

1 01-0006-HO

2 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

3 In the Matter of :

4 JOHN S. BACOVICIN)
Certificate of Registration)
5 Number 8306)
_____)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND BOARD ORDER
NO. 01-0006-PHR**

6
7 DIRECTED TO: JOHN S. BACOVICIN
4230 E. Decatur Street
8 Mesa, AZ 85205-6205

9 Pursuant to Notice of Hearing Number 01-0006-PHR ("Notice") this matter came before the
10 Arizona State Board of Pharmacy ("Board") on May 17, 2001.

11 Gerald G. Ritt, president, presided with members Susan V. Ford, Dennis McAllister, Paul
12 Draugalis, William Jones and Eugene Drake in attendance.

13 The State was represented by the Office of the Attorney General, Victoria Martin, Assistant
14 Attorney General, Licensing and Enforcement Section and Thomas Dennis, Assistant Attorney General,
15 Solicitor General's Office, represented the Board.

16 The respondent, JOHN S. BACOVICIN was not present and was not represented by counsel.

17 **FINDINGS OF FACT**

18 **I**

19 1. JOHN S. BACOVICIN is the holder of Certificate of Registration Number 8306 issued by the
20 Arizona State Board of Pharmacy which permits the holder to practice pharmacy in the State of Arizona.

21 2. JOHN S. BACOVICIN failed to file a timely response and denial of the allegations made in the
22 Notice and failed to appear at the scheduled time and place as detailed in the Notice, which results in a
23 default under A.R.S. § 41-1092.07 (F)(5) and the allegations being deemed admitted by him, pursuant to
24 Board administrative rules A.A.C. R4-23-104 (A) & (I). Based on the foregoing, the Board finds that:

25 3. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed
26 from Walgreens Drug #5392, for his personal use, approximately 872 dosage units of Roxicet® 5/325

1 tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12 without
2 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R.
3 § 1306.11.

4 4. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
5 Walgreens Drug #5392, for his personal use, approximately 149 dosage units of Oxycontin® 10 mg.
6 tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12 without
7 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R.
8 § 1306.11.

9 5. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
10 Walgreens Drug #5392, for his personal use, approximately 38 dosage units of Oxycontin® 20 mg.
11 tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12 without
12 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and 21 C.F.R.
13 § 1306.11.

14 6. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
15 Walgreens Drug #5392, for his personal use, approximately 12 dosage units of Oxycontin® 40 mg.
16 tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12 without
17 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B), 21 CFR §
18 1306.11.

19 7. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
20 Walgreens Drug #5392, for his personal use, approximately 6 dosage units of Oxycodone 4.5mg /325mg
21 with Aspirin tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. §
22 1308.12 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-
23 2525(B) and 21 C.F.R. § 1306.11.

24 8. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
25 Walgreens Drug #5392, for his personal use, approximately 34 dosage units of Morphine Sulfate ER
26 15 mg. tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12

1 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and
2 21 C.F.R. § 1306.11.

3 9. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed from
4 Walgreens Drug #5392, for his personal use, approximately 10 dosage units of Morphine Sulfate ER
5 60 mg. tablets, a Class II Controlled Substance as defined in A.R.S. § 36-2513 and 21 C.F.R. § 1308.12
6 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(B) and
7 21 C.F.R. § 1306.11.

8 10. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed
9 from Walgreens Drug #5392, for his personal use, approximately 100 dosage units of Klonopin® 0.5 mg
10 tablets, a Class IV Controlled Substance as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without
11 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.
12 § 1306.21.

13 11. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed
14 from Walgreens Drug #5392, for his personal use, approximately 100 dosage units of Klonopin® 1 mg
15 tablets, a Class IV Controlled Substance as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without
16 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.
17 § 1306.21.

18 12. Between the dates of June 9, 2000 and January 4, 2001, JOHN S. BACOVICIN dispensed
19 from Walgreens Drug #5392, for his personal use, approximately 100 dosage units of Klonopin® 2 mg
20 tablets, a Class IV Controlled Substance as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without
21 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.
22 § 1306.21.

23 13. On January 11, 2001, JOHN S. BACOVICIN signed a contract with the Pharmacists Assisting
24 Pharmacists of Arizona (PAPA) pursuant to A.R.S. § 32-1932.01:

25 Substance abuse treatment and rehabilitation program; private contract; funding

26 A. The Board may establish a program for the treatment and rehabilitation of pharmacists and
interns who are impaired by alcohol or drug abuse. This program shall include education,

1 intervention, therapeutic treatment and post-treatment monitoring and support.

2 B. The Board may contract with other organizations to operate the program established pursuant
3 to subsection A of this section.

4 14. Pursuant to Arizona Administrative Code R4-23-415, the program administrator shall report
5 to the Board, as soon as possible, the name of any impaired pharmacist or pharmacy intern:

6 a. Who refuses to submit to treatment;

7 b. Whose impairment is not substantially alleviated through treatment; or

8 c. Who violates the terms of their contract

9 15. On the 15th day of February, 2001, the PAPA program administrator notified the Board office
10 that JOHN S. BACOVGIN tested positive for the presence of Butalbital on January 31, 2001, a violation
11 of the terms of the PAPA contract.

12 16. On the 28th day of February, 2001, the PAPA program administrator notified the Board office
13 that JOHN S. BACOVGIN tested positive for the presence of Butalbital on February 16, 2001, a violation
14 of the terms of the PAPA contract.

15 17. On the 16th day of March, 2001, the PAPA program administrator notified the Board office
16 that JOHN S. BACOVGIN tested positive for the presence of Butalbital on March 12, 2001, a violation
17 of the terms of the PAPA contract.

18 18. PAPA terminated the contract on March 16, 2001.

19 19. JOHN S. BACOVGIN has violated A.R.S. § 32-1927(A)(10), A.R.S. § 32-1927(B)(2), A.R.S.
20 § 36-2525(B) & (D), 21 CFR § 1306.11 and 21 C.F.R. § 1306.21 to wit: the dispensing of Class II and
21 Class IV Controlled Substances as listed in the Notice of Hearing 01-0006-PHR without valid
22 prescriptions.

23 **CONCLUSIONS OF LAW**

24 **II**

25 1. The Board concludes that it has jurisdiction in this Matter pursuant to A.R.S. § 32-1927
26 (A)(10) and 32-1927(B)(2).

1 7. JOHN S. BACOVGIN shall submit to a minimum of twenty-four (24) annual random biological
2 fluid screenings for the presence of drugs in the system as determined by PAPA for the period of the first
3 twenty-four (24) months of probation. The annual random biological fluid screenings for the presence of
4 drugs in the system shall increase to a minimum of forty-eight (48) when JOHN S. BACOVGIN accepts
5 employment as a pharmacist and shall continue for the first twenty-four (24) months of probation.

6 8. JOHN S. BACOVGIN shall pay all fees and complete all Continuing Education requirements to
7 maintain certificate of registration number 8306 throughout the term of probation.

8 9. JOHN S. BACOVGIN shall obey all federal and state laws and rules governing the practice of
9 pharmacy.

10 10. JOHN S. BACOVGIN shall bear the responsibility for the release of information forms and
11 reports required by this Order.

12 11. JOHN S. BACOVGIN shall "hold harmless" the provider of any required reports to
13 the Board of Pharmacy.

14 12. JOHN S. BACOVGIN shall appear before the Arizona State Board of Pharmacy on
15 or after May 17th, 2006, to request that the probation imposed by this Order be terminated.

16 13. If JOHN S. BACOVGIN violates this Order in any way or fails to fulfill the requirements of
17 this Order, the Board, after giving JOHN S. BACOVGIN notice and the opportunity to be heard, may
18 revoke, suspend or take other disciplinary action against JOHN S. BACOVGIN.

19 **RIGHT TO REHEARING**

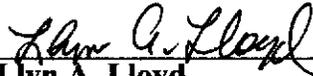
20 **IV**

21 JOHN S. BACOVGIN is hereby notified that he has the right to petition this Board for a rehearing
22 or review of this decision within thirty (30) days after the receipt of this Order pursuant to A.A.C. R4-
23 23-109 (D). A request for a rehearing or review of this decision shall be in writing and satisfy the
24 prerequisites in A.R.S. R4-23-109(D). Pursuant to A.R.S. § 42-1092.09(B), failure to file a motion for
25 rehearing or review has the effect of prohibiting judicial review of this Order.
26

1 DATED this 17th day of May, 2001

2
3
4 ARIZONA STATE BOARD OF PHARMACY

5 SEAL

By 
Llyn A. Lloyd
Executive Director

6
7
8
9 Copies of the foregoing Finding of Fact,
10 Conclusions of Law and Board Order
sent via Certified US mail this
11 day of May 2001 to:

12 JOHN S. BACOVICIN
13 4230 E. Decatur Street
Mesa, AZ 85205-6205

14 and by Courier Mail to:

15 Victoria Martin
16 Assistant Attorney General
1275 W. Washington
17 Phoenix, AZ 85007
Attorney for the State

18 and

19 Tom Dennis
20 Assistant Attorney General
1275 W. Washington
21 Phoenix, AZ 85007
Solicitor General's Office

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23
24
25
26

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
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1. Article Addressed to: John S. Bacovcin 4230 E. Decatur St. Mesa, AZ 85205-6205	C. Signature 	
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type	
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Copy from service label) 7099 3220 0003 6917 1560		
PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952		

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John Bacovcin		B/O 01-0006-PHR
Postage	\$	Sent 5/21/01 Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	
Name (Please Print Clearly) (To be completed by mailer) John S. Bacovcin		
Street, Apt. No., or PO Box No. 4230 E. Decatur St.		
City, State, ZIP+4 Mesa, AZ 85205		
PS Form 3800, July 1999		See Reverse for Instructions

7099 3220 0003 6917 1560