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

In the Matter of the Accusation Against: **APEX COMMUNITY PHARMACY INC.; DBA APEX COMMUNITY PHARMACY** **7920 Broadway** **Lemon Grove, CA 91945** **Pharmacy License No. PHY 57627** Respondent.	Case No. 7853 OAH No. 2025010941 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 10, 2024, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7853 against Apex Community Pharmacy Inc.; dba Apex Community Pharmacy (Respondent) before the Board. (Accusation attached as Exhibit A.)

2. On or about February 3, 2020, the Board issued Pharmacy License No. PHY 57627 to Respondent. The Pharmacy License expired on April 2, 2024, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code sections 118, subdivision (b), and 4990.32, does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On or about October 14, 2024, Respondent was served by Certified and First Class Mail copies of the Accusation No. 7853, Statement to Respondent, Notice of Defense, Request for Discovery, Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7), Notice of Assigned Hearing Date and Notice of Hearing at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is: 7920 Broadway Lemon Grove, CA 91945. Respondent timely filed a Notice of Defense, however, on January 30, 2025, Respondent signed a Notice of Withdrawal of Request for hearing.

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

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

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

6. The Board takes official notice of its records and the fact that Respondent submitted a Notice of Withdrawal of Request for hearing, waiving its right to a hearing on the merits of Accusation No. 7853.

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

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

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, finds that the charges and allegations in Accusation No. 7853, are separately and severally, found to be true and correct by clear and convincing evidence.

9. The Board finds that the actual costs for Investigation and Enforcement are $35,786.00.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Apex Community Pharmacy Inc.; dba Apex Community Pharmacy has subjected its Pharmacy License No. PHY 57627 to discipline.

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

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy 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. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent dispensed 87 prescriptions to patients without provision of consent; dispensed 181 prescriptions wherein patients did not pay copays; and dispensed one prescription to a patient that verified the patient had not received and billed insurance for these prescriptions.

b. Respondent is subject to disciplinary action under Code sections 4081, subdivision (a), and 4332 in conjunction with California Code of Regulations, sections 1714, subdivision (b), and 1718 in that Respondent's stock contained overages of 779 of the 50 gm tubes of lidocaine 5% ointment; 1,575 of the 100 gm of the diclofenac 1% gel; 1,052 of the 118 ml bottles of hydrocortisone butyrate 0.1% lotion; and 718.75 bottles of the 60 count tablets of aspirin/caffeine/orphenadrine 770/60/50 mg.

c. Respondent is subject to disciplinary action under Health and Safety Code section 11165, subdivision (d), in that Respondent failed to submit five controlled substance prescriptions to CURES within one business day of prescription receipt by patient or patient's agent.

d. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in connection with California Code of Regulations, section 1715.65, subdivision (c), in that Respondent failed to complete an inventory reconciliation of Schedule II controlled substances.

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e. Respondent is subject to disciplinary action under Code section 4201, subdivision (o), in conjunction with Code of Federal Regulations section 1304.11, subdivision (c), in that Respondent could not produce a biennial inventory upon request by the Board's investigator.

f. Respondent is subject to disciplinary action under Code section 4104, subdivision (b), in that Respondent did not have any written policies and procedures for addressing chemical, mental or physical impairment, theft, diversion, or self-use of dangerous drugs among licensed individuals employed by the pharmacy.

g. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1707.5, subdivision (d), in that Respondent failed to have policies and procedures in place to assist patients with limited or no English proficiency.

h. Respondent is subject to disciplinary action under Code section 4701, subdivision (o), in conjunction with California Code of Regulations section 1714, subdivision (f), in that Respondent failed to have written policies and procedures regarding the operations of the pharmacy during the temporary absences of the pharmacist.

i. Respondent is subject to disciplinary action under Code section 4701, subdivision (o), in conjunction with California Code of Regulations section 1711, subdivision (c), in that Respondent failed to maintain a quality assurance program in retrievable format.

j. Respondent is subject to disciplinary action under Code section 4701, subdivision (o), in conjunction with California Code of Regulations section 1793.7, subdivision (d), in that Respondent employed pharmacy technicians but failed to maintain a job description and written policies and procedures for the position.

k. Respondent is subject to disciplinary action under Code section 4701, subdivision (o), in conjunction with California Code of Regulations section 1715, subdivision (a), in that Respondent failed to produce a self-assessment of the pharmacy's compliance with federal and state pharmacy laws.

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l. Respondent is subject to disciplinary action under Code section 4058 in that Respondent failed to display the original pharmacy license.

m. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1707.2, subdivision (b)(1)(c), when Respondent failed to provide written notice to delivery patients of the availability of pharmacist consultation for five days per week.

ORDER

IT IS SO ORDERED that Pharmacy License No. PHY 57627, issued to Respondent Apex Community Pharmacy Inc.; dba Apex Community Pharmacy, 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.

Upon revocation per this Order, under Business and Professions Code section 4307, subdivision (a), Respondent shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or serving in any other position with management or control of a licensee. This prohibition shall continue until the license is issued or reinstated.

This Decision shall become effective at 5:00 p.m. on April 9, 2025.

It is so ORDERED on March 10, 2025.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm.D.
Board President

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DOJ Matter ID:SD2024802119

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

In the Matter of the Accusation Against**:**	Case No. 7853
APEX COMMUNITY PHARMACY INC.; DBA APEX COMMUNITY PHARMACY **ARJUN PASRICHA** **CEO/PRES/SECRETARY/TREASURER/ MEDICAL DIRECTOR** **7920 Broadway** **Lemon Grove, CA 91945** **Pharmacy License No. PHY 57627** Respondent.	**ACCUSATION**

PARTIES

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

2. On or about February 3, 2020, the Board issued Pharmacy License Number PHY 57627 to Respondent Apex Community Pharmacy Inc.; dba Apex Community Pharmacy with Arjun Pasricha as Owner, Chief Executive Officer, President, Secretary, Treasurer, and Medical

Director. The Pharmacy License expired on February 1, 2023 and was cancelled pursuant to Business and Professions Code section 4312 on April 2, 2024.

JURISDICTION

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

4. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq*.) and the Uniform Controlled Substances Act (Health & Safety Code, § 11000 *et seq*.).

5. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

6. Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued 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 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 licensee or to render a decision suspending or revoking the license

STATUTORY PROVISIONS

7. Code section 4022 states:

> "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
>
> (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
>
> (b) Any device that bears the statement: "Caution: federal law restricts this 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 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.

8. Code section 4058 states:

> Every person holding a license issued under this chapter to operate a premises

shall display the original license and current renewal license upon the licensed premises in a place where it may be clearly read by the public.

9. Code section 4081 states:

All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

…

10. Code section 4104 states:

…

(a) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

…

11. Code section 4105 states:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

…

12. Code section 4301 states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

…

(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 licensee or otherwise, and whether the act is a felony or misdemeanor or not as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

…

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

(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 pharmacy, including regulations established by the board or any other state or federal regulatory agency.

…

13. Code section 4307 states in part:

(a) Any person who has been denied a license or whose license has been 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, 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 has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

(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 exceed five years.

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

(b) "Manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of a license" as used in 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.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the 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.

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14. Code section 4312 states:

(a) The board may cancel the license of a facility that is licensed by the board if the licensed premises remain closed, as defined in subdivision (e), other than by order of the board. For good cause shown, the board may cancel a license after a shorter period of closure. To cancel a license pursuant to this subdivision, the board shall make a diligent, good faith effort to give notice by personal service on the licensee. If a written objection is not received within 10 days after personal service is made or a diligent, good faith effort to give notice by personal service on the licensee has failed, the board may cancel the license without the necessity of a hearing. If the licensee files a written objection, the board shall file an accusation based on the licensee remaining closed. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

…

(c) If a licensed facility fails to comply with subdivision (b), the board may seek and obtain an order from the superior court in the county in which the facility licensed by the board is located, authorizing the board to enter the facility and inventory and store, transfer, sell, or arrange for the sale of, all dangerous drugs and controlled substances and dangerous devices found in the facility.

…

(e) For the purposes of this section, "closed" means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period.

…

15. Code section 4332 states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

16. Health and Safety Code 11165 states:

…

(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

…

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

…

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1707.2, states:

...

(b)(1) When the patient or patient's agent is not present (including, but not limited to, a prescription drug that was shipped by mail or delivery), a pharmacy shall ensure that:

…

(C) a pharmacist shall be available (i) to speak to the patient or patient's agent during any regular hours of operation, within an average of ten (10) minutes or less, unless a return call is scheduled to occur within one business hour, (ii) for no less than six days per week, and (iii) for a minimum of 40 hours per week.

18. California Code of Regulations, title 16, section 1707.5 states:

…

(d) The pharmacy shall have policies and procedures in place to help patients with limited or no English proficiency understand the information on the label as specified in subdivision (a) in the patient's language. The pharmacy's policies and procedures shall be specified in writing and shall include, at minimum, the selected means to identify the patient's language and to provide interpretive services and translation services in the patient's language. The pharmacy shall, at minimum, provide interpretive services in the patient's language, if interpretive services in such language are available, during all hours that the pharmacy is open, either in person by pharmacy staff or by use of a third-party interpretive service available by telephone at or adjacent to the pharmacy counter.

…

19. California Code of Regulations, title 16, section 1711(c) states:

(c)(1) Each quality assurance program shall be managed in accordance with written policies and procedures maintained in the pharmacy in an immediately retrievable form.

(2) When a pharmacist determines that a medication error has occurred, a pharmacist shall as soon as possible:

(A) Communicate to the patient or the patient's agent the fact that a medication error has occurred and the steps required to avoid injury or mitigate the error.

(B) Communicate to the prescriber the fact that a medication error has occurred.

(3) The communication requirement in paragraph (2) of this subdivision shall

only apply to medication errors if the drug was administered to or by the patient, or if the medication error resulted in a clinically significant delay in therapy.

(4) If a pharmacist is notified of a prescription error by the patient, the patient's agent, or a prescriber, the pharmacist is not required to communicate with that individual as required in paragraph (2) of this subdivision.

…

20. California Code of Regulations, title 16, section 1714 states:

…

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

…

21. California Code of Regulations, title 16, section 1714.1 states:

…

(f) The pharmacy shall have written policies and procedures regarding the operations of the pharmacy during the temporary absence of the pharmacist for breaks and meal periods. The policies and procedures shall include the authorized duties of ancillary staff, the pharmacist's responsibilities for checking all work performed by ancillary staff and the pharmacist's responsibility for maintaining the security of the pharmacy. The policies and procedures shall be open to inspection by the board or its designee at all times during business hours.

…

22. California Code of Regulations, title 16, section 1715.65 states:

…

(c) An inventory reconciliation report prepared pursuant to this section shall include all of the following:

(1) A physical count, not an estimate, of all quantities of each federal controlled substance covered by the report that the pharmacy or clinic has in inventory, except as provided in subdivision (h). The biennial inventory of controlled substances required by federal law may serve as one of the mandated inventories under this section in the year where the federal biennial inventory is performed, provided the biennial inventory was taken no more than three months from the last inventory required by this section. An individual who performs the inventory required by this paragraph shall sign and date the inventory or the report in which it is included as provided in subdivision (e)(1);

(2) A review of all acquisitions and dispositions of each federal controlled substance covered by the report since the last inventory reconciliation report covering that controlled substance;

(3) A comparison of (1) and (2) to determine if there are any variances;

(4) Identification of all records used to compile the report, which shall be maintained in the pharmacy or clinic pursuant to subdivision (e)(2);

(5) Identification of each individual involved in preparing the report; and

(6) Possible causes of overages.

…

23. California Code of Regulations, title 16, section 1718 states:

"Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

24. California Code of Regulations, title 16, section 1793.7 states:

…

(d) Any pharmacy employing or using a pharmacy technician shall develop a job description and written policies and procedures adequate to ensure compliance with the provisions of Article 11 of this Chapter, and shall maintain, for at least three years from the time of making, records adequate to establish compliance with these sections and written policies and procedures.

…

25. Federal Code of Regulations 1304.11 states:

…

(c) *Biennial inventory date.* After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

…

COST RECOVERY

26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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DEFINITIONS

27. Xylocaine is a prescription medicine used to treat itching and pain from skin conditions such as scrapes, eczema, insect bites, and minor burns. The generic name of this drug is Lidocaine and is considered a dangerous drug as defined under Business and Professions Code section 4022.

28. Voltaren is a nonsteroidal anti-inflammatory drug used to treat pain and inflammatory diseases. The generic name is diclofenac sodium and is considered a dangerous drug as defined under Business and Professions Code section 4022.

29. Locoid is a steroid medicine that is used to treat inflammation and itching caused by skin conditions that respond to steroid medication. The generic name is hydrocortisone butyrate and is considered a dangerous drug as defined under Business and Professions Code section 4022.

30. Norgestic Forte is a combination medicine that is used together with rest and physical therapy to treat painful muscular conditions. The generic name is orphenadrine/aspirin/caffeine 50/770/60 mg and is considered a dangerous drug as defined under Business and Professions Code section 4022.

31. Norco 10/325 is a combination medication used to relieve moderate to severe pain. It contains an opioid pain reliever (hydrocodone) and a non-opioid pain reliever (acetaminophen). The generic name is hydrocodone/acetaminophen 10/325 mg and is considered a dangerous drug as defined under Business and Professions Code section 4022.

32. Ativan is a prescription medication used for anxiety, insomnia, and seizures. The generic name is lorazepam and is considered a dangerous drug as defined under Business and Professions Code section 4022.

33. Ultram is a pain reliever used to treat moderate to moderately severe pain. The generic name is tramadol and is considered a dangerous drug as defined under Business and Professions Code section 4022.

34. Lyrica is used to treat fibromyalgia, diabetic nerve pain, spinal cord injury nerve pain, and pain after shingles in adult patients. The generic name is pregabalin and it is considered a dangerous drug as defined under Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

35. On or around December 7, 2021, the Board received a complaint from Q, in their capacity as a Medicare Drug Integrity Contractor (MEDIC), informing the Board that MEDIC received three complaints from insurance companies alleging Respondent caused prescriptions to be delivered to patients without patient consent and without payment of copays.

36. Through the course of their investigation, MEDIC determined Respondent received payment by Visa card for a patient although the patient did not have a Visa card and denied paying any copays. MEDIC identified approximately fifty-five patients that received prescription deliveries from Respondent although they did not know, did not have a relationship with, and did not request a prescription, from Respondent. A review of Respondent's billing activity indicated Respondent billed for dispensing more drugs than they purchased.

37. On or around March 2, 2022, Board Inspector CW conducted an inspection of the pharmacy. Pharmacist in Charge (PIC) HS and Technician FM were present. Inspector CW requested copies of policies and procedures for addressing chemical, mental or physical impairment, theft, diversion, or self-use of dangerous drugs among licensed individuals employed by the pharmacy. Inspector CW requested copies of policies and procedures for assistance of patients with limited English proficiency on drug container labels, policies and procedures for patient assistance during the temporary absence of pharmacist, and quality assurance. PIC HS confirmed the pharmacy did not have any such policies. Investigator IW requested a copy of the technician job description. PIC HS confirmed the pharmacy did not have a job description to provide to Inspector CW.

38. Inspector CW requested copies of the pharmacy self-assessment form that was to be completed on or before September 24, 2020, and July 1, 2024. PIC HS stated he never completed a self-assessment form. Inspector CW requested a copy of the last biennial inventory. PIC HS was unable to locate any biennial inventory.

39. Inspector CW did not see the original pharmacy license on display. When asked to produce the license, neither PIC HS or FM could locate the license.

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40. Inspector CW requested all controlled substance wholesaler invoices. Neither PIC HS or FM could locate the invoices. During the inspection, PIC HS could not demonstrate any transmissions to the Controlled Substance Utilization Review and Evaluation System (CURES). Following the inspection, Inspector CW determined there had been no CURES transmissions for the pharmacy. After the inspection, Respondent provided dispensing records indicating a total of five controlled substance prescriptions dispensed that had not been reported to CURES.

41. FM printed a copy of the information leaflet alleged to be provided to all delivery patients and the patient signature log for a patient identified as TR. FM confirmed that these documents and the labeled drugs would be the only items in the shipment. Inspector CW reviewed the forms and determined there was no notice of availability of pharmacist consultation for at least six days per week, as required.

42. Inspector CW observed a large stock of topical drugs located in the pharmacy. Inspector CW requested PIC HS perform a stock on hand count. The count showed 6,525.84 gm of lidocaine 5% ointment (one hundred and five 50 gm tubes and thirty six 35.44 gm tubes), 48,100 gm of diclofenac 1% gel (four hundred and eighty one 100 gm tubes), 944 ml of hydrocortisone butyrate 0.1% (eight 118 ml tubes), one thousand twenty tablets of aspirin/caffeine/orphenadrine 770-60-50 mg comprised of seventeen bottles with sixty count tablet in each bottle.

43. Inspector CW requested the patient profiles of the 55 patients listed in MEDIC's complaint received by the Board. Inspector CW determined Respondent issued 87 prescriptions without patient consent, 181 prescriptions in which the patients did not pay the insurance copays, and 1 prescription that was not received by the patient.

44. On March 16, 2022, Inspector CW received additional documentation on behalf of the pharmacy. The documents included a controlled inventory for the period August 25, 2020 through October 18, 2021 for Schedule II, III, and IV drugs. The report did not include a reconciliation process, dispositions, acquisitions, or determination of shortages or losses.

45. On April 1, 2022, Inspector CW requested Respondent provide the following documents:

- Verification of no CURES transmittals for the period February 3, 2020 through March 6, 2022.
- Photo showing the original pharmacy license on display in public view.
- Audit for the period February 3, 2020 through March 2, 2022 of brand and generic lidocaine 5% ointment, diclofenac 1% gel, hydrocortisone butyrate 0.1% lotion, and orphenadrine/aspirin/caffeine 50/770/60 mg.
- Information for the 55 patients identified in the MEDIC complaint.

46. On April 5, 2022, Respondent replied to the request and indicated the pharmacy's computers were hacked and the Internet was down for a period. Respondent installed new computers and Rx software, but all prior electronic records were no longer available. Respondent did not provide evidence of the computer hack and notification issued to impacted patients.

47. Inspector CW contacted Respondent's wholesalers and requested audits for lidocaine 5% ointment, diclofenac 1% gel, hydrocortisone butyrate 0.1% lotion, and orphenadrine/aspirin/caffeine 50/770/60 mg. Based upon the audits provided, Inspector CW determined Respondent had overages of 779 of the 50 gm tubes of lidocaine 5% ointment, 1,575 of the 100 gm of the diclofenac 1% gel, 1,052 of the 118 ml bottles of hydrocortisone butyrate 0.1% lotion, and 718.75 bottles of the 60 count tablets of aspirin/caffeine/orphenadrine 770/60/50 mg.

48. On September 13, 2022, Inspector CW arrived at Respondent's premises to conduct an inspection of Respondent's pharmacy. The doors were locked, and Inspector CW observed an accumulation of mail on the premises floor. Inspector CW observed the pharmacy signage displaying hours of operation from 10:00 a.m. to 6:00 p.m. weekdays. Inspector CW telephoned Respondent and received a message stating the pharmacy was temporarily closed. Inspector CW spoke with individuals in neighboring businesses and confirmed the pharmacy had been closed for approximately three months.

49. On or around September 14, 2022, Respondent informed Inspector CW that PIC HS was hospitalized and not anticipated to return to pharmacy practice. Inspector CW requested the following:

- The last date PIC HS worked for Respondent.
- Anticipated date of reopening of the premises
- Copies of all computer backups performed prior to the alleged computer hack.
- Copies of notifications to patients impacted by the breach in computer security.

Respondent replied it was permanently closed, all drugs had been sent to reverse distributer for destruction, and a statement it would shortly submit a discontinuance of business form to the Board.

50. On September 16, 2022, Inspector CW again requested the documents referenced in paragraph 48. Inspector CW received a statement from Respondent's counsel stating in part, "frankly, as the pharmacy is out of business and we are preparing a discontinuance of business form for submission to the Board, I see no useful reason to comply with it."

51. Inspector CW confirmed the Board received a deficient discontinuance of business form on November 20, 2023. The Board sent Respondent's counsel letters of deficiency on January 24, 2024, and February 4, 2024. To date, the Board has not received a corrected discontinuance of business.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

52. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent dispensed 87 prescriptions to patients without the consent of the patient, dispensed 181 prescriptions wherein patients did not pay copays, and dispensed 1 prescription to a patient that the patient never received and billed insurance for all of these prescriptions as more fully alleged in paragraphs 35 through 36, and paragraph 43, incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Maintenance of Records/Operational Standards and Security)

53. Respondent is subject to disciplinary action under Code sections 4301, subdivision (o), 4081, subdivision (a), and 4332 in conjunction with California Code of Regulations, sections 1714, subdivision (b), and 1718 in that Respondent's stock contained overages of 779 of the 50

gm tubes of lidocaine 5% ointment, 1,575 of the 100 gm of the diclofenac 1% gel, 1,052 of the 118 ml bottles of hydrocortisone butyrate 0.1% lotion, and 718.75 bottles of the 60 count tablets of aspirin/caffeine/orphenadrine 770/60/50 mg as more fully alleged in paragraph 47 incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(CURES Project for Electronic Monitoring of Prescription Drugs)

54. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11165, subdivision (d), in that Respondent failed to submit five controlled substance prescriptions to CURES within one business day of prescription receipt by patient or patient's agent, as more fully alleged in paragraphs 40, and 44 through 45 incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Inventory Reconciliation Report of Controlled Substances)

55. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations, section 1715.65, subdivision (c), in that Respondent failed to complete an inventory reconciliation of Schedule II controlled substances as more fully alleged in paragraphs 44 through 50 incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Biennial Inventory)

56. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code of Federal Regulations section 1304.11 subdivision (c), and California Code of Regulations, section 1718 in that Respondent could not produce a biennial inventory as more fully alleged in paragraph 38 incorporated herein by reference.

SIXTH CAUSE FOR DISCIPLINE

(Procedures Addressing Chemical, Mental, or Physical Impairment)

57. Respondent is subject to disciplinary action under Code sections 4301, subdivision (o), and 4104, subdivision (b), in that Respondent did not have any written policies and procedures for addressing chemical, mental or physical impairment, theft, diversion, or self-use of

dangerous drugs among licensed individuals employed by the pharmacy as more fully alleged in paragraph 37 incorporated herein by reference.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Patient Centered Labeling for Prescription Drug Containers)

58. Respondent is subject to disciplinary action under Code section 4301 subdivision (o), in conjunction with California Code of Regulations section 1707.5, subdivision (d), in that Respondent failed to have policies and procedures in place to assist patients with limited or no English proficiency as more fully alleged in paragraph 37 incorporated herein by reference.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Maintain Policies and Procedures Regarding Operation of Pharmacy During Absence of Pharmacist)

59. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1714, subdivision (f), in that Respondent failed to have written policies and procedures regarding the operations of the pharmacy during the temporary absences of the pharmacist as more fully alleged in paragraph 37 incorporated herein by reference.

NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Quality Assurance Programs)

60. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1711, subdivision (c), in that Respondent failed to maintain a quality assurance program in retrievable format as more fully alleged in paragraph 37 incorporated herein by reference.

TENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Pharmacy Technician Job Descriptions or Policies)

61. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1793.7, subdivision (d), in that Respondent employed pharmacy technicians but failed to maintain a job description and written

policies and procedures for the position as more fully alleged in paragraph 37 incorporated herein by reference.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Complete Self-Assessment of Pharmacy Compliance with Federal and State Pharmacy Law)

62. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations section 1715, subdivision (a), in that Respondent failed to produce a self-assessment of the pharmacy's compliance with federal and state pharmacy as more fully alleged in paragraph 37 incorporated herein by reference.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Display License)

63. Respondent is subject to disciplinary action under Code sections 4301, subdivision (o), and 4058 in that Respondent failed to display the original pharmacy license as more fully alleged in paragraph 39 incorporated herein by reference.

THIRTEENTH CAUSE FOR DISCIPLINE

(Duty to Consult)

64. Respondent is subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with California Code of Regulations section 1707.2, subdivision (b)(1)(c), when Respondent failed to provide written notice to delivery patients of the availability of pharmacist consultation for five days per week as more fully alleged in paragraph 41 incorporated herein by reference.

OTHER MATTERS

65. Pursuant to Code section 4307, if discipline is imposed on Pharmacy License Number PHY 57627 to Apex Community Pharmacy Inc.; dba Apex Community Pharmacy, Respondent Apex Community Pharmacy Inc., shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy License Number PHY 57627 to Apex Community Pharmacy Inc.; dba Apex Community Pharmacy, Respondent Apex Community Pharmacy Inc., is reinstated if it is revoked.

66. Pursuant to Code section 4307, if discipline is imposed on Pharmacy License Number PHY 57627 to Apex Community Pharmacy Inc.; dba Apex Community Pharmacy, while Arjun Pasricha has been an officer and owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Arjun Pasricha shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy License Number PHY 57627 to Apex Community Pharmacy Inc.; dba Apex Community Pharmacy, is reinstated if it is revoked.

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 Pharmacy License Number PHY 57627, issued to Apex Community Pharmacy Inc.; dba Apex Community Pharmacy;

2. Prohibiting Apex Community Pharmacy Inc., from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy License Number PHY 57627 is placed on probation or is revoked.

3. Prohibiting Arjun Pasricha from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy License Number PHY 57627 is placed on probation or is revoked.

4. Ordering Apex Community Pharmacy 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;

5. Taking such other and further action as deemed necessary and proper.

DATED: 10/10/2024

Sodergren, Anne@DCA
Digitally signed by Sodergren, Anne@DCA
Date: 2024.10.10 20:53:53 -07'00'

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

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