

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

In the Matter of the Statement of Issues  
Against:

**DETRIA WILLIE GRAVES**

Pharmacy Technician Applicant

Respondent.

Case No. 4524

OAH No. 2013060686

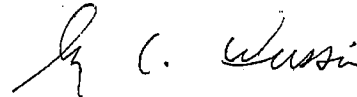
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 22, 2013.

It is so ORDERED on October 23, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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

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In the Matter of the Statement of  
Issues Against:

DETRIA WILLIE GRAVES,

Respondent.

Case No. 4524

OAH No. 2013060686

**PROPOSED DECISION**

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on July 24, 2013, in Oakland, California.

Complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, was represented by Char Sachson, Deputy Attorney General.

Respondent Detria Willie Graves was present and represented himself.

This matter was submitted for decision on July 24, 2013.

**FACTUAL FINDINGS**

1. Complainant Virginia Herold made this statement of issues in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (board).

2. On October 12, 2011, respondent completed a pharmacy technician application to the board. The board received the application on October 18, 2011. The board denied her application on November 20, 2012, and respondent appealed.

3. On August 11, 2010, respondent was convicted in Justice Court, Las Vegas Township, Clark County, State of Nevada, of violating Nevada Revised Statutes section 200.481 (battery), a misdemeanor. Respondent was sentenced to 30 days in jail.

The facts and circumstances of the offense are that on May 7, 2010, respondent hit a 17-year old on the arm and on the chest. Respondent had entered into an agreement two

weeks earlier with the victim and the victim's mother that respondent would fight with the victim should the victim get caught smoking marijuana. Respondent was told that the victim had smoked marijuana and started to fight with him. The victim refused to fight and started to leave when respondent continued to hit him.

4. On October 18, 2010, respondent was convicted in Justice Court, Las Vegas Township, Clark County, State of Nevada, pursuant to his plea of guilty, of disturbing the peace, a misdemeanor. Respondent was sentenced to pay a \$250 fine or perform 25 hours of community service. Respondent provided proof of performing the community service and the case was closed on November 22, 2010.

The facts and circumstances of the offense are not entirely clear. The incident took place on July 24, 2010, in Las Vegas. According to respondent, his friend had been shot. A woman showed respondent her badge and he touched it. He was arrested and initially charged with larceny. He was in custody for a long time and finally pleaded guilty to disturbing the peace.

5. On July 25, 2011, respondent was convicted in the Superior Court of California, County of San Bernardino, pursuant to his plea of guilty, of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content of .08 percent or higher), a misdemeanor. Respondent was placed on probation for a period of three years, on terms and conditions which included serving two days in jail, which was satisfied by time served, attending a nine-month alcohol program, and fines.

The facts and circumstances of the offense are that on December 18, 2010, respondent drove after consuming alcohol. He was pulled over by highway patrol officers who observed him speeding. Respondent's blood alcohol content was tested at .28 percent.

6. On his October 12, 2011, application for licensure, respondent was asked whether he had ever been convicted of a crime. The application further advised that the applicant "must include all misdemeanors and felony convictions" and directed the applicant to "attach an explanation including the type of violation, the date, the circumstances, location and the complete penalty received." Respondent checked the box "yes" indicating that he had been convicted of a crime. He submitted a statement and documentation pertaining to his conviction for driving under the influence (Finding 5). He did not include any information pertaining to the convictions described in Findings 3 and 4, which took place prior to the date he submitted the application.

7. On January 20, 2012, respondent was convicted in the Superior Court of California, County of San Bernardino, pursuant to his plea of guilty, of violating Penal Code section 69 (resisting an officer), a felony. Respondent was placed on supervised probation for a period of three years, on terms and conditions which included serving 44 days in jail, which was satisfied by time served.

The facts and circumstances of the offense are that on January 9, 2012, respondent was taken into custody by a sheriff who had responded to a report of a domestic disturbance. While being taken into custody, respondent made threatening statements to the arresting officer.

8. William Benjamin Young, a supervising inspector for the board, testified that respondent's four convictions all raise concerns about respondent's suitability for licensure. Specifically, the convictions raise concerns about respondent's judgment, self control, and ability to conform his actions to what is required in a pharmacy setting.

9. Respondent acknowledged his four convictions, but tended to minimize the conduct involved. Regarding the battery offense, respondent stated that he was trying to help a young man not go down the wrong path and that the victim and his mother had both agreed to the deal. Respondent thought he was doing the right thing by trying to help the young man. Regarding the DUI conviction, respondent stated that he did not understand why it was relevant to his application because he was not driving to work at the time. Respondent stated that the resisting an officer conviction arose when he was "trying to do the right thing" by calling the police when he and his former girlfriend had gotten into an argument. He does not understand what he did wrong. Respondent stated that he made threatening remarks because the officer who arrested him handcuffed him and hit him several times. Respondent was also frustrated because he was trying to get to his grandmother's funeral.

10. Respondent presented evidence that he completed the court-ordered alcohol program imposed as a condition of probation for the offense described in Finding 5. Respondent stated that he is compliant with probation, including paying all fines. He checks in with his probation officer by mail.

11. Respondent expressed some remorse for his actions. He stated that in the future he would handle himself differently. He has tried to do whatever is necessary to fix what he did wrong.

12. Respondent is currently working at Goodwill. He stated that he had worked there for five weeks and had been promoted. He is around cash and valuable items and is trusted.

13. Respondent is married and has two children. He wants a pharmacy technician license because he wants a career in order to support his family. He is confident that he can do the job. He stated that he received nine "A" grades and seven "B" grades in the program. Respondent is working towards a Bachelor of Arts degree through the University of Phoenix.

14. In a letter dated July 16, 2013, Luis D. Perez writes that he has known respondent for over a year and that respondent has been a model citizen. Perez finds respondent to be reliable, courteous, conscientious and honest.

15. In a letter dated July 21, 2013, Brice Peoples, Minister of Vaca Valley Congregation, writes that he and his wife have participated in counseling with respondent and respondent's wife since February 2013. Peoples has observed respondent exert a strenuous effort to undertake personal growth. Respondent has shared his unfortunate encounters with the law during counseling and is determined to keep free from further negative encounters. Peoples notes that respondent has maintained employment during the time he has been in counseling.

## LEGAL CONCLUSIONS

1. Business and Professions Code sections 480, subdivision (a)(3), 4300, subdivision (c), and 4301, subdivision (h), provide that the board may deny an application for a pharmacy technician license if the applicant has engaged in unprofessional conduct by using alcohol in a dangerous and injurious manner. Cause exists to deny respondent's application in light of the matters set forth in Finding 5.

2. Business and Professions Code sections 480, subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (l), provide that the board may deny an application for a pharmacy technician license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pharmacy technician. A crime is substantially related to the qualifications, functions or duties of a licensee "if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1770.) Respondent's four convictions are all substantially related to the qualifications, functions or duties of a pharmacy technician and each provides cause for denial of respondent's application. Therefore, cause exists to deny respondent's application in light of the matters set forth in Findings 3-5 and 7.

3. Business and Professions Code sections 480, subdivisions (a) and (c), 4300, subdivision (c), and 4301, subdivision (f), provide that the board may deny an application for a pharmacy technician license if the applicant has made a false statement of fact on his application. Cause exists to deny respondent's application in light of the matters set forth in Findings 3-4 and 6.

4. Business and Professions Code sections 480, subdivisions (a)(3), 4300, subdivision (c), and 4301, subdivision (f), provide that the board may deny an application for a pharmacy technician license if the applicant has engaged in unprofessional conduct. Cause exists to deny respondent's application in light of the matters set forth in Findings 3-7.


5. The board has set forth criteria for evaluating the rehabilitation of an applicant for a licensure. (Cal. Code Regs., tit. 16, § 1769.) These criteria include the nature and severity of the offenses, the time that has elapsed, whether the applicant has complied with the terms of probations, and evidence of rehabilitation. Respondent has suffered four

convictions during a relatively short time period, including a felony conviction in January 2012. He remains on probation until 2015. To his credit, respondent has complied with probation and participates in counseling with his minister. He has maintained employment and is pursuing his education. This evidence of rehabilitation, however, is insufficient to warrant granting respondent's application, especially in light of the number and severity of convictions. It would be against the public interest to issue respondent a pharmacy technician registration license at this time.

ORDER

The application of respondent Detria Willie Graves for registration as a pharmacy technician is denied.

DATED: 8/14/13

  
\_\_\_\_\_  
KAREN REICHMANN  
Administrative Law Judge  
Office of Administrative Hearings

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*Attorneys for Complainant*

7  
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.





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 . . . .”

3 7. California Code of Regulations, title 16, section 1770, states:

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

10  
11 FACTUAL BACKGROUND

12 8. On or about May 8, 2010, officer(s) of the Las Vegas Police Department responded to  
13 a domestic disturbance call, and were told that Respondent had been in a physical altercation with  
14 another individual during which Respondent struck the victim several times.

15 9. On or about May 10, 2010, in a criminal case titled *The State of Nevada v. Detria*  
16 *Graves aka Detria W. Graves*, Case No. 10M14551X in Justice Court, Las Vegas Township,  
17 Clark County, Nevada, based on the conduct described in paragraph 8, above, Respondent was  
18 charged by Criminal Complaint with violating Nevada Revised Statutes section 200.481 (NRS §  
19 200.481), Battery, a misdemeanor. On or about May 12, 2010, Respondent was arraigned on the  
20 charges, submitted to the charges, and was given a suspended sentence of thirty (30) days in jail,  
21 ordered to stay out of trouble, ordered to attend an impulse control counseling program, and  
22 ordered to do twenty eight (28) hours of community service. If he were deemed successful, the  
23 charges would be dismissed. If not, the conviction and jail time would be imposed. On or about  
24 August 11, 2010, based on the incident described in paragraph 10, below, the court found that  
25 Respondent had not stayed out of trouble, found him guilty and convicted him of the Battery  
26 offense, and ordered him to serve the previously-imposed sentence of thirty (30) days in jail.

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28 ///

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.

28           ///

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.

14  
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.

20  
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)

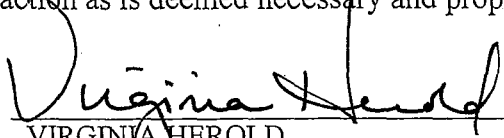
25. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8-24 above, Respondent engaged in unprofessional conduct.

PRAAYER

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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