

**BEFORE THE INDIANA BOARD OF PHARMACY**

STATE OF INDIANA, ) CAUSE NO. 2006 IBP 0002  
 )  
Petitioner, )  
 )  
v. )  
 )  
CHARLES ALAN LINDSTROM, R.Ph., )  
LICENSE NO: 26012389A, )  
 )  
Respondent. )



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STATE OF INDIANA, CAUSE NO. 2006 IBP 0005  
Petitioner,  
v.  
NORA APOTHECARY, INC.,  
LICENSE NO: 60002143A, 60002143B,  
Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The Petitioner, the State of Indiana, by Deputy Attorney General Elizabeth E. Kiefner, Division of Consumer Protection (“Petitioner”), and the Respondents, Charles Lindstrom, R.Ph., and Nora Apothecary, (“Respondents”), by counsel Thomas Farlow of Locke Reynolds signed an Agreement that purports to resolve all issues involved in the action by the Petitioner before the Indiana Board of Pharmacy (“Board”) regarding Respondents’ licenses, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the July 9, 2007 meeting, now finds it has been entered into fairly and without fraud, duress or undue influence, and is fair

and equitable between the parties. The Board hereby incorporates the Agreement as if fully set forth herein and approves and adopts in full the Agreement as a resolution of this matter. The Board approved this Agreement by a vote of 7 in favor, 0 against, and 0 abstaining. The Board hereby issues the following Findings of Fact, Ultimate Findings of Fact, Conclusion of Law and Order:

### **FINDINGS OF FACT**

1. Respondents Lindstrom and Nora's address on file with the Board is 1101 East 86<sup>th</sup> Street, Indianapolis, IN 46240. Lindstrom is a licensed pharmacist in the State of Indiana holding license number 26012389. Nora is a licensed pharmacy pursuant to Indiana Code § 25-26-13-17 holding license number 60002143. Lindstrom is the principle owner of Nora and served as the qualified pharmacist from 1974 to 2007.

2. In 2001, the Drug Enforcement Administration ("DEA") Indianapolis District Office and Marion County Sheriff's Department ("MCSD") initiated an investigation into suspicious controlled substance prescribing to a particular patient ("P1") by Dr. Gregory Chernoff ("Chernoff"), a plastic surgeon practicing in Indianapolis, Indiana.

3. The DEA/MCSD investigation revealed most of the controlled substance prescriptions authorized by Chernoff for P1 were dispensed by Nora. Nora staff, including Lindstrom, was aware that P1 was going to take part in a weekly program to decrease the amount of controlled substances P1 was ingesting, pursuant to a graduated schedule of dosages.

4. After complying with the program of decreasing dosages for several weeks, P1 began presenting prescriptions, written by Chernoff or a member of Chernoff's staff, to Nora and Respondent [Lindstrom] for quantities of controlled substances in the name of P1 and not included on the graduated schedule of dosages, which Nora and Lindstrom then filled.

5. Documentation obtained during the course of the DEA/MCSD investigation revealed discrepancies between dates written on hard copy prescriptions obtained from Chernoff's office and "fill dates" for prescriptions generated by Nora staff on a computer-generated sticker backer. Specifically, the date on the hard copy prescription was often days after the "fill date" on the sticker backer. Neither Nora nor Lindstrom could provide any documentation indicating when P1 actually picked up prescriptions for controlled substances, or documentation regarding the allegedly valid orders.

6. Several prescriptions for controlled substances filled by Nora and Lindstrom were allegedly authorized by Chernoff but contained a signature other than that of Chernoff. Lindstrom conceded that he did not verify the signature on the prescriptions was Chernoff's, as required by law.

7. On several occasions, Lindstrom was asked by at least one staff member whether filling prescriptions for P1 was in the best interest of P1's health due to concerns of acetaminophen toxicity. While Lindstrom made inquiries to Chernoff about the quantity of drugs being prescribed to P1, Lindstrom acknowledged he should have made further inquiry.

## ULTIMATE FINDING OF FACT

Respondent's violation is cause for disciplinary sanctions that may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or revocation and a fine up to the amount of \$1,000 per violation as detailed at Ind. Code §25-1-9-9.

## CONCLUSIONS OF LAW

1. Respondents' conduct constitutes a violation of Indiana Code § 25-1-9-4(a)(3), in that, the Respondents knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 21 CFR 1306.21(a), a pharmacist may dispense directly a controlled substance listed in Schedule III, IV, or V which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only pursuant to either a written prescription signed by a practitioner or a facsimile of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist containing all information required in Sec. 1306.05, except for the signature of the practitioner.

2. Respondents' conduct constitutes a violation of Indiana Code § 25-1-9-4(a)(3), in that, the Respondents knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 21 CFR 1306.11(a), a pharmacist may dispense directly a controlled substance listed in Schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only

pursuant to a written prescription signed by the practitioner, except as provided in paragraph (d) of this section.

### ORDER

Based upon the above Findings of Fact, the Board issues the following Order:

1. The Board has ongoing jurisdiction over the Respondents and the subject matter of this disciplinary action.

2. This agreement is executed voluntarily by both parties.

3. The Respondents and the Petitioner voluntarily waive their rights to a public hearing on the Complaint and all other proceedings in this action to which either party may be entitled by law, including judicial appeal or review.

4. Respondents have carefully read and examined this agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

5. Lindstrom's Indiana pharmacist license and Nora Apothecary's Indiana pharmacy license shall be placed on INDEFINITE PROBATION. Respondents may not request withdrawal of probation for a period of five (5) years subject to the following terms and conditions:

A. *Respondents shall keep the Board apprised of Lindstrom's current residential address and telephone number, place of employment, employer phone number, the name of Lindstrom's supervisor, and his work schedule including number of hours worked per week.*

B. *Lindstrom shall cause his employer to submit quarterly reports to the Board indicating his professional competence, sense of responsibility, and work habits. Quarterly reports shall be submitted every ninety days from the date of the beginning of the probationary period. Respondent [Lindstrom] understands that it is his responsibility to ensure that the Board receives employer reports in a timely manner. Reports are due on the 1<sup>st</sup> day of the month. After two (2) years of successful reports Lindstrom may petition the Board for removal of this condition.*

C. *Lindstrom shall not serve as a qualifying pharmacist for the duration of the probation.*

D. *Lindstrom shall personally appear before the Board on a monthly basis beginning at the first scheduled Board meeting for the first year of his probation and then quarterly thereafter. Respondent understands that it is his responsibility to ensure that the Board received employer reports in a timely manner. Reports are due on the 1<sup>st</sup> day of the month.*

E. *Lindstrom shall complete personal reports to the Board addressing his competency to practice and the completion of the additional requirements of his probation on a monthly basis for the first year and quarterly thereafter.*

F. *Lindstrom shall complete forty (40) hours of education for the first two (2) years of probation and submit proof of completion with at least ten (10)<sup>1</sup> hours on diversion issues to the Board and ten (10) hours on the*

*standards of the practice of pharmacy concerning chronic pain patients. These hours shall be in addition to any already required to maintain Respondents' pharmacist/pharmacy licenses.*

G. *Lindstrom shall complete eight (8) hours of community service per quarter for the first two (2) years of his probation. Community service activities must be approved by the Board.*

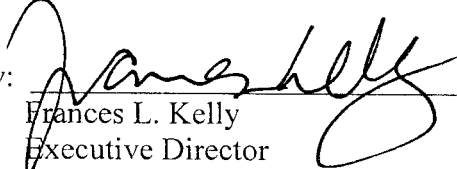
H. *The Petitioner agrees that the terms of this Agreement will resolve any and all outstanding claims or allegations or potential claims or allegations relating to disciplinary action against Respondents' licenses arising out of facts and circumstances surrounding the Amended Complaints filed on March 3, 2006.*

6. Respondents further understand that failure to comply with the Board's order may result in the State requesting an emergency suspension of Respondents' licenses, as well as possible reinstatement of the initial action giving rise to this resolution, an Order to Show Cause as may be issued by the Board, or a new cause of action being filed pursuant to Indiana Code § 25-1-9-4(a)(10), any or all of which could lead to additional sanctions, up to and including a revocation of Respondents' licenses.

7. The parties agree to the continuing jurisdiction of the Board.

SO ORDERED, this 17 day of July, 2007.

INDIANA BOARD OF PHARMACY

By:   
Frances L. Kelly  
Executive Director  
Indiana Professional Licensing Agency

Copies to:

Thomas W. Farlow, Esq.  
Locke Reynolds, LLP  
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201 North Illinois Street  
Indianapolis, IN 46244

**CERTIFIED MAIL NUMBER:** 7005 3110 0002 4931 2019  
**RETURN RECEIPT REQUESTED**

Charles A. Lindstrom, R.Ph.  
Nora Apothecary, Inc.  
1101 East 86<sup>th</sup> Street  
Indianapolis, IN 46240

**CERTIFIED MAIL NUMBER:** 7005 3110 0002 4931 2026  
**RETURN RECEIPT REQUESTED**

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