

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

**In the Matter of the Accusation Against:**

**ASHKAN SHAWN KOHANPOUR,**

**Pharmacist's License No. RPH 56067,**

**Respondent.**

**Agency Case No. 7558**

**OAH No. 2024040941**

**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 at 5:00 p.m. on January 8, 2025.

It is so ORDERED on December 9, 2024.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.  
Board President

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**PROPOSED DECISION**

Taylor Steinbacher, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on September 23, 2024.

Christina Thomas, Deputy Attorney General, represented complainant Anne Sodergren, Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs.

Derek F. O'Reilly-Jones of Bonne, Bridges, Mueller, O'Keefe & Nichols, represented respondent Ashkan Shawn Kohanpour, who was present.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on September 23, 2024.

## **SUMMARY**

Respondent sustained a criminal conviction for aiding and assisting in the preparation of a false tax return in April 2021. Respondent has accepted responsibility for the conduct underlying that conviction and has presented substantial evidence of rehabilitation and mitigation. Under the circumstances, a public reproof is the appropriate discipline.

## **FACTUAL FINDINGS**

### **Background and Procedural History**

1. On August 23, 2004, the Board issued respondent Pharmacist License Number RPH 56067. (Ex. 2.) Respondent's license was in effect at all times relevant to the case.
2. On September 14, 2023, complainant filed an Accusation for disciplinary action against respondent. (Ex. 1, pp. A11–A16.) The Accusation alleges respondent's license should be disciplined because: (1) he sustained a felony conviction for violating 26 United States Code, section 7206, subdivision (2) (aiding and assisting in the preparation of a false tax return), in April 2021; (2) he engaged in an act of moral turpitude, dishonesty, fraud, or deceit relating to his criminal conviction for tax fraud; (3) the circumstances relating to his criminal conviction for tax fraud shows he knowingly made or signed a certificate or other document that falsely represented the

existence or nonexistence of a state of facts; and (4) his license to act as a pharmacist was disciplined by the Michigan Bureau of Professional Licensing in 2022 due to his 2021 criminal conviction. (*Id.*, pp. A14–A16.) The Accusation further requests that, if respondent’s license is placed on probation or revoked, he be prohibited from serving as a manager, administrator, owner, member, officer, director, partner, or any other person with management or control of a licensee under Business and Professions Code section 4307. (*Id.*, p. A16)

3. Respondent timely filed a Notice of Defense. (Ex. 1, pp. A4–A5.)

## **Complainant’s Case**

### **JULY 2021 CRIMINAL CONVICTION FOR AIDING AND ASSISTING IN THE PREPARATION OF A FALSE TAX RETURN**

4. On July 26, 2021, after pleading guilty in the United States District Court for the Central District of California, case number 2:20-cr-00586-ODW, respondent was convicted of a violation of 26 United States Code, section 7206, subdivision (2) (aiding and assisting in the preparation of a false tax return), a felony. (Ex. 4, pp. A48, A101–A106.) The court sentenced respondent to serve six months imprisonment, with one year of supervised release thereafter, payment of restitution in the amount of \$24,147.50, and payment of additional fees and special assessments. (*Id.*, pp. A101–A103.) At the time of sentencing, the court acknowledged that respondent had already paid the ordered restitution in full. (*Id.*, p. A101.) The court ordered that respondent comply with the standard terms and conditions of supervised release and also required that respondent provide to his probation officer: (1) a release authorizing access to his credit report; (2) access to his federal and state income tax returns; and (3) an accurate

financial statement, with supporting documentation as to all his assets, income, expenses, and liabilities. (*Id.*, pp. A102, A104–A105.)

5. In connection with respondent's guilty plea, he agreed that the factual basis for his plea was as follows:

Pharmacy Acquisition, LLC ("Pharmacy Acquisition") was formed on approximately March 27, 2014. Defendant Kohanpour, and co-defendants Sidney Cobos, Allan Lummer, and Farshad Sassounian, operated or aided the operation of Pharmacy Acquisition.

On or about April 13, 2015, defendant Kohanpour and his co-defendants, within the Central District of California, knowingly and willfully caused, and aided and assisted in, the preparation and presentation to the Internal Revenue Service, of a Form 1065, U.S. Return of Partnership Income, for the 2014 tax year for Pharmacy Acquisition LLC. The 2014 Pharmacy Acquisition Form 1065 filed with the Internal Revenue Service was false and fraudulent as to a material matter because the return falsely stated that Pharmacy Acquisition had incurred a business expense for "Research and Development," which was claimed as a deduction on Pharmacy Acquisition's Form 1065. In truth, as defendant Kohanpour and his co-defendants then knew, Pharmacy Acquisition had not incurred these "Research and Development" expenses and instead had distributed these

funds to entities that were owned and controlled by co-defendants Cobos and Sassounian.

Pharmacy Acquisition distributed some of these funds to co-defendants Cobos and Sassounian on December 30 and 31, 2014. Co-defendants Cobos and Sassounian deposited these funds in their accounts in January 2015. With the knowledge of their accounting professionals, defendants Cobos and Sassounian did not report this income on their 2014 returns and instead reported it on their 2015 returns. The late reporting of this income resulted in a tax loss of \$104,680.

In April 2017, after learning that defendant Kohanpour and his co-defendants were under investigation related to conduct that is not considered relevant . . . defendant Kohanpour, through his counsel, disclosed to the government that defendant Kohanpour and his co-defendants falsely characterized distributions from Pharmacy Acquisition as "Research and Development" expenses on Pharmacy Acquisition's tax return. . . . Before [respondent's proffer session with the government] the government was investigating Pharmacy Acquisition and the money that was transferred through the entity; however, the government had not informed defendants of that fact, and the government was not specifically aware

that the “Research and Development” expense on Pharmacy Acquisition's return was false.

(Ex. 4, pp. A61–A63.)

### **MICHIGAN BOARD OF PHARMACY LICENSE DISCIPLINE PROCEEDINGS**

6. On August 19, 2021, the Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Board of Pharmacy, Disciplinary Committee (Michigan Board of Pharmacy), filed an Administrative Complaint against respondent. (Ex. 5, pp. A125–A127.) The Administrative Complaint alleged that respondent’s criminal conviction for aiding and assisting in the preparation of a false tax return constituted grounds for license discipline under Michigan law. (*Ibid.*) Together with filing the Administrative Complaint, the Michigan Board of Pharmacy filed an Order of Summary Suspension, summarily suspending respondent’s pharmacist’s license in the state pending resolution of the Administrative Complaint. (*Id.*, p. A124.)

7. On August 17, 2022, the Michigan Board of Pharmacy approved a Consent Order with respondent that resolved the Administrative Complaint. (Ex. 5, pp. A120–A123.) Under the Consent Order: (1) the Board dissolved the Order of Summary Suspension; (2) respondent was publicly reprimanded; and (3) respondent agreed to pay a fine of \$1,000 to the Michigan Board of Pharmacy. (*Ibid.*)

### **INSPECTOR JEFF SHINODA**

8. Inspector Jeff Shinoda works for the Board. Inspector Shinoda investigates the Board’s licensees, and he also inspects retail pharmacies and hospitals. Although Inspector Shinoda was not the inspector assigned to the Board’s

investigation of respondent, he is familiar with the facts and circumstances of respondent's criminal conviction and the Board's resulting investigation.

9. It was significant to Inspector Shinoda that the Michigan Board of Pharmacy disciplined respondent's license, as being disciplined in another state is a basis for disciplinary action by the Board. Conversely, Inspector Shinoda asserted it was irrelevant to the Board that the Nevada and Arizona pharmacist licensing agencies decided not to discipline respondent's license because those states' laws may not have permitted the licensing agencies to discipline respondent's license for his specific criminal conduct. According to Inspector Shinoda, respondent's criminal conviction is classified as a "Category II" offense for purposes of the Board's disciplinary guidelines, because it involves unprofessional conduct and moral turpitude.

## **COSTS**

10. Complainant requests that respondent be ordered to reimburse the Board for the reasonable costs of prosecuting this matter. In support of this request, complainant submitted a Certification of Prosecution Costs: Declaration of Christina Thomas dated September 15, 2024, with an attached billing summary, which states that the Attorney General's Office billed the Board \$7,919.25 in legal fees and costs in this matter (AG Certification). (Ex. 3.)

## **Respondent's Case**

### **RESPONDENT'S TESTIMONY**

11. Respondent and his family emigrated from Iran when he was seven years old to escape religious persecution. The move was sudden and did not allow respondent's family to liquidate their businesses or take much with them before

leaving. Respondent has worked ever since he turned sixteen years old, including while he was in junior high, high school, and college.

12. After obtaining his license, respondent worked as a pharmacist at large retailers such as Pavilions, Vons, and Rite Aid; he was promoted to manager while working at Rite Aid. In 2008, respondent opened a private pharmacy, which he operated until 2018. Respondent closed his private pharmacy because the pharmacy's lease expired and the building's owner wanted to increase the rent such that the business would not be profitable.

13. Respondent met his co-defendants from his criminal case through his connections in the world of pharmacy. Pharmacy Acquisition LLC (company) was created by a law firm that respondent had used when he opened his private pharmacy—one of his co-defendants had worked with that law firm to open his own pharmacy as well. The idea behind the company was to acquire pharmacies in different cities nationwide, some of which could be used to expand respondent's pharmacy business.

14. Respondent was never an owner or officer of the company. Instead, he acted as an advisor to the company to help with due diligence in selecting pharmacies for acquisition. Potentially, respondent could then use the acquired pharmacy to expand his own private pharmacy business. Because respondent was not an owner or officer of the company, however, he never received any distributions or financial benefits from the company.

15. Respondent was present at the company meeting in 2014 which ultimately led to his criminal conviction. At the meeting were respondent, his co-defendants, an attorney from the firm that helped create the company (who was also

respondent's personal attorney), and the company's accountant (who was also respondent's personal accountant). In his hearing testimony, respondent explained that the attorney and the accountant led respondent and his co-defendants to believe that characterizing owner distributions as "research and development" costs on the company's tax return was permitted because the owners would be paying the same amount of tax regardless of the characterization of the funds' source. Respondent now understands that position was wrong and with the benefit of hindsight, he would have spoken up to say that making any misstatement on a tax return is wrong.

16. With respect to the calculation of the loss to the government, respondent explained that the tax loss occurred solely because of the actions of his co-defendants. According to respondent, the company made distributions to its owners in late 2014, but the owners did not report receipt of those distributions on their personal tax returns until 2015. Because respondent's co-defendants did not report this income as received in 2014, the government suffered a loss of about \$25,000—after accounting for interest and penalties on the loss, the total loss was about \$104,000 at the time of respondent's sentencing. There have never been any allegations that respondent: (1) received any direct financial benefit or payments due to his association with the company; (2) prepared or signed any document with a false statement relating to the company; or (3) made any false statements on his personal tax returns or the tax returns for the business he owned. Instead, the basis of respondent's criminal liability was his presence in the room and failure to speak up and prevent the company from mischaracterizing owner distributions as research and development costs.

17. Respondent cooperated with federal investigators during their investigation of the company. As noted in respondent's plea agreement, respondent's cooperation with federal investigators made them aware for the first time of the

company's mischaracterization of owner distributions as research and development costs in the company's tax return.

18. Respondent pled guilty, rather than nolo contendere, to take responsibility for his criminal conduct. At the time of his sentencing, respondent wrote a letter to the judge taking responsibility and expressing his remorse. (See Ex. K.) Respondent reiterated those sentiments in his hearing testimony.

19. Although respondent was sentenced to serve six months in custody, he worked and took classes to accumulate credit to receive an early release after only four months. Respondent was also sentenced to 12 months of supervised release, one month of which was served in a halfway house and six months of which were served by home confinement. During this period of home confinement, he needed to report to his probation officer any time he wanted to leave home for anything other than work. Sometime during his period of supervised release, the court modified the terms of his release due to his "continued positive adjustment on supervision[.]" (Ex. W.) As a result of the modification, the court no longer required respondent to: (1) submit monthly financial statements; and (2) receive prior approval for travel within the United States, and he did not need to report when he returned from that travel, so long as the duration of the travel was less than two weeks. (*Ibid.*) Respondent completed his periods of incarceration and supervised release without issue or further discipline. Respondent completed all aspects of his criminal sentence in October 2022.

20. Along with his pharmacist licenses in Michigan and California, respondent holds licenses in Arizona and Nevada. Respondent self-reported his criminal conviction to those licensing agencies. Neither the Arizona nor the Nevada licensing agencies disciplined his license as a result of his criminal conviction or the

Michigan Board of Pharmacy's disciplinary action. (Exs. N, O.) Respondent allowed his license in Michigan to lapse because he no longer intends to work in Michigan.

21. Respondent has taken several steps to rehabilitate himself from his criminal conviction. Respondent severed the relationship between him and his accountant and attorney who were aware of the false statements in the company's tax returns. He has similarly severed his relationships with his co-defendants. Respondent has also completed several continuing education courses beyond what was required to maintain his license, including 30 hours of courses focused on ethics. (Ex. Q.)

22. Respondent is married. Respondent, along with his brothers, are caregivers for their elderly parents. Both of respondent's parents have long-term chronic illnesses. One of the most challenging parts of respondent's criminal sentence was being away from his parents while he was incarcerated, as he could not provide the daily help they needed and were accustomed to.

23. During the COVID-19 pandemic, respondent was a front-line healthcare worker who tended to COVID patients and administered the first doses of the vaccine in high-risk areas like hospitals and to high-risk patients, such as the elderly. This occurred at a time in which the efficacy of the vaccine was still unknown—respondent was infected with COVID during this time despite taking precautions. Respondent's elderly parents were also infected with COVID as a result and are still experiencing complications from that condition.

24. Respondent volunteers to talk to high school students about giving back to the community, staying on the right path, and making proper choices. Respondent tithes to his temple, and he volunteers for food drives and other charitable events to benefit the homeless.

25. Respondent has worked at CVS for four years. CVS is aware of respondent's criminal conviction and the Michigan license discipline proceedings. CVS has offered respondent a managerial position, but he has refrained from taking it due to the Board's investigation and the possibility that the outcome of these proceedings may prohibit him from working as a manager.

26. Supplementing his testimony, respondent offered 13 letters of support. (Exs. A–J; R–V.) Some letters were submitted to the judge in his criminal case, while others were written for these license discipline proceedings. Some authors wrote letters of support for respondent in both proceedings. The authors include respondent's wife, family members and their spouses, friends and classmates, other pharmacists respondent knows in a professional capacity, and his rabbi. Nearly all the letters acknowledge the author is aware of respondent's specific criminal conduct. The authors attested to respondent's stable family life, including that he provides for his elderly parents, his good character and high standing in the community, his work ethic, and the steps he has taken to show remorse and rehabilitation from his criminal conduct.

## **LEGAL CONCLUSIONS**

### **Applicable Law**

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof.

Code, § 4001.1; all subsequent statutory references are to the Business and Professions Code unless otherwise stated.)

2. The Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. (§ 490, subd. (a); § 4301, subd. (j).) A crime is considered substantially related to a licensed pharmacist's qualifications, functions, or duties if "to a substantial degree it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16 (CCR), § 1770, subd. (a).) In making the substantial relationship determination, the Board must consider the following criteria: (1) the nature and gravity of the offense; (2) the number of years that have elapsed since the offense; and (3) the nature and duties of the practice, profession, or occupation that may be performed under the license type sought or held. (CCR, § 1770, subd. (b).)

3. The Board may also suspend or revoke a pharmacist's license for engaging in unprofessional conduct. (§§ 4300, subd. (a), 4301; *Hoang v. California State Bd. of Pharmacy* (2014) 230 Cal.App.4th 448, 456.) Under section 4301, unprofessional conduct includes:

(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.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

[¶ . . . ¶]

(j) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . [T]he record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. . . .

[¶ . . . ¶]

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board

pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

## **Standard and Burden of Proof**

4. Respondent's pharmacist license is a professional license. (§ 4050, subd. (a); *Murphy v. E.R. Squibb & Sons, Inc.* (1985) 40 Cal.3d 672, 678–679.) To impose discipline on a professional license, complainant must prove cause for discipline by clear and convincing evidence to a reasonable certainty. (*Sternberg v. California State Bd. of Pharmacy* (2015) 239 Cal.App.4th 1159, 1171; *Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

## **Analysis**

### **CAUSES FOR DISCIPLINE**

#### **First Cause for Discipline – Criminal Conviction for Aiding and Assisting in the Preparation of a False Tax Return**

5. The first cause for discipline alleges respondent is subject to disciplinary action because he sustained a criminal conviction for aiding and assisting in the preparation of a false tax return.

6. Complainant proved this cause for discipline by clear and convincing evidence. Respondent sustained a criminal conviction for aiding and assisting in the preparation of a false tax return on July 26, 2021. (Factual Finding 4.) This criminal conviction is conclusive proof that respondent committed all acts necessary to constitute the offense. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 110.) The elements of a violation of 26 United States Code, section 7206, subdivision (2), for aiding and assisting in the preparation of a false tax return are: (1) defendant aided, assisted, procured, counseled, advised or caused the preparation and presentation of a tax return; (2) that the tax return was fraudulent or false as to a material matter; and (3) that the act of the defendant was willful. (*U.S. v. Dahlstrom* (9th Cir. 1983) 713 F.2d 1423, 1426.)

7. Respondent's criminal conviction demonstrates present or potential unfitness to perform the functions authorized by his pharmacist license in a manner consistent with the public health, safety, or welfare. The nature and gravity of respondent's crime were serious: he knowingly allowed his co-defendants to file a tax return with a material misstatement in it. A pharmacist must demonstrate good judgment and honesty in their affairs, as they are entrusted with patient health and safety, and with sensitive medical and financial information. Although the conduct underlying the conviction occurred nearly 10 years ago, that alone is not enough to take that conduct out of the realm of being substantially related, given the conduct's seriousness and its connection to the nature and duties of the practice of being a pharmacist.

8. Thus, respondent's criminal conviction for aiding and assisting in the preparation of a false tax return constitutes cause for discipline under sections 490 and 4301, subdivision (j), and CCR, § 1770, subdivision (a).

## **Second Cause for Discipline – Commission of Any Act Involving Moral Turpitude, Dishonesty, Fraud, or Deceit**

9. The second cause for discipline alleges respondent is subject to disciplinary action because he committed an act of moral turpitude, dishonesty, fraud, or deceit because he sustained a criminal conviction for aiding and assisting in the preparation of a false tax return.

10. Complainant proved this cause for discipline by clear and convincing evidence. Although the concept of moral turpitude has been said to escape precise definition, it has been described as an “act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man,” and as “any crime or misconduct without excuse” and “any dishonest or immoral act.” (*Chadwick, supra*, 49 Cal.3d at 110 [citations omitted].) Crimes which necessarily involve an intent to defraud may establish moral turpitude. (*Ibid.* [citations omitted].) Criminal offenses concerning income tax reporting demonstrate deceit and therefore involve moral turpitude. (*In re Chira* (1986) 42 Cal.3d 904, 909 [criminal conviction for backdating transaction for tax shelter scheme “involves moral turpitude”; *Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469 [criminal conviction for tax evasion “necessarily involves moral turpitude.”].)

11. Respondent readily admitted at hearing that he knew his co-defendants intended to mischaracterize certain monies as “research and development” costs, when in fact they would be profit distributions to the owners of the company. Respondent’s crime demonstrates “moral turpitude,” dishonesty, fraud, or deceit.

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12. Thus, the conduct underlying respondent's criminal conviction for aiding and assisting in the preparation of a false tax return constitutes cause for discipline under section 4301, subdivision (f).

**Third Cause for Discipline – Knowingly Making or Signing Any Certificate or Other Document that Falsely Represents the Existence or Nonexistence of a State of Facts**

13. The third cause for discipline alleges respondent is subject to disciplinary action because he knowingly made or signed a certificate or other document that falsely represented the existence or nonexistence of a state of facts.

14. Complainant proved this cause for discipline by clear and convincing evidence. In *Brown v. State Department of Health* (1978) 86 Cal.App.3d 548, 554–555, the Court of Appeal explained that in the licensing arena, an individual who falsely represents a state of facts can be guilty of “knowingly” making a false statement, even if the person did not intend to deceive. The rationale is that false certifications, even if not intended to deceive, “may be put to great mischief.” (*Id.* at p. 555.) Consequently, “a person need only have knowledge of the falsity of the facts certified when making or signing the certificate” to have been found to have “knowingly” made or signed a false certificate. (*Ibid.*)

15. Respondent testified he did not sign the tax return containing the false statement, and there is no reason he would have since he was not an owner or manager of the company. (Factual Finding 17.) But respondent admitted in his hearing testimony that he knew the characterization of owner distributions as “research and development” in the company's tax return was false. (Factual Finding 15.) Respondent also admitted he “knowingly and willfully caused, and aided and assisted in, the

preparation and presentation to the Internal Revenue Service of [a 2014 tax return]" for the company that "was false and fraudulent as to a material matter[.]" (Factual Finding 5.) Respondent's admission that he knowingly prepared the 2014 tax return is sufficient to find that he "made" a document that "represented the existence or nonexistence of a state of facts."

16. Thus, the conduct underlying respondent's criminal conviction for aiding and assisting in the preparation of a false tax return constitutes cause for discipline under section 4301, subdivision (g).

#### **Fourth Cause for Discipline – Revocation, Suspension, or Other Discipline by Another State**

17. The fourth cause for discipline alleges respondent is subject to disciplinary action because he was disciplined by the Michigan Board of Pharmacy in connection with his criminal conviction.

18. Complainant proved this cause for discipline by clear and convincing evidence. The Michigan Board of Pharmacy first suspended respondent's license and later issued respondent a formal reprimand and fined him \$1,000.00 as a result of his criminal conviction. (Factual Finding 7.)

19. Thus, the Michigan Board of Pharmacy's disciplinary action against respondent constitutes cause for discipline under section 4301, subdivision (n).

#### **DISCIPLINARY ACTION**

20. With causes for discipline established, the Board must determine the appropriate disciplinary action. The purpose of this proceeding is not to punish respondent but to protect the public. (*Windham, supra*, 104 Cal.App.3d at p. 473; see

also *Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448–450.) Respondent bears the burden of establishing sufficient rehabilitation to justify his continued licensure. (See *Hanna v. Dental Bd. of California* (2012) 212 Cal.App.4th 759, 766 [affirming license revocation where respondent “presented no evidence of rehabilitation”]; *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.)

21. When deciding the appropriate disciplinary action, the Board must consider its “Disciplinary Guidelines” (Rev. 2/2017) (Guidelines). (CCR, § 1760.) Deviation from the Guidelines “is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation--[such where there is] the presence of mitigating factors; the age of the case; [or] evidentiary problems.” (*Ibid.*)

22. The Guidelines contemplate four categories of violations, ranging from least to most severe, and their associated minimum and maximum penalties. (Guidelines, p. 5.) Category II discipline is recommended for violations “with serious potential for harm” which includes “criminal convictions not involving alcohol, dangerous drugs and/or dangerous devices, or controlled substances,” as well as conduct involving “moral turpitude, dishonesty, or fraud[.]” (*Id.*, pp. 6–7.) The conduct underlying respondent’s criminal conviction falls within this category. For Category II discipline, the minimum recommended disciplinary action is revocation, stayed with three years’ probation with standard terms and conditions, and revocation is the maximum recommended disciplinary action. (*Ibid.*)

23. When considering the suspension or revocation of a pharmacist’s license on the ground that the licensee has been convicted of a crime, “the board will consider whether the licensee made a showing of rehabilitation and is presently fit for a license, if the licensee completed the criminal sentence at issue without a violation of parole or

probation.” (CCR, § 1769, subd. (c).) As respondent has completed his criminal sentence, the factors the Board shall use in making this determination, and the evidence about those factors here, is as follows:

(A) The nature and gravity of the crime(s). The nature of respondent’s crime was serious and involved aiding and abetting the submission of a tax return with a material misstatement to the federal government.

(B) The length(s) of the applicable parole or probation period(s). Although respondent was sentenced to serve six months in custody, he worked and took classes while incarcerated to accumulate credit to receive an early release after only four months. (Factual Finding 19.) Respondent was also sentenced to 12 months of supervised release, one month of which was served in a halfway house and six months of which were served by home confinement. (Factual Finding 19.)

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified. The length of respondent’s 12-month period of supervised release was neither shortened nor lengthened.

(D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation. The court ordered that respondent comply

with the court's standard terms and conditions of supervised release and also required that respondent provide to his probation officer: (1) a release authorizing access to his credit report; (2) access to his federal and state income tax returns; and (3) an accurate financial statement, with supporting documentation as to all his assets, income, expenses, and liabilities. (Factual Finding 4.)

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. Sometime during his period of supervised release, the court modified the terms of his release due to his "continued positive adjustment on supervision[.]" As a result of the modification, the court no longer required respondent to: (1) submit monthly financial statements; and (2) receive prior approval for travel within the United States, and he did not need to report when he returned from that travel, so long as the duration of the travel was less than two weeks. (Factual Finding 19.) Respondent completed his period of supervised release in October 2022 and has not been subject to any further government supervision since then. (Factual Finding 19.)

24. In determining whether the minimum, maximum, or intermediate penalty should be imposed, certain factors, including those discussed below, should be considered. (Guidelines, p. 3.) The evidence about those factors is as follows:

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(1) Actual or potential harm to the public. As discussed above, respondent's criminal conduct resulted in fraud on the United States. Even so, the factual basis for respondent's guilty plea states that it was the conduct of his co-defendants, the managers of the company, that caused a tax loss to the government. (See Factual Findings 5, 16 [late reporting of income on respondent's co-defendants' personal tax returns resulted in a tax loss to the government of \$104,680].) Thus, although the court ordered respondent to pay restitution to resolve the criminal charges against him, there is no evidence his conduct personally caused any monetary loss to the United States. Rather, as respondent explained, he was made responsible to pay one quarter of the tax loss to resolve the criminal charges against him, as there were four defendants in the case. (Factual Finding 16.)

(2) Actual or potential harm to any consumer. Respondent's misconduct did not result in actual or potential harm to any consumer.

(3) Prior disciplinary record, including level of compliance with disciplinary order(s). Aside from these proceedings, respondent has no prior disciplinary record with the Board.

(4) Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s). As noted above, respondent has no prior disciplinary history with the Board.

(5) Number and/or variety of current violations. In these proceedings, complainant was successful in proving four causes for discipline against respondent by clear and convincing evidence. That said, all the causes for discipline arose from the same underlying criminal conduct.

(6) Nature and severity of the act(s), offense(s) or crime(s) under consideration. The nature of respondent's crime was serious. (Legal Conclusion 23.)

(7) Aggravating evidence. Complainant presented no aggravating evidence.

(8) Mitigating evidence. Respondent accepted responsibility for his crime and showed remorse. (Factual Finding 19.) As noted in respondent's plea agreement, respondent cooperated with federal investigators and provided them with information they did not have—that information ultimately led to the criminal convictions the government obtained against respondent and his co-defendants. (Factual Findings 5, 18.) Respondent also submitted over a dozen letters attesting to his good character. (Factual Finding 26.) Although letters of reference are not conclusive (see *Tardiff v. State Bar* (1980) 27 Cal. 3d 395, 404), such evidence warrants careful consideration. (*Werner v. State Bar of California* (1954) 42 Cal.2d 187, 196–197; *Preston v. State Bar of California* (1946) 28 Cal.2d 643, 650–651.) Here, the letters provide persuasive evidence that respondent's criminal conduct was an aberration—his lack of disciplinary or criminal history from 2014 to the present and his outstanding performance while incarcerated and while on supervised release corroborates this evidence.

(9) Rehabilitation evidence. Review of the Board's rehabilitation factors suggest respondent has been rehabilitated. Although the nature of respondent's crime was serious, the length of his period of supervised relief was only twelve months. Respondent was placed on standard terms of supervised release, and an additional term was imposed requiring respondent to make certain financial and tax disclosures. While on supervised release, the court made the terms of his release less strenuous due to his good performance.

(Legal Conclusion 23.) Moreover, in addition to the factors outlined in the Board's regulations, respondent produced evidence of rehabilitation, including taking continuing education courses focused on ethics, as well as community involvement. (Factual Findings 21, 23–24.) Respondent's decision to refrain from taking a managerial role at CVS until the outcome of these proceedings was known further demonstrates respondent's insight and good judgment. (Factual Finding 25.)

(10) Compliance with terms of any criminal sentence, parole, or probation. Respondent completed his custodial sentence two months early due to work he completed while incarcerated. (Factual Finding 20.) Respondent completed his term of supervised release without issue, and the terms and conditions of his supervised release were adjusted to be less stringent due to his "continued positive adjustment on supervision[.]" (*Ibid.*)

(11) Overall criminal record. Aside from the criminal conduct at issue in these disciplinary proceedings, respondent has no other criminal record.

(12) If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code. This factor does not apply, as respondent sustained a criminal conviction under federal law and not under the California Penal Code.

(13) Time passed since the act(s) or offense(s). Respondent explained that the meeting in which the decision was made to mischaracterize owner distributions from the company as "research and development" costs occurred in 2014, although the tax return containing the mischaracterization was not submitted to the Internal Revenue Service until April 2015. (Factual Findings 5, 15–16.) Even if

this later date is used to calculate the time passed since the act or offense, it has been nearly nine and a half years since then. Respondent has maintained his license with the Board for the entirety of this period and has no other criminal or disciplinary history with the Board. The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

(14) Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct. Here, respondent is being held to account for the conduct of another in that he knew that the owners of the company intended to mischaracterize an owner distribution as “research and development” costs on the company’s 2014 tax return, although there is no evidence that doing so was his idea or that he received a financial benefit from that mischaracterization. (Factual Findings 15–16.) And as noted above, the tax loss incurred by the United States was not due to respondent’s actions but resulted instead from the conduct of his co-defendants. (Factual Finding 16.)

(15) Financial benefit to the respondent from the misconduct. Respondent accrued no direct financial benefit from the submission of the tax return with the false statement because he was not an owner or a manager of the company. (Factual Finding 16.) At most, respondent received a tenuous, indirect benefit from the business continuing as a going concern so he could continue advising the business about pharmacy acquisitions from which he might profit in the future.

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(16) Other licenses held by the respondent and license history of those licenses. As noted above, the Michigan Board of Pharmacy publicly admonished respondent's license because of his criminal conviction. (Factual Findings 6–7.) Respondent is also licensed in Arizona and Nevada. Respondent testified that, after disclosing his criminal conviction to the relevant licensing bodies in those states, neither initiated license discipline proceedings against him based on his criminal conviction. (Factual Finding 21.)

(17) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (see Business and Professions Code Section 315). Respondent's criminal conviction—and these disciplinary proceedings—do not involve allegations of substance abuse.

25. According to the Guidelines, no single one or combination of the above discipline factors is required to justify a specific disciplinary penalty. (Guidelines, p. 3.) That said, nearly every applicable discipline factor discussed above weighs in favor of respondent and therefore supports a minimal penalty. Of particular note is that respondent has kept his license in good standing, without any additional discipline or criminal history for years since the events underlying his criminal conviction. Respondent accepted responsibility for his actions and expressed remorse. When presented with the same facts, no other state licensing agency has seen fit to discipline respondent's license beyond a public reproof and a \$1,000 fine. Respondent also submitted significant evidence of mitigation and rehabilitation.

26. After considering the Board's disciplinary factors, revoking respondent's license or placing him on probation would be unduly punitive and is not necessary to protect the public. A public reproof of respondent's license is the appropriate discipline.

27. Section 495 provides that the Board may publicly reprove a licensee for any act that would constitute grounds to suspend or revoke a license. A public reproof is not a “free pass.” It constitutes the Board’s formal criticism and censure of a pharmacist. It reminds a licensee that engaging in the same or similar conduct will likely result in more serious consequences. A public reproof provides notice to the public and others of the nature and extent of a pharmacist’s wrongdoing. Although a public reproof may not be as drastic as other disciplinary measures, it is a humbling experience when it represents the only stain on an otherwise stellar professional record. Accordingly, although a public reproof is not a measure of discipline that falls squarely within the Guidelines, it is the most appropriate sanction under the circumstances.

## **Cost Recovery**

28. California Code of Regulations, title 1, section 1042 (section 1042), sets forth the requirements that an agency must comply with to recover its costs in a proceeding under the Administrative Procedure Act. Section 1042 requires that a declaration regarding services provided by a regular agency employee must include “the general tasks performed, the time spent on each task, and the method of calculating the cost.” The AG Certification describes the tasks performed, the time billed, and the billing rate by each professional. The AG Certification satisfies the requirements outlined in section 1042.

29. Under section 125.3, complainant can recover its reasonable costs of enforcement in this matter. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to consider in determining the reasonableness of costs. These factors include: (1) the licensee’s success in getting the charges dismissed or the severity of the discipline

imposed reduced; (2) the licentiate's subjective good-faith belief in the merits of his or her position; (3) whether the licentiate raised a colorable challenge to the proposed discipline; (4) the licentiate's financial ability to pay and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Id.* at p. 45.)

30. The Accusation sought discipline as severe as revocation for respondent's conduct. Respondent was successful in having the severity of discipline imposed reduced to a public reproof. Respondent also raised a colorable challenge to the discipline. On the other hand, respondent presented little, if any, evidence that paying these costs would be a financial hardship or that the scope of the Board's investigation was inappropriate in light of the alleged misconduct. Given these factors in respondent's favor, a 25 percent reduction in costs is warranted. Respondent will be ordered to pay \$5,939.43 of the Board's costs of prosecution, on a payment plan approved by the Board.

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## ORDER

It is hereby ordered that a public reproof be issued against licensee Ashkan Shawn Kohanpour. Respondent is required to report this reproof as a disciplinary action.

Respondent shall pay to the Board its costs of prosecution in the amount of \$5,939.43. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee.

DATE: 10/21/2024

*Taylor Steinbacher*

TAYLOR STEINBACHER

Administrative Law Judge

Office of Administrative Hearings

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7

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

12 In the Matter of the Accusation Against:

Case No. 7558

13 **ASHKAN SHAWN KOHANPOUR**  
907 Westwood Blvd., #399  
Los Angeles, CA 90024

**ACCUSATION**

14 **Pharmacist License No. RPH 56067**

15 Respondent.  
16

17 **PARTIES**

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

20 2. On or about August 23, 2004, the Board of Pharmacy issued Pharmacist License  
21 Number RPH 56067 to Ashkan Shawn Kohanpour (Respondent). The Pharmacist License was in  
22 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
23 2024, unless renewed.

24 **JURISDICTION**

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

28 ///



1 board may take action when the time for appeal has elapsed, or the judgment of  
2 conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under  
4 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
5 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
6 dismissing the accusation, information, or indictment.

7 ...

8 (n) The revocation, suspension, or other discipline by another state of a license to  
9 practice pharmacy, operate a pharmacy, or do any other act for which a license is required  
10 by this chapter that would be grounds for revocation, suspension, or other discipline under  
11 this chapter. Any disciplinary action taken by the board pursuant to this section shall be  
12 coterminous with action taken by another state, except that the term of any discipline taken  
13 by the board may exceed that of another state, consistent with the board's enforcement  
14 guidelines. The evidence of discipline by another state is conclusive proof of unprofessional  
15 conduct.

16 ...

17 8. Section 4307 of the Code states, in pertinent part:

18 (a) Any person who has been denied a license or whose license has been revoked or is  
19 under suspension, or who has failed to renew his or her license while it was under  
20 suspension, or who has been a manager, administrator, owner, member, officer, director,  
21 associate, partner, or any other person with management or control of any partnership,  
22 corporation, trust, firm, or association whose application for a license has been denied or  
23 revoked, is under suspension or has been placed on probation, and while acting as the  
24 manager, administrator, owner, member, officer, director, associate, partner, or any other  
25 person with management or control had knowledge of or knowingly participated in any  
26 conduct for which the license was denied, revoked, suspended, or placed on probation, shall  
27 be prohibited from serving as a manager, administrator, owner, member, officer, director,  
28 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.

### **REGULATORY PROVISIONS**

9. California Code of Regulations, title 16, section 1770, subdivision (a) states:

For the purpose of denial, suspension, or revocation of a personal or facility  
license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the  
Business and Professions Code, a crime, professional misconduct, or act shall be  
considered substantially related to the qualifications, functions or duties of the  
practice, profession, or occupation that may be performed under the license type

1 sought or held if to a substantial degree it evidences present or potential unfitness of  
2 an applicant or licensee to perform the functions authorized by the license in a  
3 manner consistent with the public health, safety, or welfare.

4 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(April 9, 2021 Criminal Conviction – Aiding and Assisting in the Preparation of a False Tax  
13 Return on April 15, 2015)**

14 11. Respondent is subject to disciplinary action under Code sections 490 and 4301,  
15 subdivision (l) in conjunction with California Code of Regulations, title 16, section 1770,  
16 subdivision (a), in that on or about April 9, 2021, in a criminal proceeding entitled *United States  
17 of America v. Ashkan Kohanpour*, in United States District Court, Central District of California,  
18 Case Number 2:20-cr-00586-ODW-4, Respondent was convicted of violating one count of Title  
19 26 United States Code section 7206, subdivision (2) [aiding and assisting in the preparation of a  
20 false tax return], a felony. The court sentenced Respondent to serve six (6) months in federal  
21 prison, granted one (1) year of supervised release, and ordered Respondent to pay \$24,147.50 in  
22 restitution, with terms and conditions.

23 12. The circumstances surrounding the conviction are that on or about April 13, 2015,  
24 Respondent and his co-conspirators knowingly and willfully caused and aided and assisted in, and  
25 procured, counseled, and advised the preparation and presentation to the Internal Revenue  
26 Service, of a Form 1065, U.S. Return of Partnership Income, for the 2014 tax year for Pharmacy  
27 Acquisition LLC. The return was false and fraudulent as to a material matter, in that the return  
28 falsely claimed a deduction for Research and Development expenses, whereas, Respondent and  
his co-conspirators then knew, the payments in question were not for Research and Development

1 expenses, but rather distributions to entities that were owned and controlled by owners of  
2 Pharmacy Acquisition LLC. This resulted in a tax loss of \$104, 680.00.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Commission of Any Act Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

5 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
6 in that Respondent committed an act involving moral turpitude, dishonesty, fraud, or Deceit.  
7 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
8 paragraphs 10 and 11 inclusive, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Knowingly Making or Signing Any Certificate or Other Document that Falsely Represents**  
11 **the Existence or Nonexistence of a State of Facts)**

12 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (g),  
13 in that Respondent knowingly made or signed a certificate or other document that falsely  
14 represents the existence or nonexistence of a state of facts. Complainant refers to, and by this  
15 reference incorporates, the allegations set forth above in paragraphs 10 and 11 inclusive, as  
16 though set forth fully.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Revocation, Suspension, or Other Discipline by Another State)**

19 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (n),  
20 in that Respondent was disciplined by the Michigan Bureau of Professional Licensing (Michigan  
21 Bureau). Specifically, on August 19, 2021, pursuant to an Order of Summary Suspension (Order)  
22 entitled *In the Matter of Ashkan Shawn Koahnpour, R.PH., License No. 53-02-043319, File No.*  
23 *53-21-002157*, the Michigan Board accepted an Order that summarily suspended Respondent's  
24 license to practice as a pharmacist and automatically voided the controlled substance license  
25 commencing on the effective date of this Order (docket date). On or about August 17, 2022, the  
26 Michigan Board, issued a formal reprimand and a \$1,000.00 fine to Respondent. The facts and  
27 circumstances underlying the Order are based on the conduct alleged in the administrative  
28 complaint and hereby incorporated by reference. Complainant refers to, and by this reference

1 incorporates, the allegations set forth above in paragraphs 11 and 12 inclusive, as though set forth  
2 fully.

3 **OTHER MATTERS**

4 16. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacist License  
5 Number RPH 56067 issued to Ashkan Shawn Kohanpour, then Ashkan Shawn Kohanpour shall  
6 be prohibited from serving as a manager, administrator, owner, member, officer, director,  
7 associate, partner, or any other person with management or control of a licensee for five years if  
8 Pharmacist License Number RPH 56067 is placed on probation or until Pharmacist License  
9 Number RPH 56067 is reinstated if it is revoked.

10 **PRAYER**

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

13 1. Revoking or suspending Pharmacist License Number RPH 56067, issued to Ashkan  
14 Shawn Kohanpour;

15 2. Ordering Ashkan Shawn Kohanpour to pay the Board of Pharmacy the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3;

18 3. Prohibiting Ashkan Shawn Kohanpour from serving as a manager, administrator,  
19 owner, member, officer, director, associate, partner, or any other person with management or  
20 control of a licensee for five years if Pharmacist License Number RPH 56067 is placed on  
21 probation of until Pharmacist License Number RPH 56067 is reinstated if it is revoked; and

22 4 Taking such other and further action as deemed necessary and proper.

23 DATED: 9/14/2023

23 Sodergren,  
24 Anne@DCA

Digitally signed by  
Sodergren, Anne@DCA  
Date: 2023.09.14 08:00:22  
-07'00'

25 ANNE SODERGREN  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
*Complainant*

LA2023601982  
(9/13/23)