

**BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO: 2014 IBP 0024**

**IN THE MATTER OF THE INDIANA
PHARMACIST LICENSE OF:**

**J. LYNNE FREIBERGER, R.PH.
LICENSE NUMBER 26011641A**

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**FINAL ORDER ACCEPTING
PROPOSED SETTLEMENT AGREEMENT**

The State of Indiana ("State"), by the Office of the Attorney General, by Maritza K. Webb, Deputy Attorney General, and J. Lynne Freiburger, R. Ph. ("Respondent") signed and filed before the Indiana Board of Pharmacy ("Board") a proposed Settlement Agreement ("Agreement") which purports to resolve all issues surrounding a Complaint filed on May 2, 2014 regarding the Respondent's license and has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the August 11, 2014 meeting held in Room W064 of the Indiana Professional Licensing Agency, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, 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, which is attached hereto and incorporated herein as Exhibit A, and approves and adopts in full the Agreement as a final resolution of this matter. The Board approved this Agreement by a vote of 5 to 0 to 0. Incorporated into the Agreement was the consensus of both parties to Findings of Fact, Conclusions of Law, and Order.

WHEREFORE, the Board hereby accepts and approves the Agreement, settling all matters in this case consistent with the terms of the Agreement between the parties, and Respondent is hereby ORDERED to abide by all the terms of the Agreement.

SO ORDERED, this 18th day of August, 2014

INDIANA BOARD OF PHARMACY

By: *for* Maureen Bennett
Nicholas W. Rhoad
Executive Director
Indiana Professional Licensing Agency

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO: 2014 IBP 0024

IN THE MATTER OF THE INDIANA)
PHARMACIST LICENSE OF)
)
J. LYNNE FREIBERGER, R.PH.)
LICENSE NUMBER 26011641A (PROBATION))



PROPOSED SETTLEMENT AGREEMENT

The State of Indiana ("State"), by Maritza K. Webb, Deputy Attorney General, and Lynne Freiburger, R.Ph. ("Respondent"), hereby execute this Agreement to a disposition of the Complaint filed in this cause. This Agreement is subject to the review and approval of the Indiana Board of Pharmacy ("Board") pursuant to Ind. Code ch. 25-1-9 and the Administrative Orders and Procedures Act, Ind. Code art. 4-21.5.

STIPULATED FACTS

1. Respondent's address of record with the Indiana Professional Licensing Agency is 2919 Freiburger Road, Floyds Knobs, Indiana 47119.
2. Respondent is a licensed pharmacist in the State of Indiana having been issued license number 26011641 on October 29, 1963.
3. At all times relevant herein, Respondent was the qualifying pharmacist for The Drug Store, Inc. in Georgetown, Indiana ("The Drug Store").
4. As the qualifying pharmacist, Respondent is responsible for ensuring that the pharmacy operates in accordance with law.
5. On or around June 6, 2013, a routine inspection took place at The Drug Store, Inc., which was cited for having expired medications stocked in active inventory and work stations that were too cluttered to practice in a safe and sanitary manner.

Exhibit A

6. Respondent had been warned about expired medications during previous inspections that took place on September 10, 2009 and February 24, 2012. Respondent had been warned about maintaining a clean and sanitary work area during previous inspections that took place on February 24, 2012 and May 9, 2012.

7. The June 6, 2013 inspection resulted in a required corrective action plan from Respondent, which was due within five days. No such plan was ever submitted.

8. On or around July 10, 2013, a follow-up inspection took place. Expired medication remained in active inventory and the work areas and aisles remained cluttered and unsanitary. The inspection resulted in a failure.

9. As of the filing of the Complaint, Respondent maintained the same policies and procedures for the problems identified in the inspections on July 10, 2013.

10. Respondent is currently on probation for failure to report to INSPECT.

STIPULATED CONCLUSIONS OF LAW

Respondent violated Ind. Code § 25-1-9-4(a)(3) in that Respondent violated her duty as the qualifying pharmacist under Ind. Code § 25-26-13-2 as evidenced by Respondent's repeated failures to insure that no expired medications were stored in active inventory and that the pharmacy workspace was maintained in a safe and sanitary manner.

AGREED DISPOSITION

It is now therefore agreed by the Respondent and Petitioner as follows:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action.
2. The parties execute this Agreement voluntarily.
3. Both parties voluntarily waive their rights to a public hearing on the Complaint.

4. Petitioner agrees that the terms of this Agreement will resolve any and all pending claims or allegations relating to disciplinary action against the Respondent's Indiana pharmacist license.

5. Respondent's license shall remain on **INDEFINITE PROBATION** for no less than three (3) years from the date of the Board's Order accepting this agreement.

6. After three years from the date of this order placing Respondent's license on probation, Respondent may petition the Board to conduct a hearing and decide whether to withdraw or modify the probation.

7. While on probation, Respondent shall be subject to the following **TERMS and CONDITIONS:**

- a. Respondent shall not have any expired products in active inventory.
- b. Respondent shall contract with a third party inventory service company to conduct random, physical inventory audits of the The Drug Store on a quarterly basis.
- c. Within ~~thirty (30)~~ ^{sixty (60) MKUJ} days of this order, Respondent must submit an executed contract with an inventory service company for review and approval by a designated Board member. The terms of the contract must include the following:
 - i. The third party contractor must conduct random inspections of the The Drug Store on a quarterly basis.
 - ii. The third party contractor must provide Respondent with a written report within two (2) weeks of the completed of the inventory. The report must include the date of the inventory as well as any and all expired drugs

found and any pharmacy compliance concerns and violations identified during the inventory.

- d. Respondent shall provide a copy of the inventory report from the inventory service company to the Board with seven (7) days of receiving the report for the company.
 - e. Respondent shall appear before the board on a quarterly basis. The initial appearance will be at the meeting after this order is issued.
 - f. Respondent shall keep the Board apprised of any criminal, civil, or licensing matters filed against her personally, her pharmacy, or her pharmacist license.
 - g. Respondent shall keep the Board apprised of her current residence, mailing address, email address, and residential telephone number; and her place of employment and employment telephone number.
 - h. Respondent and The Drug Store shall subject to an inspection by an Indiana Board compliance officer no less than one (1) time per year.
8. Within thirty (30) days of the date of the Board's Order, Respondent shall, pursuant to Indiana Code 4-6-14-10 (b), pay a fee of Five Dollars (\$5.00) within thirty (30) days of the date of the Final Order in this matter, to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order made payable to the State of Indiana, and submitted to the following address:

Indiana Office of the Attorney General
Attn: Kathy Shively
302 West Washington Street, 5th Floor
Indianapolis, IN 46204

9. The Respondent has 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.

10. The Respondent further understands that a violation of the Final Order, any non-compliance with the statutes or regulations regarding the practice of pharmacy, or any violation of the Agreement may result in the Petitioner requesting an emergency suspension of the Respondent's license, an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4, any or all of which could lead to additional sanctions, up to and including a revocation of the Respondent's license.

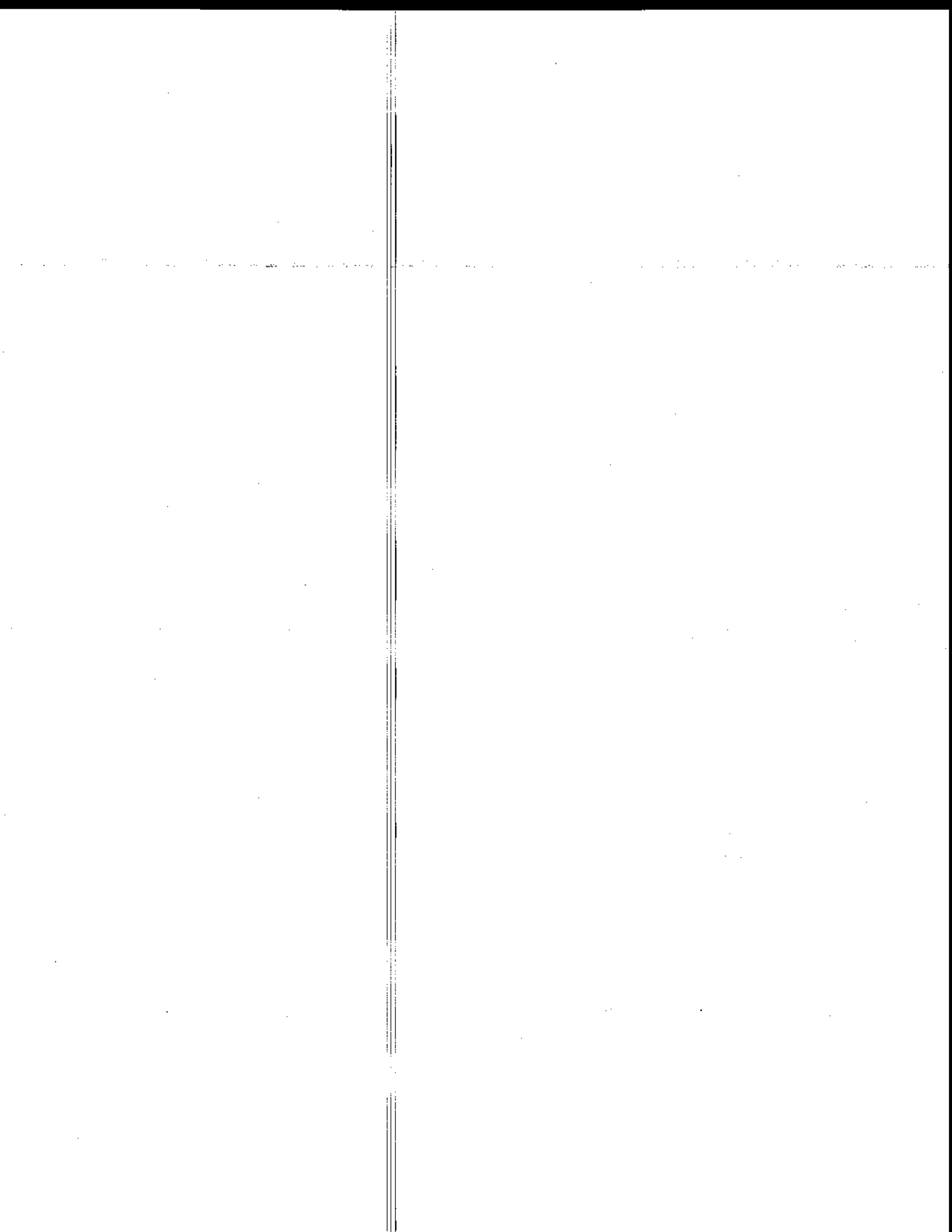
11. The parties agree to the continuing jurisdiction of the Board and that the discipline agreed to, terms of discipline, and licensure status will apply even if the Board renews the Respondent's license at a later date.

J. Lynne Freiburger
J. Lynne Freiburger, R.Ph.
License Number 26011641A
Respondent

August 11, 2014
Date

Maritza K. Webb
Maritza K. Webb
Attorney Number 30904-49
Deputy Attorney General

8/11/2014
Date



CERTIFICATE OF SERVICE

I certify that a copy of the "Final Order Accepting Proposed Settlement Agreement" has been duly served upon:

J. Lynne Freiberger
2919 Freiberger Rd.
Floyds Knobs, IN 47119
Service by US Mail.

Maritza K. Webb, Deputy Attorney General
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204
Service by Email

8/18/2014
Date


Jessi N. Rager, Litigation Specialist

Indiana Board of Pharmacy
Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Office: 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.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.

