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

12 In the Matter of the Accusation Against:

Case No. 4737

13 **SHANNON CALIVA**
25245 Morning Dove Way
14 Moreno Valley, CA 92551

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 24468**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 26, 1997, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 24468 to Shannon Caliva (Respondent). Respondent is also known as
25 Shannon Dawn Caliva, Shannon Dawn Nickers, and Shannon Dawn Nickels (Respondent). The
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27 brought herein. The Pharmacy Technician Registration expired on January 31, 2013, and was
28 cancelled.

1 **/JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license
9 by operation of law or by order or decision of the board or a court of law, the
10 placement of a license on a retired status, or the voluntary surrender of a license by a
11 licensee shall not deprive the board of jurisdiction to commence or proceed with any
12 investigation of, or action or disciplinary proceeding against, the licensee or to render
13 a decision suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 492 of the Code states:

14 Notwithstanding any other provision of law, successful completion of any
15 diversion program under the Penal Code, or successful completion of an alcohol and
16 drug problem assessment program under Article 5 (commencing with section
17 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
18 agency established under Division 2 ([Healing Arts] commencing with Section 500)
19 of this code, or any initiative act referred to in that division, from taking disciplinary
20 action against a licensee or from denying a license for professional misconduct,
21 notwithstanding that evidence of that misconduct may be recorded in a record
22 pertaining to an arrest.

19 This section shall not be construed to apply to any drug diversion program
20 operated by any agency established under Division 2 (commencing with Section 500)
21 of this code, or any initiative act referred to in that division.

21 7. Section 4022 of the Code states

22 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
23 self-use in humans or animals, and includes the following:

24 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
25 without prescription," "Rx only," or words of similar import.

25 (b) Any device that bears the statement: "Caution: federal law restricts this
26 device to sale by or on the order of a _____," "Rx only," or words of similar
27 import, the blank to be filled in with the designation of the practitioner licensed to use
28 or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

1 **COSTS**

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DRUG**

9 13. Methamphetamine is a Schedule II controlled substance as designated by Health
10 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business
11 and Professions Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Possession of Methamphetamine on January 21, 2012)**

14 14. Respondent has subjected her registration to discipline under section 4301,
15 subdivision (j) of the Code in that she violated California statutes regulating controlled substances
16 when she possessed methamphetamine on January 21, 2012. The circumstances are as follows:

17 a. On or about the afternoon of January 21, 2012, a patrol officer with the Hemet
18 Police Department observed a vehicle engaged in suspicious activity that appeared to be drug-
19 related. After seeing the police officer, the vehicle drove away and made an illegal lane change in
20 front of the officer. After conducting a traffic stop, the officer made contact with Respondent,
21 who was driving. Also in the vehicle were two adult passengers, and Respondent's two seven-
22 year-old children. Respondent denied having anything illegal on her person, in her car, or in her
23 purse, and gave verbal consent to search all three. Inside Respondent's purse, concealed in a
24 bandana, the officer found a glass methamphetamine pipe lined with a useable amount of what
25 subsequently tested positive for methamphetamine. All three adults were arrested on drug
26 charges; the two children were retrieved by Child Protective Services.

27 b. As a result of the arrest, on or about March 27, 2012, in a criminal proceeding
28 entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Dawn Nickels*, in

1 Riverside County Superior Court, case number SWF1200277, Respondent pled guilty to violating
2 Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, to
3 wit, methamphetamine, a felony reduced to a misdemeanor pursuant to Penal Code section 17b.
4 Respondent also pled guilty to violating Health and Safety Code section 11364, possession of a
5 device used for unlawfully injecting and smoking a controlled substance, a misdemeanor.

6 c. As a result of the plea, on or about March 27, 2012, the court deferred entry of
7 judgment for 18 months and Respondent was ordered to enroll in and complete a drug diversion
8 program pursuant to Penal Code section 1000.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Under the Influence of Methamphetamine on March 27, 2012)**

11 15. Respondent has subjected her registration to discipline under section 4301,
12 subdivision (h) of the Code in that she used methamphetamine to the extent or in a manner to be
13 dangerous to herself and others on March 27, 2012. The circumstances are as follows:

14 a. On or about the afternoon of March 27, 2012, the same day Respondent pled
15 guilty to drug charges in case number SWF1200277, described in paragraph 14, above, a deputy
16 with the Riverside County Sheriff's Drug Endangered Children Team (DEC), along with a county
17 investigator and social worker, responded to a Hemet residence regarding a CPS referral with
18 allegations that Respondent was caring for her children while under the influence of
19 methamphetamine. Upon arrival, the team met with Respondent's parents who were caring for
20 the children. While speaking to the parents, Respondent arrived home. Respondent exhibited
21 symptoms of being under the influence of a central nervous system stimulant. Respondent told
22 the social worker that she had last used methamphetamine a few days prior (on Sunday, March
23 25). Respondent provided a urine sample which subsequently tested positive for amphetamines.
24 During questioning, Respondent told the deputy that she had been using methamphetamine from
25 October 2010 until February 2012, but claimed she stopped using two days prior. Respondent
26 told the deputy that she smoked methamphetamine, but she never smoked in the home, or around
27 the children. Respondent admitted that she cared for her children the previous Sunday after
28 smoking methamphetamine. She also admitted that she drove the children to and from school on

1 Monday while still under the influence of methamphetamine. Believing Respondent was placing
2 her children in danger, the deputy arrested Respondent for child endangerment and being under
3 the influence of methamphetamine.

4 b. As a result of the arrest, on or about March 27, 2013, in a criminal proceeding
5 entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Sawn Nickers,*
6 *aka Shannon Dawn Nickels,* in Riverside County Superior Court, case number SWF1200275, a
7 complaint was filed charging Respondent with violating Penal Code section 273a, subdivision
8 (b), child endangerment; and Health and Safety Code section 11550, subdivision (a), under the
9 influence of a controlled substance, misdemeanors.

10 c. After failing to appear at her April 11, 2013 arraignment, a bench warrant was
11 issued. Respondent appeared at a hearing on June 14, 2013, and the court granted her motion for
12 a continuance. Respondent was released on her own recognizance, but failed to appear at a
13 hearing on July 22, 2013. A bench warrant was issued for Respondent's arrest.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of California Statutes Regulating Controlled Substances)**

16 16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
17 Code for unprofessional conduct in that on or about March 27, 2012, Respondent knowingly
18 violated Business and Professions Code sections 4022 and 4059, and Health and Safety Code
19 section 11550, subdivision (a), as detailed in paragraph 15, above, when Respondent furnished to
20 herself and used the controlled substance methamphetamine.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Commission of Acts Involving Dishonesty, Fraud, Deceit on January 11, 2012)**

23 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
24 Code for unprofessional conduct in that she committed acts involving dishonesty, fraud and
25 deceit on January 11, 2012. The circumstances are as follows:

26 a. On the afternoon of January 11, 2012, an officer with the Hemet Police
27 Department responded to a WalMart store in reference to two women who had been detained for
28 shoplifting. The store's Loss Prevention Officer stated that he observed Respondent and her

1 was missing. She sent a friend to her house to retrieve her wallet. While waiting for her friend's
2 return, she decided to conceal merchandise in her purse.

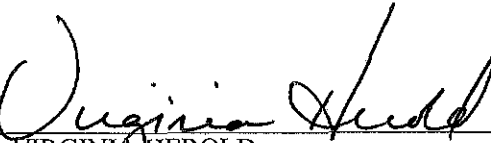
3 b. As a result of the arrest, on or about December 4, 2012, in a criminal
4 proceeding entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Dawn*
5 *Nickers, aka Shannon Dawn Nickels*, in Riverside County Superior Court, case number
6 SWM1207797, a complaint was filed charging Respondent with violating Penal Code section
7 488, theft. Respondent failed to appear at her arraignment on December 12, 2012 and a bench
8 warrant was issued for her arrest. Respondent appeared at a hearing on June 14, 2013, and the
9 court granted her motion for a continuance. Respondent was released on her own recognizance,
10 but failed to appear at a hearing on July 22, 2013. A bench warrant was issued for Respondent's
11 arrest.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Pharmacy issue a decision:

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 24468,
16 issued to Shannon Caliva;
- 17 2. Ordering Shannon Caliva to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 9/3/13



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

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