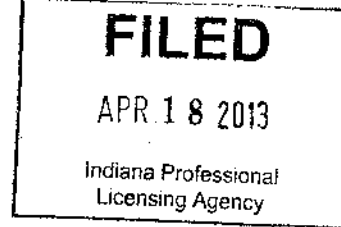


BEFORE THE INDIANA  
BOARD OF PHARMACY  
CAUSE NUMBER: 2013 IBP 0027

IN THE MATTER OF THE INDIANA  
PHARMACIST LICENSE OF:

FRANK D. HABERMEL, III, R.PH.,  
LICENSE NUMBER: 26015342.

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**FINAL ORDER ACCEPTING PROPOSED FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER**

The State of Indiana (“Petitioner”), by the Office of the Attorney General, by Deputy Attorney General Darren R. Covington and Frank D. Habermel, III, R.Ph. (“Respondent”), signed a Proposed Settlement Agreement (“Agreement”) which purports to resolve all issues involved in the action by the Petitioner and the Indiana Board of Pharmacy (“Board”) regarding the Respondent’s license, and which Agreement has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the April 8, 2013, meeting held in Room W064 of the 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 resolution of this matter. The Board approved this Agreement, by a vote of 6-0-0. 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.

ORDERED, this 18 day of April, 2013.

INDIANA BOARD OF PHARMACY

By:   
\_\_\_\_\_  
Virgil R. Madden  
Executive Director  
Indiana Professional Licensing Agency

**CERTIFICATE OF SERVICE**

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

Frank Habermel, III  
P.O. Box 352  
Salem, IN 47167  
**Service by U.S. Mail**

Darren R. Covington, 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**

4/18/13  
Date

Jackie Day  
Jackie Day

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

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

March 21, 2013

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

Re: In the matter of the license of Frank D. Habermel, III, R.Ph.  
Before the Indiana Board of Pharmacy

Dear Mr. Habermel:

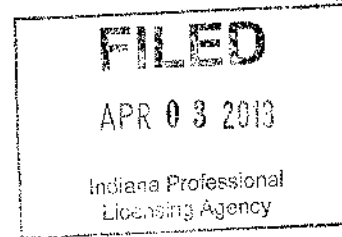
Please find enclosed two settlement agreements, one for yourself and one for DanMar Family Pharmacy. Please have them signed and returned to me no later than Friday, April 5, 2013. You may either mail them to me, fax them to my attention at 317-233-4393, or scan email them to [Darren.covington@atg.in.gov](mailto:Darren.covington@atg.in.gov). If you have any questions, please contact me at 317-233-6506.

Sincerely,

Darren R. Covington  
Deputy Attorney General

**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) )**



**PROPOSED SETTLEMENT AGREEMENT**

The State of Indiana (Petitioner), by Darren R. Covington, Deputy Attorney General, and Frank D. Habermel, III, 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 State Board of Pharmacy (Board) pursuant to Ind. Code § 25-1-9 et seq. and the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq.

**STIPULATED 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.

**EXHIBIT A**

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.

#### **STIPULATED CONCLUSIONS OF LAW**

The parties further stipulate:

1. 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.

#### **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 Indiana pharmacist license shall be issued a **LETTER OF REPRIMAND** attached as Exhibit A.

6. Within thirty (30) days of the Board's Order, Respondent shall pay a **FINE** in the amount of **FIVE HUNDRED DOLLARS (\$500.00)** payable to the Indiana Professional Licensing Agency.

CK #  
17414  
\$500.00

7. 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:

CK #  
17415  
\$5.00

Indiana Office of the Attorney General  
Attn: Katherine Lee  
302 West Washington Street, 5<sup>th</sup> Floor  
Indianapolis, IN 46204

8. 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.

9. 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.

10. 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.

Frank D. Habermel III R.Ph.  
Frank D. Habermel, III, R.Ph.  
Respondent

03-26-2013  
Date

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

4/2/13  
Date

[DATE]

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

Re: In the matter of the license of Frank D. Habermel, III, R.Ph.  
Before the Indiana Board of Pharmacy

Dear Mr. Habermel:

This letter of reprimand is issued as part of the Settlement Agreement reached between you and the State resulting from charges filed by the Office of the Attorney General on March 4, 2013 with the Indiana Board of Pharmacy.

The purpose of this reprimand is to stress the important responsibility that you have by reason of possessing a license to practice as a pharmacy in this state. As a pharmacy, you are responsible for ensuring that your practice is in accordance with the standards of the profession.

The Findings of Fact, Conclusions of Law and Order is attached hereto and incorporated herein as part of this official reprimand.

Sincerely,

By:


  
\_\_\_\_\_  
Virgil R. Madden  
Executive Director  
Indiana Professional Licensing Agency

Exhibit A