

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

**In the Matter of the Statement of Issues Against:**

**RENEE ELISSA MONTES**

**Pharmacy Technician Registration Applicant,**

**Respondent.**

**Agency Case No. 7274**

**OAH No. 2022100207**

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 February 8, 2023.

It is so ORDERED on January 9, 2023.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.  
Board President

1 ROB BONTA  
Attorney General of California  
2 NANCY A. KAISER  
Supervising Deputy Attorney General  
3 STEPHEN D. SVETICH  
Deputy Attorney General  
4 State Bar No. 272370  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6306  
6 Facsimile: (916) 731-2126  
E-mail: Stephen.Svetich@doj.ca.gov  
7 *Attorneys for Complainant*

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

12 In the Matter of the Statement of Issues  
13 Against:

14 **RENEE ELISSA MONTES**  
15 **Pharmacy Technician Registration**  
16 **Applicant**

17 Respondent.

Case No. 7274

OAH No. 2022100207

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPROVAL**

**[Bus. & Prof. Code § 495]**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (“Complainant”) is the Executive Officer of the Board of Pharmacy  
23 (“Board”). She brought this action solely in her official capacity and is represented in this matter  
24 by Rob Bonta, Attorney General of the State of California, by Stephen D. Svetich, Deputy  
25 Attorney General.

26 2. Respondent Renee Elissa Montes (“Respondent”) is represented in this proceeding by  
27 attorney Suzanne M. Crouts, whose address is: Chudnovsky Law, 2447 Pacific Coast Highway,  
28 2<sup>nd</sup> Floor, Hermosa Beach, CA 90254.

1 **JURISDICTION**

2 3. On or about June 23, 2021, the Board received an application for a Pharmacy  
3 Technician Registration from Respondent. The Board denied the application on February 8,  
4 2022. Respondent timely requested a hearing with respect to the denial.

5 4. Statement of Issues No. 7274 was filed before the Board, Department of Consumer  
6 Affairs, and is currently pending against Respondent. The Statement of Issues and all other  
7 statutorily required documents were properly served on Respondent on September 13, 2022. A  
8 copy of Statement of Issues No. 7274 is attached as Exhibit A and incorporated herein by  
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Statement of Issues No. 7274. Respondent has also carefully read,  
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
14 Disciplinary Order for Public Repeval.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by  
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the  
18 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas  
19 to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in Statement of  
26 Issues No. 7274.

27 9. Respondent agrees that her Application for a Pharmacy Technician Registration is  
28 subject to denial, and she agrees to be bound by the Disciplinary Order below.

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**CONTINGENCY**

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (“PDF”) and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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///



1 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that the Application for a Pharmacy Technician Registration of  
6 Respondent Renee Elissa Montes is hereby granted. Upon successful completion of the licensure  
7 examination and all other licensing requirements, a registration shall be issued to Respondent.  
8 Said registration shall be publicly reproved by the Board of Pharmacy under Business and  
9 Professions Code section 495 in resolution of Statement of Issues No. 7274, attached as Exhibit  
10 A.

11 **Full Compliance.** As a resolution of the charges in Statement of Issues No. 7274, this  
12 stipulated settlement is contingent upon Respondent's full compliance with all conditions of this  
13 Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes  
14 cause for discipline, including outright revocation, of Respondent's Pharmacy Technician  
15 Registration.

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
18 Repeval and have fully discussed it with my attorney, Suzanne M. Crouts. I understand the  
19 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this  
20 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and  
21 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

22  
23 DATED: 11.30.2022 Renee E. Montes  
24 RENEE ELISSA MONTES  
Respondent

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I have read and fully discussed with Respondent Renee Elissa Montes the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 11-30-2022

*Suzanne M. Crouts*

SUZANNE M. CROUTS  
*Attorney for Respondent*

**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: November 30, 2022

Respectfully submitted,

ROB BONTA  
Attorney General of California  
NANCY A. KAISER  
Supervising Deputy Attorney General

STEPHEN D. SVETICH  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Statement of Issues No. 7274**

1 ROB BONTA  
Attorney General of California  
2 NANCY A. KAISER  
Supervising Deputy Attorney General  
3 STEPHEN D. SVETICH  
Deputy Attorney General  
4 State Bar No. 272370  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6306  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Statement of Issues  
Against:

Case No. 7274

13 **RENEE ELISSA MONTES**

**STATEMENT OF ISSUES**

14 **Pharmacy Technician Registration**  
15 **Applicant**

16 Respondent.  
17

18 **PARTIES**

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

22 2. On or about June 23, 2021, the Board received an application for a Pharmacy  
23 Technician Registration from Renee Elissa Montes (Respondent). On or about May 28, 2021,  
24 Renee Elissa Montes certified under penalty of perjury to the truthfulness of all statements,  
25 answers, and representations in the application. The Board denied the application on February 8,  
26 2022.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board, under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless otherwise  
4 indicated.

5 4. Section 485 states:

6 Upon denial of an application for a license under this chapter or Section 496,  
7 the board shall do either of the following:

8 (a) File and serve a statement of issues in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
10 Government Code.

11 (b) Notify the applicant that the application is denied, stating (1) the reason for  
12 the denial, and (2) that the applicant has the right to a hearing under Chapter 5  
13 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
14 Government Code if written request for hearing is made within 60 days after service  
15 of the notice of denial. Unless written request for hearing is made within the 60-day  
16 period, the applicant’s right to a hearing is deemed waived.

17 Service of the notice of denial may be made in the manner authorized for  
18 service of summons in civil actions, or by registered mail addressed to the applicant  
19 at the latest address filed by the applicant in writing with the board in his or her  
20 application or otherwise. Service by mail is complete on the date of mailing.

21 **STATUTORY PROVISIONS**

22 5. Section 4202.6 states:

23 Notwithstanding Section 480, the board may deny an application for licensure  
24 under this chapter if the applicant has been convicted of a crime or subjected to  
25 formal discipline that would be grounds for denial of a federal registration to  
26 distribute controlled substances.

27 6. Section 4300, subdivision (c), states, in pertinent part

28 The board may refuse a license to any applicant guilty of unprofessional  
conduct. The board may, in its sole discretion, issue a probationary license to any  
applicant for a license who is guilty of unprofessional conduct and who has met all  
other requirements for licensure. . . .

7. Section 4301 states, in pertinent part:

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

. . . .

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

6 . . . .

7 (l) The conviction of a crime substantially related to the qualifications,  
8 functions, and duties of a licensee under this chapter. The record of conviction of a  
9 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
10 States Code regulating controlled substances or of a violation of the statutes of this  
11 state regulating controlled substances or dangerous drugs shall be conclusive  
12 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
13 be conclusive evidence only of the fact that the conviction occurred. The board may  
14 inquire into the circumstances surrounding the commission of the crime, in order to  
15 fix the degree of discipline or, in the case of a conviction not involving controlled  
16 substances or dangerous drugs, to determine if the conviction is of an offense  
17 substantially related to the qualifications, functions, and duties of a licensee under  
18 this chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
19 contendere is deemed to be a conviction within the meaning of this provision. The  
20 board may take action when the time for appeal has elapsed, or the judgment of  
21 conviction has been affirmed on appeal or when an order granting probation is made  
22 suspending the imposition of sentence, irrespective of a subsequent order  
23 under Section 1203.4 of the Penal Code allowing the person to withdraw his or her  
24 plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
25 dismissing the accusation, information, or indictment.

26 . . . .

### 27 **FEDERAL STATUTES**

28 8. Title 21 United States Code section 801, subdivision (2), states:

The illegal importation, manufacture, distribution, and possession and improper use  
of controlled substances have a substantial and detrimental effect on the health and general  
welfare of the American people.

9. Title 21 United States Code section 823 states, in pertinent part:

. . . .

(b) Distributors of controlled substances in schedule I or II. The Attorney General  
shall register an applicant to distribute a controlled substance in schedule I or II unless he  
determines that the issuance of such registration is inconsistent with the public interest. In  
determining the public interest, the following factors shall be considered:

. . . .

(2) compliance with applicable State and local law;

. . . .

1 (5) such other factors as may be relevant to and consistent with the public health and  
2 safety.

3 . . . .

4 (e) Distributors of controlled substances in schedule III, IV, or V. The Attorney  
5 General shall register an applicant to distribute controlled substances in schedule III, IV, or  
6 V, unless he determines that the issuance of such registration is inconsistent with the public  
7 interest. In determining the public interest, the following factors shall be considered:

8 . . . .

9 (2) compliance with applicable State and local law;

10 . . . .

11 (5) such other factors as may be relevant to and consistent with the public health and  
12 safety.

13 . . . .

14 (h) Applicants for distribution of list I<sup>1</sup> chemicals. The Attorney General shall  
15 register an applicant to distribute a list I chemical unless the Attorney General determines  
16 that registration of the applicant is inconsistent with the public interest. Registration under  
17 this subsection shall not be required for the distribution of a drug product that is exempted  
18 under clause (iv) or (v) of section 102(39)(A) [21 USCS § 802(39)(A)]. In determining the  
19 public interest for the purposes of this subsection, the Attorney General shall consider—

20 . . . .

21 (2) compliance by the applicant with applicable Federal, State, and local law;

22 . . . .

23 (5) such other factors as are relevant to and consistent with the public health and  
24 safety.

25 . . . .

26 (k) Definition. In this section, the phrase “factors as may be relevant to and  
27 consistent with the public health and safety” means factors that are relevant to and  
28 consistent with the findings contained in section 101 [21 USCS § 801].

10. Title 21 United States Code section 824 states, in pertinent part:

A registration pursuant to section 823 of this title to manufacture, distribute, or  
dispense a controlled substance or a list I chemical may be suspended or revoked by the  
Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this  
subchapter or subchapter II;

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<sup>1</sup> The term “list I chemical”, referred to in this section, is defined in 21 USCS § 802(34), which states, in pertinent part: The term “list I chemical” means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is important to the manufacture of the controlled substances . . .

1 (2) has been convicted of a felony under this subchapter or subchapter II or any other  
2 law of the United States, or of any State, relating to any substance defined in this  
3 subchapter as a controlled substance or a list I chemical;

4 (3) has had his State license or registration suspended, revoked, or denied by  
5 competent State authority and is no longer authorized by State law to engage in the  
6 manufacturing, distribution, or dispensing of controlled substances or list I chemicals or  
7 has had the suspension, revocation, or denial of his registration recommended by  
8 competent State authority;

9 (4) has committed such acts as would render his registration under section 823 of this  
10 title inconsistent with the public interest as determined under such section; or

11 (5) has been excluded (or directed to be excluded) from participation in a program  
12 pursuant to section 1320a-7(a) of Title 42.

### 13 **REGULATORY PROVISIONS**

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

15 For the purpose of denial, suspension, or revocation of a personal or facility  
16 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
17 Professions Code, a crime or act shall be considered substantially related to the  
18 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
19 it evidences present or potential unfitness of a licensee or registrant to perform the  
20 functions authorized by his license or registration in a manner consistent with the  
21 public health, safety, or welfare.

### 22 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

23 12. Clonazepam is a Schedule IV controlled substance as defined in Health and Safety  
24 Code section 11057(d)(7) and a dangerous drug according to Business and Professions Code  
25 section 4022.

26 13. Gabapentin is categorized as a dangerous drug pursuant to Business and Professions  
27 Code section 4022.

28 14. Oxycodone is a schedule II controlled substance as defined in Health and Safety Code  
section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code  
section 4022.

### 29 **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### 30 **(Violation of State Law – Conviction of a Crime)**

31 15. Respondent's application is subject to denial under section 4202.6, in conjunction  
32 with Title 21 United States Code sections 823, subdivisions (b)(2), (e)(2) and/or (h)(2), and 824,  
33 subdivision (a), in that on or about July 26, 2018, Respondent failed to comply with state law and  
34 was convicted of a crime, as follows:

1 a. On or about April 26, 2018, Respondent was convicted of one misdemeanor count of  
2 violating Vehicle Code section 23152(b) [drive with an equal to or greater than 0.08% blood  
3 alcohol content (BAC), to wit, 0.2% BAC] in the criminal proceeding entitled *The People of the*  
4 *State of California v. Renee Elissa Montes* (Super. Ct. San Bernardino County, 2018, No.  
5 MWV18012856). The Court sentenced Respondent to a suspended 10 days in jail, placed her on  
6 36 months of summary probation, and ordered her to complete a Nine-Month DUI Program.

7 b. The circumstances of the arrest leading to the conviction are that on or about April 2,  
8 2018, police officers responded to a single vehicle traffic collision. Upon contact with  
9 Respondent, officers smelled an odor of alcohol from her breath and person, and observed her to  
10 have slow and slurred speech, be incoherent and confused, swaying and slightly stumbling to the  
11 side while standing and walking slowly. Respondent admitted to taking medications of “Oxy”  
12 and Gabapentin prior to driving, and that at the time of the collision, she felt tired and off-  
13 balance. Respondent submitted to blood tests that resulted in positive tests for Clonazepam and  
14 Oxycodone and a 0.268% BAC.

15 **SECOND CAUSE FOR DENIAL OF APPLICATION**

16 **(Improper Use of Controlled Substances)**

17 16. Respondent's application is subject to denial under section 4202.6, in conjunction  
18 with Title 21 United States Code sections 801, subdivision (2), 823, subdivisions (b)(5), (e)(5)  
19 and/or (h)(5), and 824, subdivision (a), in that on or about April 2, 2018, Respondent improperly  
20 used controlled substances, grounds for denial of a federal registration to distribute controlled  
21 substances. On or about April 2, 2018, Respondent improperly administered to herself controlled  
22 substances, Clonazepam and Oxycodone, and alcoholic beverages, testing positive for both. In  
23 addition, Respondent drove a vehicle while under the influence of the improper combination of  
24 controlled substances and alcohol and caused a vehicle collision. Complainant refers to and by  
25 this reference incorporates the allegations set forth above in paragraph 15, subdivision (b),  
26 inclusive, as though set forth fully herein.

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**PRAYER**

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

1. Denying the application of Renee Elissa Montes for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/2022

Signature on File  
\_\_\_\_\_  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 February 8, 2023.

It is so ORDERED on January 9, 2023.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

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Seung W. Oh, Pharm.D.  
Board President

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Attorney General of California  
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25 Attorney General.

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27 attorney Suzanne M. Crouts, whose address is: Chudnovsky Law, 2447 Pacific Coast Highway,  
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15 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by  
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the  
18 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas  
19 to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in Statement of  
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**CONTINGENCY**

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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1 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that the Application for a Pharmacy Technician Registration of  
6 Respondent Renee Elissa Montes is hereby granted. Upon successful completion of the licensure  
7 examination and all other licensing requirements, a registration shall be issued to Respondent.  
8 Said registration shall be publicly reproved by the Board of Pharmacy under Business and  
9 Professions Code section 495 in resolution of Statement of Issues No. 7274, attached as Exhibit  
10 A.

11 **Full Compliance.** As a resolution of the charges in Statement of Issues No. 7274, this  
12 stipulated settlement is contingent upon Respondent's full compliance with all conditions of this  
13 Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes  
14 cause for discipline, including outright revocation, of Respondent's Pharmacy Technician  
15 Registration.

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
18 Repeval and have fully discussed it with my attorney, Suzanne M. Crouts. I understand the  
19 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this  
20 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and  
21 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

22  
23 DATED: 11.30.2022 Renee E. Montes

24 RENEE ELISSA MONTES  
*Respondent*

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I have read and fully discussed with Respondent Renee Elissa Montes the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 11-30-2022

*Suzanne M. Crouts*

SUZANNE M. CROUTS

*Attorney for Respondent*

**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: November 30, 2022

Respectfully submitted,

ROB BONTA  
Attorney General of California  
NANCY A. KAISER  
Supervising Deputy Attorney General

STEPHEN D. SVETICH  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Statement of Issues No. 7274**

1 ROB BONTA  
Attorney General of California  
2 NANCY A. KAISER  
Supervising Deputy Attorney General  
3 STEPHEN D. SVETICH  
Deputy Attorney General  
4 State Bar No. 272370  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6306  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Statement of Issues  
Against:

Case No. 7274

13 **RENEE ELISSA MONTES**

**STATEMENT OF ISSUES**

14 **Pharmacy Technician Registration**  
15 **Applicant**

16 Respondent.  
17

18 **PARTIES**

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

22 2. On or about June 23, 2021, the Board received an application for a Pharmacy  
23 Technician Registration from Renee Elissa Montes (Respondent). On or about May 28, 2021,  
24 Renee Elissa Montes certified under penalty of perjury to the truthfulness of all statements,  
25 answers, and representations in the application. The Board denied the application on February 8,  
26 2022.

27 ///

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board, under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless otherwise  
4 indicated.

5 4. Section 485 states:

6 Upon denial of an application for a license under this chapter or Section 496,  
7 the board shall do either of the following:

8 (a) File and serve a statement of issues in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
10 Government Code.

11 (b) Notify the applicant that the application is denied, stating (1) the reason for  
12 the denial, and (2) that the applicant has the right to a hearing under Chapter 5  
13 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
14 Government Code if written request for hearing is made within 60 days after service  
15 of the notice of denial. Unless written request for hearing is made within the 60-day  
16 period, the applicant’s right to a hearing is deemed waived.

17 Service of the notice of denial may be made in the manner authorized for  
18 service of summons in civil actions, or by registered mail addressed to the applicant  
19 at the latest address filed by the applicant in writing with the board in his or her  
20 application or otherwise. Service by mail is complete on the date of mailing.

21 **STATUTORY PROVISIONS**

22 5. Section 4202.6 states:

23 Notwithstanding Section 480, the board may deny an application for licensure  
24 under this chapter if the applicant has been convicted of a crime or subjected to  
25 formal discipline that would be grounds for denial of a federal registration to  
26 distribute controlled substances.

27 6. Section 4300, subdivision (c), states, in pertinent part

28 The board may refuse a license to any applicant guilty of unprofessional  
conduct. The board may, in its sole discretion, issue a probationary license to any  
applicant for a license who is guilty of unprofessional conduct and who has met all  
other requirements for licensure. . . .

7. Section 4301 states, in pertinent part:

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

. . . .

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

6 . . . .

7 (l) The conviction of a crime substantially related to the qualifications,  
8 functions, and duties of a licensee under this chapter. The record of conviction of a  
9 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
10 States Code regulating controlled substances or of a violation of the statutes of this  
11 state regulating controlled substances or dangerous drugs shall be conclusive  
12 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
13 be conclusive evidence only of the fact that the conviction occurred. The board may  
14 inquire into the circumstances surrounding the commission of the crime, in order to  
15 fix the degree of discipline or, in the case of a conviction not involving controlled  
16 substances or dangerous drugs, to determine if the conviction is of an offense  
17 substantially related to the qualifications, functions, and duties of a licensee under  
18 this chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
19 contendere is deemed to be a conviction within the meaning of this provision. The  
20 board may take action when the time for appeal has elapsed, or the judgment of  
21 conviction has been affirmed on appeal or when an order granting probation is made  
22 suspending the imposition of sentence, irrespective of a subsequent order  
23 under Section 1203.4 of the Penal Code allowing the person to withdraw his or her  
24 plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
25 dismissing the accusation, information, or indictment.

26 . . . .

### 27 **FEDERAL STATUTES**

28 8. Title 21 United States Code section 801, subdivision (2), states:

The illegal importation, manufacture, distribution, and possession and improper use  
of controlled substances have a substantial and detrimental effect on the health and general  
welfare of the American people.

9. Title 21 United States Code section 823 states, in pertinent part:

. . . .

(b) Distributors of controlled substances in schedule I or II. The Attorney General  
shall register an applicant to distribute a controlled substance in schedule I or II unless he  
determines that the issuance of such registration is inconsistent with the public interest. In  
determining the public interest, the following factors shall be considered:

. . . .

(2) compliance with applicable State and local law;

. . . .

1 (5) such other factors as may be relevant to and consistent with the public health and  
2 safety.

3 . . . .

4 (e) Distributors of controlled substances in schedule III, IV, or V. The Attorney  
5 General shall register an applicant to distribute controlled substances in schedule III, IV, or  
6 V, unless he determines that the issuance of such registration is inconsistent with the public  
7 interest. In determining the public interest, the following factors shall be considered:

8 . . . .

9 (2) compliance with applicable State and local law;

10 . . . .

11 (5) such other factors as may be relevant to and consistent with the public health and  
12 safety.

13 . . . .

14 (h) Applicants for distribution of list I<sup>1</sup> chemicals. The Attorney General shall  
15 register an applicant to distribute a list I chemical unless the Attorney General determines  
16 that registration of the applicant is inconsistent with the public interest. Registration under  
17 this subsection shall not be required for the distribution of a drug product that is exempted  
18 under clause (iv) or (v) of section 102(39)(A) [21 USCS § 802(39)(A)]. In determining the  
19 public interest for the purposes of this subsection, the Attorney General shall consider—

20 . . . .

21 (2) compliance by the applicant with applicable Federal, State, and local law;

22 . . . .

23 (5) such other factors as are relevant to and consistent with the public health and  
24 safety.

25 . . . .

26 (k) Definition. In this section, the phrase “factors as may be relevant to and  
27 consistent with the public health and safety” means factors that are relevant to and  
28 consistent with the findings contained in section 101 [21 USCS § 801].

10. Title 21 United States Code section 824 states, in pertinent part:

A registration pursuant to section 823 of this title to manufacture, distribute, or  
dispense a controlled substance or a list I chemical may be suspended or revoked by the  
Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this  
subchapter or subchapter II;

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<sup>1</sup> The term “list I chemical”, referred to in this section, is defined in 21 USCS § 802(34), which states, in pertinent part: The term “list I chemical” means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is important to the manufacture of the controlled substances . . .

1 (2) has been convicted of a felony under this subchapter or subchapter II or any other  
2 law of the United States, or of any State, relating to any substance defined in this  
3 subchapter as a controlled substance or a list I chemical;

4 (3) has had his State license or registration suspended, revoked, or denied by  
5 competent State authority and is no longer authorized by State law to engage in the  
6 manufacturing, distribution, or dispensing of controlled substances or list I chemicals or  
7 has had the suspension, revocation, or denial of his registration recommended by  
8 competent State authority;

9 (4) has committed such acts as would render his registration under section 823 of this  
10 title inconsistent with the public interest as determined under such section; or

11 (5) has been excluded (or directed to be excluded) from participation in a program  
12 pursuant to section 1320a-7(a) of Title 42.

### 13 **REGULATORY PROVISIONS**

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

15 For the purpose of denial, suspension, or revocation of a personal or facility  
16 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
17 Professions Code, a crime or act shall be considered substantially related to the  
18 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
19 it evidences present or potential unfitness of a licensee or registrant to perform the  
20 functions authorized by his license or registration in a manner consistent with the  
21 public health, safety, or welfare.

### 22 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

23 12. Clonazepam is a Schedule IV controlled substance as defined in Health and Safety  
24 Code section 11057(d)(7) and a dangerous drug according to Business and Professions Code  
25 section 4022.

26 13. Gabapentin is categorized as a dangerous drug pursuant to Business and Professions  
27 Code section 4022.

28 14. Oxycodone is a schedule II controlled substance as defined in Health and Safety Code  
section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code  
section 4022.

### **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### **(Violation of State Law – Conviction of a Crime)**

15 15. Respondent's application is subject to denial under section 4202.6, in conjunction  
16 with Title 21 United States Code sections 823, subdivisions (b)(2), (e)(2) and/or (h)(2), and 824,  
17 subdivision (a), in that on or about July 26, 2018, Respondent failed to comply with state law and  
18 was convicted of a crime, as follows:

1 a. On or about April 26, 2018, Respondent was convicted of one misdemeanor count of  
2 violating Vehicle Code section 23152(b) [drive with an equal to or greater than 0.08% blood  
3 alcohol content (BAC), to wit, 0.2% BAC] in the criminal proceeding entitled *The People of the*  
4 *State of California v. Renee Elissa Montes* (Super. Ct. San Bernardino County, 2018, No.  
5 MWV18012856). The Court sentenced Respondent to a suspended 10 days in jail, placed her on  
6 36 months of summary probation, and ordered her to complete a Nine-Month DUI Program.

7 b. The circumstances of the arrest leading to the conviction are that on or about April 2,  
8 2018, police officers responded to a single vehicle traffic collision. Upon contact with  
9 Respondent, officers smelled an odor of alcohol from her breath and person, and observed her to  
10 have slow and slurred speech, be incoherent and confused, swaying and slightly stumbling to the  
11 side while standing and walking slowly. Respondent admitted to taking medications of “Oxy”  
12 and Gabapentin prior to driving, and that at the time of the collision, she felt tired and off-  
13 balance. Respondent submitted to blood tests that resulted in positive tests for Clonazepam and  
14 Oxycodone and a 0.268% BAC.

15 **SECOND CAUSE FOR DENIAL OF APPLICATION**

16 **(Improper Use of Controlled Substances)**

17 16. Respondent's application is subject to denial under section 4202.6, in conjunction  
18 with Title 21 United States Code sections 801, subdivision (2), 823, subdivisions (b)(5), (e)(5)  
19 and/or (h)(5), and 824, subdivision (a), in that on or about April 2, 2018, Respondent improperly  
20 used controlled substances, grounds for denial of a federal registration to distribute controlled  
21 substances. On or about April 2, 2018, Respondent improperly administered to herself controlled  
22 substances, Clonazepam and Oxycodone, and alcoholic beverages, testing positive for both. In  
23 addition, Respondent drove a vehicle while under the influence of the improper combination of  
24 controlled substances and alcohol and caused a vehicle collision. Complainant refers to and by  
25 this reference incorporates the allegations set forth above in paragraph 15, subdivision (b),  
26 inclusive, as though set forth fully herein.

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**PRAYER**

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

1. Denying the application of Renee Elissa Montes for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/2022

Signature on File  
\_\_\_\_\_  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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