

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

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

**AMIR MAKRAM SEEFEN GERGES, Respondent**

**Pharmacist License No. RPH 61954**

**Agency Case No. 7723**

**OAH No. 2024040635**

**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 December 12, 2024.

It is so ORDERED on November 12, 2024.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.  
Board President

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

**In the Matter of the First Amended Accusation against:**

**AMIR MAKRAM SEEFEN GERGES, Respondent**

**Agency Case No. 7723**

**OAH No. 2024040635**

**PROPOSED DECISION**

Debra D. Nye-Perkins, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference and telephone on September 18, 2024.

Agustin Lopez, Deputy Attorney General, represented complainant, Anne Sodergren, Executive Officer of the Board of Pharmacy (board), Department of Consumer Affairs, State of California.

Michael J. Khouri, Attorney at Law, represented respondent Amir Makram Seefen Gerges, who was present throughout the hearing.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on September 18, 2024.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On November 14, 2008, the board issued Pharmacist License Number RPH 61954 to respondent Amir Makram Seefen Gerges. His license expires on September 30, 2024. No prior disciplinary action has been taken against respondent's license.

2. On September 4, 2024, complainant signed the first amended accusation in her official capacity as the board's Executive Officer. The original accusation was signed by complainant on April 2, 2024. The only change made to the original accusation in the first amended accusation is an amendment to change the word "citation" to "accusation" in the caption of the document, and no other changes were made. The first amended accusation alleged four causes for discipline against respondent's license: (1) respondent's substantially related criminal convictions for violation of Vehicle Code Section 23152, subdivision (a), driving under the influence of alcohol (DUI), and violation of Vehicle Code Section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of over 0.08 percent, both misdemeanors; (2) respondent's dangerous use of alcohol for the circumstances underlying his conviction; (3) respondent committed acts involving moral turpitude for his actions in driving a vehicle under the influence of alcohol, and for his actions in assaulting and battering victim A.R. on November 27, 2022; and (4) respondent's violation of the pharmacy law by his actions listed above. The first amended accusation seeks to revoke respondent's pharmacy license, seeks reasonable costs of investigation and enforcement of this matter, and seeks to prohibit respondent from serving as a

manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years or until his license is reinstated.

3. Respondent timely filed a notice of defense, and this hearing followed.

### **Respondent's DUI Convictions and Arrest for Assault**

4. On January 24, 2023, respondent was convicted on his plea of nolo contendere in the Superior Court of California, County of Orange, in Case No. 22HM07979, of violating Vehicle Code, section 23152, subdivision (a), driving a motor vehicle while under the influence of alcohol, and of violating Vehicle Code, section 23152, subdivision (b), driving with a BAC of over 0.08 percent, both misdemeanors. As a result of these convictions respondent was sentenced to three years of informal probation with terms including payment of fines and fees, successful completion of 40 hours of community service, and successful completion of a three-month Level 1 First Offender Alcohol Program. These convictions arose as a result of respondent's actions on July 12, 2022.

5. On July 12, 2022, at 7:55 p.m. California Highway Patrol (CHP) officers were dispatched to the scene of a single vehicle crash that occurred on northbound interstate 5 in Orange County.<sup>1</sup> Upon arrival, officers observed respondent lying on a

---

<sup>1</sup> These factual findings are based in part on information included in the police reports received under *Lake v. Reed* (1997) 16 Cal.4th 448. In *Lake*, the California Supreme Court concluded that direct observations memorialized in a peace officer's report are admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and are sufficient to support a factual finding. The court further concluded that admissions by a party memorialized in such a report are

stretcher in the back of an ambulance being treated by medical personnel. Respondent was identified as the driver of the vehicle based upon respondent's statement to the officers, the fact that he is the registered owner of the vehicle involved in the collision, his injuries, the fact that he was the sole occupant of the vehicle at the time of the collision, and based upon witness statements to officers.

Upon arrival at the scene, officers immediately smelled the odor of alcohol emitting from respondent from about four feet away. After respondent was taken by emergency personnel to the hospital, officers interviewed him at the hospital. At the hospital, officers noticed respondent had red, watery eyes, slurred speech, and they could still smell the strong odor of alcohol emitting from respondent's breath. In response to the officer's question of whether he had consumed alcohol that day, respondent stated, "No." Officers administered field sobriety tests to respondent at the hospital, but respondent was only able to perform one test due to his injuries (namely the horizontal gaze nystagmus test), which demonstrated that respondent showed signs of intoxication. Based on their investigation, officers arrested respondent for driving under the influence of alcohol. Respondent provided a breath sample, and a blood sample was also taken at the hospital. Results of those tests showed that a 9:20 p.m. breath sample showed a BAC of 0.16 percent, a 9:23 p.m. breath sample showed a

---

admissible under Evidence Code section 1220 and are sufficient to support a factual finding. Citing Government Code section 11513, the court held that other hearsay statements set forth in the peace officer's report can be used to supplement or explain other evidence, but they are not sufficient, by themselves, to support a factual finding, unless the hearsay evidence would be admissible over objection in civil actions.

BAC of 0.172 percent, and the blood sample from 10:23 p.m. showed a BAC of 0.16 percent.

6. On November 27, 2022, at 8:52 a.m., the Orange County Sheriff's Department responded to a report of a male subject screaming obscenities outside of apartment residences. Upon arrival at 9:09 a.m., deputies observed respondent holding his right forearm with his jacket wrapped around it. Deputies asked respondent to remove the jacket, which he did to reveal a laceration on the forearm. Deputies observed respondent "acting erratic and [making] bizarre statements that did not make sense." Respondent told the deputies that he asked an "Iranian looking" male for ten million dollars. Respondent stated that the male stabbed him with a knife, but he could not provide any more details. Respondent was transported to the hospital for treatment.

Around the same time as the above events, another deputy from the Orange County Sheriff's Department was flagged down by Amir Riazati, a man matching the description given by respondent of the person who stabbed his forearm. Mr. Riazati voluntarily handed the deputy his pocketknife and informed the deputy that he lives at the apartment complex nearby. Mr. Riazati told the deputy that he was taking the trash out at about 9:00 a.m. when he was approached by respondent, who was holding a stick. Mr. Riazati did not know respondent and had never seen him before. According to Mr. Riazati, respondent told Mr. Riazati that he owed respondent ten million dollars and that he was going to kill him. Respondent followed Mr. Riazati with the stick in hand. Respondent continued to tell Mr. Riazati that he was going to kill him and he knows where Mr. Riazati lives. Respondent then hit Mr. Riazati in the right eye with the stick. Mr. Riazati had a pocketknife and stabbed respondent in the right forearm in self-defense. Respondent then threw dirt in Mr. Riazati's face and continued to tell him

he knew where he lived and that he owed him money. Respondent then walked across the street and Mr. Riazati followed respondent and flagged down the police. Mr. Riazati stated he felt threatened for his life and defended himself. Based on their investigation deputies arrested respondent for assault with a deadly weapon and criminal threats.

## **Complainant's Evidence**

7. In addition to documentary evidence, complainant presented the testimony of four witnesses at the hearing. The following factual findings are based on their testimony and documents received in evidence.

### **TESTIMONY OF MIDORI DESORMEAUX**

8. Midori Desormeaux is currently employed as an enforcement specialist with the board. She is responsible for investigation of criminal conviction allegations against licensees of the board. The board received an arrest notification for respondent regarding his November 27, 2022, arrest and began an investigation. Ms. Desormeaux wrote a report summarizing her findings of the investigation, which was received in evidence.

9. Ms. Desormeaux testified that after receiving information about respondent's November 27, 2022, arrest, the board thereafter first learned about respondent's January 24, 2023, convictions for DUI. Ms. Desormeaux obtained the police reports for the November 27, 2022, arrest and for the events underlying the January 24, 2023, conviction, as well as court documents related to the January 24, 2023, conviction. As part of her investigation, Ms. Desormeaux obtained a written statement from respondent regarding his explanation of the underlying circumstances

of both his convictions and his November 27, 2022, arrest, which was received in evidence.

10. As part of her investigation, Ms. Desormeaux did not conduct any interviews of individuals. Instead, she reviewed court documents, police reports, and respondent's written statement received by the board.

### **TESTIMONY OF ARASH RIAZATI**

11. Arash Riazati currently resides in the apartment complex where the events of November 27, 2022, took place and resulted in respondent's arrest. Mr. Riazati testified at the hearing regarding those events. He stated that the only time he has ever had interactions with respondent was on November 27, 2022. On that night he was taking out the trash from his apartment to the dumpster when he saw respondent with a long stick in his hand walking across the street towards Mr. Riazati's apartment complex. Mr. Riazati testified that respondent told him that he owes him one billion dollars.<sup>2</sup> Mr. Riazati ignored respondent, but he was scared because respondent was following him. After Mr. Riazati threw the trash in the dumpster, respondent was about 10 feet away from Mr. Riazati and told Mr. Riazati that he owed him money and that respondent was going to kill him. Respondent then hit Mr. Riazati in the eye with the stick and threw dirt into Mr. Riazati's mouth. Mr. Riazati reached into his pocket and pulled out his woodworking knife and stabbed respondent in the forearm. Thereafter, respondent "came to" and started walking away. Mr. Riazati followed him and asked if he needed help. Mr. Riazati then saw the sheriff's vehicle

---

<sup>2</sup> Police reports state that respondent asked for one million dollars and not one billion dollars.



and ran toward the vehicle to make sure this did not happen to anyone else. The sheriff's deputies put Mr. Riazati in the back of the squad car and questioned him. Mr. Riazati gave the deputy his knife and explained what happened. Thereafter, Mr. Riazati was released.

12. Mr. Riazati testified that he has a felony criminal conviction from 30 years ago for a gun charge. He explained that he was arrested for assault, and he had a shotgun and bullets in his pocket and had attempted to take his own life. Police officers arrived and arrested him, and during that arrest, Mr. Riazati dislocated an officer's shoulder. He spent eight months in county jail for that conviction. Mr. Riazati also testified that in addition to his felony conviction, he has one other misdemeanor conviction for marijuana possession in 1998.

13. Mr. Riazati also testified that he suffers from mental health conditions, including bipolar disorder, post-traumatic stress disorder (PTSD), and schizophrenia. He is currently being treated for those conditions, sees mental health providers regularly, and is stable.

#### **TESTIMONY OF SIMIN SAMARI**

14. Simin Samari is currently employed by the board as an inspector/investigator. She obtained her Pharm.D. degree in 1988 and has worked as a pharmacist in California for 17 years prior to taking her current position with the board in October 2005. As part of her duties in her current position, the criminal conviction unit requested that Ms. Samari interview respondent as part of the board's investigation of this matter. Ms. Samari summarized her investigation and interview in a report, which was received in evidence.

15. In order to interview respondent, Ms. Samari arranged to meet respondent at a coffee shop on January 9, 2024. At that meeting, respondent told Ms. Samari that he had been suffering from mental health conditions of obsessive-compulsive disorder (OCD), anxiety, and severe depression. He told her he had not been working since May 2017 when he was placed on disability and wanted to surrender his pharmacist license. Respondent told her that 2022 was a "rough year" because he and his wife were going through a divorce, and he wanted to reconcile with his wife and resolve the custody issues regarding his daughter. He told Ms. Samari as a result of those rough times, he suffered from anger-management issues and self-medicated with alcohol. Respondent told her that he could not and will not be returning to work as a pharmacist and was not planning to renew his license when it expires at the end of September 2024. Ms. Samari also reviewed the letter respondent wrote to the board on May 3, 2023, wherein he wrote that he had been self-medicating with alcohol and that he "ha[s] been going through a period of intense stress as a result of my divorce from my wife and separation from my daughter, which had an adverse impact on me and increased my intake of alcohol for some time."

16. On January 10, 2024, respondent sent Ms. Samari an email wherein he wrote as follows:

I hope this email finds you well. I have some medical issues that prevent me from working as a pharmacist for the last 7 years. I do not anticipate going back to a pharmacist position in the future. Please accept the voluntary surrender of my pharmacist license #61954 and mail me the appropriate forms.

17. Ms. Samari testified that a pharmacist who abuses alcohol is not safe to practice as a pharmacist because alcohol affects the ability to make good judgments. Alcohol affects mental status and decision making. A pharmacist has access to dangerous drugs and controlled substances, and as a result a pharmacist abusing alcohol can be a danger to the public.

### **TESTIMONY OF DEPUTY MITCHELL TIGHE**

18. Deputy Mitchell Tighe is currently employed as a deputy sheriff for the Orange County Sheriff's Department. Deputy Tighe was on duty on November 27, 2022, and responded to the call for service involving respondent and Mr. Riazati. When Deputy Tighe arrived on the scene on November 27, 2022, he observed respondent approaching in a fast manner with a jacket around his right arm and holding that arm. Deputy Tighe told respondent to stop, and respondent then "kind of flailed on the ground." Deputy Tighe testified that respondent was acting erratically and did not comply with verbal commands to stop and not approach Deputy Tighe. Respondent told Deputy Tighe that an Iranian male stabbed him. Respondent also told Deputy Tighe that respondent had asked the man for 10 million dollars, and "it was a drug dealer's house." Deputy Tighe testified that respondent "was saying things that did not make sense." Deputy Tighe called emergency services and tried to calm respondent. After attempting to do so, Deputy Tighe asked respondent follow-up questions about what happened to him. Respondent only told Deputy Tighe that an Iranian male stabbed him after respondent asked that male for 10 million dollars. Respondent would not provide any further details and "was rambling."

Deputy Tighe stated that Mr. Riazati also flagged him and another deputy down about 100 yards away from where Deputy Tighe was speaking to respondent. Another deputy spoke with Mr. Riazati, who surrendered his pocket knife to that deputy right

away. Thereafter, the other deputy rode with respondent to the hospital in an ambulance, and Deputy Tighe interviewed Mr. Riazati to get his side of the story. Mr. Riazati told Deputy Tighe that Mr. Riazati was taking the trash to the dumpster from his apartment when he was approached by respondent, who said Mr. Riazati owed him 10 million dollars and respondent was going to kill him. Deputy Riazati observed injuries on Mr. Riazati of an abrasion under his eye. Mr. Riazati told him that he sustained that injury when respondent hit him with a stick. Mr. Riazati told Deputy Tighe that he stabbed respondent with the pocket knife in self-defense because he feared respondent was going to kill him.

Deputy Tighe arrested respondent for assault because Mr. Riazati's version of events made sense, and because respondent bolstered that version of events by admitting that he asked Mr. Riazati for 10 million dollars. Mr. Riazati told Deputy Tighe, "everything that happened," and by contrast, respondent refused to give information and also refused to talk to the deputies once he arrived at the hospital. Mr. Riazati's version of events made sense, whereas respondent's behavior did not make sense.

## **Respondent's Testimony**

19. Respondent is 45 years old and not currently employed. Respondent graduated from Samford University in 2006 with his Pharm.D. degree. He has practiced as a pharmacist in other states, namely Illinois, Missouri, and Florida, prior to moving to California. He was first licensed as a pharmacist in California on November 14, 2008. Respondent has never had any of his other pharmacist licenses from other states disciplined. Respondent began working as a pharmacist in 2007 in Illinois and has been a retail pharmacist "all my life." After moving to California, he worked as a retail pharmacist at CVS, Walgreens, and Rite-Aid drugstores. He last worked as a

pharmacist at Walmart in Redding, California and left that employment in June 2016 after being employed there for nine months. Respondent testified that he left that position because he started experiencing mental health problems of severe OCD and stress as a result of his marital problems. During that time, respondent was having difficulty sleeping and was seeing a psychiatrist. Respondent applied for state disability and was approved, and thereafter applied for social security disability and was approved based upon his mental health status. Respondent has not worked since June 2016.

20. Respondent separated from his wife on January 7, 2021, and the divorce was instituted thereafter but took about three years to finalize. Respondent testified that the separation and divorce process took a heavy mental toll on him. His wife has sole custody of their daughter, and respondent visits the daughter periodically. After his separation from his wife in 2021, respondent became "very emotional" and incurred his DUI conviction. Thereafter, he and his wife sold their home, and respondent started living with his parents until he could get back on his feet. For the past six months, respondent has been attending therapy with a psychologist, and has utilized the therapy of transcranial magnetic stimulation (TMS) to help alleviate the symptoms of depression and OCD. Respondent stated that he has also stopped consuming alcohol, and he testified that the last time he drank alcohol was August of 2023. Respondent has finally accepted that he will not ever get back together with his wife, and he has "decided to get better because [his] daughter needs him."

21. With regard to his pharmacist license, respondent testified that he does not enjoy being a pharmacist and does not want to return to that work, but he can do that work if necessary. Respondent has "explored other fields" such as computer science. Respondent stated, "I don't know if I will go back to pharmacy or not, but I

don't think I deserve to be disciplined by the board." He further stated that he has "gone out of his way to be good," and "even when [he] had his DUI, it was during a time when [he] was not working."

22. With regard to the underlying circumstance of his DUI conviction, respondent stated that prior to his arrest he had been drinking alcohol alone in a bar. At that time he had not seen his daughter for about 18 months and was sending messages to "everyone I know to get my wife to let me see my daughter, but she would not." Respondent stated he was "an emotional wreck," and even started smoking cigarettes. Respondent stated that he is still sad because of where his life ended up, but he realizes that he needs a good head on his shoulders to be there for his daughter.

23. Respondent is currently on criminal probation as a result of his DUI conviction, which is scheduled to end in 2025. He is in compliance with all the terms of his criminal probation.

24. With regard to his arrest on November 27, 2022, respondent testified that he never approached Mr. Riazati in a menacing way. Instead, respondent asserted that he was sitting at a bus stop when Mr. Riazati approached him. Respondent stated that Mr. Riazati "looked like trouble" and "asked me if I wanted to smoke weed." When respondent told Mr. Riazati that he did not, Mr. Riazati asked him "to loan a few dollars to him." Respondent told Mr. Riazati that he had no cash, and to leave him alone. Thereafter, Mr. Riazati "started to get agitated." Respondent "got up" and Mr. Riazati "stabbed me with a knife in my arm." Respondent stated that he has "never had any violent incidents in his life," and "can't defend himself." Respondent stated that after he was stabbed, he "got dizzy and was erratic because I was staggering across the street." Respondent stated that he staggered toward the police to tell them what

happened, but the police officer “acted like I was going to hurt him.” Respondent stated, “The police are turning this all against me, I was not thinking straight and was losing a lot of blood.”

25. Respondent wrote about the November 27, 2022, arrest in his letter to the board dated May 3, 2023, as follows:

However, in the incident on 11/27/2022, I was determined to be a “victim” by the Sheriff’s department. It is true that at first I was a suspect and was charged with assault with deadly weapon and criminal threats; however, police investigations later proved that I did not have a deadly weapon nor did I make any threats. Instead, I was the one who got threatened and stabbed in the forearm by a criminal attacker who had a deadly weapon. All the charges against me in this incident were dropped and I was freed and sent home.

26. Respondent testified that he is currently in therapy and seeing a psychiatrist and a psychologist. However, he stated that he is not undergoing any therapy for alcohol abuse and claims he has been sober for one year and two months. Respondent denied ever using illegal drugs. Respondent also stated that he no longer attends Alcoholic Anonymous (AA) meetings, but he was required to do so as part of his court-ordered DUI program. Respondent stated that the last time he attended AA was March 2023. Respondent denied being an alcoholic and stated that he has never been an alcoholic. He stated that he did not need to provide bodily fluid testing to show sobriety because “it was a once in a life thing.” Respondent also denied ever

telling Ms. Samari that he has an anger management problem, and he denied ever having a problem with anger.

27. On cross-examination, respondent stated that he does not even want his pharmacist license, but he does not want his pharmacist license to be disciplined because "I don't deserve to be disciplined."

### **Respondent's Documentary Evidence**

28. Respondent provided various documents received into evidence, including a certificate of completion for a three-month 32-hour DUI program as ordered by the court, a certificate of completion for a Victim's Impact Panel as ordered by the court; a document showing respondent completed 40 hours of community service as ordered by the court; a dissolution of marriage order dated November 2, 2023; and three letters of reference. Each of the three letters of reference were written by respondent's professors or clinical preceptor from the School of Pharmacy he attended and graduated from in 2006. Respondent testified that each of these individuals knew about his DUI conviction, but that he has not worked with any of them since 2006. Each of the letters praised respondent's skills, hard work, and dedication during the time he was in school. None of the three letters provided any information regarding respondent since 2006.

### **Cost of Investigation and Enforcement**

29. Business and Professions Code section 125.3 authorizes complainant to seek recovery of the reasonable costs of its investigation and enforcement in disciplinary matters. Complainant submitted a certification of costs for work performed by the Office of the Attorney General. Attached to that certification is a form entitled, "Matter Time Activity By Professional Type." The attachment contains a general



description of the tasks performed, the time spent on the tasks, and the hourly rate charged for the work of each employee. The certification of costs submitted in this matter established that the Department of Justice billed \$12,901.50 for 57.5 hours expended on the case for the cost of enforcement.

30. In support of the request for investigation costs, a Certification of Investigative Costs was provided with a declaration signed by an investigator Simin Samari regarding the time spent on this matter. The declaration provided a comprehensive listing of work performed by Ms. Samari in this matter up to September 12, 2024. The declaration also included a break-down of the number of hours committed to specific tasks, and a description of the task performed. The declaration set forth that a total of 10.5 hours of work was performed by investigators at an hourly rate of \$121, for a total investigative cost of \$1,270.50.

31. The certifications both satisfied the requirements of California Code of Regulations, title 1, section 1042, subdivision (b), and the certifications support a finding that costs in the amount of \$14,172 are reasonable in both the nature and extent of the work performed. Accordingly, the reasonable cost of enforcement and investigation of this matter is \$14,172.

## **LEGAL CONCLUSIONS**

1. An individual who holds a license to practice a particular profession has a fundamental vested right to continue in that licensed activity. Procedural due process requires a regulatory board or agency seeking to suspend or revoke a professional license to prove the allegations of an accusation by clear and convincing evidence rather than proof by a preponderance of the evidence. (*Owen v. Sands* (2009) 176

Cal.App.4th 985, 991-992.) The burden of proof in this matter was on complainant to establish the allegations in the accusation by clear and convincing evidence.

2. Clear and convincing evidence requires a finding of high probability; the evidence must be so clear as to leave no substantial doubt; it must be sufficiently strong to command the unhesitating assent of every reasonable mind. This requirement presents a heavy burden, far in excess of the preponderance of evidence standard that is sufficient for most civil litigation. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

### **The Purpose of License Discipline**

3. The suspension or revocation of a license to engage in a profession is not penal; its purpose is to protect the public from incompetence and lack of integrity in those practicing the profession. The business of compounding prescriptions and selling drugs is intimately connected with and has a vital relationship to the health, safety, and welfare of the public. Public safety must be regarded as superior to private rights. (*Brodsky v. California State Board of Pharmacy* (1959) 173 Cal.App.2d 680, 688-689.)

4. Business and Professions Code section 4001.1 provides:

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.

## Applicable Statutes

5. Business and Professions Code section 4300.1 provides:

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.

6. Business and Professions Code section 4301, provides in part:

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

[1] . . . [1]

(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.

[1] . . . [1]

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

[¶] . . . [¶]

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 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. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw their plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

[¶] . . . [¶]

(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 by any other state or federal regulatory agency. . . .

7. Business and Professions Code section 4307, subdivision (a) provides:

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.

## **Substantial Relationship**

8. To justify the imposition of discipline, there must be some nexus between an act or omission and the professional's fitness or competence to practice. The Legislature has established such a nexus with respect to certain acts or omissions even where the acts or omissions do not actually impair a professional's ability to practice. It does so by expressly identifying the act or omission as an instance of "unprofessional

conduct." (*Medical Bd. of California v. Superior Court (Liskey)* (2003) 111 Cal.App.4th 163, 174.)

A determination that a licensee's conviction justifies discipline cannot rest on the moral reprehensibility of the underlying conduct but requires a reasoned determination that the conduct was in fact substantially related to the licensee's fitness to engage in the profession. Licensing authorities enjoy unfettered discretion to determine on a case-by-case basis whether a given conviction is substantially related to the relevant professional qualifications. Business and Professions Code section 481 requires each licensing agency to "develop criteria to aid it . . . to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates." (*Donaldson v. Department of Real Estate of State of Cal.* (2005) 134 Cal.App.4th 948, 955-956.)

9. California Code of Regulations, title 16, section 1770, provides:

(a) 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 sought or held 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.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board will consider the following criteria:

- (1) The nature and gravity of the offense;
- (2) The number of years elapsed since the date of 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.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, those which:

- (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, governing the practice of pharmacy.
- (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.



(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

10. Under the express language of California Code of Regulations, title 16, section 1770, subdivision (c)(5), a conviction for driving under the influence of alcohol is substantially related to the qualifications, functions, and duties of a pharmacist.

### **Cause Exists to Impose Discipline Against Respondent's License**

11. Cause exists under Business and Professions Code section 4301, subdivision (l), to impose discipline on respondent's license. The clear and convincing evidence established that respondent was convicted of the misdemeanor offenses of driving under the influence of alcohol, and driving with a BAC over 0.08 percent, for his conduct on July 12, 2022, and that these crimes are substantially related to the qualifications, functions, and duties of a pharmacist.

12. Cause exists under Business and Professions Code section 4301, subdivision (h), to impose discipline on respondent's license. The clear and convincing evidence established that respondent used alcoholic beverages to the extent or manner as to be dangerous or injurious to himself or the public, and to the extent that

the use impaired his ability to conduct with safety to the public the practice of a pharmacist, on July 12, 2022.

13. Cause exists under Business and Professions Code section 4301, subdivision (f), to impose discipline on respondent's license. The clear and convincing evidence established that respondent committed acts involving moral turpitude or corruption by driving a vehicle while under the influence of alcohol, and by assaulting and battering Mr. Riazati on November 27, 2022.

14. Cause exists under Business and Professions Code section 4301, subdivision (o), to impose discipline on respondent's license. The clear and convincing evidence established that respondent violated the provisions or terms of the pharmacy law as set forth above.

## **Rehabilitation**

15. California Code of Regulations, title 16, section 1769, subdivision (c), provides:

When considering the suspension or revocation of a facility or a personal 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. In making this determination, the board will consider the criteria in subdivisions (b)(1)(A) through (E). If the licensee has not completed the criminal sentence at issue without a violation of parole or probation or the

board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivisions (b)(1)(A) through (E), the board will apply the following criteria in evaluating the licensee's rehabilitation:

- (1) Nature and gravity of the act(s) or offenses.
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offenses.
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.
- (6) Evidence, if any, of rehabilitation submitted by the licensee, including as provided in the board's Disciplinary Guidelines, identified in section 1760.

16. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) 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.)

## **Disciplinary Guidelines**

17. California Code of Regulations, title 16, section 1760, provides:

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code sections 11400, et seq.) the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (Rev. 4/2024), which are hereby incorporated by reference.

Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation -- the presence of mitigating factors; the age of the case; evidentiary problems.

18. Under the guidelines, the recommended discipline for repeated criminal convictions involving the abuse of alcohol is revocation, and for a single criminal conviction involving the abuse of alcohol the minimum recommended discipline is revocation stayed, 90 days of actual suspension, with five years of probation with all standard terms and conditions as appropriate, with the maximum recommended discipline being revocation.

19. The board's guidelines provide criteria to consider in determining the appropriate level of discipline, including: The nature and severity of the acts under consideration, the number and/or variety of current violations, the actual or potential harm to the public, the actual or potential harm to any consumer, respondent's prior

disciplinary record, evidence of mitigation and rehabilitation, and the amount of time that has passed since the occurrence of the acts under consideration.

## **Appropriate Discipline**

20. Respondent drank alcohol to excess on July 12, 2022, and drove a vehicle while impaired causing a serious vehicular collision putting his own life and the lives of others at risk. Respondent demonstrated extremely poor judgment in doing so. Despite that behavior, respondent continued to drink alcohol until at least August 2023, which is when he testified that he last consumed alcohol. However, the letter he wrote to the board in May 2023, three months prior to his claimed sobriety date, asserts that he is no longer self-medicating with alcohol. Respondent admitted during his testimony that his mental health and the stress of his divorce and losing custody of his daughter caused him to drink alcohol. His letter to the board also made the admission that he self-medicated with alcohol as a result of stress. Ms. Samari testified that respondent told her that he self-medicated with alcohol as a result of his marital issues. Despite these representations, respondent testified at hearing that he has never been an alcoholic and does not have a problem with alcohol. He no longer attends AA, does not participate in any therapy related to alcohol abuse, and denies having a problem with alcohol. Respondent did comply with court-ordered DUI programs, but he has not participated any more than the minimum required by court order. Respondent's DUI conviction and dangerous use of alcohol underlying that conviction demonstrate his unhealthy relationship with alcohol, which he denies having. Respondent has provided insufficient evidence to demonstrate rehabilitation from his DUI conviction such that his continued licensure, even on a probationary basis, will provide sufficient protection to the public.

21. Furthermore, respondent's November 27, 2022, arrest for assault demonstrates respondent's poor judgment and risk to the public. Respondent's testimony that Mr. Riazati attacked him instead of respondent attacking Mr. Riazati lacked credibility. Notably, Mr. Riazati's testimony at hearing, as well as his statements to sheriff's deputies on the night of the event were consistent in that respondent attacked and threatened Mr. Riazati. Deputy Tighe also credibly testified that respondent told him that he had asked Mr. Riazati for 10 million dollars that night, a fact that is both deeply disturbing and also corroborates the testimony of Mr. Riazati on the events of that night. There is no logical explanation for respondent making that statement. Additionally, while respondent testified at hearing that Mr. Riazati attacked him at a bus stop, respondent never provided that version of events to sheriff's deputies on the night of the event despite repeated questioning, which severely undercuts respondent's credibility. Respondent's behavior on November 27, 2022, presents a danger to the public. He provided no evidence of rehabilitation from that event and denied that it happened. He also claimed, without any evidence, that he was a victim of the event as he wrote to the board.

22. After consideration of all evidence presented, the only measure of license discipline that will provide public protection is revocation of respondent's license.

### **Costs of Investigation and Enforcement**

23. Business and Professions Code section 125.3 provides in part:

Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding,

the administrative law judge may direct a licensee 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.

24. *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 held that the regulation imposing costs for investigation and enforcement under Title 16, California Code of Regulations, section 317.5 (which is similar to Bus. & Prof. Code § 125.3) did not violate due process in a case involving the discipline of a chiropractor. But, it was incumbent on the State Board of Chiropractic Examiners to exercise its discretion to reduce or eliminate cost awards in a manner that ensured that section 317.5 did not “deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing.”

The Supreme Court set forth five factors that the State Board of Chiropractic Examiners was required to consider in deciding whether to reduce or eliminate costs: (1) whether the chiropractor used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the chiropractor had a “subjective” good faith belief in the merits of his position; (3) whether the chiropractor raised a “colorable challenge” to the proposed discipline; (4) whether the chiropractor had the financial ability to make payments; and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct.

25. The *Zuckerman* criteria were applied in this matter, and it is concluded that issuing an order directing respondent to pay the board’s costs of investigation and enforcement in this matter will not have a chilling effect on future respondents’ exercise of his right to a hearing. Respondent shall be required to pay \$14,172 in prosecution and investigation costs.

## ORDER

Pharmacist License No. RPH 61954 issued to respondent Amir Makram Seefen Gerges is revoked. Respondent shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$14,172, as a condition precedent to having his license reinstated, if and when he chooses to do so. Nothing prohibits the board from reducing or modifying the costs should respondent seek reinstatement.

DATE: October 4, 2024

*Debra D. Nye-Perkins*

DEBRA D. NYE-PERKINS

Administrative Law Judge

Office of Administrative Hearings



1 ROB BONTA  
Attorney General of California  
2 ERIN M. SUNSERI  
Supervising Deputy Attorney General  
3 AGUSTIN LOPEZ  
Deputy Attorney General  
4 State Bar No. 218717  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9461  
7 Facsimile: (619) 645-2061  
E-mail: Agustin.Lopez@doj.ca.gov  
8 *Attorneys for Complainant*

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

13 In the Matter of the First Amended Accusation  
Against:

Case No. 7723

14 **AMIR MAKRAM SEEFEN GERGES**  
15 **25727 Via Lomas #4**  
**Laguna Hills, CA 92653**

**FIRST AMENDED ACCUSATION**

16 **Pharmacist License No. RPH 61954**

17 Respondent.

18  
19 **PARTIES**

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

23 2. On November 14, 2008, the Board issued Pharmacist License Number RPH 61954 to  
24 Amir Makram Seefen Gerges (Respondent). The Pharmacist License was in full force and effect  
25 at all times relevant to the charges brought herein and will expire on September 30, 2024, unless  
26 renewed.

27 ///

28 ///

## **JURISDICTION**

3. Complainant brings this First Amended Accusation before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4001.1 provides that, under the Pharmacy Law (Bus. & Prof. Code § 4000 *et seq.*), protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions.

5. 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 and Safety Code, § 11000 *et seq.*).

6. Section 4300 states:

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

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

7. 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**

8. Section 4301 states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been 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.

...

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

...

(i) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 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. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

(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 [the Pharmacy Law] or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

9. Code section 4307, subdivision (a) states:

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, or partner of any partnership, corporation, 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 manger, administrator, owner, member, officer, director, associate, or partner had knowledge 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 manger, administrator, owner, member, officer, director, associate, or partner 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.

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

### 3 **REGULATORY PROVISIONS**

4 10. California Code of Regulations, title 16, section 1769 states:

5 (b) Denial of a license.

6 (1) When considering the denial of a facility or personal license under  
7 Section 480 of the Business and Professions Code on the grounds that the  
8 applicant has been convicted of a crime, the board will consider whether the  
9 applicant made a showing of rehabilitation if the applicant completed the  
10 criminal sentence at issue without a violation of parole or probation. In  
11 making this determination, the board will consider the following criteria:

12 (A) The nature and gravity of the crime(s).

13 (B) The length(s) of the applicable parole or probation period(s).

14 (C) The extent to which the applicable parole or probation period  
15 was shortened or lengthened, and the reason(s) the period was modified.

16 (D) The terms or conditions of parole or probation and the extent to  
17 which they bear on the applicant's rehabilitation.

18 (E) The extent to which the terms or conditions of parole or  
19 probation were modified, and the reason(s) for modification.

20 (2) If the applicant has not completed the criminal sentence at issue  
21 without a violation of parole or probation, or the board determines that the  
22 applicant did not make the showing of rehabilitation based on the criteria in  
23 paragraph (1) or the denial is based on professional misconduct, the board  
24 will apply the following criteria in evaluating an applicant's rehabilitation:

25 (A) The nature and gravity of the act(s), professional misconduct, or  
26 crime(s) under consideration as grounds for denial.

27 (B) Evidence of any act(s), professional misconduct, or crime(s)  
28 committed subsequent to the act(s), professional misconduct, or crime(s)  
under consideration as grounds for denial under Section 480 of the  
Business and Professions Code.

(C) The time that has elapsed since commission of the act(s),  
professional misconduct, or crime(s) referred to in subparagraph (A) or  
(B).

///

1 (D) Whether the applicant has complied with any terms of parole,  
2 probation, restitution or any other sanctions lawfully imposed against the  
applicant.

3 (E) The criteria in paragraphs (1)(A) through (E), as applicable.

4 (F) Evidence, if any, of rehabilitation submitted by the applicant,  
5 including as provided in the board's Disciplinary Guidelines, identified in  
section 1760.

6 (c) Suspension or revocation of a license.

7  
8 When considering the suspension or revocation of . . . a personal license on  
9 the ground that the licensee has been convicted of a crime, the board will consider  
10 whether the licensee made a showing of rehabilitation and is presently fit for a  
11 license, if the licensee completed the criminal sentence at issue without a  
12 violation of parole or probation. In making this determination, the board will  
13 consider the criteria in subdivisions (b)(1)(A) through (E). If the licensee has not  
14 completed the criminal sentence at issue without a violation of parole or probation  
15 or the board determines that the licensee did not make the showing of  
16 rehabilitation based on the criteria in subdivisions (b)(1)(A) through (E), the  
17 board will apply the following criteria in evaluating the licensee's rehabilitation:

14 (1) Nature and gravity of the act(s) or offenses.

15 (2) Total criminal record.

16 (3) The time that has elapsed since commission of the act(s) or offenses.

17 (4) Whether the licensee has complied with all terms of parole, probation,  
18 restitution or any other sanctions lawfully imposed against the licensee.

19 (5) The criteria in subdivisions (b)(1)(A) through (E), as applicable.

20 (6) Evidence, if any, of rehabilitation submitted by the licensee, including  
21 as provided in the board's Disciplinary Guidelines, identified in section 1760.

22 11. California Code of Regulations, title 16, section 1770, states:

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

28 (b) In making the substantial relationship determination required under  
subdivision (a) for a crime, the board will consider the following criteria:

- 1 (1) The nature and gravity of the offense;
- 2 (2) The number of years elapsed since the date of the offense; and
- 3 (3) The nature and duties of the practice, profession, or occupation that may be
- 4 performed under the license type sought or held.
- 5 (c) For purposes of subdivision (a), substantially related crimes, professional
- 6 misconduct, or acts shall include, but are not limited to, those which:
- 7 (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
- 8 conspire to violate, any provision of law of this state, or any other jurisdiction,
- 9 governing the practice of pharmacy.
- 10 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
- 11 conspire to violate, any provision of Chapter 13 (commencing with Section 801 ) of
- 12 Title 21 of the United States Code regulating controlled substances or any law of this
- 13 state, or any other jurisdiction, relating to controlled substances or dangerous drugs.
- 14 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or
- 15 conspire to violate, any provision of law of this state, or any other jurisdiction,
- 16 relating to government provided or government supported healthcare.
- 17 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
- 18 documents, or personal information.
- 19 (5) Involve a conviction for driving under the influence of drugs or alcohol.

### 20 **COST RECOVERY**

21 12. Section 125.3 provides that the Board may request the administrative law judge to

22 direct a licensee found to have committed a violation or violations of the licensing act to pay a

23 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with

24 failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a

25 case settles, recovery of investigation and enforcement costs may be included in a stipulated

26 settlement.

### 27 **FACTUAL ALLEGATIONS**

28 13. On July 12, 2022, at approximately 7:55 P.M., Respondent drove while intoxicated.

Respondent's vehicle collided with the center median while traveling Northbound on Interstate 5

near Oso Parkway, in Orange County. Respondent's vehicle then made a sharp right turn,

crossed all lanes of traffic, and collided with a metal rail on the right side of the interstate where it

1 rolled to a stop. Respondent sustained injuries due to the collision that included two fractured  
2 ribs, and abrasions to his head and left arm.

3 14. California Highway Patrol (CHP) officers responded and contacted Respondent on a  
4 stretcher inside an ambulance that had responded to the collision. Officers could smell alcohol  
5 emitting from Respondent from four feet away and observed outward signs of intoxication.  
6 Paramedics then transported Respondent to Mission Hospital in Mission Viejo. CHP officers  
7 later contacted Respondent at the hospital and arrested him for violation of Vehicle Code section  
8 23152, subdivision (a) (misdemeanor driving under the influence).

9 15. CHP officers asked Respondent if he had consumed alcohol before driving, which he  
10 denied. At 9:20 P.M., Respondent provided a breath sample that showed Respondent's blood  
11 alcohol content (BAC) was 0.16%. At 9:23 P.M., Respondent submitted a second breath sample  
12 that showed his BAC was 0.172%. At 10:45 P.M., Respondent submitted a blood sample that  
13 showed his BAC was 0.16%.

14 16. On November 27, 2022, at approximately 8:49 A.M., Respondent attacked and struck  
15 A.R. at or near an apartment complex located on Moulton Parkway in Laguna Hills. A.R., a  
16 resident of the complex, was walking towards the complex's dumpster when he encountered  
17 Respondent, whom he did not know and had never seen before. Respondent approached A.R.  
18 while wielding a wooden stick, claiming A.R. owed Respondent ten million dollars, and that  
19 Respondent would kill A.R. Respondent followed A.R. around the complex, continued to  
20 threaten to kill him, and claimed to know where he lived. Respondent approached A.R. quickly  
21 and used the stick to strike A.R. in the face causing an abrasion under A.R.'s right eye.<sup>1</sup>

22 17. Orange County Sheriff's Department (OCSD) deputies responded to the apartment  
23 complex and arrested both Respondent and A.R. given that there were no witnesses or cameras  
24 other than the parties. OCSD deputies arrested Respondent for violation of Penal Code sections  
25  
26

---

27 <sup>1</sup> A.R. used his pocket-knife in self-defense to lacerate Respondent on his right arm, which  
28 required stitches.



245, subdivision (a)(1) (assault with a deadly weapon); and 422, subdivision (a) (criminal threats).<sup>2</sup>

18. On January 24, 2023, in a criminal proceeding entitled *People v. Amir Makram Seefen Gerges* (Super. Ct. Orange County, 2022, No. 22HM07979), the Orange County Superior Court convicted Respondent on his nolo contendere plea of misdemeanor violation of Vehicle Code sections 23152, subdivision (a) (driving under the influence of alcohol); and 23152, subdivision (b) (driving with a BAC over 0.08%) for his conduct on July 12, 2022. The court sentenced Respondent to three years informal probation, ordered him to pay fines and fees, complete 40 hours of community service, and attend and complete a 3-month Level 1 First Offender Alcohol Program, among other things.

**FIRST CAUSE FOR DISCIPLINE**

**(Conviction of Substantially Related Crime)**

19. Complainant incorporates paragraphs 13-18 by reference as if set forth in full herein.

20. Respondent is subject to discipline under Section 4301, subdivision (l), because the Orange County Superior Court convicted Respondent of a crime substantially related to the qualifications, functions, and duties of a pharmacist.

**SECOND CAUSE FOR DISCIPLINE**

**(Dangerous Use of Alcohol)**

21. Complainant incorporates paragraphs 13-18 by reference as if set forth in full herein.

22. Respondent is subject to discipline under Section 4301, subdivision (h), because he used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself or to the public, to the extent that the use impairs Respondent's ability to conduct with safety to the public the practice of a pharmacist.

///

///

///

///

---

<sup>2</sup> The Orange County District Attorney declined to prosecute Respondent.



1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Moral Turpitude)**

3 23. Complainant incorporates paragraphs 13-18 by reference as if set forth in full herein.

4 24. Respondent is subject to discipline under Section 4301, subdivision (f), because he  
5 committed an act involving moral turpitude or corruption as follows:

6 a. Drove under the influence of alcohol; and

7 b. Assaulted and battered A.R.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violation of Pharmacy Law)**

10 25. Complainant incorporates paragraphs 13-24 by reference as if set forth in full herein.

11 26. Respondent is subject to discipline under Section 4301, subdivision (o), because  
12 Respondent violated or attempted to violate; directly or indirectly; provisions or terms of the  
13 Pharmacy Law.

14 **OTHER MATTERS**

15 27. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.  
16 RPH 61954, issued to Amir Makram Seefen Gerges, he shall be prohibited from serving as a  
17 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
18 five years if the Pharmacist License is placed on probation or until the Pharmacist License is  
19 reinstated, if it is revoked.

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacist License Number RPH 61954, issued to Amir  
24 Makram Seefen Gerges;

25 2. Prohibiting Amir Makram Seefen Gerges from serving as a manager, administrator,  
26 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist  
27 License Number RPH 61954 is placed on probation or until the Pharmacist License is reinstated,  
28 if it is revoked;

1           3.     Ordering Amir Makram Seefen Gerges to pay the Board of Pharmacy the reasonable  
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
3 Code section 125.3; and, if placed on probation, the costs of probation monitoring; and,

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

5  
6  
7     DATED: 9/4/2024

Sodergren, Digitally signed by  
Sodergren, Anne@DCA  
Anne@DCA Date: 2024.09.04  
08:59:26 -07'00'

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

8  
9  
10  
11  
12     SD2023306588  
84409245.docx