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

10 In the Matter of the Statement of Issues Against: Case No. 4524

11 **DETRIA WILLIE GRAVES**

12 Respondent. **STATEMENT OF ISSUES**

13
14 Complainant alleges:

15 PARTIES

16 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
17 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

18 2. On or about October 18, 2011, the Board of Pharmacy, Department of Consumer
19 Affairs, received an Application for Registration as a Pharmacy Technician from Detria Willie
20 Graves (Respondent). On or about October 12, 2011, Respondent certified under penalty of
21 perjury as to the truthfulness of all statements, answers, and representations in the Application.
22 The Board denied the application on November 20, 2012.

23
24 JURISDICTION

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

STATUTORY AND REGULATORY PROVISIONS

1
2 4. Section 4300, subdivision (c), of the Code states:

3 “(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
4 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
5 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
6 may issue the license subject to any terms or conditions not contrary to public policy”

7 5. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is
8 defined to include, but not be limited to, any of the following:

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

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

17 (i) The conviction of a crime substantially related to the qualifications, functions, and duties
18 of a licensee under this chapter.

19 6. Section 480 of the Code states, in pertinent part:

20 “(a) A board may deny a license regulated by this code on the grounds that the applicant
21 has one of the following:

22 “(1) Been convicted of a crime. . . . Any action which a board is permitted to take following
23 the establishment of a conviction may be taken . . . irrespective of a subsequent order under the
24 provisions of Section 1203.4 of the Penal Code.

25 “(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially
26 benefit himself or another, or substantially injure another; or

27 “(3) Done any act which if done by a licentiate of the business or profession in question,
28 would be grounds for suspension or revocation of license.

1 10. On or about July 24, 2010, Respondent was involved in another incident, leading to a
2 criminal case titled *The State of Nevada v. Detria Willie Graves aka Detria W. Graves*, Case No.
3 10F14162X in Justice Court, Las Vegas Township, Clark County, Nevada, in which Respondent
4 was charged by Criminal Complaint on or about July 26, 2010 with violating Nevada Revised
5 Statutes section 205.270 (NRS § 205.270), Larceny From the Person, a felony. On or about
6 October 18, 2010, the Complaint was amended by motion of the prosecution to add a second
7 count against Respondent charging him with violating Nevada Revised Statutes section 269.215
8 (NRS § 269.215), Disorderly Conduct, a misdemeanor. Respondent entered a plea of guilty and
9 was convicted. He was ordered to pay a fine or complete community service.

10 11. On or about December 18, 2010, Respondent was pulled over for speeding in or near
11 Big Bear Lake, CA by officer(s) of the California Highway Patrol. The officer(s) smelled alcohol
12 on Respondent's breath, and noted that Respondent had red, watery, eyes, slurred speech, and
13 other symptoms of intoxication. The officer(s) administered Field Sobriety Tests (FSTs), which
14 Respondent was unable to perform. Respondent was taken into custody. A blood alcohol test
15 performed at the jail site revealed his blood alcohol level to be 0.28%. Respondent resisted the
16 officer(s)' attempts to take a blood sample, and was belligerent and physically non-compliant.

17 12. On or about February 23, 2011, in a criminal case titled *People v. Detria Willie*
18 *Graves*, Case No. TSB1100667 in San Bernardino (CA) County Superior Court, based on the
19 conduct described in paragraph 11, above, Respondent was charged with violating: (1) Vehicle
20 Code section 23152(a) (Driving While Under the Influence of Alcohol or Drugs), a misdemeanor;
21 (2) Vehicle Code section 23152(b) (Driving With Blood Alcohol Content of 0.08% or Higher), a
22 misdemeanor; (3) Vehicle Code section 23578 (Driving With Blood Alcohol Content of 0.15% or
23 Higher or Refusal to Take Chemical Test), a misdemeanor; (4) Penal Code section 148(a)(1)
24 (Obstructing or Resisting a Public Officer), a misdemeanor; (5) Vehicle Code section 12500(a)
25 (Driving Without a License); and (6) Vehicle Code section 16028(a) (Failure to Provide Proof of
26 Financial Responsibility), an infraction. Respondent was subsequently made the subject of a
27 failure to appear arrest warrant, cleared by his arraignment appearance on or about July 11, 2011.

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1 13. On or about July 25, 2011, in Case No. TSB1100667, Respondent pleaded guilty and
2 was convicted of count (2), violation of Vehicle Code section 23152(b) (Driving With Blood
3 Alcohol Content of 0.08% or Higher), a misdemeanor. The remaining counts were dismissed.
4 Pronouncement of judgment was ordered withheld and conditional and revocable release was
5 granted for a period of thirty six (36) months, on terms and conditions including time served (2
6 days), completion of nine (9) month County-approved alcohol program, fines and fees.

7 14. On or about October 12, 2011, Respondent completed and signed his Application for
8 Registration as a Pharmacy Technician, and submitted it to the Board. Question 6 therein reads:

9 Have you ever been convicted of or pled no contest to a violation of any law of a
10 foreign country, the United States or any state laws or local ordinances? You must
11 include all misdemeanors and felony convictions, regardless of the age of the
12 conviction, including those which have been set aside under Penal Code section
13 1203.4. Traffic violations of \$500 or less need not be reported. **If "yes," attach an
explanation including the type of violation, the date, circumstances, location and
the complete penalty received.** In addition to this written explanation, please
provide the Board of Pharmacy with **certified copies of all pertinent court
documents or arrest reports relating to this conviction.**

14 Respondent checked the box for "Yes" in response to this question on the Application.

15 15. Along with his Application, Respondent submitted the following explanation of this
16 "Yes" response to Question 6 of the Application:

17 I am writing you today to clear up any issues regarding issuance of my
18 registration for pharmacy technician. Enclosed is a copy of my D.U.I. conviction. On the
19 date of 12/18/2010 I was arrested for driving under the influence of alcohol in the city of
20 Big Bear Lake, CA 92315. I was convicted of a misdemeanor. The penalty of my crime
is an \$1,800 fine to the County of San Bernardino, three years probation, and nine months
of D.U.I. school. This is an isolated incident and I have since learned from my mistake.

21 16. Respondent did not disclose any other conviction(s) in his Application materials.

22 17. On or about January 9, 2012, officer(s) of the San Bernardino County Sheriff's
23 Department responded to a domestic disturbance call, and found Respondent sitting outside of the
24 residence. Inside the residence, the officer(s) discovered a pile of clothing that had been burned
25 on the stovetop. A woman inside the residence said Respondent burned her clothes. Respondent
26 was taken into custody, at which time he became agitated and upset. Respondent made threats
27 against the woman and the officer(s), and upon arrival at the jail had to be forcibly removed from
28 the patrol car. Respondent continued to make verbal threats after he was placed in a cell.

1 18. On or about January 11, 2012, in a criminal case titled *People v. Detria Willie*
2 *Graves*, Case No. FSB1200116 in San Bernardino (CA) County Superior Court, based on the
3 conduct described in paragraph 17, above, Respondent was charged by Felony Complaint with
4 violating (1) Penal Code section 69 (Resisting an Officer), a felony; (2) Penal Code section 422
5 (Criminal Threats), a felony; and (3) Penal Code section 594(b)(2)(A) (Vandalism – Under \$400
6 Damage), a misdemeanor. On or about January 20, 2012, Respondent pleaded guilty and was
7 convicted of Count (1), a violation of Penal Code section 69 (Resisting an Officer), a felony. The
8 remaining counts were dismissed. On or about February 21, 2012, Respondent was sentenced to
9 a term of supervised probation of thirty six (36) months, on terms and conditions including time
10 served (44 days), search and seizure provisions, drug testing at direction of probation, victim
11 restitution, fines and fees, and attendance at AA/NA meetings as directed by probation.

12
13 FIRST CAUSE FOR DENIAL OF APPLICATION

14 (Conviction of Substantially Related Crime(s))

15 19. Respondent's application is subject to denial under the following section(s) of the
16 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
17 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
18 crime, in that on or about August 11, 2010, as described in paragraph 9, above, Respondent was
19 convicted in *The State of Nevada v. Detria Graves aka Detria W. Graves*, Case No. 10M14551X
20 in Justice Court, Las Vegas Township, Clark County, Nevada of violating Nevada Revised
21 Statutes section 200.481 (NRS § 200.481), Battery, a misdemeanor.

22
23 SECOND CAUSE FOR DENIAL OF APPLICATION

24 (Conviction of Substantially Related Crime(s))

25 20. Respondent's application is subject to denial under the following section(s) of the
26 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
27 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
28 crime, in that on or about October 18, 2010, as described in paragraph 10, above, Respondent was

1 convicted in *The State of Nevada v. Detria Willie Graves aka Detria W. Graves*, Case No.
2 10F14162X in Justice Court, Las Vegas Township, Clark County, Nevada of violating Nevada
3 Revised Statutes section 269.215 (NRS § 269.215), Disorderly Conduct, a misdemeanor.

4
5 THIRD CAUSE FOR DENIAL OF APPLICATION

6 (Conviction of Substantially Related Crime(s))

7 21. Respondent's application is subject to denial under the following section(s) of the
8 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
9 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
10 crime, in that on or about July 25, 2011, as described in paragraphs 12 and 13, above, Respondent
11 was convicted in *People v. Detria Willie Graves*, Case No. TSB1100667 in San Bernardino (CA)
12 County Superior Court, of violating Vehicle Code section 23152(b) (Driving With Blood Alcohol
13 Content of 0.08% or Higher), a misdemeanor.

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15 FOURTH CAUSE FOR DENIAL OF APPLICATION

16 (Dangerous or Injurious Use of Alcohol)

17 22. Respondent's application is subject to denial under the following section(s) of the
18 Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as
19 described in paragraph 21 above, Respondent made dangerous or injurious use of alcohol.

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21 FIFTH CAUSE FOR DENIAL OF APPLICATION

22 (Conviction of Substantially Related Crime(s))

23 23. Respondent's application is subject to denial under the following section(s) of the
24 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
25 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
26 crime, in that on or about January 20, 2012, as described in paragraph 18, above, Respondent was
27 convicted in *People v. Detria Willie Graves*, Case No. FSB1200116 in San Bernardino (CA)
28 County Superior Court, of violating Penal Code section 69 (Resisting an Officer), a felony.

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SIXTH CAUSE FOR DENIAL OF APPLICATION

(Dishonest Conduct and/or False Statement of Fact in Application)

24. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(2); 480(c); 480(a)(3) by reference to 4301(f); and/or 4300(c) by reference to 4301(f), in that, as described in paragraphs 9, 10, and 14-16 above, Respondent engaged in dishonest conduct, and/or dishonest conduct intended to benefit himself, and/or knowingly made a false statement of fact required to be revealed in the application, when he answered "Yes" to the question about prior convictions, but failed to reveal his two prior convictions in Nevada.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

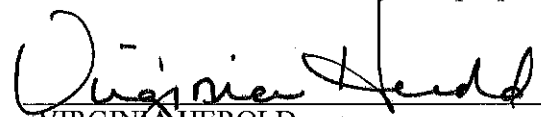
25. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8-24 above, Respondent engaged in unprofessional conduct.

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. Denying the application of Detria Willie Graves to be a pharmacy technician;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 4/23/13


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

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