

1 (hydrocodone/APAP) for personal consumption. Respondent was terminated from his employment
2 with Wal-Mart.

3
4 4. A subsequent audit by the Pharmacy documented shortages of the following: 685
5 tablets of hydrocodone/APAP 10/325; 1,588 tablets of hydrocodone/APAP 0/500; 416 tablets of
6 hydrocodone/APAP 10/650; 650 tablets of hydrocodone/APAP 10/660; and 293 tablets of
7 hydrocodone/APAP 7.5/750. The audit did not disclose who was responsible for the shortages.

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

9
10 **CONCLUSIONS of LAW**

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

13 2. Pursuant to A.R.S. § 32-1927.01(A)(1), the Board may discipline a pharmacy
14 technician who has engaged in unprofessional conduct.

15 3. The conduct and circumstances described above constitute a violation of A.R.S. § 13-
16 1802(A)(1) (A person commits theft if, without lawful authority, the person knowingly controls
17 another person's property with the intent to deprive that other person of such property). Theft is a
18 crime of moral turpitude. *State v. Superior Court of Pima County*, 121 Ariz. 174, 175-76, 589 P.2d
19 48, 49-50 (App. 1978) (shoplifting involves moral turpitude and bears a close relationship to the
20 common law crime of larceny).

21
22 4. The conduct and circumstances described above constitute a violation of A.R.S. § 13-
23 3406(A)(1) (A person may not knowingly possess or use a prescription-only drug unless the person
24 obtains the prescription-only drug pursuant to a valid prescription of a licensed prescriber).
25 Furthermore, a person may not knowingly obtain or procure the administration of a prescription-only
26 drug by fraud, deceit, misrepresentation or subterfuge. A.R.S. § 13-3406(A)(6). In either case, such
27 illegal acquisition, possession or procurement of a prescription-only drug is a class 1 misdemeanor.
28 A.R.S. § 13-3406(B)(1).
29

1 5. The conduct and circumstances described above constitute a violation of A.R.S. § 36-
2 2531(E) (A person may not knowingly or intentionally acquire or obtain possession of a controlled
3 substance by means of forgery, fraud, deception or subterfuge). A person who violates A.R.S. § 36-
4 2531(E) is guilty of a class 4 felony. A.R.S. § 36-2531(E).
5

6 6. The conduct and circumstances described above constitute a violation of A.R.S. § 36-
7 2525(H) (Except when dispensed directly by a medical practitioner to an ultimate user, a controlled
8 substance included in schedule III or IV that requires a prescription order as determined under state or
9 federal laws shall not be dispensed without a written or oral prescription order of a medical
10 practitioner).
11

12 7. The conduct and circumstances described above constitute a violation of A.R.S. § 36-
13 2531(A)(1) (It is unlawful for any person who is subject to A.R.S. § 36-2521 *et seq.* to intentionally or
14 knowingly distribute or dispense a controlled substance in violation of section 36-2525). A person
15 who violates A.R.S. § 36-2531(A)(1) is guilty of a class 4 felony. A.R.S. § 36-2531(B).
16

17 8. The conduct and circumstances described above constitute a violation of A.R.S. § 32-
18 1968(A) (“A prescription-only drug shall be dispensed only under one of the following conditions: (1)
19 By a medical practitioner in conformance with A.R.S. § 32-1921; (2) On a written prescription order
20 bearing the prescribing medical practitioner’s manual signature; (3) On an electronically transmitted
21 prescription order containing the prescribing medical practitioner’s electronic or digital signature that
22 is reduced promptly to writing and filed by the pharmacist; (4) On a written prescription order
23 generated from electronic media containing the prescribing medical practitioner’s electronic or manual
24 signature. A prescription order that contains only an electronic signature must be applied to paper that
25 uses security features that will ensure the prescription order is not subject to any form of copying or
26 alteration; (5) On an oral prescription order that is reduced promptly to writing and filed by the
27 pharmacist; (6) By refilling any written, electronically transmitted or oral prescription order if a refill
28 is authorized by the prescriber either in the original prescription order, by an electronically transmitted
29

1 refill order that is documented promptly and filed by the pharmacist or by an oral refill order that is
2 documented promptly and filed by the pharmacist.”)

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

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

14
15 **ORDER**

16 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following

17 Order:

18 Pharmacy Technician license number T006970 issued to Respondent is **REVOKED**. A.R.S. §
19 32-1927.01(B)(1).

20
21 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

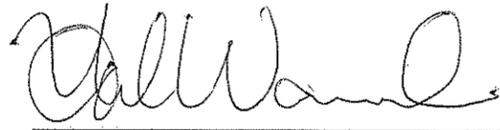
22 Respondent is hereby notified of the right to petition for a rehearing or review by filing a
23 petition with the Board’s Executive Director within thirty (30) days after service of this Order. A.R.S.
24 § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.C.C.
25 R4-23-128. Service of this order is effective five (5) days after date of mailing. If a motion for
26 rehearing is not filed, the Board’s Order becomes effective thirty-five (35) days after it is mailed to
27 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
5 DATED this *8th* day of May, 2009.
6

7 ARIZONA STATE BOARD OF PHARMACY

8 SEAL

9
10 

11 Hal Wand, R.Ph.
12 Executive Director

13
14
15
16 COPIES mailed this *11* day of May, 2009, by

17 Certified Mail Receipt No. 7007 2680 0001 2491 8805 *TRP*

18 to:

19
20 Joshua Adams
21 3313 W. Constitution Drive
22 Chandler, AZ 85226
23 Respondent

24 COPIES of the foregoing mailed this *11* day of May 2009, to:

25 Elizabeth Campbell, Assistant Attorney General
26 and

27 Christopher Munns, Assistant Attorney General, Solicitors Office

28 Both located at
29 1275 W. Washington
Phoenix, AZ 85007