

BEFORE THE INDIANA
BOARD OF PHARMACY
2014 IBP 0022

IN THE MATTER OF THE LICENSE OF

INDIANA RESPIRATORY SERVICE, LLC
LICENSE NO. 69000070A

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

The Indiana Board of Pharmacy ("Board") held an administrative hearing on August 11, 2014, in Room W064 of the Indiana State Government Center South, 402 West Washington Street, Indianapolis, Indiana, 46204, concerning an administrative Complaint ("Complaint") filed against Indiana Respiratory Service, LLC ("Respondent") on April 29, 2014.

The State of Indiana ("Petitioner") was represented by Darren R. Covington, Deputy Attorney General. Respondent did not appear in person or by counsel.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0 finds Respondent to be in default. The Board by another vote of 6-0 issues the following Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent's address on file with the Indiana Professional Licensing Agency ("IPLA") is 17408 Tiller Court, Suite 200, Westfield, Indiana 46074.
2. Respondent is a licensed home medical equipment services provider in the State of Indiana having been issued license number 69000070A on July 21, 2006.
3. Respondent's license expired December 31, 2013.

4. On or around August 7, 2013, an Indiana Board of Pharmacy compliance officer attempted to conduct a routine inspection of Respondent's facility.

5. Upon arrival at the facility, the compliance officer discovered that the facility was closed, with no hours of operation or contact information posted.

6. The compliance officer contacted Respondent's owner who stated that the facility closed on August 1, 2013 after losing a Medicare bid. Respondent's owner also stated that all equipment and records were at his residence and he was operating from there until he could find a new facility.

7. The compliance officer directed Respondent's owner to send a written explanation to the Indiana Board of Pharmacy regarding Respondent's current activities and address.

8. Respondent failed to provide this information and has not updated its current address. Furthermore, all telephone numbers on file with the Indiana Professional Licensing Agency are now disconnected.

9. A Complaint was filed by the Petitioner against Respondent on April 29, 2014.

10. On May 22, 2014, IPLA sent a hearing notice to Respondent at its listed address informing it of the date, time and place of the administrative hearing on the Complaint scheduled for July 14, 2014 at 1:30 p.m.

11. Pursuant to Ind. Code § 4-21.5-3-20, Respondent was provided adequate notice of the hearing and Respondent failed to appear for the scheduled hearing in person or by counsel on July 14, 2014.

12. On July 14, 2014, the Board voted 6-0 to issue a Notice of Proposed Default Order. On July 30, 2014, the Notice of Proposed Default Order was mailed to Respondent's address of record.

16. Respondent failed to submit a written response within seven (7) days as required by Ind. Code § 4-21.5-3-24.

17. On August 11, 2014, the Board voted, 6-0, to hold Respondent in default.

ULTIMATE FINDINGS OF FACT

1. Respondent violated Ind. Code § 25-1-9-4(a)(3) to wit Ind. Code § 25-26-21-8(a)), in that Respondent failed to obtain a new home medical equipment services provider license for his new address after leaving the facility on Tiller Court.

2. Respondent violated Ind. Code § 25-1-9-4(a)(4)(A) in that Respondent has continued to practice although it has become unfit to practice due to professional incompetence as evidenced by Respondent closing its facility on Tiller Court without posting information for patients to contact Respondent and without informing the Indiana Board of Pharmacy.

CONCLUSIONS OF LAW

Respondent's violations are cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of 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, Ultimate Findings of Fact, and Conclusions of Law, the Board issues the following Order:

1. Respondent's license is hereby **REVOKED**.

2. Within thirty (30) days of the date of this Order, pursuant to Ind. Code § 4-6-14-10(b), Respondent shall pay a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the State of Indiana, and submitted to the following address:

Indiana Office of the Attorney General
ATTN: Kathryn Shively
302 W. Washington St., 5th Floor
Indianapolis, IN 46204

SO ORDERED this 20th day of August, 2014.

INDIANA BOARD OF PHARMACY

By: Maureen Bennett
for Nicholas W. Rhoad
Executive Director
Indiana Professional Licensing Agency

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CERTIFICATE OF SERVICE

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

Indiana Respiratory Service, LLC
17408 Tiller Court, Suite 200
Westfield, IN 46074
Service by 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 Email

8.20.14
Date

Jessi N. Rager
Jessi Rager, Litigation Specialist

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.

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