

1 **ARIZONA STATE BOARD OF PHARMACY**  
2 **1700 W. Washington Street, Room 250**  
3 **Phoenix, Arizona 85007**  
4 **602-771-2727**

5 IN THE MATTER OF :

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER NO. 08-0023-PHR**

6 In the Matter of

7 **GLEND A LOPEZ**

8 Holder of Pharmacy Technician License No.1936  
9 in the State of Arizona

10 Respondent

11  
12 On May 15, 2008 the Arizona State Board of Pharmacy ("Board") considered the State's  
13 Motion to Deem Allegations Admitted at the Board of Pharmacy Offices, 1700 W. Washington Street,  
14 Room 312, in Phoenix, Arizona. Elizabeth Campbell, Assistant Attorney General, appeared on behalf  
15 of the State. Respondent did not appear. The Board was represented by Assistant Attorney General  
16 Chris Munns, with the Solicitor General's Section of the Attorney General's Office.  
17

18 On May 15, 2008 the Board granted the State's Motion to Deem Allegations Admitted. Based  
19 upon A.R.S. § 32-1927(O) and the Complaint and Notice of Hearing No. 08-0023-PHR filed in this  
20 matter, the Board issues the following Findings of Fact and Conclusions of Law, and Order revoking  
21 Respondent's license.  
22

23 **FINDINGS OF FACT**

24 1. During all times relevant to this Complaint, Respondent was employed as a  
25 pharmacy technician at Walgreens Pharmacy #3837 ("Pharmacy") in Tucson, Arizona.

26 2. In September 2007, the Pharmacy interviewed Respondent concerning a loss of  
27 controlled substances. Respondent admitted to Pharmacy officials that she stole approximately  
28 200 tablets of oxycodone 5/325 and about 120 tablets of hydrocodone 10/500 for re-sale.  
29

1 Respondent admitted to selling the stolen drugs. Respondent was terminated from  
2 employment.

3 3. Oxycodone/APAP is a Schedule II controlled substance. A.R.S. § 36-  
4 2513(A)(1)(a)(xiv).

5 4. Hydrocodone/APAP is a Schedule III controlled substance. A.R.S. § 36-  
6 2514(A)(5)(d).

7 5. On or about October 17, 2007, the Pharmacy reported the theft of controlled  
8 substance drugs to the Board.

9 6. A subsequent Board controlled substance audit documented shortages of 5,658  
10 tablets of oxycodone 5/325 and 1,255 tablets of hydrocodone 10/500 at the Pharmacy. The  
11 audit did not disclose who was responsible for the shortages.  
12  
13

14 **CONCLUSIONS of LAW**

15  
16 1. The Board possesses jurisdiction over the subject matter and over Respondent  
17 pursuant to A.R.S. § 32-1901 *et seq.*

18 2. The Board may discipline a pharmacy technician who has engaged in  
19 unprofessional conduct. A.R.S. § 32-1927.01(A)(1).

20 3. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
21 13-1802(A)(1) (A person commits theft if, without lawful authority, the person knowingly  
22 controls another person's property with the intent to deprive that other person of such  
23 property). Theft is a crime of moral turpitude. *State v. Superior Court of Pima County*, 121  
24 Ariz. 174, 175-76, 589 P.2d 48, 49-50 (App. 1978) (shoplifting involves moral turpitude and  
25 bears a close relationship to the common law crime of larceny).  
26

27 4. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
28 13-3406(A)(1) (A person may not knowingly possess or use a prescription-only drug unless  
29

1 the person obtains the prescription-only drug pursuant to a valid prescription of a licensed  
2 prescriber). Furthermore, a person may not knowingly obtain or procure the administration of  
3 a prescription-only drug by fraud, deceit, misrepresentation or subterfuge. A.R.S. § 13-  
4 3406(A)(6). In either case, such illegal acquisition, possession or procurement of a  
5 prescription-only drug is a class 1 misdemeanor. A.R.S. § 13-3406(B)(1).  
6

7 5. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
8 13-3406(A)(3) (A person may not illicitly possess a prescription-only drug for sale). Illicit  
9 possession of a prescription-only drug for sale is a class 6 felony. A.R.S. § 13-3406(B)(2).  
10

11 6. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
12 36-2531(E) (A person may not knowingly or intentionally acquire or obtain possession of a  
13 controlled substance by means of forgery, fraud, deception or subterfuge). A person who  
14 violates A.R.S. § 36-2531(E) is guilty of a class 4 felony. A.R.S. § 36-2531(E).

15 7. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
16 36-2525(D) (Except in emergency situations, on faxed written prescription order, or when  
17 dispensed by a medical practitioner to a ultimate user, a controlled substance in schedule II  
18 shall not be dispensed without the written prescription order in ink, or indelible pencil or  
19 typewritten and manually signed by the medical practitioner).

20 8. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
21 36-2525(H) (Except when dispensed directly by a medical practitioner to an ultimate user, a  
22 controlled substance included in schedule III or IV that requires a prescription order as  
23 determined under state or federal laws shall not be dispensed without a written or oral  
24 prescription order of a medical practitioner).  
25

26 9. The conduct described in the Findings of Fact constitutes a violation of A.R.S. §  
27 36-2531(A)(1) (It is unlawful for any person who is subject to A.R.S. § 36-2521 *et seq.* to  
28 intentionally or knowingly distribute or dispense a controlled substance in violation of section  
29

1 36-2525). A person who violates A.R.S. § 36-2531(A)(1) is guilty of a class 4 felony. A.R.S.  
2 § 36-2531(B).

3  
4 10. The conduct and circumstances described above constitutes unprofessional  
5 conduct pursuant to A.R.S. § 32-1901.01(C)(6) (“Committing a felony, whether or not  
6 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug- related  
7 offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest  
8 is conclusive evidence of the commission.”).

9 11. The conduct and circumstances described above constitute unprofessional  
10 conduct pursuant to A.R.S. § 32-1901.01(C)(8) (“Violating a federal or state law or  
11 administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs,  
12 controlled substances or precursor chemicals when determined by the board or by conviction  
13 in a federal or state court.”)

#### 14 ORDER

15 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following  
16 Order:  
17

18 Pharmacy Technician license number No. 1936 issued to Glenda Lopez is **REVOKED**.  
19 A.R.S. § 32-1927.01(A)(1).

#### 20 RIGHT TO PETITION FOR REHEARING OR REVIEW

21 Respondent is hereby notified of the right to petition for a rehearing or review by filing a  
22 petition with the Board’s Executive Director within thirty (30) days after service of this Order. A.R.S.  
23 § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.C.C.  
24 R4-23-128. Service of this order is effective five (5) days after date of mailing.  
25

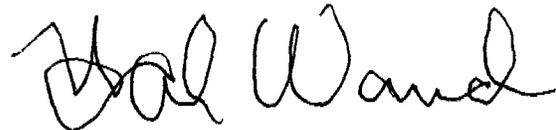
26 If a motion for rehearing is not filed, the Board’s Order becomes effective thirty-five (35) days  
27 after it is mailed to Respondent.  
28  
29

1 Respondent is further notified that the filing of a motion for rehearing is required to preserve  
2 any rights of appeal to the Superior Court.

3  
4 DATED this 28<sup>th</sup> day of May, 2008.

5  
6  
7 **ARIZONA STATE BOARD OF PHARMACY**

8 SEAL

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12 Hal Wand, RPh.  
13 Executive Director  
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1 COPIES mailed this 28 day of May 2008, by



2 Certified Mail Receipt No. \_\_\_\_\_

7007 2680 0001 2492 1812

3 to

4  
5 Glenda Lopez  
6 1671 W. Sauvignon  
7 Tucson, Arizona 85746

8 Respondent

9  
10 COPIES of the foregoing mailed this 28 day of May 2008, to:

11 Elizabeth Campbell,  
12 Assistant Attorney General

13 and

14 Christopher Munns,  
15 Assistant Attorney General, Solicitors Office

16 Both located at  
17 1275 W. Washington  
18 Phoenix, AZ 85007