

BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NUMBER: 2014 IBP 0024

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



FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Lynne Freiberger appeared at a hearing before the Indiana Board of Pharmacy (“Board”) on November 14, 2016, in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana concerning an order to Show Cause issued against her for her alleged failure to comply with the terms of probation on her license.

The state of Indiana appeared by Tim Weber, Deputy Attorney General.

Freiberger appeared in person and waived her right to be represented by counsel.

The Board, after considering the file and the testimony of Freiberger, by a vote of 5 to 1, issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Lynne Freiberger, whose mailing address is 2919 Freiberger Road, Floyds Knobs, Indiana 47119, is a duly registered pharmacist in the State of Indiana holding license number 26011641A.

2. The Indiana Professional Licensing Agency sent, and Freiberger received, timely and proper notice of the date, time and location of this hearing pursuant to Ind. Code § 4-21.5-3-20.

3. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code § 25-1-9-9 and Ind. Code § 4-21.5-3.

4. The Board placed Freiberger's license on probation in August 2014 because she had expired drugs in her inventory. The Board issued an order to Show Cause against her in August 2015 because she continued to have expired drugs in her inventory. As a result of the Order to Show Cause issued in 2015 the Board modified the terms of probation on her license.

5. The modified probationary order imposed additional requirements on Freiberger the most significant of which was to hire a consultant to assist her in operating an efficient drug store that complied with the practice act.

6. At the hearing on the Order to Show Cause, Freiberger testified that she has not hired a consultant because of the expense involved.

7. The work flow at Freiberger's drug store has yet to be evaluated and the pharmacy is being run in an inefficient, incompetent and potentially dangerous manner.

8. The deficiency that led to the discipline on Freiberger's license involved incompetent practice. Freiberger's failure to comply with the Board's order constitutes changed circumstances warranting a modification of the terms and conditions on her license.

CONCLUSIONS OF LAW

1. "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).

2. Freiburger's failure to comply with the Board's order constitutes changed circumstances warranting a modification of the terms and conditions on her license.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board **MODIFIES** the probation on Freiburger's license as follows.

1. Freiburger may not fill prescriptions for controlled substances.
2. A Board Compliance Officer will go to the Drug Store and impound the controlled substances.
3. The needs assessment which was ordered in August 2015 must be completed and a report submitted by the January 9, 2017 Board meeting. The needs assessment may be completed by the new qualifying pharmacist.
4. Freiburger may not be a qualifying pharmacist.
5. Freiburger must hire a new qualifying pharmacist for the Drug Store before the January 9, 2017 Board meeting.
6. Freiburger is to have the new qualifying pharmacist sign all orders issued by the Board against her and The Drug Store, Inc. and return the signed orders to the Board.
7. This case will be heard on January 9, 2017 to evaluate Freiburger's compliance with this order as well as possible modification of the order or consideration of the imposition of further sanctions.

All other terms and conditions on her license shall remain in full force and effect.

SO ORDERED this Ten of December, 2016.

INDIANA BOARD OF PHARMACY

By: Herbert W. Price

for Donna Wall, 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:

Lynne Freiberger
2919 Freiberger Road
Floyds Knobs, IN 47119
Service by U.S. Mail

Tim Weber
Deputy Attorney General
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Timothy.weber@atg.ingov
Service by e-mail

12-7-16
Date

Donna Moran
Signature

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Explanation of Service Methods

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