BEFORE THE INDIANA STATE
BOARD OF PHARMACY
CAUSE NUMBER: 2001 IBP 008

STATE OF INDIANA,)
)
Petitioner,)
)
v.)
)
FREEBORN M. ESIGBONE, R.Ph.,)
a/k/a MAC FREEBORN ESIGBONE, R.Ph.)
License Number:26016811,)
)
Respondent.)

FILED
FEB 14 2002
HEALTH PROFESSIONS
BUREAU

FINDINGS OF FACT AND ORDER

The Indiana State Board of Pharmacy ("Board") held an administrative hearing on February 11, 2002, in Rooms 1 & 2 of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning a Notice of Proposed Default Order against the Indiana pharmacy license of Freeborn M. Esigbone, R. Ph. ("Respondent").

The State of Indiana was represented by Kimberly J. Brown, Deputy Attorney General. Respondent was not present and was not represented by counsel

The Board, after considering the evidence and taking official notice of its file in this case, by a vote of 6-0-0 found the Respondent to be in default. The Board then held further proceedings in Respondent's absence, and, by a vote of 5-1-0, issues the following Findings of Fact and Order:

FINDINGS OF FACT

1. The Board has jurisdiction to decide this matter, conduct a hearing, and impose discipline upon Respondent's pharmacy license in accordance with Indiana Code §25-1 *et. seq.* and Indiana Code §25-26-13-4.

2. Respondent's address on file with the Board is 8666 Garonne Terrace #D, Indianapolis, Indiana 46250, and he is a licensed pharmacist holding Indiana license number 26016811.

3. Respondent has been a licensed pharmacist in the State of Indiana since November of 1989.

4. A Complaint was filed by the State in this matter on October 10, 2001.

5. On October 11, 2001, the Health Professions Bureau sent a notice to Respondent at his address, by certified mail, of the date and time of a final hearing on Petitioner's Complaint scheduled for November 9, 2001. Said notice was returned by the Post Office marked "not deliverable as addressed, unable to forward".

6. Pursuant to Indiana Code §4-21.5-3-20, Respondent was provided adequate notice of the final hearing date and failed to appear for the scheduled hearing on November 15, 2001.

7. On November 9, 2001, the Board issued a Notice of Proposed Default Order. The Notice was mailed by certified mail to the Respondent at his address on file with the Board. The Notice was returned by the U.S. Postal Service marked "not deliverable as addressed, unable to forward".

8. Respondent failed to respond to the Board's Notice of Proposed Default within seven days as required by Indiana Code §4-21.5-3-24. Respondent failed to respond at all.

9. On or about December 24, 1997, Respondent was charged in Marion County Superior Court under cause number 49F17-9712-CM-187567 with one class A misdemeanor count of Battery.

10. On or about March 19, 1998, Respondent was convicted pursuant to a guilty plea to one count of Battery and was sentenced to 365 days in jail with 364 days suspended.

Respondent was placed on probation for 365 days and ordered to anger control counseling. Respondent was also ordered to pay fines and costs in the amount of $225.00.

11. On or about June 15, 1998, Respondent signed his application for renewal of his pharmacy license in Indiana and caused that application to be filed with the Health Professions Bureau.

12. Respondent answered "no" to the question: "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?"

13. On or about January 22, 1999, Respondent was charged in Marion County Superior Court under cause number 49F17-9901-CM-011447 with one class A misdemeanor count of Battery; one class D felony count of Criminal Recklessness; and one class D felony count of Battery.

14. On or about September 23, 1999, Respondent was found guilty of Criminal Recklessness under cause number 49F17-9901-CM-011447. Respondent was sentenced to 730 days in jail with 530 days suspended. Respondent was placed on probation for 530 days and ordered to submit to substance abuse evaluation and treatment, batterers program and to pay restitution in the amount of $1095.86.

15. On or about June 18, 2000, Respondent signed his application for renewal of his pharmacy license in Indiana and caused that application to be filed with the Health Professions Bureau.

16. Respondent answered "yes" to the question: "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" On or about June 29, 2000, Respondent submitted a letter to the Health Professions

Bureau in which he described one arrest for domestic violence. However, Respondent said nothing with regard to his other arrests, convictions or his criminal history.

17. On or about May 20, 1999, Respondent was charged in Marion County Superior Court under cause number 49F10-9905-CM-088255 with one class B misdemeanor count of Public Intoxication.

18. On or about June 29, 1999, Respondent pled guilty to Public Intoxication under cause number 49F10-9905-CM-088255. On or about August 5, 1999, Respondent was sentenced to the 180 days in jail with 176 days suspended and credit for 2 days served.

19. On or about June 18, 2000, Respondent signed his application for renewal of his pharmacy license in Indiana and caused that application to be filed with the Health Professions Bureau.

20. Respondent answered "yes" to the question: "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" On or about June 29, 2000, Respondent submitted a letter to the Health Professions Bureau in which he described one arrest for domestic violence. However, Respondent said nothing with regard to his other arrests, convictions or his criminal history.

21. On or about June 1, 1999, Respondent was charged in Marion County Superior Court under cause number 49F17-9906-CM-095591 with one class A misdemeanor count of Battery and two class B misdemeanor counts of Invasion of Privacy.

22. On or about September 23, 1999, Respondent was found guilty of Invasion of Privacy. On or about October 25, 1999, Respondent was sentenced to 180 days in jail which sentence was to run concurrently with his sentence in cause number 49F17-9901-CM-11447.

23. On or about June 18, 2000, Respondent signed his application for renewal of his pharmacy license in Indiana and caused that application to be filed with the Health Professions Bureau.

24. Respondent answered "yes" to the question: "Since you last renewed, have you been convicted of or pled guilty to a violation of a federal or state law or are criminal charges pending?" On or about June 29, 2000, Respondent submitted a letter to the Health Professions Bureau in which he described one arrest for domestic violence. However, Respondent said nothing with regard to his other arrests, convictions or his criminal history.

ULTIMATE FINDINGS OF FACT

1. The Respondent's conduct described above constitutes a violation of Indiana Code §25-1-9-4(a)(2) in that Respondent has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently and Indiana Code § 25-1-9-4(a)(1)(A) in that Respondent has engaged in fraud or material deception in order to obtain a license.

2. The above violations warrant the imposition of disciplinary sanctions against Respondent's Indiana pharmacy license.

ORDER

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

1. Respondent is in default, pursuant to Indiana Code §4-21.5-3-24.

2. Respondent's Indiana pharmacy license is placed on **INDEFINITE SUSPENSION**. Respondent may not petition the Board for reinstatement of his pharmacy license for a period of two (2) years from the date of this order.

SO ORDERED this 14th day of February, 2002.

INDIANA STATE BOARD OF PHARMACY

By: Lisa R. Hayes
Lisa R. Hayes
Executive Director
Health Professions Bureau

Copies to:

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RETURN RECEIPT REQUESTED.

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