

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 In the Matter of

7 **BARNEY DOTSON**

8 Holder of Pharmacist License No. S010225 in the
9 State of Arizona

10 Respondent

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER NO. 08-0036-PHB**

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12
13 On July 10th, 2008 the Arizona State Board of Pharmacy (“Board”) considered the State’s
14 Motion to Deem Allegations Admitted by telephonic conference call at the Board of Pharmacy
15 Offices, 1700 W. Washington Street, Room 312, in Phoenix, Arizona. Nancy Beck, Assistant Attorney
16 General, appeared on behalf of the State. Respondent did not appear.

17
18 On July 10th, 2008 the Board granted the State’s Motion to Deem Allegations Admitted.
19 Based upon A.R.S. § 32-1927(O) and the Complaint and Notice of Hearing No. 08-0036-PHB filed in
20 this matter, the Board issues the following Findings of Fact and Conclusions of Law, and Order
21 revoking Respondent’s license.

22
23 **FINDINGS OF FACT**

24 1. During all relevant times to these findings, Respondent was also licensed to practice
25 pharmacy in Ohio.

26 2. By Order effective December 5, 2007, the Ohio State Board of Pharmacy (the “Ohio
27 Board”) indefinitely suspended Respondent’s Ohio license. In doing so, the Ohio Board made the
28 following Findings of Fact:
29

1 (2) Barney T. Dotson is addicted to or abusing drugs or alcohol and/or impaired
2 physically or mentally to such a degree as to render him unfit to practice pharmacy, to
3 wit: Barney T. Dotson has admitted to a Board agent that he is addicted to both drugs
4 and alcohol. Barney T. Dotson has been to in-patient alcohol treatment previously,
5 and has stated an intention to enter into treatment again. Barney T. Dotson has
6 admittedly stolen fentanyl¹ and hydromorphone² from his employer; Barney T. Dotson
7 has admitted to stealing Vicodin³ since he began practicing pharmacy in 1980.
8 Barney T. Dotson has indicated to a Board agent that his consumption of
9 hydromorphone began with ingestion of approximately 2 mg per occasion, and it
10 escalated to 8 to 10 mg each use. Barney T. Dotson's abuse was discovered on March
11 16, 2007, when he was arrested after having passed out while driving his car and
12 struck another vehicle. Such conduct indicates that Barney T. Dotson is within the
13 ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

14 (3) Barney T. Dotson did, on or about March 16, 2007, and on various dates
15 preceding with purpose to deprive, knowingly obtain or exert control over dangerous
16 drugs, the property of Curascript Infusion Pharmacy, beyond the express or implied
17 consent of the owner, to wit: Barney T. Dotson has admittedly stolen fentanyl and
18 hydromorphone from his employer. Such conduct is in violation of Section 2913.02
19 of the Ohio Revised Code.

20 (4) On or about August 8, 2007, [Barney T. Dotson] pled guilty to (3) three counts of
21 Theft of Drugs, felonies in the fourth degree, under Section 2913.02(A)(1) of the Ohio
22 Revised Code. [Barney T. Dotson was] granted intervention in Lieu of Conviction.
23 State of Ohio vs. Barney T. Dotson, Case NO. B 0703688, Hamilton County Common
24 Please Court.

25 3. In its December 2007 Order, the Ohio Board made the following Conclusions of Law:

26 (1) The [Ohio] State Board of Pharmacy concludes that paragraphs (3) and (4) of the
27 Findings of Fact constitute being guilty of a felony and gross immorality as provided
28 in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

29 (2) The [Ohio] State Board of Pharmacy concludes that paragraphs (3) and (4) of the
Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in
the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the
Ohio Revised Code.

(3) The [Ohio] State Board of Pharmacy concludes that paragraph (2) of the Findings
of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically

¹ Fentanyl is a Schedule II controlled substance. A.R.S. § 36-2513(A)(2)(h).

² Hydromorphone is a Schedule II controlled substance. A.R.S. § 36-2513(A)(1)(a)(xi)

³ Vicodin is Hydrocodone/APAP, which is a Schedule III controlled substance. A.R.S. § 36-2514(A)(5)(d).

1 or mentally to such a degree as to render him unfit to practice pharmacy as provided in
2 Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

3 4. Respondent failed to report the Ohio Board's December 2007 Order to the Arizona
4 Board. The Arizona Board learned of the Ohio discipline when the Ohio Board contacted the Arizona
5 Board directly.

6 5. In a signed statement dated March 28, 2007, admitted diverting fentanyl and
7 hydromorphone from his place of employment. On or about March 20, 2007, Respondent's urine
8 tested positive for fentanyl and opiates.

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. The Board may discipline a pharmacist who has engaged in unprofessional conduct.
14 A.R.S. § 32-1927(A)(1).

15 3. The conduct and circumstances described above constitute unprofessional conduct
16 pursuant to A.R.S. § 32-1901.01(B)(5) (Discipline of a licensee's license to practice pharmacy in
17 another jurisdiction and the license was not reinstated).

18 4. The conduct and circumstances described above constitute unprofessional conduct
19 pursuant to A.R.S. § 32-1901.01(B)(13) (Failing to report in writing to the Board any evidence that a
20 pharmacist is or may be guilty of unprofessional conduct).

21 5. The conduct and circumstances described above constitute unprofessional conduct
22 pursuant to A.R.S. § 32-1901.01(B)(16) (Committing an offense in another jurisdiction that if
23 committed in this state would be grounds for discipline).

24 6. The conduct and circumstances described above constitute unprofessional conduct
25 pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal or state law, rule or regulation relating to
26 the manufacture or distribution of drugs and devices or the practice of pharmacy). The conduct and
27 circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-
28
29

1 1901.01(B)(8) (“Committing a felony, whether or not involving moral turpitude, or a misdemeanor
2 involving moral turpitude or any drug- related offense. In either case, conviction by a court of
3 competent jurisdiction or a plea of no contest is conclusive evidence of the commission.”).

4
5 7. The conduct and circumstances described above constitute unprofessional conduct
6 pursuant to A.R.S. § 32-1901.01(B)(10) (Violating a federal or state law or administrative rule relating
7 to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor
8 chemicals when determined by the board or by conviction in a federal or state court).

9 8. The conduct and circumstances described above constitute unprofessional conduct
10 pursuant to A.R.S. § 32-1901.01(B)(11) (“Knowingly dispensing a drug without a valid prescription
11 order as required pursuant to section 32-1968, subsection A.”).

12 9. The conduct and circumstances described above constitute a violation of A.R.S. § 32-
13 1968(A) (“A prescription-only drug shall be dispensed only under one of the following conditions: (1)
14 By a medical practitioner in conformance with A.R.S. § 32-1921; (2) On a written prescription order
15 bearing the prescribing medical practitioner’s manual signature; (3) On an electronically transmitted
16 prescription order containing the prescribing medical practitioner’s electronic or digital signature that
17 is reduced promptly to writing and filed by the pharmacist; (4) On a written prescription order
18 generated from electronic media containing the prescribing medical practitioner’s electronic or manual
19 signature. A prescription order that contains only an electronic signature must be applied to paper that
20 uses security features that will ensure the prescription order is not subject to any form of copying or
21 alteration; (5) On an oral prescription order that is reduced promptly to writing and filed by the
22 pharmacist; (6) By refilling any written, electronically transmitted or oral prescription order if a refill
23 is authorized by the prescriber either in the original prescription order, by an electronically transmitted
24 refill order that is documented promptly and filed by the pharmacist or by an oral refill order that is
25 documented promptly and filed by the pharmacist.”)

1 COPIES mailed this 16 day of July 2008, by

2 Certified Mail Receipt No. 7008 0150 0003 1434 8527

3 to *Jeffrey K. Beck*

4
5 Barney Dotson
6 5367 Race Road
7 Cincinnati, OH 45247
8 Respondent

9 COPIES of the foregoing mailed this day of July 2008, to:

10 Nancy Beck,
11 Assistant Attorney General

12 and

13 Christopher Munns,
14 Assistant Attorney General, Solicitors Office

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

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