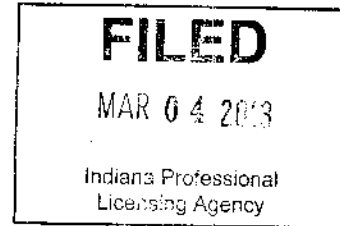


**BEFORE THE INDIANA
BOARD OF PHARMACY
2013 IBP 0027**

**IN THE MATTER OF THE INDIANA
PHARMACIST LICENSE OF

FRANK D. HABERMEL, III, R.PH.
LICENSE NUMBER 26015342 (ACTIVE)**

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COMPLAINT

This complaint is brought against the pharmacist license of Frank D. Habermel, III, R.Ph. (Respondent), by the Office of the Attorney General, by counsel, Deputy Attorney General Darren R. Covington, on behalf of the State of Indiana (Petitioner) and pursuant to Ind. Code § 25-1-7-7, Ind. Code § 25-1-5-3, Ind. Code ch. 25-26-13, the Administrative Orders and Procedures Act, Ind. Code art. 4-21.5 and Ind. Code ch. 25-1-9 and in support alleges and states:

FACTS

1. Respondent's address on file with the Indiana Professional Licensing Agency is P.O. Box 352, Salem, Indiana 47167.
2. Respondent is a licensed pharmacist in the State of Indiana having been issued license number 26015342A on August 10, 1984.
3. At all times relevant herein, Respondent was the pharmacist-in-charge for DanMar Family Pharmacy, Inc.
4. On or around July 25, 2012, an Indiana Board of Pharmacy compliance officer made an unannounced inspection of DanMar Family Pharmacy, Inc.
5. The compliance officer observed Kelsey N. Day performing technician duties and wearing a nametag which identified her as a pharmacy technician-in-training.

6. Day applied for a pharmacy technician-in-training permit on June 4, 2012, but as of July 25, 2012, had not been issued a permit.

7. Pursuant to Ind. Code § 25-26-19-6(b), Day could work as a pharmacy technician-in-training for no more than thirty (30) days after applying for a permit.

8. Day was not issued a permit until August 12, 2012.

9. Day should not have been working as a pharmacy technician-in-training between July 4 and July 25, 2012.

10. As the qualifying pharmacist, Respondent is responsible for ensuring that the pharmacy operates in accordance with law, including ensuring that all employees are appropriately licensed.

COUNT I

11. Paragraphs 1 through 10 are incorporated by reference herein.

12. 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 her failure to ensure that all pharmacy employees were properly licensed and for allowing Day to work as a pharmacy technician-in-training without being licensed.

WHEREFORE, Petitioner demands an order against the Respondent that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and,
3. Provides any further relief as the Board deems just and proper.

Respectfully submitted,

Gregory F. Zoeller
Attorney General of Indiana
Atty. No. 1958-98

By: D-R-S-
Darren R. Covington
Deputy Attorney General
Attorney No. 28511-16

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served upon the Respondent, by United States mail, first-class, postage prepaid, on this 4th day of March, 2013.

Frank Habermel, III
P.O. Box 352
Salem, IN 47167

By: D-R S
Darren R. Covington
Deputy Attorney General
Attorney No. 28511-16

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