

NEVADA STATE BOARD OF PHARMACY

431 W Plumb Lane • Reno, NV 89509

APPLICATION BY RECIPROCATATION AS A PHARMACIST

If you are requesting licensure by reciprocatation (i.e. you have a current pharmacist license from another state and wish to transfer license information and only need to take the Nevada MPJE), complete this application:

Total Fee: \$330.00 (non-refundable, money order or cashier's check only, no cash)

Money Order or Cashier's Check made payable to: Nevada State Board of Pharmacy

Complete Name (no abbreviations):

First: Salem Middle: Renee Last: Mihalick

Mailing Address: Ames Street

City: Wheat Ridge State: CO Zip Code: 80214

Telephone: - - - - - E-mail Address: 19salem@gmail.com

Date of Birth: - - - - - Place of Birth: Pueblo, Colorado . U.S.A.

Social Security Number: - - - - - Sex: M or F
(Full Number Required)

Original State of Licensure you are reciprocating from must be active and issued by exam;

State: Colorado Date of Issuance: 11-1-17

College of Pharmacy Information

Graduation Date: 5-24-1997
(mm/dd/yy)

Degree Received: PharmD BS in Pharmacy Other (check one)

Name of Pharmacy School: University of Colorado, School of Pharmacy

Location of School: Denver, Colorado

If you are a **foreign graduate** you must attach a copy of your FPGEC certificate to THIS APPLICATION. You also need to complete the college of pharmacy information

Board Use Only
Processed: 7-11-18 Amount: \$330.00 Entity #: 101549
Email: _____ MPJE: _____

Other states where you are (or were) licensed as a pharmacist or print "none"

State <u>None</u>	Lic # _____	Is the license active? Yes <input type="checkbox"/> No <input type="checkbox"/>	State _____	Lic # _____	Is the license active? Yes <input type="checkbox"/> No <input type="checkbox"/>
_____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>	_____	_____	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Attach separate sheet if needed

Have you ever served in the military, either active, reserve or retired? Yes No

Branch: _____

Military Occupation/Specialty: _____

Dates of Service: _____

A licensee is not required to have a Nevada State Business License, however, if you do, please provide the number: _____

						Yes	No
Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or physical condition that would impair your ability to perform the essential functions of your license?..... <input type="checkbox"/> ... <input checked="" type="checkbox"/>							
1. Been charged, arrested or convicted of a felony or misdemeanor in <u>any</u> state?..... <input checked="" type="checkbox"/> ... <input type="checkbox"/>							
2. Been the subject of a board citation or an administrative action or board citation whether completed or pending in <u>any</u> state?..... <input checked="" type="checkbox"/> ... <input type="checkbox"/>							
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in <u>any</u> state?..... <input checked="" type="checkbox"/> ... <input type="checkbox"/>							
If you marked YES to any of the numbered questions (1-3) above, include the following information & provide an explanation & documentation:							
Board Administrative Action:		State	Date:	Case #:			
<u>Stipulation</u>		<u>Colorado</u>	<u>3/28, 2008</u>	<u>2007-2113</u>			
Criminal Action:	State	Date:	Case #:	County	Court		
<u>Felony</u>	<u>Colorado</u>	<u>11/7, 2007</u>	<u>2007 CR001291</u>	<u>Jefferson</u>	<u>District Court</u>		
<u>FEDERALLY MANDATED REQUIREMENTS</u>							
In response to Federally mandated requirements, the Nevada Legislature and Attorney General require that we include this questions as part of all applications.							
4. Are you the subject of a court order for the support of a child?.....Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>							
4a. If you marked Yes, to the question 4, are you in compliance with the court order?..... Yes <input type="checkbox"/> No <input type="checkbox"/>							

I have read all questions, answers and statements and know the contents thereof. I hereby certify, under penalty of perjury, that the information furnished on this application are true, accurate and correct. I hereby authorize the Nevada State Board of Pharmacy, it's agents, servants and employees, to conduct any investigation(s) of my business, professional, social and moral background, qualification and reputation, as it may deem necessary, proper or desirable.

No liability of any sort or kind shall attach to the said Nevada State Board of Pharmacy, it's members, servants or employees because or by reason of the use of the authorization.

I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

Salem Mehalick

6-25-18

Original Signature, no copies or stamps accepted

Date

Board Administrative Action
Colorado
Case No. 2007-2113

On March 28, 2008 I entered into a stipulation with the Colorado State Board of Pharmacy (CBOP) after diverting prescription medications. I signed a contract with Peer Assistance Services to monitor my actions as prescribed by CBOP. This stipulation was completed on March 17, 2016.

Criminal Action
Colorado
Case No. 2007 CR 001291

On November 11, 2007 I plead guilty to a felony charge of controlled substance possession. I was fined and placed on probation for 3 years. The probation was terminated early after two years due to absolute compliance and paid fines.

I was the pharmacist in charge at Rio Grande Pharmacy, Del Norte, Colorado from 2013 to 2016. I have been the pharmacy manager at Grace Health Pharmacy from 2016 to the present time.

Thank you,

Salem Mihalick, RPh

Licensee Information

This serves as primary source verification of the license.*

**Primary source verification: License information provided by the Colorado Division of Professions and Occupations, established by 24-34-102 C.R.S.*

Name	Public Address
Salem Renee Mihalick	Wheat Ridge, CO 80214

Credential Information

License Number	License Method	License Type	License Status	Original Issue Date	Effective Date	Expiration Date
PHA.0015006	Examination	Pharmacist	Active	07/11/1997	11/01/2017	10/31/2019

Supervision

Relationship	Supervisor/Supervisee	License	Start Date	Relationship Type
Supervises	Grace Health Pharmacy	PDO.1680000031	11/07/2016	Manager

Board/Program Actions

Case Number	Public Action	Resolution	Effective Date	Completed Date
2007-2113	CLS Stipulation	Stipulation	03/28/2008	11/12/2013
2007-2113	CLS Stipulation	Stipulation	11/12/2013	03/17/2016
2007-2113	ITRM Cessation of Practice	Stipulation	05/11/2007	03/28/2008
2007-3390	CLS Letter of Admonition	Letter of Admonition	08/27/2007	
2010-2115	CLS Letter of Admonition	Letter of Admonition	02/22/2010	
2010-7	CLS Letter of Admonition	Letter of Admonition	08/24/2009	
2011-274	CLS Letter of Admonition	Letter of Admonition	11/19/2010	

Online Documents

To view specific documents related to a licensee, use the "External Document" link below. If you would like to search all available online documents use our DPO Public Documents System (http://www.dora.state.co.us/pls/real/DDMS_Search_GUI.DPO_Search_Form). Once there you may enter the licensee name or license number to complete the search. All public documents related to the licensee will be visible upon completion of the search.

If you have any questions or further issues, please contact us at dora_dpo_onlinelicenses@state.co.us.

Link	Unique ID Number	DocType	DocSource
------	------------------	---------	-----------

Link	Unique ID Number	DocType	DocSource
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=129683&docGuid=4A210DF0-324A-436F-8486-8C6763428BAE)	129683	HPPP-CO PUBLIC DISCIPLINARY ACTION	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=141727&docGuid=F0020B1E-01FD-437C-8263-1E34D671FBD2)	141727	HPPP-CO PUBLIC DISCIPLINARY ACTION	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=281186&docGuid=CE5CCE30-B9B4-4F41-907D-3371394A2F83)	281186	HPPP-CO PUBLIC DISCIPLINARY ACTION	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=30175&docGuid=266CEC6C-724F-4994-BE7B-F8DEFC1C2F31)	30175	HPPP-CO RESTRICTIONS OR SUSPENSIONS	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=31742&docGuid=A4069C9A-01E3-444C-9B37-2695C7EB683F)	31742	HPPP-CO PUBLIC DISCIPLINARY ACTION	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=33710&docGuid=D94162DD-2ACD-431B-86F9-BF499B43046F)	33710	HPPP-CO PUBLIC DISCIPLINARY ACTION	IMAGE
External Document (http://apps.colorado.gov/dora/licensing/Lookup/LicenseLookup.aspx?docExternal=356385&docGuid=E22DF078-AC41-499E-9857-64193B2B4555)	356385	HPPP- CRIMINAL CONVICTION	IMAGE

Generated on: 7/11/2018 2:31:03 PM

Case Number: 2007CRO01291

The People of Colorado
vs
MONTEZ, SALEM

Division: 2

SENTENCE ORDER

Defendant: Count	MONTEZ, SALEM	Date of Birth: Plea	Finding
4			
6			
7	13		
8	18-4-401(1),(2)(b) - Theft-\$100-\$500	Plea of Guilty	Guilty

ASSESSED FINES & COSTS

Count # 2	
Probation: 3 Years	
Victim Compensation Fund	\$125.00
VAST min for off after 5/1/03	\$162.50
Request for Time to Pay	\$25.00
Probation Supervision Fee	\$1,800.00
Court Costs - T, M, CR	\$35.00
Drug Offender Surcharge	\$1,125.00
Offender Identification Fund	\$128.00
Court Security Cash Fund	\$5.00
Count # 8	
Probation: 3 Years	
TOTAL	\$3,405.50

Other Conditions of Sentence:

FULL TIME EMPLOYMENT; SUBST ABUSE EVAL & TRMT; DISCLOSE CONVICTION TO POTENTIAL EMPLOYERS; DISCLOSE ADDICTION TO ANY PHYSICIANS CONSULTED. BOTH COUNTS CONCURRENT.
/DAS

MENENDEZ, M. J.	11/13/2007
Judge/Magistrate	Date
MONTEZ, SALEM	11/13/2007
Defendant	Date

*****NOTICE*****
Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by of business on your Court Date. Failure to pay when due will result in additional costs pursuant to HB11

STATE OF COLORADO

STATE BOARD OF PHARMACY
Wendy L. Anderson, Program Director

1560 Broadway, Suite 1300
Denver, Colorado 80202-5146
Phone (303) 894-7750
Fax (303) 894-7692
TTY: Dial 711 for Relay Colorado
www.dora.state.co.us/pharmacy

Department of Regulatory Agencies
D. Rico Munn
Executive Director

Division of Registrations
Rosemary McCool
Director



Bill Ritter, Jr.
Governor

August 27, 2007

Salem R. Montez, RPH

RE: Case #2007-3390

Dear Ms. Montez:

The Colorado Board of Pharmacy considered the above referenced complaint at its August 23, 2007 meeting. After careful consideration of all the evidence before the Board, the Board determined the following:

- You violated the contract with the Rehabilitation Evaluation Committee (REC). This contract became effective March 7, 2007.

The Board found that these facts comprised evidence of misconduct, which merited discipline. The Board hereby admonishes you for violations of CRS sections 12-22-125(1)(c)(I), (II) and (III) and (1)(d) and (e), and Board regulation 1.00.21.

This admonishment shall be made a part of the permanent records of the Board and is reportable as a disciplinary action. It may also be considered as an aggravating factor if you incur future violations. You may request that a hearing be initiated by the Board if you wish to dispute the information in this letter. The purpose of such a proceeding would be to adjudicate the propriety of the conduct upon which this letter is based. The Board must receive such a request from you within 20 days after you receive this letter.

If you make a timely request, the letter of admonition shall be deemed vacated pending resolution of formal disciplinary proceedings. Those proceedings involve a hearing conducted in accordance with the State Administrative Procedures Act.

Sincerely,

FOR THE COLORADO STATE BOARD OF PHARMACY

Wendy L. Anderson
Program Director

Xc: Katharine D. Kurtz, Esq.
File

BEFORE THE STATE BOARD OF PHARMACY
STATE OF COLORADO
Case No. 2007-2113

STIPULATION FOR INTERIM CESSATION OF PRACTICE

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE
TO PRACTICE PHARMACY IN THE STATE OF COLORADO OF SALEM R.
MONTEZ, RPH, LICENSE NO. 15006,

RESPONDENT.

IT IS HEREBY STIPULATED and agreed by and between the State Board of Pharmacy
("Board") and Salem R. Montez, R.Ph. ("Respondent") as follows:

1. Respondent was licensed to practice pharmacy in the State of Colorado on July 11, 1997, and was issued license number 15006, which Respondent has held continuously since that date.
2. The Board has jurisdiction over the person of Respondent and the subject matter of this proceeding.
3. On March 15, 2007, the Board reviewed case number 2007-2113 and noted that as a result of the events giving rise to this case, there are criminal charges pending against Respondent in Jefferson County District Court, Temporary Case No. 07 SA 01807 (Wheatridge Police Department Case No. 2006-16236) (hereinafter "the criminal case").
4. On March 15, 2007, the Board further concluded that Respondent may not be able to practice pharmacy with reasonable skill and safety to patients.
5. The parties agree that it is in the interests of judicial efficiency and economy to stay the Board's action against Respondent's license pending the outcome of the criminal proceedings in the criminal case. Therefore, the parties have agreed to enter into this Stipulation for Interim Cessation of Practice ("Stipulation") pursuant to which summary suspension proceedings are stayed while investigations and evaluations continue so that the Board may determine what action is warranted.
6. Respondent agrees that she will not engage in the practice of pharmacy as defined in CRS §12-22-102(26) while this Stipulation is in effect.
7. This Stipulation shall remain in effect until such time as:
 - a. the Board takes further action subsequent to the outcome of the criminal proceedings in the criminal case,

- b. Peer Assistance Services (PAS) issues a report stating that Respondent is able to practice pharmacy safely and until such time as the Board has had an opportunity to review and approve such report, and
 - c. Respondent enters into a stipulation and final agency order with the Board.
- 9. The Board agrees to make a final determination as to what action it will take against Respondent's license during the ordinary course of business at that regularly scheduled meeting following timely submission of documentation of:
 - a. the disposition of the criminal proceedings in the criminal case, and
 - b. the PAS report.
- 10. The Board agrees that it will not institute summary suspension proceedings while this Stipulation is in effect so long as the Respondent remains in compliance with this Stipulation and so long as the Board does not learn of substantially new information that would indicate that summary suspension is warranted.
- 11. All expenses associated with the evaluation and other expenses incurred in fulfilling the terms of this Stipulation shall be borne by Respondent.
- 12. Nothing in this Stipulation shall constitute disciplinary action or a finding that Respondent has engaged in substandard practice. The Board has made no final determinations regarding Respondent's professional competency or professional conduct. Nothing in this Stipulation shall constitute a final action as defined in CRS §24-4-102(1).
- 13. The terms of this Stipulation were mutually negotiated and determined.
- 14. Both parties acknowledge that they understand the legal consequences of this Stipulation, both parties enter into this Stipulation voluntarily, and both parties agree that no term or condition of this Stipulation is unconscionable.
- 15. This Stipulation and all its terms and conditions constitute a valid Board Order for purposes of CRS. §§12-22-125(1)(m) and 12-22-125.2(4). Respondent acknowledges and agrees that any violation of this Stipulation shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under CRS §12-22-125.2(4), and may be sufficient grounds for additional discipline, including but not limited to revocation of her license.
- 16. Respondent understands that Respondent has the right to be represented by counsel of Respondent's choice in this matter.
- 17. Invalidation of any portion of this Stipulation by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.
- 18. This Stipulation shall become effective when accepted and signed on behalf of the Board.
- 19. This Stipulation shall constitute a public record at all times in the custody of the Board.

RESPONDENT

**COLORADO STATE BOARD OF
PHARMACY**

Salem R. Montez
Salem R. Montez, R.PH

Wendy Anderson
Wendy Anderson
Program Director
Effective Date: This 11th day of
May 2007.

DOCUMENT APPROVED AS TO FORM:

KURTZ & PECKHAM

JOHN W. SUTHERS
Attorney General

Katharine D. Kurtz
KATHARINE D. KURTZ, #9435*

Joanna Lee Kaye
JOANNA LEE KAYE, #20486*
Assistant Attorney General
Business and Licensing Section

Attorneys for Respondent

Attorneys for State Board of Pharmacy

1600 Stout Street, Suite 610
Denver, Colorado 80202
Telephone: (303) 893-3045
FAX: (303) 893-6999
*Counsel of Record

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-6170
FAX: (303) 866-5395
*Counsel of Record



Dora
Department of Regulatory Agencies

Division of Registrations
Rosemary McCool
Director

State Board of Pharmacy
Wendy Anderson
Program Director

Bill Ritter, Jr.
Governor

Barbara J. Kelley
Executive
Director

22 February 2010

Salem R. Montez, R.Ph.

CERTIFIED AND FIRST CLASS MAIL

RE: Case 2010-2115

Dear Ms. Montez:

The Colorado State Board of Pharmacy ("Board") considered the above referenced complaint at its February 18, 2010 meeting. After careful consideration of all the evidence before the Board, the Board determined that you were non-compliant with the terms of your Rehabilitation Contract with Peer Assistance Services when a positive urine test for alcohol was discovered in November of 2009.

The Board hereby admonishes you for violations of C.R.S. sections 12-22 125(1)(c)(I)(II)(III), (d), (e) and (m) and Board Regulation 1.00.21.

This admonishment shall be made a part of the permanent records of the Board and is reportable as a disciplinary action. It may also be considered as an aggravating factor if you incur future violations. You may request that a hearing be initiated by the Board if you wish to dispute the information in this letter. The purpose of such a proceeding would be to adjudicate the propriety of the conduct upon which this letter is based. The Board must receive such a request from you within 20 days after you receive this letter.

If you make a timely request, the letter of admonition shall be deemed vacated pending resolution of formal disciplinary proceedings. Those proceedings involve a hearing conducted in accordance with the State Administrative Procedures Act.

Sincerely,

FOR THE COLORADO STATE BOARD OF PHARMACY


Wendy L. Anderson
Program Director

WA/cg

xc: File

1560 Broadway, Suite 1350
Fax 303.894.7692

Denver, Colorado 80202
www.dora.state.co.us

Phone 303.894.7800
V/TDD 711





Dora
Department of Regulatory Agencies

Division of Registrations
Rosemary McCool
Director

State Board of Pharmacy
Wendy Anderson
Program Director

Bill Ritter, Jr.
Governor

D. Rico Munn
Executive
Director

August 24, 2009

Salem R. Montez, R.Ph.

CERTIFIED AND FIRST CLASS MAIL

RE: Case 2010-0007

Dear Ms. Montez:

The Colorado State Board of Pharmacy ("Board") considered the above referenced complaint at its August 20, 2009 meeting. After careful consideration of all the evidence before the Board, the Board determined that you failed to enroll in or successfully complete the Spring 2009 session of the Professional Based Ethics Course (ProBE) as required by the Stipulation and Final Agency Order you entered into with Board effective March 28, 2008.

The Board found that these facts comprised evidence of misconduct, which merited discipline. The Board hereby admonishes you for violations of C.R.S. sections 12-22-125(1)(c)(I)(II)(III) and (m) and Board Regulation 1.00.21.

This admonishment shall be made a part of the permanent records of the Board and is reportable as a disciplinary action. It may also be considered as an aggravating factor if you incur future violations. You may request that a hearing be initiated by the Board if you wish to dispute the information in this letter. The purpose of such a proceeding would be to adjudicate the propriety of the conduct upon which this letter is based. The Board must receive such a request from you within 20 days after you receive this letter.

If you make a timely request, the letter of admonition shall be deemed vacated pending resolution of formal disciplinary proceedings. Those proceedings involve a hearing conducted in accordance with the State Administrative Procedures Act.

Sincerely,

FOR THE COLORADO STATE BOARD OF PHARMACY


Wendy L. Anderson
Program Director

xc: File

1560 Broadway, Suite 1350
Fax 303.894.7692

Denver, Colorado 80202
www.dora.state.co.us

Phone 303.894.7800
V/TDD 711



BEFORE THE STATE BOARD OF PHARMACY

STATE OF COLORADO

Case No. 2007-2113

AMENDED STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO PRACTICE PHARMACY IN THE STATE OF COLORADO OF SALEM MIHALICK, R.PH., LICENSE NO. PHA 15006,

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Salem Mihalick, R.Ph. ("Respondent") to resolve all matters pertaining to Board Case Number 2007-2113, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over Respondent, her license to practice pharmacy, and the subject matter of this Amended Stipulation and Final Agency Order ("Final Agency Order") pursuant to provisions of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act at Title 12, Article 42.5, C.R.S. (2013).
2. Respondent was originally licensed to practice as a pharmacist in the State of Colorado on or about July 11, 1997, being issued license number PHA 15006, and has been so licensed at all times relevant to this disciplinary action.
3. Respondent admits these findings and hereby waives any further proof in this or any other proceeding before the Board regarding the following facts.
4. Between November 16, 2005 and January 9, 2007, Respondent diverted a total of 3,400 alprazolam 0.5 mg tablets, 2,300 hydrocodone 10 mg / acetaminophen 325 mg tablets, and 45 hydrocodone 7.5 mg / acetaminophen 750 mg tablets from the pharmacy where she was employed at the time, by writing approximately 80 fraudulent new and refill prescription orders purported to be from five separate practitioners under her own name and the name of a fictitious patient.
5. The drugs dispensed from these prescription orders include drugs used to treat pain, anxiety, cough and cold, infections, high blood pressure, and birth control.

6. Respondent's initials are on most of the new and refill dispensing records and transactions for the prescriptions described above in paragraphs 4 and 5, indicating that she was the final evaluator of those prescriptions.
7. Respondent originally alleged that she diverted controlled substances and prescription drugs under the duress of an acquaintance, but later admitted the drugs were for personal use.
8. In November 2007, Respondent pled guilty to possession of a controlled substance, a class 5 felony, for the incidents described above in paragraphs 4 through 6.
9. Effective March 28, 2008, Respondent entered into a Stipulation and Final Agency Order with the Board in this case ("2008 Final Agency Order"), which placed Respondent on a five-year probation with restrictions. Respondent was required to complete a treatment contract with Peer Assistance Services ("PAS").
10. Respondent has requested that the 2008 Final Agency Order be modified to allow her to be a pharmacist manager with the approval of PAS and to change the work requirement to sixty (60) hours per month for a majority of her probationary term. This Final Agency Order continues and amends the 2008 Final Agency Order
11. Respondent admits that her conduct, as set forth above, constitutes violations of the following sections of the Colorado Revised Statutes and Board Rules, and provides grounds for disciplinary action against Respondent's Colorado pharmacist license:

Colorado Revised Statutes

12-42.5-120. Prescription required--exception

(1) Except as provided in section 18-18-414, C.R.S., and subsection (2) of this section, an order is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the appropriate statute of limitations.

12-42.5-123. Unprofessional conduct - grounds for discipline.

(1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(b) Is guilty of the commission of a felony or has had accepted by a court a plea of guilty or nolo contendere to a felony or has received a deferred judgment and sentence for a felony.

(c) Has violated:

(I) Any of the provisions of this Article, including commission of an act declared unlawful in section 12-42.5-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs.

(d) Is unfit or incompetent by reason of negligence or habits, or for any other cause, to practice pharmacy.

(e) Is addicted to, dependent on, or engages in the habitual or excessive use or abuse of intoxicating liquors, a habit-forming drug, or a controlled substance, as defined in section 18-18-102 (5), C.R.S.

(k) Has failed to meet generally accepted standards of pharmacy practice.

12-42.5-124. Disciplinary actions. (1) The board may deny or discipline an applicant, licensee, or registrant when the board determines that the applicant, licensee, or registrant has engaged in activities that are grounds for discipline.

12-42.5-126. Unlawful acts

(1) It is unlawful:

(b) To obtain or dispense or to procure the administration of a drug by fraud, deceit, misrepresentation, or subterfuge, by the forgery or alteration of an order, or by the use of a false name or the giving of a false address;

(c) To willfully make a false statement in any order, report, application, or record required by this article;

(e) To make or utter a false or forged order;

(f) To affix a false or forged label to a package or receptacle containing drugs;

(g) To sell, compound, dispense, give, receive, or possess any drug or device unless it was sold, compounded, dispensed, given, or received in accordance with sections 12-42.5-118 to 12-42.5-122;

12-42.5-131. Records

(1)(a) All persons licensed or registered under this article shall keep and maintain records of the receipt, distribution, or other disposal of prescription drugs or controlled substances, shall make the records

available to the board upon request for inspection, copying, verification, or any other purpose, and shall retain the records for two years or for a period otherwise required by law.

18-18-306. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this part 3 shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with any additional rules adopted by the board or department.

18-18-308. Prescriptions.

(4)(a) Except as provided in paragraph (b) of this subsection (4), a person shall not dispense a substance included in schedule III, IV, or V to an ultimate user of the substance without:

(I) A written or oral prescription order of a practitioner; or

(II) An electronic prescription drug order for a schedule III, IV, or V substance that is created and transmitted in accordance with 21 CFR 1311.

(b) A practitioner, other than a pharmacy, may dispense a schedule III, IV, or V substance directly to the ultimate user without a written prescription.

(c) A prescription order for a schedule III, IV, or V substance must not be filled or refilled more than six months after the date of the order or be refilled more than five times.

18-18-414. Unlawful acts - licenses - penalties.

(1) Except as otherwise provided in this article or in article 42.5 of title 12, C.R.S., the following acts are unlawful:

(c) The dispensing of any schedule III, IV, or V controlled substance unless such controlled substance is dispensed from a pharmacy pursuant to a written, oral, mechanically produced, computer generated, electronically transmitted, or facsimile transmitted order or is dispensed by any practitioner in the course of his or her professional practice;

18-18-415. Fraud and deceit.

(1) (a) No person shall obtain a controlled substance or procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of an

order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(c) No person shall willfully make a false statement in any order, report, or record required by this article.

(e) No person shall make or utter any false or forged order.

Pharmacy Board Rules and Regulations

1.00.11 A pharmacist shall at all times conduct his/her profession in conformity with all federal and state drug laws, rules and regulations; and shall uphold the legal standards of the current official compendia.

1.00.12 A pharmacist shall not be a party or accessory to nor engage in any fraudulent or deceitful practice or transaction in pharmacy, nor knowingly participate in any practice which detrimentally affects the patient, nor discredit his/her profession.

3.00.20 Medical Need. No licensee or registrant shall compound, dispense, deliver or distribute any drug to any person in such quantity or in any situation where the licensee or registrant knows or reasonably should know said drug has no recognized medical utility or application. Violation of this rule shall constitute prima facie proof of violation of CRS 12-42.5-123.

The pharmacist may not dispense a prescription drug or a controlled substance to a practitioner based on an order that does not list a specific patient. A prescription order for —office use is not a valid order.

3.00.50 Initial Interpretation and Final Evaluation.

b. Final evaluation means the review of the final prescription to ensure that the ordered medication is properly prepared and placed in a suitable container with appropriate labeling. The pharmacist(s) conducting the final evaluation shall be held accountable for assuring that the identity of the drug that appears on the prescription label corresponds with identity of drug contained therein. When refills are dispensed, the pharmacist conducting the final evaluation shall be held accountable for the appropriate dispensing of refills including all drug utilization reviews as they pertain to refill dispensing.

3.00.51 Records of Initial Interpretation and Final Evaluation.

a. Records detailing both the initial interpretation and final evaluation shall be retained at the prescription drug outlet for each prescription dispensed and for at least two years from the date of any transaction pertaining to the order. These records shall include at least the following:

1. The license number, initials, name, or secure electronic identifier of the pharmacist conducting the initial interpretation for each new order;
 2. The license number, initials, name, or secure electronic identifier of the pharmacist conducting the final evaluation for each new and refill prescription; and
 3. The specific date on which each initial interpretation and final evaluation occurred. In the event the initial interpretation and final evaluation for a new order are conducted on separate dates, both dates shall be recorded to state specifically when both occurred.
12. The Board finds and concludes, and Respondent agrees, that based upon Respondent's above-described violations of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act and relevant rules and regulations, the following discipline is just and appropriate under the circumstances.

DISPOSITION

13. **Probation.** Respondent's license shall be placed on probation for a period of five (5) years, commencing from the effective date of the 2008 Final Agency Order. Credit toward satisfying the period of probation shall be given only during such periods of time that Respondent is in total compliance with all provisions of this Final Agency Order.

The prescribed period of probation shall not run during any period of time where:

- a. Respondent is not employed a minimum of sixty (60) hours per month for a majority of the probationary period, engaged in the practice of pharmacy in the State of Colorado; and
 - b. Respondent is not actively participating in a Board approved Pharmacy Peer Health Assistance Diversion Program as set forth below in paragraph 14 of this Final Agency Order; and
 - c. Respondent is not otherwise in full compliance with the terms of this Final Agency Order.
14. **Mandatory Participation and Satisfactory Completion of a Board-Approved Peer Health Assistance Diversion Program.**
- a. **Contract.** As a term of this Final Agency Order and Respondent's probationary status, and as a condition of Respondent's release from probation, Respondent shall successfully complete her contract with PAS or an alternative treatment program approved by the Board, until successful completion of the probationary terms and conditions ordered herein.

- b. Urine/Blood Screens. Respondent shall submit to full panel urine or blood tests during participation in PAS or Board-approved alternative program contract, as ordered by the Board, Respondent's employer, or Respondent's treatment program monitor, at a frequency determined by Respondent's treatment program contract. All screens or tests shall be administered and monitored by approved program personnel. An overly dilute or missed urine screen or blood test shall be presumed positive for prohibited substances. Use or ingestion of poppy seeds or hemp oil shall not excuse a positive urine screen or blood test. Respondent must submit satisfactory verified test results for all random urine screening or blood testing conducted as part of Respondent's treatment program with Respondent's application for discharge of the probation period.
- c. Other Requirements. Respondent shall comply fully and in a timely manner with all requirements, recommendations and directions of the treatment program, as administered by PAS or Board-approved alternative treatment program. Requirements, recommendations, and directions shall include but may not be limited to:
- i. Submission by Respondent to such examinations as PAS or Board-approved alternative program may deem appropriate to determine Respondent's physical or mental condition or Respondent's professional qualifications, (the parameters of any such examination shall be specified to the extent possible to pinpoint the underlying condition for which the examination is being required);
 - ii. The taking by Respondent of such therapy courses of training or education as may be needed to correct deficiencies found by such examination;
 - iii. The review or supervision of Respondent's pharmacy practice as may be necessary to determine the quality of Respondent's practice and to correct deficiencies therein; and
 - iv. The imposition of restrictions upon the nature of Respondent's practice to assure that Respondent does not practice beyond the limits of her capabilities.
- d. Releases. Respondent hereby waives any right or claim of confidentiality to any information, test results or other data pertaining to Respondent's treatment progress, or lack thereof, with PAS and/or the Board-approved alternative treatment program, and will execute a Release authorizing PAS or the Board-approved alternative treatment program to release any and all information pertaining to Respondent's case to the Board upon its request. Respondent shall keep all releases current and in effect.

- e. **Completion of Program.** If Respondent satisfactorily completes the treatment program, verification to the Board, by PAS or the Board-approved alternative treatment program, of the satisfactory completion of treatment shall be deemed sufficient, and the requirements set out herein shall be deemed satisfied, unless other information is reasonably required by the Board to verify Respondent's satisfactory completion of treatment. **It is Respondent's responsibility to ensure that PAS or the Board-approved alternative treatment program submits verification to the Board of satisfactory completion of treatment.**
- f. **Withdrawal from Program.** Respondent must immediately notify the Board in writing if Respondent withdraws from, is removed from, is terminated from, or otherwise fails to participate fully and satisfactorily in Respondent's treatment program.
15. **Restricted Practice.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, Respondent shall not, at any Colorado outlet, serve as a supervisor or as a consultant pharmacist. Respondent may serve as a pharmacist manager if approved by PAS or the Board-approved alternative treatment program. Respondent shall not practice pharmacy at more than (3) outlets per quarterly reporting period.
16. **MPJE Examination.** Respondent has taken and passed the Board's jurisprudence examination as part of the 2008 Final Agency Order.
17. **Continuing Education Ethics Course.** Respondent has completed and received a grade of "unconditional pass" in the Professional and Problem Based Ethics Course as part of the 2008 Final Agency Order. Respondent has provided proof of successful completion to the Board.
18. **Required Notices.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, within three (3) days of commencing or changing location of any employment requiring a pharmacist license, Respondent shall notify the Board, using the form provided by the Board, of:
- a. the name and address of each place where Respondent is employed or engaged as a pharmacist; and
 - b. the name, address and license number of each pharmacist manager and immediate supervisor at the new location.

Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or

assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

19. **Required Disclosures.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, prior to accepting employment or changing location of any employment which requires a pharmacist license, Respondent shall provide a complete copy of this Final Agency Order, consisting of fifteen (15) pages, to each pharmacist manager and immediate supervisor at each location at which Respondent intends to practice pharmacy during the five-year probation period. **Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.**

20. **Manager/Supervisor Reports.** Upon commencement of Respondent's probation pursuant to this Final Agency Order and during the entire probationary period, within thirty (30) days after Respondent accepts employment or changes location of any employment as a pharmacist in the State of Colorado, each pharmacist manager and immediate supervisor shall submit a written report using the forms provided by the Board, setting forth:
 - a. The name and address of the employer of Respondent and the name of the pharmacist manager and immediate supervisor;
 - b. The duties and responsibilities to be carried out by Respondent;
 - c. An acknowledgment from Respondent's pharmacist manager and immediate supervisor that he or she has received a complete copy of this Final Agency Order, consisting of fifteen (15) pages, and that he or she has read and understands its contents, including the nature of the misconduct which forms the basis of this disciplinary action; and
 - d. An affirmative statement that the pharmacist manager and immediate supervisor agree to notify the Board, in writing, within seventy-two (72) hours of any evidence of a violation by Respondent of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act, Board Rules and Regulations, state or federal laws pertaining to drugs, or this Final Agency Order.
 - e. If there is a change in management and/or supervision of Respondent where Respondent is employed in the practice of pharmacy, Respondent agrees to provide a complete copy of this Final Agency Order to Respondent's new manager and/or supervisor, immediately upon that new manager or supervisor assuming his or her duties. Within thirty (30) days of receipt of the Final Agency Order, the new

manager or supervisor shall report said receipt to the Board as well as fulfill requirements of paragraphs a through d as indicated above.

It is the responsibility of Respondent to ensure complete compliance with the above-described provisions of the preceding paragraphs a through e. Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

21. Quarterly Status Reports. Upon the commencement of the probationary period required under this Final Agency Order and during the entire probationary period, Respondent shall submit to the Board written quarterly status reports on the forms provided by the Board which shall be due on the 15th day of the months of January, April, July and October, which provide the following information for each location where Respondent is employed:

- a. Employer and pharmacy outlet name, address and outlet registration number;
- b. Name and license number of each pharmacist manager and immediate supervisor; and
- c. A log of the number of hours, on a weekly basis, Respondent worked at each pharmacy outlet during the applicable quarter. The pharmacist manager shall certify the correctness of the accounting. A separate report for each location shall be submitted. All reports shall be submitted using the form provided by the Board.

All quarterly reports are to be sent to the Board in a timely manner even if Respondent is not currently practicing pharmacy. The first report is due on the first due date even if Respondent has not been on probation for a full quarter. Respondent must comply with the provisions of this paragraph with respect to each individual location where Respondent performs duties requiring licensure as a pharmacist, whether or not Respondent is placed at or assigned to that location by a district office, employment placement agency, or any other entity by whom Respondent is employed.

22. Other Requirements. Respondent acknowledges and agrees that, as a condition of this Final Agency Order and probation, Respondent shall:

- a. promptly pay all Respondent's own fees and costs associated with this Final Agency Order;
- b. comply fully with this Final Agency Order; and

- c. comply fully with the Pharmacists, Pharmacy Businesses and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.

23. **Violations.** Time is of the essence in this Final Agency Order. It is the responsibility of Respondent to take all appropriate steps to comply fully with this Final Agency Order. Respondent acknowledges and agrees that any violation of this Final Agency Order shall constitute a willful violation of a lawful Board order, may be sanctioned as provided under §12-42.5-125(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of Respondent's license. The pendency of any suspension or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Final Agency Order.

24. **Discharge.** Discharge from the requirements of this Final Agency Order must be requested in writing by Respondent. The Board will consider any request for discharge during the ordinary course of business. In any request for discharge it shall be Respondent's sole responsibility to establish, through written and other documentation, that Respondent has met all terms and conditions of this Final Agency Order. Respondent's probation shall continue until formally discharged by the Board or its designated authority.

25. **Advisements and Waivers.** Respondent enters into this Final Agency Order freely and voluntarily, after having the opportunity to consult with legal counsel and/or choosing not to do so. Respondent acknowledges her understanding that she has the following rights:

- a. to have formal notice of hearing and charges served upon her;
- b. to respond to said formal notice of charges;
- c. to have a formal disciplinary hearing pursuant to §§12-42.5-123 and 12-42.5-124, C.R.S.; and
- d. to appeal this Final Agency Order.

Respondent freely **waives** these rights, and acknowledges that such waiver is made voluntarily in consideration for the Board's limiting the action taken against Respondent to the sanctions imposed herein.

26. **Acknowledgments.** Respondent has read this Final Agency Order in its entirety and acknowledges, after having the opportunity to consult with legal counsel and/or choosing not to do so, that Respondent understands its legal consequences and

agrees that none of its terms or conditions is unconscionable. Respondent is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent further acknowledges that she is not entering into this Final Agency Order under any duress.

27. **Integration and Severability.** Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.
28. **Public Record.** Upon execution by all parties, this Final Agency Order shall be a public record, maintained in the custody of the Board.
29. **Board Order.** This Final Agency Order shall become an order of the Board when it is accepted and signed by the Program Director or authorized Board representative.
30. **Effective Date.** This Final Agency Order shall become effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

ACCEPTED AND AGREED BY

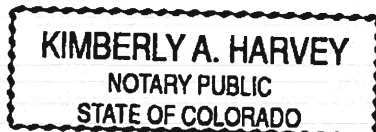
Respondent

Salem Mihalick

Salem Mihalick, R.Ph.

Dated: 10/28/13

Subscribed and sworn to before me in the County of Pueblo, State of Colorado, this 28 day of October, 2013 by Salem Mihalick, R.Ph.



My Commission Expires 08/08/2015

My commission expires: 08/08/2015

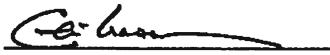
Kimberly A. Harvey
Notary Public

FINAL AGENCY ORDER

WHEREFORE, the within Stipulation and Final Agency Order is approved, accepted, and hereby made an Order of the Board.

Done and effective this 12th day of November 2013.

State Board of Pharmacy

BY: 

Chris Gassen
Program Director

BEFORE THE STATE BOARD OF PHARMACY
STATE OF COLORADO

Case No. 2007-2113

STIPULATION AND FINAL AGENCY ORDER

**IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO
PRACTICE PHARMACY OF SALEM R. MONTEZ, R.PH, LICENSE NO. 15006,**

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the Colorado State Board of Pharmacy ("Board") and Salem R. Montez, R.Ph. ("Respondent") to resolve all matters pertaining to Board Case Number 2007-2113, as follows:

FINDINGS AND CONCLUSIONS

1. The Board has jurisdiction over the person of Respondent, her license to practice pharmacy, the subject matter of this proceeding and the Notice of Charges pursuant to the provisions of title 12, article 22, C.R.S., otherwise known as the Pharmaceuticals and Pharmacists Act.
2. Respondent has been licensed to practice as a pharmacist in the State of Colorado since July 11, 1997 and at all times relevant to this disciplinary action.
3. Respondent hereby admits and waives any further proof in this proceeding before the Board that the following facts are true.
4. Between November 16, 2005 and January 9, 2007, Respondent diverted a total of 3,400 alprazolam 0.5 mg tablets, 2,300 hydrocodone 10 mg / acetaminophen 325 mg tablets, and 45 hydrocodone 7.5 mg / acetaminophen 750 mg tablets from the pharmacy where she was employed at the time, by writing approximately 80 fraudulent new and refill prescription orders purported to be from five separate practitioners under her own name and the name of a fictitious patient.
5. The drugs dispensed from these prescription orders include drugs used to treat pain, anxiety, cough and cold, infections, high blood pressure, and birth control.
6. Respondent's initials are on most of the new and refill dispensing records and transactions for the prescriptions described above in paragraphs 4 and 5, indicating that she was the final evaluator of those prescriptions.
7. Respondent originally alleged that she diverted controlled substances and prescription drugs under the duress of an acquaintance, but later admitted the drugs were for personal use.
8. In November of 2007, Respondent pled guilty to possession of a controlled substance, a class 5 felony, for the incidents described above in paragraphs 4 through 6.

9. Violations of the Pharmaceuticals and Pharmacists Act, the Uniform Controlled Substances Act, and Board rules are grounds for discipline by the Board against Respondent's license to practice pharmacy in the state of Colorado as set forth below:

12-22-125. Unprofessional conduct – grounds for discipline. (1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

...(b) Is guilty of the commission of a felony or has had accepted by a court a plea of guilty or nolo contendere to a felony or has received a deferred judgement and sentence for a felony;

...(c) Has violated:

(I) Any of the provisions of this part 1, including but not limited to any acts in section 12-22-126;

(II) The lawful rules of the board; or

(III) Any state or federal law pertaining to drugs.

(d) Is unfit or incompetent by reason of negligence, habits, or physical or mental illness, or for any other cause, to practice as such;

(e) Is addicted to, dependent on, or engages in the habitual or excessive use or abuse of intoxicating liquors, a habit-forming drug, or a controlled substance, as defined in section 18-18-102 (5), C.R.S.;

...(k) Has failed to meet generally accepted standards of pharmacy practice...

* * *

10. The Colorado statutes and Board rules relevant to the subject matter of this Stipulation and Final Agency Order ("Final Agency Order") state as follows:

12-22-122. Prescription required - exception.

(1) Except as provided in section 18-18-414, C.R.S., and subsection (2) of this section, an order is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the appropriate statute of limitations.

12-22-126. Unlawful acts.

(1) It is unlawful:

(b) To obtain or dispense or to procure the administration of a drug by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of an order, or by the use of a false name or the giving of a false address;

(c) To willfully make a false statement in any order, report, application, or record required by this part 1;

(e) To make or utter a false or forged order...

(f) To affix a false or forged label to a package or receptacle containing drugs;

(h) To sell, compound, dispense, give, receive, or possess any drug or device unless it was sold, compounded, dispensed, given, or received in accordance with sections 12-22-121 to 12-22-124;

12-22-318. Records to be kept - order forms.

(1) (a) Each person licensed or otherwise authorized under this part 3 or other laws of this state to manufacture, purchase, distribute, dispense, administer, store, or otherwise handle controlled substances shall keep and maintain separate detailed and accurate records and inventories relating to controlled substances and retain all such records and inventories for a period of two years after the respective dates of such transactions as shown on such records and inventories.

18-18-306. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this part 3 shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules adopted by the board or department.

18-18-308. Prescriptions.

(4) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III, IV, or V may not be dispensed without a written or oral prescription order of a practitioner. The prescription order must not be filled or refilled more than six months after the date thereof or be refilled more than five times.

18-18-414. Unlawful acts—licenses—penalties. (1) Except as otherwise provided in this article or in article 22 of title 12, C.R.S., the following acts are unlawful:

(c) The dispensing of any schedule III, IV, or V controlled substance unless such controlled substance is dispensed from a pharmacy pursuant to a written, oral, mechanically produced, computer generated, electronically transmitted, or facsimile transmitted order or is dispensed by any practitioner in the course of his or her professional practice...

18-18-415. Fraud and deceit.

(1) (a) No person shall obtain a controlled substance or procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of an order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(c) No person shall willfully make a false statement in any order, report, or record required by this article.

(e) No person shall make or utter any false or forged order.

* * *

Pharmacy Rules and Regulations

1.00.11 A pharmacist shall at all times conduct his/her profession in conformity with all federal and state drug laws, rules and regulations; and shall uphold the legal standards of the current official compendia.

1.00.12 A pharmacist shall not be a party or accessory to, nor engage in any fraudulent or deceitful practice or transaction in pharmacy, nor knowingly participate in any practice which detrimentally affects the patient, nor discredit his/her profession.

3.00.20 Medical Need. No licensee or registrant shall compound, dispense, deliver or distribute any drug to any person in such quantity or in any situation where the licensee or registrant knows or reasonably should know said drug has no recognized medical utility or application. Violation of this rule shall constitute prima facie proof of violation of CRS 12-22-125.

3.00.50 Final Evaluation. Each time a prescription drug or device is dispensed in a prescription drug outlet, a pharmacist shall make the final evaluation of the transaction. At the time of such final evaluation, the pharmacist shall take whatever action is necessary to ensure that the initial interpretation, container, label, and prescription drug or device dispensed, as well as all records relating to the transaction are complete, accurate, and appropriate.

a. The record or records of each dispensing transaction shall bear the identity of the pharmacist making the final evaluation, and this pharmacist shall be held responsible and accountable for each dispensing transaction which bears this pharmacist's identity.

* * *

11. The Board further finds and concludes, and Respondent agrees, that based upon Respondent's above-described violations of the Pharmaceuticals and Pharmacists Act, the Uniform Controlled Substances Act, and Board rules, the following disciplinary action is just and appropriate under the circumstances.

DISPOSITION

Suspension, Five Years' Probation with Peer Assistance Services Restricted Practice, Examination Requirements, Professional Ethics Education Reporting Requirements, Quarterly Reports

12. **Suspension.** Respondent's Colorado pharmacist license is hereby suspended pending evaluation and recommendation by the Board's Rehabilitation Evaluation Committee ("REC") that Respondent is fit to return to the practice of pharmacy. During such term of suspension, Respondent shall not engage in any act for which a pharmacist license is required in the State of Colorado and Respondent may not work in a prescription drug outlet or any outlet registered by the Board in any capacity. Upon the effective date of this Final Agency Order, Respondent shall promptly surrender to the Board all indicia of her license as a pharmacist. Within three days of her release by the REC to return to the practice of pharmacy, Respondent shall submit to the Board a notarized affidavit, which attests that she did not perform any act requiring a Colorado pharmacist license or work in any capacity in an outlet registered by the Board during the active suspension period. Upon receipt of the affidavit the Board shall issue Respondent an active license, restricted as set forth below.
13. **Probation.** Respondent's license shall be placed on probation for a period of FIVE (5) years, commencing upon the issuance of the restricted license described above in paragraph 12. Credit toward satisfying the period of probation shall be given only during such periods of time that Respondent is in total compliance with all provisions of this Final Agency Order.

The prescribed period of probation shall not run during any period of time where:

- a. Respondent is not employed a minimum of eighty (80) hours per month, engaged in the practice of pharmacy in the State of Colorado;
- b. Respondent is not actively participating in a Board approved Peer Health Assistance Diversion Program or has not completed such a program as set forth below in paragraph 14 of this Final Agency Order; and
- c. Respondent is not otherwise in full compliance with the terms of this Final Agency Order.

Terms of Probation

14. Mandatory Participation and Satisfactory Completion of a Board-Approved Peer Health Assistance Diversion Program.

- a. **Contract.** As a term of this Final Agency Order and Respondent's probationary status, Respondent shall successfully complete a contract with Peer Assistance Services ("PAS") or an alternative treatment program approved by the Board for a minimum period of FIVE (5) years.
- b. **Urine/Blood Screens.** Respondent shall submit to full panel urine or blood tests during participation in the PAS or Board-approved alternative program contract, as ordered by the Board, her employer, or her treatment program monitor, at a frequency determined by the Rehabilitation Evaluation Committee ("REC"). All screens or tests shall be administered and monitored by approved program personnel. A missed urine screen or blood test shall be presumed positive for prohibited substances. Use or ingestion of poppy seeds or hemp oil shall not excuse a positive urine screen or blood test. Respondent must submit satisfactory verified test results for all random urine screening or blood testing conducted as part of her treatment program with her application for discharge of the probation period.
- c. **Other Requirements.** Respondent shall comply fully and in a timely manner with all requirements, recommendations and directions of the treatment program, as administered by PAS or Board-approved alternative treatment program, and the REC. Requirements, recommendations, and directions may include:
 - i. Submission by Respondent to such examinations as the REC may deem appropriate to determine Respondent's physical or mental condition or her professional qualifications, (the parameters of any such examination shall be specified to the extent possible to pinpoint the underlying condition for which the examination is being required);
 - ii. The taking by Respondent of such therapy courses of training or education as may be needed to correct deficiencies found by such examination;
 - iii. The review or supervision of Respondent's pharmacy practice as may be necessary to determine the quality of her practice and to correct deficiencies therein; and
 - iv. The imposition of restrictions upon the nature of Respondent's practice to assure that she does not practice beyond the limits of her capabilities.
- d. **Releases.** Respondent hereby waives any right or claim of confidentiality to any information, test results or other data pertaining to Respondent's treatment progress, or lack thereof, with PAS and/or the Board-approved alternative treatment program, and will execute a Release authorizing PAS to release any and all information pertaining to

Respondent's case to the Board upon its request. Respondent shall keep all releases current and in effect.

- e. **Completion of Program.** If Respondent satisfactorily completes the treatment program, verification to the Board, by PAS or the Board-approved alternative treatment program, of the satisfactory completion of treatment shall be deemed sufficient, and the requirements set out herein shall be deemed satisfied, unless other information is reasonably required by the Board to verify her satisfactory completion of treatment. **It is Respondent's responsibility to ensure that PAS or the Board-approved alternative treatment program submits verification to the Board of satisfactory completion of treatment.**
 - f. **Withdrawal from Program.** Respondent must immediately notify the Board in writing if she withdraws from, is removed from, is terminated from, or otherwise fails to participate fully and satisfactorily in her treatment program.
15. **Restricted Practice.** During the probationary period, Respondent shall not, at any Colorado outlet, serve as (a) manager, (b) supervisor, (c) consultant pharmacist, or (d) preceptor. Respondent shall not practice pharmacy at more than ONE (1) outlet per quarterly reporting period.
 16. **MPJE Examination.** Within six (6) months of the effective date of this Final Agency Order, Respondent shall be given two chances to take and pass the Board's jurisprudence examination. Failure to take and pass such exam within the prescribed time shall be sufficient evidence for the Board to conclude that Respondent is not qualified to practice pharmacy.
 17. **Continuing Education Ethics Course.** Respondent shall complete and pass the Professional and Problem Based Ethics Course ("ProBE"). Information and enrollment procedures for the ProBE appear on-line at <http://www.ethicsgroup.org/probe.html>. Respondent shall enroll in the Spring, 2009 Denver session of the ProBE before the enrollment deadline for that session of the ProBE, and shall successfully complete that session of the ProBE. Respondent shall send the Board proof of completion of the ProBE within ten (10) days of successful completion of the course.
 18. **Required Notices.** During the probationary period, within three (3) days of commencing or changing location of any employment requiring a pharmacist license, Respondent shall notify the Board, using the form provided by the Board, of:
 - a. the name and address of each place where she is employed or engaged as a pharmacist; and
 - b. the name, address and license number of each pharmacist manager and immediate supervisor at the new location.
 19. **Required Disclosures.** During the probationary period, prior to accepting employment or changing location of any employment which requires a pharmacist license, Respondent shall

provide a complete copy of this Final Agency Order, consisting of eleven (11) pages, to each pharmacist manager and immediate supervisor at each location at which Respondent intends to practice pharmacy during the five-year probation period.

20. **Manager/Supervisor Reports.** Upon the commencement of the probationary period required under this Final Agency Order, within thirty (30) days after Respondent accepts employment or changes location of any employment as a pharmacist in the state of Colorado, each pharmacist manager and immediate supervisor shall submit a written report using the forms provided by the Board, setting forth:

- a. The name and address of the employer of Respondent and the name of the pharmacist manager and immediate supervisor;
- b. The duties and responsibilities to be carried out by Respondent;
- c. An acknowledgment from Respondent's pharmacist manager and immediate supervisor that he or she has received a complete copy of this Final Agency Order, consisting of eleven (11) pages, and that he or she has read and understands its contents, including the nature of the misconduct which forms the basis of this disciplinary action; and
- d. An affirmative statement that the pharmacist manager and immediate supervisor agree to notify the Board, in writing, within seventy-two (72) hours of any evidence of a subsequent violation by Respondent of a violation of this Final Agency Order, or of the Colorado Pharmacists and Pharmaceuticals Act, or Board rules and regulations governing the practice of pharmacy.
- e. If there is a change in management and/or supervision of Respondent where Respondent is employed in the practice of pharmacy, Respondent agrees to provide a complete copy of this Final Agency Order to her new manager and/or supervisor, immediately upon that new manager or supervisor assuming his or her duties. Within thirty (30) days of receipt of the Final Agency Order, the new manager or supervisor shall report said receipt to the Board as well as fulfill requirements of sub-paragraphs a through d as indicated above in this paragraph.

It is the responsibility of Respondent to ensure complete compliance with the above-described provisions of the preceding sub-paragraphs a through e of this paragraph.

21. **Quarterly Status Reports.** During the entire probationary period, Respondent shall submit to the Board written quarterly status reports on the forms provided by the Board which shall be due on the 15th day of the months of January, April, July and October, which provide the following information for each location where she is employed:

- a. Employer and pharmacy outlet name, address and outlet registration number;
- b. Name and license number of each pharmacist manager and immediate supervisor; and

- c. A log of the number of hours, on a weekly basis, Respondent worked at each pharmacy outlet during the applicable quarter. The pharmacist manager shall certify the correctness of the accounting. A separate report for each location shall be submitted. All reports shall be submitted using the form provided by the Board.

All quarterly reports are to be sent to the Board in a timely manner even if Respondent is not currently practicing pharmacy. The first report is due on the first due date even if Respondent has not been on probation for a full quarter.

22. Other Requirements. Respondent acknowledges and agrees that, as a condition of this Final Agency Order and probation, she shall:

- a. promptly pay all her own reasonable fees and costs associated with this Final Agency Order;
- b. comply fully with this Final Agency Order; and
- c. comply fully with the Pharmacists and Pharmaceuticals Act, all Board rules and regulations, and any other state and federal laws and regulations related to pharmacists and pharmaceuticals in the State of Colorado.

23. Discharge. Discharge from the requirements of this Final Agency Order must be requested in writing by Respondent. The Board will consider any request for discharge during the ordinary course of business. In any request for discharge it shall be Respondent's sole responsibility to establish, through written and other documentation, that she has met all terms and conditions of this Final Agency Order. Respondent's probation shall continue until formally discharged by the Board by way of Board order.

24. Advisements and Waivers. Respondent enters into this Final Agency Order freely and voluntarily, after the opportunity to consult with legal counsel of her own choosing. Respondent acknowledges her understanding that she has the following rights:

- a. To have a formal notice of hearing and charges served upon her;
- b. To respond to said formal notice of charges;
- c. To have a formal disciplinary hearing pursuant to §12-22-125.2(2)(a), C.R.S.; and
- d. To appeal this board order.

Respondent freely waives these rights, and acknowledges that such waiver is made voluntarily in consideration for Board's limiting the action taken against her to the sanctions imposed herein.

25. Violations. Time is of the essence to this Final Agency Order. It is the responsibility of Respondent to take all appropriate steps to comply fully with this Final Agency Order. Respondent acknowledges and agrees that any violation of this Final Agency Order may be

sanctioned as provided under §12-22-125.2(4), C.R.S., and may be sufficient grounds for additional discipline, including but not limited to revocation of his license. The pendency of any suspension or disciplinary action arising out of an alleged violation of this Final Agency Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Final Agency Order.

26. **Acknowledgments.** Respondent has read this Final Agency Order in its entirety and acknowledges, after having the opportunity to consult with legal counsel, that she understands its legal consequences and she agrees that none of its terms or conditions are unconscionable. Respondent is not relying on any statements, promises or representations from the Board other than as may be contained in this Final Agency Order. Respondent further acknowledges that he is not entering into this Final Agency Order under any duress.

27. **Integration and Severability.** Upon execution by all parties, this Final Agency Order shall represent the entire and final agreement of and between the parties. In the event any provision of this Final Agency Order is deemed invalid or unenforceable by a court of law, it shall be severed and the remaining provisions of this Final Agency Order shall be given full force and effect.

28. **Public Record.** Upon execution by all parties, this Final Agency Order shall be a public record, maintained in the custody of the Board.

29. **Effective Date.** This Final Agency Order shall become effective upon signature by a Board's representative.

**ACCEPTED AND AGREED BY
Respondent**

Salem R. Montez

Salem R. Montez, R.Ph.

Dated: 3/20/08

Subscribed and sworn to before me in the County of Danver, State of Colorado, this 20th day of March, 2008, by Salem R. Montez, R.Ph.

Holly Romero
NOTARY PUBLIC

My Commission expires: May 18, 2008



FINAL AGENCY ORDER

WHEREFORE, the within Final Agency Order is approved, accepted, and hereby made an order of the Board.

DONE AND EFFECTIVE this 28th day of March, 2008.

State Board of Pharmacy

BY: Wendy Anderson
WENDY ANDERSON
Program Director

DOCUMENT APPROVED AS TO FORM:

KURTZ & PECKHAM

JOHN W. SUTHERS
Attorney General

Katharine D. Kurtz
KATHARINE D. KURTZ, #9435*

Joanna Lee Kaye
JOANNA LEE KAYE, #20485*
Assistant Attorney General
Business and Licensing Section

Attorneys for Respondent

Attorneys for State Board of Pharmacy

1600 Stout Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 893-3045
FAX: (303) 893-6999
*Counsel of Record

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-6170
FAX: (303) 866-5395
*Counsel of Record