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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 Accusation Against:

13 **SIRINETR LAPEYRI**
14 10645 N. Oracle Road #121 355
15 Oro Valley, AZ 85755

16 **Pharmacist License No. RPH 45956**

17 Respondent.

Case No. 7124

OAH No. 2021070586

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18
19 **FINDINGS OF FACT**

20 1. On or about May 18, 2021, Complainant Anne Sodergren, in her official capacity as
21 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
22 Accusation No. 7124 against Sirinetr Lapeyri (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about March 9, 1993, the Board of Pharmacy (Board) issued Pharmacist
25 License No. RPH 45956 to Respondent. The Pharmacist License was in full force and effect at
26 all times relevant to the charges brought in Accusation No. 7124 and will expire on January 31,
27 2023, unless renewed.

28 3. On or about May 20, 2021, Respondent was served with Accusation No. 7124.

1 4. On or about June 12, 2021, Respondent signed and returned a Notice of Defense,
2 requesting a hearing in this matter.

3 5. On, July 23, 2021, a Notice of Hearing was served by mail at Respondent's address of
4 record which was: 10645 N. Oracle Road #121 355, Oro Valley, AZ 85755. The Notice of
5 Hearing informed her that an administrative hearing in this matter was scheduled for October 21,
6 2021.

7 6. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9 7. The matter was called for hearing at the date, time and location set forth in the Notice
10 of Hearing. The assigned Administrative Law Judge found that the service of the Notice of
11 Hearing on Respondent was proper. There was no appearance by or on behalf of Respondent. A
12 default was declared and on motion of counsel for Complainant, the matter was remanded to the
13 Board under Government Code section 11520.

14 8. Government Code section 11506(c) states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense . . . and the notice shall be deemed a specific denial of all
17 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
18 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
19 discretion may nevertheless grant a hearing.

20 9. California Government Code section 11520(a) states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense . . . or to appear at
22 the hearing, the agency may take action based upon the respondent's express
23 admissions or upon other evidence and affidavits may be used as evidence without
24 any notice to respondent

25 10. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
28 as well as taking official notice of all the investigatory reports, exhibits and statements contained
therein on file at the Board's offices regarding the allegations contained in Accusation No. 7124,
finds that the charges and allegations in Accusation No. 7124, are separately and severally, found
to be true and correct by clear and convincing evidence.

11. The Board finds that the actual costs for Investigation and Enforcement are \$16,005.25 as of October 15, 2021.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Sirinetr Lapeyri has subjected her Pharmacist License No. RPH 45956 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

- a. Unlawful Possession of Controlled Substance (Bus. & Prof. Code § 4301, subd. (j));
- b. Prohibited Acts – Fraud/Deceit (Bus. & Prof. Code § 4301, subd. (f) and (o); Health & Saf. Code § 11173, subd. (a));
- c. Subverting Investigation (Bus. & Prof. Code § 4301, subd. (q)).

ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 45956, issued to Respondent Sirinetr Lapeyri, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on January 5, 2022.

It is so ORDERED on December 6, 2021.



Seung Oh
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

35585592.DOCX
DOJ Matter ID:SA2021301327

Attachment: Exhibit A: Accusation

Exhibit A

Accusation

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Supervising Deputy Attorney General
3 SUMMER D. HARO
Deputy Attorney General
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1300 I Street, Suite 125
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7124

14 **SIRINETR LAPEYRI**
10645 N. Oracle Road #121 355
15 Oro Valley, AZ 85837

ACCUSATION

16 **Pharmacist License No. RPH 45956**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about March 9, 1993, the Board of Pharmacy issued Pharmacist License
23 Number RPH 45956 to Sirinetr Lapeyri (Respondent). The Pharmacist License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on January 31, 2023,
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code (Code) unless otherwise indicated.

2 4. Code section 4300 states, in pertinent part:

3 (a) Every license issued may be suspended or revoked.

4 (b) The board shall discipline the holder of any license issued by the
5 board, whose default has been entered or whose case has been heard by the board
and found guilty, by any of the following methods:

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

8 (3) Suspending his or her right to practice for a period not
exceeding one year.

9 (4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or
her as the board in its discretion may deem proper . . .

10 5. Code section 4300.1 states:

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

15 6. Code section 4307 states:

16 (a) Any person who has been denied a license or whose license has been
17 revoked or is under suspension, or who has failed to renew his or her license
while it was under suspension, or who has been a manager, administrator, owner,
18 member, officer, director, associate, partner, or any other person with
management or control of any partnership, corporation, trust, firm, or association
whose application for a license has been denied or revoked, is under suspension or
19 has been placed on probation, and while acting as the manager, administrator,
owner, member, officer, director, associate, partner, or any other person with
20 management or control had knowledge of or knowingly participated in any
conduct for which the license was denied, revoked, suspended, or placed on
21 probation, shall be prohibited from serving as a manager, administrator, owner,
member, officer, director, associate, partner, or in any other position with
22 management or control of a licensee as follows:

23 (1) Where a probationary license is issued or where an existing license
is placed on probation, this prohibition shall remain in effect for a period not to
24 exceed five years.

25 (2) Where the license is denied or revoked, the prohibition shall
26 continue until the license is issued or reinstated.

27 (b) Manager, administrator, owner, member, officer, director, associate,
partner, or any other person with management or control of a license as used in
28 this section and Section 4308, may refer to a pharmacist or to any other person
who serves in such capacity in or for a licensee.

1 (c) The provisions of subdivision (a) may be alleged in any pleading filed
2 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3
3 of the Government Code. However, no order may be issued in that case except as
4 to a person who is named in the caption, as to whom the pleading alleges the
5 applicability of this section, and where the person has been given notice of the
proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1
of Division 3 of the Government Code. The authority to proceed as provided by
this subdivision shall be in addition to the board's authority to proceed under
Section 4339 or any other provision of law.

6 **STATUTORY AND REGULATORY PROVISIONS**

7 **A. Business & Professions Code**

8 7. Code section 4301 states, in pertinent part:

9 The board shall take action against any holder of a license who is guilty of
10 unprofessional conduct . . . Unprofessional conduct shall include, but is not
limited to, any of the following:

11

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

14

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

16

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

19

20 (q) Engaging in any conduct that subverts or attempts to subvert an
investigation of the board.

21 8. Section 4059 of the Code states, in pertinent part:

22 (a) A person may not furnish any dangerous drug, except upon the
prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
23 naturopathic doctor pursuant to Section 3640.7.

24 9. Section 4060 of the Code states, in pertinent part:

25 A person shall not possess any controlled substance, except that furnished to
a person upon the prescription of a physician, dentist, podiatrist, optometrist,
26 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
27 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
28 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not

1 apply to the possession of any controlled substance by a manufacturer,
2 wholesaler, third-party logistics provider, pharmacy, pharmacist, physician,
3 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
midwife, nurse practitioner, or physician assistant, if in stock in containers
correctly labeled with the name and address of the supplier or producer.

4 This section does not authorize a certified nurse-midwife, a nurse
5 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices.

6 10. Code section 4022 states

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

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

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

13 (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.

14 **B. Health & Safety Code**

15 11. Health and Safety Code section 11173 states, in pertinent part:

16 (a) No person shall obtain or attempt to obtain controlled substances, or
17 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
18 concealment of a material fact.

19 **COST RECOVERY**

20 12. Code section 125.3 provides, in pertinent part, that a Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **DRUG CLASSIFICATIONS**

25 13. Butalbital-aspirin-caffeine-codeine is a Schedule III controlled substance pursuant to
26 Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Code
27 section 4022. Butalbital-aspirin-caffeine-codeine is used to treat migraine headaches. "Fiorinal"
28 is a brand of butalbital-aspirin-caffeine-codeine.

14. Butalbital-acetaminophen-caffeine-codeine is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Code section 4022. Butalbital- acetaminophen -caffeine-codeine is used to treat migraine headaches. “Fioricet” is a brand of butalbital- acetaminophen-caffeine-codeine.

15. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to Code section 4022. Alprazolam is used to treat anxiety. “Xanax” is a brand of alprazolam.

16. Phentermine is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (f)(4), and a dangerous drug pursuant to Code section 4022. Phentermine is used for weight loss. “Adipex-P” is a brand of phentermine.

17. Acetaminophen with codeine is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Code section 4022. “Tylenol with codeine” is a brand of acetaminophen with codeine.

CURES PROGRAM

18. The Controlled Substance Utilization Review and Evaluation System (CURES) program was initiated in California in 1998 and required mandatory monthly pharmacy reporting of dispensed Schedule II controlled substances. The program was amended in January 2005 to include mandatory weekly reporting of Schedule II to IV medications. The data is collected statewide and can be used by healthcare professionals, such as pharmacists and prescribers, to evaluate and determine whether their patients are utilizing their controlled substances safely and appropriately.

19. The component of CURES which is accessible to pharmacists and prescribers is called the Prescription Drug Monitoring Program (PDMP). Registration for access to the PDMP has been available since February 2009. The data may be used to aid in determining whether a patient sees multiple prescribers, frequents multiple pharmacies to fill controlled substance prescriptions, and/or obtains early refills of controlled substance prescriptions.

FACTUAL ALLEGATIONS

20. Between approximately July 1992, and July 20, 2018, Respondent worked as a

1 pharmacist at Safeway Pharmacy #1648 located in Lodi, California (Safeway #1648).

2 Respondent's employment at Safeway #1648 was terminated on or about July 20, 2018, for
3 unprofessionalism and sexual harassment.

4 21. On or about November 17, 2020, the Board received an e-mail from a Diversion
5 Investigator with the Drug Enforcement Agency (DEA) informing the Board that Respondent was
6 suspected of diverting controlled substances from Safeway.

7 22. On or about December 10, 2020, Board Investigator SM, received and reviewed a
8 CURES Patient Activity Report for Respondent. That report showed that between approximately
9 December 14, 2017, and July 20, 2018, Respondent received eleven (11) prescriptions for
10 butalbital-aspirin-caffeine-codeine 50mg-325mg-40mg-30mg capsules, or butalbital-
11 acetaminophen-caffeine-codeine 50mg-325mg-40mg-30mg capsules, as prescribed by Dr. TB.
12 Nine (9) of those prescriptions were filled at Safeway #1648, and the remaining two (2)
13 prescriptions were filled at a different pharmacy in Stockton, California.

14 23. On or about January 4, 2021, Board Investigator SM received additional information
15 from the DEA Diversion Investigator regarding prescriptions that had been filled at Safeway
16 #1648 for both Respondent and for patient SS between October 16, 2016, and July 20, 2018.
17 Those prescriptions had purportedly been issued by Dr. TB or Physician Assistant TL, whose
18 license had been revoked on or about November 10, 2016.

19 24. On or about January 7, 2021, Board Investigator SM reviewed additional CURES
20 reports for Respondent and SS going back to 2014.

21 25. The CURES report for Respondent showed that she had received fifty-five (55)
22 prescriptions for butalbital-aspirin-caffeine-codeine under Dr. TB's name between July 2015 and
23 July 2018, all of which were filled at Safeway #1648. Respondent's time-clock records showed
24 that she was working at Safeway #1648 each day the prescriptions were filled.

25 26. The CURES report for SS showed that she had received one-hundred-thirty-seven
26 (137) controlled substance prescriptions under Dr. TB or Physician Assistant TL's name between
27 July 2015 and June 2018, all of which were filled at Safeway #1648. SS received twenty-eight
28 (28) of those prescriptions under Physician Assistant TL's name, after Physician Assistant TL's

1 license had been revoked on November 10, 2016. Respondent's time-clock records showed that
2 she was working at Safeway #1648 each day the prescriptions were filled.

3 27. Board Investigator SM contacted Dr. TB, and inquired whether Dr. TB or Physician
4 Assistant TL had issued prescriptions for butalbital-aspirin-caffeine-codeine and butalbital-
5 acetaminophen-caffeine-codeine to Respondent, and prescriptions for butalbital-aspirin-caffeine-
6 codeine to SS, between 2014 and 2018. Dr. TB responded that he and Physician Assistant TL did
7 not issue those prescriptions for Respondent or SS between the specified dates.

8 28. Board Investigator SM contacted Safeway #1648's Manager CP, requesting
9 documentation showing who had verified the prescriptions filled for Respondent and SS. In
10 response, Manager CP provided Board Investigator SM with a list of those prescriptions showing
11 that Respondent had verified every prescription, except for three.

12 29. On or about January 25, 2021, Board Investigator SM sent a letter and written notice
13 to Respondent informing her that records indicated that Respondent initiated, verified, and then
14 dispensed close to 200 fraudulent prescriptions while working at Safeway #1648. That letter
15 asked Respondent to provide any additional mitigating information or a response to Board
16 Investigator SM. Respondent did not respond.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unlawful Possession of Controlled Substance)**

19 30. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
20 for the unauthorized possession of a controlled substance in violation of Code sections 4059,
21 subdivision (a), and 4060, in that Respondent falsified prescriptions, and dispensed controlled
22 substances pursuant to those fraudulent prescriptions to herself and to SS, as set forth in
23 paragraphs 20 through 28, above.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Prohibited Acts - Fraud/Deceit)**

26 31. Respondent is subject to disciplinary action under Code section 4301, subdivisions (f)
27 and (o), for obtaining, attempting to obtain, procuring, or attempting to procure controlled
28 substances by fraud, deceit, misrepresentation, or the concealment of a material fact, in violation

of Health and Safety Code section 11173, subdivision (a), in that Respondent in that Respondent falsified prescriptions, and dispensed controlled substances pursuant to those fraudulent prescriptions to herself and to SS, as set forth in paragraphs 20 through 28, above.

THIRD CAUSE FOR DISCIPLINE

(Subverting Investigation)

32. Respondent is subject to disciplinary action subverting an investigation, in violation of Code section 4301, subdivision (q), in that Respondent failed to respond to Board Inspector SM, and failed to provide the requested statement regarding Respondent's initiation, verification, and dispensing of fraudulent prescriptions while working at Safeway #1648, as set forth in paragraph 29, above.

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 Pharmacist Number RPH 45956, issued to Sirinetr Lapeyri;
2. Ordering Sirinetr Lapeyri to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/18/2021

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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