

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 CHRISTINA THOMAS  
Supervising Deputy Attorney General  
4 State Bar No. 171168  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2557  
6 Facsimile: (213) 897-2804

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 Statement of Issues  
Against:

Case No. 4889

12 **TERRENCE ANDRE RESER**

**STATEMENT OF ISSUES**

13 Pharmacy Technician Registration Applicant

14 Respondent.

15  
16  
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about January 31, 2013, the Board received an application for a Pharmacy  
23 Technician Registration from Terrence Andre Reser (Respondent). On or about November 13,  
24 2012, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,  
25 and representations in the application. The Board denied the application on May 10, 2013.

26 ///

27 ///

28 ///

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless otherwise  
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant  
8 has one of the following:

9 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
11 board is permitted to take following the establishment of a conviction may be taken when the time  
12 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
13 order granting probation is made suspending the imposition of sentence, irrespective of a  
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 . . . .

16 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
17 would be grounds for suspension or revocation of license.

18 (B) The board may deny a license pursuant to this subdivision only if the crime or act  
19 is substantially related to the qualifications, functions, or duties of the business or profession for  
20 which application is made.

21 "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
22 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
23 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
24 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
25 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
26 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
27 Section 482."

28 ///

1           "(c) A board may deny a license regulated by this code on the ground that the applicant  
2 knowingly made a false statement of fact required to be revealed in the application for the  
3 license."

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

7           6. Section 4300 provides in pertinent part, that every license issued by the Boards is  
8 subject to discipline, including suspension or revocation.

9           7. Section 4301 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           . . . .

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

19           . . . .

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

22           "(k) The conviction of more than one misdemeanor or any felony involving the use,  
23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
24 combination of those substances.

25           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
28 substances or of a violation of the statutes of this state regulating controlled substances or

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

14 . . . .

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

#### 16 REGULATORY PROVISIONS

17 8. California Code of Regulations, title 16, section 1770, states:

18 "For the purpose of denial, suspension, or revocation of a personal or facility license  
19 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
20 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
21 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
22 licensee or registrant to perform the functions authorized by his license or registration in a manner  
23 consistent with the public health, safety, or welfare."

#### 24 9. CONTROLLED SUBSTANCE/DANGEROUS DRUGS

25 a. "Cocaine," is a Schedule I controlled substance, as designated in Health and Safety  
26 Code section 11054, subdivision (f)(1), and a Schedule II controlled substance, as designated in  
27 Health and Safety Code section 11055(b)(6). It is categorized as a dangerous drug according to  
28 section 4022

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Convictions of Substantially Related Crimes)**

3 10. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
4 that Respondent was convicted of crimes substantially related to the qualifications, functions or  
5 duties of a pharmacy technician, as follows:

6 a. On or about May 4, 2006 Respondent was arrested for trespassing.

7 b. On or about July 25, 2006, after pleading nolo contendere, Respondent was convicted  
8 of violating Municipal Code section 5711 [trespassing] in the criminal proceeding entitled *The*  
9 *City of Nevada v. Terence Andre Reser* (Mun. Ct. Las Vegas, Regional Justice Center, Clark  
10 County, 2006, No. C0652517A). The Court sentenced Respondent to serve four days in Clark  
11 County Jail.

12 c. On or about November 5, 2005, Respondent was arrested for unlawful use/possession  
13 of drug paraphernalia

14 d. On or about February 13, 2006, after pleading nolo contendere, Respondent was  
15 convicted of violating Municipal Code section 9527 [unlawful use/possession of drug  
16 paraphernalia] in the criminal proceeding entitled *The City of Nevada v. Terence Andre Reser*  
17 (Mun. Ct. Las Vegas, Clark County, 2006, No. C0636250A). The Court sentenced Respondent to  
18 serve two days in Clark County Jail.

19 e. On or about September 7, 1999, after pleading nolo contendere, Respondent was  
20 convicted of one misdemeanor count of violating Health and Safety Code section 11550,  
21 subdivision (a) [under the influence of a controlled substance] in the criminal proceeding entitled  
22 *The People of the State of California v. Terence Reser* (Super. Ct. L.A. County, 1999, No.  
23 9PN03112). The Court sentenced Respondent to serve 90 days in Los Angeles County Jail and  
24 placed on 24 months probation, with terms and conditions.

25 f. The circumstances surrounding the conviction are that on or about May 27, 1999,  
26 Respondent was observed by a Los Angeles Police officer crossing the street and nearly getting  
27 struck by a passing vehicle. As he walked towards the officer he appeared to be walking rigid,  
28 continuously looking around and over his shoulder, and seemed to be agitated. While speaking to

1 Respondent, the officer could observe sweat on his forehead, mood changes, a dry mouth,  
2 chapped lips, and burnt fingertips with discoloration. Based on the objective signs and symptoms  
3 of Respondent, it was determined that he was under the influence of Cocaine, a controlled  
4 substance, and was subsequently arrested.

5 g. On or about February 22, 1999, after pleading nolo contendere, Respondent was  
6 convicted of one misdemeanor count of violating Health and Safety Code section 11550,  
7 subdivision (a) [under the influence of a controlled substance] in the criminal proceeding entitled  
8 *The People of the State of California v. Terrance Andre Reser* (Super. Ct. Los Angeles County,  
9 1999, No. 9PN00966). The Court sentenced Respondent to serve 90 days in Los Angeles County  
10 Jail and placed on 24 months probation, with terms and conditions.

11 h. The circumstances surrounding the conviction are that on or about February 15, 1999,  
12 Respondent was approached by a Los Angeles Police Officer. While speaking to Respondent, the  
13 officer observed him to be sweating heavily, had burnt fingertips, was speaking rapidly, and had a  
14 very dry mouth. Respondent was subsequently arrested for being under the influence of a  
15 controlled substance. During the booking procedure, Respondent admitted to "smoking a dime"  
16 earlier that morning.

17 i. On or about September 1, 1998, respondent was convicted of one misdemeanor count  
18 of violating Health and Safety Code section 653F, subdivision (d) [soliciting narcotics] in the  
19 criminal proceeding entitled *The People of the State of California v. Terrence Reser* (Super. Ct.  
20 Los Angeles County, 1998, No. 8PN01241). The Court sentenced Respondent to serve 15 days in  
21 Los Angeles County jail and placed him on 24 months probation, with terms and conditions.

22 j. The circumstances surrounding the conviction are that on or about February 20, 1998,  
23 Respondent attempted to purchase narcotics from an undercover police officer. He approached  
24 the officer and stated, "I want a twenty dollar rock." Respondent was subsequently arrested for  
25 soliciting narcotics.

26 ///

27 ///

28 ///

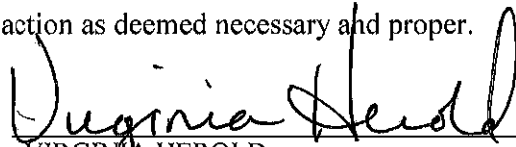


1 incorporates, the allegations set forth above in paragraph 10, subparagraph (e) and (g), inclusive,  
2 as though set forth full.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board issue a decision:

- 6 1. Denying the application of Terrence Andre Reser for a Pharmacy Technician  
7 Registration;  
8 2. Taking such other and further action as deemed necessary and proper.

9 DATED: 5/3/14 

10 VIRGINIA HEROLD  
11 Executive Officer  
12 Board of Pharmacy  
13 Department of Consumer Affairs  
14 State of California  
15 *Complainant*

16  
17 LA2013510141  
18 51416638.doc

19  
20  
21  
22  
23  
24  
25  
26  
27  
28