

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4189

11 **MANUEL JOSEPH TERESI**
12 **165 Monroe Street, No. 14**
13 **Santa Clara, CA 95050**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 5512**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about March 9, 1993, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 5512 to Manuel Joseph Teresi (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on September 30, 2012, unless renewed.

24
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 (Code) unless otherwise indicated.

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.]. Section 4300(a) of the Code provides that every
4 license issued by the Board may be suspended or revoked.

5 5. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
9 renewed within three years following its expiration may not be renewed, restored, or reinstated
10 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
11 the Code provides that any other license issued by the Board may be canceled by the Board if not
12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
13 reissued but will instead require a new application to seek reissuance.

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15 STATUTORY AND REGULATORY PROVISIONS

16 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
18 not be limited to, any of the following:

19 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
20 of a licensee under this chapter.

21 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
22 revoke a license when it finds that the licensee has been convicted of a crime substantially related
23 to the qualifications, functions or duties of the license.

24 8. California Code of Regulations, title 16, section 1770, provides, in pertinent part, that
25 a crime or act shall be considered substantially related to the qualifications, functions or duties of
26 a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
27 licensee or registrant to perform the functions authorized by her license or registration in a
28 manner consistent with the public health, safety, or welfare.

1 9. Section 822 of the Code states:

2 “If a licensing agency determines that its licentiate’s ability to practice his or her profession
3 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the
4 licensing agency may take action by any one of the following methods:

5 “(a) Revoking the licentiate’s certificate or license.

6 “(b) Suspending the licentiate’s right to practice.

7 “(c) Placing the licentiate on probation.

8 “(d) Taking such other action in relation to the licentiate as the licensing agency in its
9 discretion deems proper.

10 “The licensing agency shall not reinstate a revoked or suspended certificate or license until
11 it has received competent evidence of the absence or control of the condition which caused its
12 action and until it is satisfied that with due regard for the public health and safety the person’s
13 right to practice his or her profession may be safely reinstated.”

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation of the licensing
16 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

17

18 FIRST CAUSE FOR DISCIPLINE

19 (Mental or Physical Illness Affecting Competency)

20 11. Respondent is subject to disciplinary action and/or to suspension, revocation, or
21 probation of/on his Pharmacy Technician License Number TCH 5512, pursuant to section 822 of
22 the Code, because his ability to practice safely under his License is impaired due to mental or
23 physical illness affecting competency. The circumstances are as follows:

24 a. On or about March 21, 2011, Santa Clara Police were dispatched to the apartment
25 complex in Santa Clara, CA in which Respondent resided regarding a report of a burglary in
26 progress. The female victim reported that Respondent, who lived in the apartment next door to
27 the victim, had broken into her apartment and was completely naked in her apartment. She said
28 that she had never invited Respondent into her apartment nor given him permission to enter.

1 b. The victim further reported that this incident culminated a series of uncomfortable
2 and/or threatening encounters with Respondent, who had expressed romantic interest in the victim
3 for at least two years. The victim reported that over the last few months, Respondent had begun
4 to make obscene and explicit comments to the victim, and veiled threats. The victim also told the
5 police that approximately two weeks prior to March 21, 2011, her house key and mailbox key had
6 disappeared from her keychain, and that on March 20, 2011, the victim returned home to find the
7 Respondent standing in front of her door. On March 21, 2011, at approximately 12:55 a.m., the
8 victim awoke from being asleep in her bedroom with the bedroom door closed to find Respondent
9 inside her apartment, completely naked. After the victim yelled at him to leave, Respondent put
10 on a pair of sweatpants and returned to his apartment next door.

11 c. When police went to Respondent's apartment after speaking with the victim, he
12 answered the door completely naked. The police instructed him to put on pants, which he did.
13 Respondent was arrested on suspicion of crimes including Stalking (Penal Code section 646.9),
14 Burglary (Penal Code section 459), and Indecent Exposure (Penal Code section 314).

15 d. On or about March 23, 2011, in a criminal case titled *People v. Manuel Joseph*
16 *Teresi*, Santa Clara County Superior Court Case No. C1103288, Respondent was charged by a
17 Felony Complaint with violating Penal Code section 314.1 (Indecent Exposure After Unlawful
18 Entry), a felony. But then on or about June 13, 2011, further proceedings in the criminal case
19 were ordered suspended pursuant to Penal Code section 1368, based on an expression of doubt as
20 to Respondent's mental competence, pending a hearing on the question of Respondent's mental
21 competence to be conducted pursuant to Penal Code sections 1368.1 and 1369.

22 e. On or about August 17, 2011, an order entered in the criminal case committed the
23 Respondent to the custody of the California Department of Mental Health for a term of up to three
24 (3) years, and ordered him transported to the state hospital no later than September 16, 2011. The
25 case was scheduled for a further review of Respondent's custody status on January 13, 2013.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Conviction of Substantially Related Crime(s))

3 12. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
4 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
5 a substantially related crime, in that on or about August 23, 2010, in the criminal case *People v.*
6 *Manuel Joseph Teresi*, Case No. C1067062 in Santa Clara County Superior Court, Respondent
7 was convicted of violating Vehicle Code section 23152, subdivision (b) (Driving with a Blood
8 Alcohol Level of 0.08% or more), a misdemeanor. The conviction was entered as follows:

9 a. On or about December 25, 2009, Santa Clara Police responded to a report of an
10 automobile being driven recklessly in the rear parking lot and/or rear alleyway/carport behind an
11 apartment complex, by a male driver. The witness(es) reported seeing the driver stumble out of
12 the car, in what appeared to be an intoxicated state. When police arrived, the car was parked, but
13 showed signs of significant damage, including front axle damage. Respondent was identified as
14 the registered owner of the vehicle. When police contacted Respondent in his apartment, he had
15 trouble standing up and exhibited several signs or symptoms of intoxication. He admitted that he
16 had just driven his car home from a party, and that he had consumed several alcoholic beverages
17 prior to driving. Respondent failed Field Sobriety Tests (FSTs) administered by the police, and
18 was placed under arrest on suspicion of violating Vehicle Code section 23152, subdivision (a)
19 (Driving While Under the Influence of Alcohol or Drugs). After Respondent was transported to
20 police facilities, he was given two breath (PAS) tests, which showed 0.116% and 0.115% BAC.

21 b. On or about January 22, 2010, Respondent was charged in Case No. C1067062
22 with violating (1) Vehicle Code section 23152, subdivision (a) (Driving While Under the
23 Influence of Alcohol or Drugs), a misdemeanor and (2) Vehicle Code section 23152, subdivision
24 (b) (Driving with a Blood Alcohol Level of 0.08% or more), also a misdemeanor.

25 c. On or about August 23, 2010, Respondent pleaded *nolo contendere* to Count 2
26 (VC 23152(b)). Count 1 was dismissed per the plea. Imposition of sentence was suspended in
27 favor of a period of court probation of three (3) years, on terms and conditions including nine (9)
28 days in jail (1 day CTS), a 3-month First Offender Program, and fines and fees.

1 d. On or about November 15, 2010, Respondent's criminal probation in Case No.
2 C1067062 was revoked, then reinstated with modified terms requiring Respondent to serve eight
3 (8) days in jail, and enter a payment plan for payment of fines and fees.

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5 THIRD CAUSE FOR DISCIPLINE

6 (Conviction of Substantially Related Crime(s))

7 13. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
8 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
9 a substantially related crime, in that on or about August 23, 2010, in the criminal case *People v.*
10 *Manuel Joseph Teresi*, Case No. C1074269 in Santa Clara County Superior Court, Respondent
11 was convicted of violating Vehicle Code section 14601.5, subdivision (a) (Driving With Revoked
12 or Suspended License), a misdemeanor. The conviction was entered as follows:

13 a. On or about March 21, 2010, Respondent was stopped by San Jose Police while
14 driving a car with a broken tail light. He was given a Notice to Appear for suspicion of driving
15 while his license to drive was revoked or suspended, and for the broken tail light.

16 b. On or about August 23, 2010, Respondent pleaded guilty to the first of these
17 charges, violation of Vehicle Code section 14601.5, subdivision (a) (Driving With Revoked or
18 Suspended License), a misdemeanor. The second count was dismissed per the plea. Imposition
19 of sentence was suspended in favor of a period of court probation of two (2) years, on terms and
20 conditions including payment of fines and fees.

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22 FOURTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 14. Respondent is subject to discipline under section 4301 of the Code in that
25 Respondent, as described in paragraphs 11 to 13 above, engaged in unprofessional conduct.

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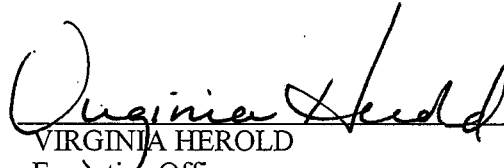
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PRAYER

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 License Number TCH 5512, issued to Manuel Joseph Teresi (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 4/9/12



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

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