

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO.: 2004 IBP 0033

IN THE MATTER OF THE LICENSE OF

KATHRYN BEARSS, Ph. T.
LICENSE NO.: 67003506A

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ORDER TO SHOW CAUSE

Comes now the Indiana Board of Pharmacy ("Board") pursuant to Ind. Code § 4-21.5-3-20 and Ind. Code § 35-48-3-5 and issues the follow Order to Show Cause:

1. The Board hereby notifies Kathryn Bearss Ph. T. ("Petitioner"), 2203 East 73rd Avenue, Merrillville, Indiana 46410.
2. This notice is being provided to counsel for the State of Indiana, Timothy Weber and Ryan Eldridge, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 302 West Washington Street, 5th Floor, Indianapolis, Indiana, 46204, telephone number 317-232-6256.
3. The official cause number of this action is: 2008 IBP 0033.
4. This action is an administrative hearing to consider Petitioner's Violation of term 2(e) in her Findings of Fact, Conclusions of Law and Order filed March 28th, 2018.
5. A hearing regarding this matter will be held on **February 11th, 2019 at 1:30 p.m.**, Local Time, in the Indiana Government Center South, Room W064, of the Indiana Professional Licensing Agency, 402 West Washington Street, Indianapolis, Indiana 46204.
6. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code ch. 25-1-9 and Ind. Code art. 4-21.5.

7. The Indiana Board of Pharmacy is designated as the administrative law judge in this matter. Darren R. Covington, J.D., Director, may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204, by e-mail at pla4@pla.in.gov, by telephone at (317) 234-2067.
8. The hearing will address the issues contained in Respondent's Findings of Fact, Conclusions of Law and Order, a copy of which is attached hereto and incorporated herein by reference as **Exhibit A**.
9. Any party may be advised and represented by counsel at the party's own expense.
10. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.

SO ORDERED this 16th day of January, 2019.

INDIANA BOARD OF PHARMACY

By: Mark Smosna R.Ph.
Mark Smosna, R.Ph., President

CERTIFICATE OF SERVICE

I certify that a copy of the "Order to Show Cause" has been duly served upon:

Kathryn Bearss
2203 East 73rd Avenue
Merrillville, Indiana 46410
Service by U.S. Mail

Laura Iosue, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204
Service by Email: laura.iosue@atg.in.gov

1.16.19

Date


Nathaniel Black, Litigation Specialist

Indiana Board of Pharmacy
Indiana Government Center South
402 West Washington Street, Room W072
Indianapolis, Indiana 46204
Phone: 317-234-2067
Fax: 317-233-4236
Email: pla4@pla.in.gov

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

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BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NUMBER: 2004 IPB 0033

IN THE MATTER OF THE INDIANA
PHARMACY TECHNICIAN CERTIFICATION OF:)
)
)

KATHRYN BEARSS, PH. T.
CERTIFICATION NO: 67003506A)
)

FILED

NOV 02 2018

Indiana Professional
Licensing Agency

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Indiana Board of Pharmacy ("Board") held an administrative hearing on September 10, 2018, in Room W064 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana concerning the "Order to Show Cause" issued by the Board which alleges that Kathryn Bearss violated the terms of probation on her certificate and should have her certification as a pharmacy technician disciplined.

Timothy Weber, Deputy Attorney General, represented the State of Indiana. Bearss appeared in person and waived her right to be represented by counsel.

The Board, after considering the evidence and taking official notice of its file in this matter, by a vote of 5 to 0 issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Bearss, who has a mailing address of 2203 East 73rd Avenue, Merrillville, Indiana 46410, is a pharmacy technician with certification number 67003506A.
2. In August 2018, the Board issued an "Order to Show Cause" against Bearss alleging that Bearss' certification should be disciplined because she violated the terms of probation on her certificate. The allegations were based on the assertion that she was not making her personal appearances. The terms of probation on her certification stated specifically that she should make personal appearances before the Board on a quarterly basis.

3. During the hearing Bearss admitted that she had missed personal appearances. Neither has she taken the pharmacy technician exam or completed a Board approved technician in training program.

4. Bearss maintained that she did not come to the appearances because of confusion about when the appearances were to take place.

5. Bearss did submit the results of an addictionology exam. The report concluded that she did not have current problems with addiction.

6. Bearss' violation of the terms of her probation constitute changed circumstances warranting a modification of the terms of probation on her license.

CONCLUSIONS OF LAW

1. A pharmacy technician's certificate is subject to discipline if she violated an order of the Board. Ind. Code § 25-1-9-4(a)(10).

2. The board may withdraw or modify the probation ... "if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order." Ind. Code § 25-1-9-9(b).

3. Bearss violation of the terms of her probation constitute changed circumstances warranting a modification of the terms of probation on her license.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board **MODIFIES** the terms of probation on Bearss' license as follows. Bearss' license as a pharmacy technician will remain on **INDEFINITE PROBATION**. She may petition to have the probationary order withdrawn after two years from the date of this order.

2. Bearss' practice as a pharmacy technician shall be governed by the following

TERMS AND CONDITION.

a) Bearss must keep the Board apprised of the following information in writing and update it as necessary:

1. Her current home address, mailing address, e-mail address and residential telephone number; and
2. Her place of employment, employment telephone number, employment e-mail address and name of supervisor.

b) Bearss shall provide a copy of all Board orders imposing discipline or limiting practice to any employer who shall sign and return a copy of such orders to the Board within seven (7) days of employment or receipt of the Order.

c) Within six months Bearss shall take and pass the Pharmacy Technician Certification Exam or complete a technician in training program.

d) Bearss must submit a list of her personal prescriptions.

e) Bearss must make quarterly personal appearances before the Board at the Board's regularly scheduled meetings.

f) Bearss must immediately report any future arrests, discipline at work, licensing charges or relapses to the Board in writing.

3) The failure of Bearss to comply with the terms of this order may subject her to a show cause hearing and the imposition of further sanctions.

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SO ORDERED this 2nd of November, 2018.

INDIANA BOARD OF PHARMACY

By: Maureen Bennett
for Winnie Landis, R.Ph., President

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CERTIFICATE OF SERVICE

I certify that a copy of the "Findings of Fact, Conclusions of Law and Order" has been duly served upon:

Kathryn Bearss
2203 East 73rd Avenue
Merrillville, IN 46410
Service by U.S. Mail

Timothy Weber, Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Service by E-mail: timothy.weber@atg.in.gov

11.2.18
Date


Nathaniel Black Jr., Litigation Specialist

Indiana Board of Pharmacy
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