

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:

6 **JEFFREY GOLDEN,**

7 Holder of License No. T010493
8 As a Pharmacy Technician Trainee
9 In the State of Arizona

**FINDINGS OF FACT, CONCLUSIONS
of LAW and BOARD ORDER
No. 09-0025-PHR**

10 On May 6th, 2009 the Arizona State Board of Pharmacy ("Board") considered the State's
11 Motion to Deem Allegations Admitted at the Board of Pharmacy Offices, 1700 W. Washington Street,
12 Room 312, in Phoenix, Arizona. Elizabeth Campbell, Assistant Attorney General, appeared on behalf
13 of the State. Respondent did not appear.

14 On May 6th, 2009 the Board granted the State's Motion to Deem Allegations Admitted. Based
15 upon A.R.S. § 32-1927.01(O) and the Complaint and Notice of Hearing No. 09-0025-PHR filed in this
16 matter, the Board issues the following Findings of Fact and Conclusions of Law, and Order revoking
17 Respondent's license.

18
19 **FINDINGS OF FACT**

20 1. During all times relevant to this Complaint, Respondent was employed as a pharmacy
21 technician trainee at CVS Pharmacy #9223 in Phoenix, Arizona (the "Pharmacy").

22 2. In February 2008, CVS loss prevention personnel interviewed Respondent concerning a
23 loss of controlled substances. Respondent admitted diverting the following controlled substances from
24 the Pharmacy: hydrocodone/APAP 10/325 (8,000 tablets), hydrocodone/APAP 10/500 (4,000 tablets),
25 hydrocodone/APAP 7.5/500 (500 tablets), hydrocodone/APAP 10/600 (500 tablets), Tussionex (cough
26 syrup with hydrocodone) (473 ml), diazepam 5 mg (250 tablets), Ambien (zolpidem) 12.5 mg (100
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1 tablets), and carisoprodol 350 mg (1500 tablets). Respondent admitted to taking the controlled
2 substances for personal consumption.

3
4 3. Respondent further admitted to diverting 100 tablets of Viagra 10 mg to give to
5 another person.

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

7 5. Cough syrup with hydrocodone is a Schedule III controlled substance. A.R.S. § 36-
8 2514(A)(5)(d).

9 6. Diazepam is a Schedule IV controlled substance. A.R.S. § 36-2515(A)(2)(n).

10 7. Carisoprodol is a Schedule IV controlled substance. A.R.S. § 36-2515(A)(5)(a).

11 8. Zolpidem is a Schedule IV controlled substance. A.R.S. § 36-2515(A)(2)(xx).

12 9. Viagra is a prescription-only medication.

13
14 **CONCLUSIONS of LAW**

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

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

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

25 4. The conduct described in the Factual Allegations constitutes a violation of A.R.S. § 13-
26 3406(A)(1) (A person may not knowingly possess or use a prescription-only drug unless the person
27 obtains the prescription-only drug pursuant to a valid prescription of a licensed prescriber).
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1 Furthermore, a person may not knowingly obtain or procure the administration of a prescription-only
2 drug by fraud, deceit, misrepresentation or subterfuge. A.R.S. § 13-3406(A)(6). In either case, such
3 illegal acquisition, possession or procurement of a prescription-only drug is a class 1 misdemeanor.
4 A.R.S. § 13-3406(B)(1).

5
6 5. The conduct described in the Factual Allegations constitutes a violation of A.R.S. § 13-
7 3406(A)(7) (A person may not sell, transfer or offer to sell or transfer a prescription-only drug). Such
8 illegal transfer of a prescription-only drug is a class 6 felony. A.R.S. § 13-3406(B)(2).

9
10 6. The conduct described in the Factual Allegations constitutes a violation of A.R.S. § 36-
11 2531(E) (A person may not knowingly or intentionally acquire or obtain possession of a controlled
12 substance by means of forgery, fraud, deception or subterfuge). A person who violates A.R.S. § 36-
13 2531(E) is guilty of a class 4 felony. A.R.S. § 36-2531(E).

14
15 7. The conduct described in the Factual Allegations constitutes a violation of A.R.S. § 36-
16 2525(H) (Except when dispensed directly by a medical practitioner to an ultimate user, a controlled
17 substance included in schedule III or IV that requires a prescription order as determined under state or
18 federal laws shall not be dispensed without a written or oral prescription order of a medical
19 practitioner).

20
21 8. The conduct described in the Factual Allegations constitutes a violation of A.R.S. § 36-
22 2531(A)(1) (It is unlawful for any person who is subject to A.R.S. § 36-2521 *et seq.* to intentionally or
23 knowingly distribute or dispense a controlled substance in violation of section 36-2525). A person
24 who violates A.R.S. § 36-2531(A)(1) is guilty of a class 4 felony. A.R.S. § 36-2531(B).

25
26 9. Respondent's conduct, as described in the Factual Allegations, constitutes a violation of
27 A.R.S. § 32-1968(A) ("A prescription-only drug shall be dispensed only under one of the following
28 conditions: (1) By a medical practitioner in conformance with A.R.S. § 32-1921; (2) On a written
29 prescription order bearing the prescribing medical practitioner's manual signature; (3) On an
electronically transmitted prescription order containing the prescribing medical practitioner's

1 electronic or digital signature that is reduced promptly to writing and filed by the pharmacist; (4) On a
2 written prescription order generated from electronic media containing the prescribing medical
3 practitioner's electronic or manual signature. A prescription order that contains only an electronic
4 signature must be applied to paper that uses security features that will ensure the prescription order is
5 not subject to any form of copying or alteration; (5) On an oral prescription order that is reduced
6 promptly to writing and filed by the pharmacist; (6) By refilling any written, electronically transmitted
7 or oral prescription order if a refill is authorized by the prescriber either in the original prescription
8 order, by an electronically transmitted refill order that is documented promptly and filed by the
9 pharmacist or by an oral refill order that is documented promptly and filed by the pharmacist.”)

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

16
17 11. The conduct and circumstances described above constitute unprofessional conduct
18 pursuant to A.R.S. § 32-1901.01(C)(8) (“Violating a federal or state law or administrative rule relating
19 to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor
20 chemicals when determined by the board or by conviction in a federal or state court.”).

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22 **ORDER**

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

24
25 Order:

26 Pharmacy Technician license number T010493 issued to Respondent is **REVOKED**. A.R.S. §
27 32-1927.01(B)(1).
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1 **COPIES** mailed this 11 day of May, 2009, by

2 Certified Mail Receipt No. 7007 2680 0001 2491 8829

②

3 to:

4
5 Jeffrey Golden
6 3600 N. 6th Ave. #10
7 Phoenix, AZ 85013
8 Respondent

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

10 Elizabeth Campbell, Assistant Attorney General
11 and

12 Christopher Munns, Assistant Attorney General, Solicitors Office

13 Both located at
14 1275 W. Washington
15 Phoenix, AZ 85007

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