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

12 In the Matter of the Statement of Issues
Against:

Case No. 7199

13 **ORINDA RX & MEDICAL LLC**
14 **Samira Khatami, Owner**
15 **Community Pharmacy License Applicant,**
16 Respondent.

STATEMENT OF ISSUES

17
18 **PARTIES**

19 1. Anne Sodergren (Complainant) brings this statement of issues solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
21 Affairs.

22 2. On April 23, 2021, the Board received an application for a community pharmacy
23 license from OrindaRx & Medical LLC, Samira Khatami, Owner (Respondent OrindaRx). On or
24 about April 19, 2021, Khatami certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Board denied the application on
26 August 20, 2021.

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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 4. Section 118, subdivision (a), states:

6 “The withdrawal of an application for a license after it has been filed with a board in the
7 department shall not, unless the board has consented in writing to such withdrawal, deprive the
8 board of its authority to institute or continue a proceeding against the applicant for the denial of
9 the license upon any ground provided by law or to enter an order denying the license upon any
10 such ground.”

11 5. Section 4001, subdivision (a), states in part:

12 “There is in the Department of Consumer Affairs a California State Board of Pharmacy in
13 which the administration and enforcement of this chapter is vested.”

14 6. Section 4011 states:

15 “The board shall administer and enforce this chapter and the Uniform Controlled
16 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).”

17 **STATUTORY PROVISIONS**

18 7. Section 4113, subdivision (c), states:

19 “The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state
20 and federal laws and regulations pertaining to the practice of pharmacy.”

21 8. Section 4300, subdivision (c), states in part:

22 “The board may refuse a license to any applicant guilty of unprofessional conduct. The
23 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
24 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
25 may issue the license subject to any terms or conditions not contrary to public policy, including,
26 but not limited to, the following:

27 “(1) Medical or psychiatric evaluation.

28 “(2) Continuing medical or psychiatric treatment.

1 “(3) Restriction of type or circumstances of practice.

2 “(4) Continuing participation in a board-approved rehabilitation program.

3 “(5) Abstention from the use of alcohol or drugs.

4 “(6) Random fluid testing for alcohol or drugs.

5 “(7) Compliance with laws and regulations governing the practice of pharmacy.”

6 9. Section 4301 states in part:

7 “The board shall take action against any holder of a license who is guilty of
8 unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct
9 includes, but is not limited to, any of the following:

10 . . .

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

14 . . .

15 “(j) The violation of any of the statutes of this state, of any other state, or of the United
16 States regulating controlled substances and dangerous drugs.

17 . . .

18 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
19 violation of or conspiring to violate any provision or term of this chapter or of the applicable
20 federal and state laws and regulations governing pharmacy, including regulations established by
21 the board or by any other state or federal regulatory agency.”

22 10. Section 4306.5 states:

23 “Unprofessional conduct for a pharmacist may include any of the following:

24 “(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
25 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
26 the course of the practice of pharmacy or the ownership, management, administration, or
27 operation of a pharmacy or other entity licensed by the board.

28 “(b) Acts or omissions that involve, in whole or in part, the failure to exercise or

1 implement his or her best professional judgment or corresponding responsibility with regard to
2 the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or
3 with regard to the provision of services.

4 “(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate
5 patient, prescription, and other records pertaining to the performance of any pharmacy function.

6 “(d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and
7 retain appropriate patient-specific information pertaining to the performance of any pharmacy
8 function.”

9 **FACTUAL BACKGROUND**

10 11. Khatami, the owner of Respondent OrindaRx, has held Original Pharmacist
11 License No. RPH 60045 since 2007.

12 12. In 2020, Khatami was an owner of another pharmacy where she was the
13 pharmacist-in-charge. During an inspection, a pharmacy inspector found numerous violations of
14 pharmacy statutes and regulations, including the following:

15 a. Khatami failed to complete and keep on file self-assessments of the
16 pharmacy’s compliance with federal and state pharmacy law.

17 b. Khatami failed to maintain a compounding log documenting quality
18 reviews and post-compounding process and procedures.

19 c. Khatami failed to update written policies and procedures for compounding
20 on an annual basis.

21 d. Khatami failed to show that the pharmacy had completed end product
22 testing to ensure the potency and labeled strength on any compounded drug product.

23 e. Khatami failed to train, evaluate, and assess the ongoing competency of
24 pharmacy staff, and failed to maintain documentation of compliance with these requirements.

25 f. Khatami filled fraudulent prescriptions for foot bath treatments purportedly
26 issued by medical practitioners who did not in actuality issue or authorize the prescriptions.

27 g. The pharmacy had substantial overages of controlled substances.

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1 13. Based on these violations, on July 29, 2021, Complainant filed Accusation No.
2 7120 against the pharmacy’s permit and Khatami’s pharmacist license. The accusation was
3 served on the pharmacy and Khatami on August 2, 2021. Khatami did not return a notice of
4 defense.

5 **CAUSES FOR DENIAL OF APPLICATION**

6 **FIRST CAUSE FOR DENIAL**

7 **(Unprofessional Conduct: Violation of Pharmacy Laws)**

8 14. Respondent OrindaRx’s application is subject to denial under sections 4113 and
9 4301, subdivisions (j) & (o), for its owner Khatami acting unprofessionally by violating laws
10 regulating controlled substances or dangerous drugs, and/or directly or indirectly violating,
11 attempting to violate, or assisting in or abetting a violation of laws or regulations governing the
12 practice of pharmacy. The facts are set forth in paragraphs 11-12 above.

13 **SECOND CAUSE FOR DENIAL**

14 **(Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

15 15. Respondent OrindaRx’s application is subject to denial under sections 4113 and
16 4300, subdivision (f), for its owner Khatami acting unprofessionally by committing acts involving
17 moral turpitude, dishonesty, fraud, deceit, or corruption. The facts are set forth in paragraphs 11-
18 12 above.

19 **THIRD CAUSE FOR DENIAL**

20 **(Unprofessional Conduct)**

21 16. Respondent OrindaRx’s application is subject to denial under sections 4113 and
22 4300 for its owner Khatami acting unprofessionally. The facts are set forth in paragraphs 11-12
23 above.

24 **FOURTH CAUSE FOR DENIAL**

25 **(Unprofessional Conduct: Failure to Exercise Pharmacist Qualifications)**

26 17. Respondent OrindaRx’s application is subject to denial under sections 4113 and
27 4306.5 for its owner Khatami acting unprofessionally by failing to exercise her education,
28 training, or experience as a pharmacist, or failing to exercise her best professional judgment or

1 corresponding responsibility with regard to controlled substances or dangerous drugs, or failing to
2 consult appropriate records, or failing to maintain and retain appropriate patient-specific
3 information. The facts are set forth in paragraphs 11-12 above.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
6 statement of issues and that following the hearing the Board of Pharmacy issues a decision:

- 7 1. Denying the application of Respondent OrindaRx for a community pharmacy
8 license; and
9 2. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 12/7/2021

Signature on File

12 ANNE SODERGREN
13 Executive Officer
14 Board of Pharmacy
15 Department of Consumer Affairs
16 State of California
17 *Complainant*

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