaining, furnishing, possessing, and administering dangerous drugs or  
21 controlled substances to herself as set forth in the previous paragraph.

22          e.     Code section 4301, subdivision (o), violation of laws governing pharmacy in that  
23 Respondent committed the violations set forth above.

24 //  
25 //  
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

**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 110199, heretofore issued to Respondent Tia Alisha Mack, 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 January 11, 2017.

It is so ORDERED on December 12, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

12488663.DOC  
DOJ Matter ID:SA2016101739

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(TIA ALISHA MACK)

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**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**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           "(l) 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 (l), 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*

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

SA2016101739  
32546558.doc