

**BEFORE THE INDIANA
BOARD OF PHARMACY
CAUSE NO: 2009 IBP 0022**

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



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

The State of Indiana, by counsel Deputy Attorney General Morgan L. Burton, (“Petitioner”) and J. Lynne Freiburger, R.Ph. (“Respondent”), individually and by counsel, Steven S. Lohmeyer, Esq., came to a Settlement Agreement (“Agreement”) which purports to resolve all issues involved in the action by the Petitioner and the Indiana Board of Pharmacy (“Board”) regarding Respondent’s license, and this Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the November 9, 2009 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 6-0-1. Incorporated into the Agreement was the consensus of both parties to the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Order. The Board, hereby issues the following Order:

FINDINGS OF FACT

1. The Respondent's address on file with the Indiana Professional Licensing Agency is 2919 Freiberger Road, Floyds Knobs, Indiana 47119, and she is a licensed pharmacist holding Indiana license number 26011641A.

2. On or about December 1987, Respondent opened The Drug Store, Inc. ("Drug Store"). Respondent is the owner and qualifying pharmacist for the Drug Store.

3. A qualifying pharmacist is defined in Ind. Code § 25-26-13-2 as the pharmacist who will qualify the pharmacy by being responsible to the Board for the legal operations of the pharmacy under the permit.

4. On or about December 31, 2001, the Drug Store's Controlled Substances Registration ("CSR") permit expired. Respondent submitted a CSR renewal application and fee to the board in 2001.

5. On or about February 25, 2002, the 2001 CSR renewal application form and application fee was returned to Respondent because it was incomplete. Respondent was asked to complete the form and re-submit the application. Respondent did not re-submit the application.

6. After failing to re-submit the 2001 CSR renewal application, Respondent failed to renew the Drug Store's CSR for a period of approximately five (5) years.

7. On or about September 29, 2006, the Indiana Controlled Substances Advisory Committee ("CSAC") renewed the Drug Store's CSR permit.

8. On or about September 25, 2006, Respondent's attorney, Steven S. Lohmeyer, submitted a response to the Attorney General's Consumer Complaint on behalf of the

Respondent. The response admitted that the allegations contained in the consumer complaint are true.

ULTIMATE FINDINGS OF FACT

1. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(3) in that she has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: Respondent is the owner and qualifying pharmacist for the Drug Store and is therefore "responsible to the board for the legal operations of the pharmacy under the permit." Respondent failed to renew the Drug Store's CSR every two years as legally required by Ind. Code § 35-48-3-3.

CONCLUSIONS OF LAW

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

ORDER

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

1. Respondent shall within SIX (6) months from the date of the Final Order pay a **FINE** in the amount of **ONE THOUSAND DOLLARS** (\$1000) payable to the Indiana Professional Licensing Agency.

2. Respondent agrees to accept a **LETTER OF REPRIMAND** in her permanent file at the Indiana Professional Licensing Agency.

3. A violation of this Final Order, any non-compliance with the statutes or regulations regarding the practice of pharmacy, or any violation of this Agreement may result in the State requesting an emergency suspension of 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 Respondent's license.

4. The discipline imposed shall remain in effect even if the Board renews the Respondent's pharmacist license at a later date.

ORDERED, this 04 day of December, 2009; this Order is effective as of November 9, 2009.

INDIANA BOARD OF PHARMACY

By: 

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

J. Lynne Freiburger
2919 Freiburger Road
Floyds Knobs, Indiana 47119
SENT CERTIFIED MAIL NO. _____
RETURN RECEIPT REQUESTED.

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