

BEFORE THE INDIANA BOARD OF
PHARMACY
CAUSE NO. 95 IBP 001

STATE OF INDIANA,

Petitioner,

v.

CARMELLA MARTIN DUNN,
License no. 26016517,

Respondent.

FILED

APR 30 1996

HEALTH PROFESSIONS
BUREAU

ORDER ON RESPONDENT'S MOTION TO QUASH PRELIMINARY HEARING NOTICE
AND PETITIONER'S REQUEST FOR AN EMERGENCY SUSPENSION

The Indiana Board of Pharmacy ("Board") met on February 12, 1996 in Room A of the Conference Center, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana. A hearing was held on whether the Preliminary Hearing Notice issued to Carmella Dunn ("Respondent") should be quashed and whether the Board should summarily suspend Respondent's license on an emergency basis.

Respondent appeared by counsel, Steven H. Johnsonbaugh. The State of Indiana was represented by Amy Huffman Oliver, Deputy Attorney General.

The Board, after considering arguments of counsel and taking official notice of its file in this matter issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent, who resides at 624 South 20th Street, Terre Haute, Indiana 47803 is a licensed pharmacist holding license number 26016517.

2. The Board placed Respondent's license on probation on July 17, 1995 based on her use of cocaine.

3. Because of the Respondent's relapse in the use of controlled substances, the Board placed Respondent's license on emergency suspension on November 13, 1995.

4. Pursuant to IC 4-21.5-4-5(a)(3) an emergency suspension order expires ninety days after its issuance.

5. The ninetieth day after November 13, 1995 was February 11, 1996.
6. The Preliminary Hearing Notice was issued on February 7, 1996. Respondent filed her Motion to Quash the Preliminary Hearing Notice on February 9, 1996.
7. Respondent's emergency suspension lapsed before the Board could consider the matters raised in the Preliminary Hearing Notice at its meeting on February 12, 1996.
8. The lapsing of Respondent's emergency suspension does not affect the terms of Respondent's current probation order which remains in effect.
9. On February 9, 1996 the Petitioner requested an additional emergency suspension of the Respondent's license.
10. The Petitioner's February 9th request for an emergency suspension was heard by the Board after the hearing on Respondent's Motion to Quash.
11. The Petitioner did not present additional evidence to support the issuance of an emergency suspension other than reminding the Board of the circumstances surrounding the emergency suspension order of November 13, 1995.

CONCLUSIONS OF LAW

1. The Board may issue an emergency suspension if the board "finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice." IC 25-1-9-10(a).
2. The Board may renew a summary suspension upon a hearing before the Board. IC 25-1-9-10.
3. There is no statutory mechanism by which the Board may renew an emergency suspension which has already lapsed.

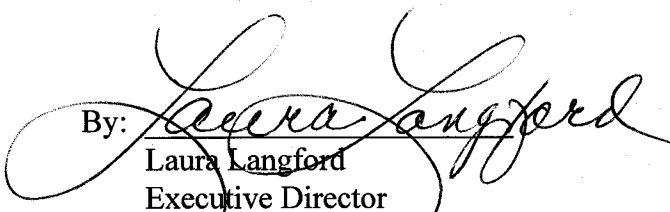
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law the Board, by a vote of 4 to 0 ORDERS the Preliminary Hearing Notice filed on February 7, 1996 to be QUASHED.

In addition, based on the foregoing Findings of Fact and Conclusions of Law, the Board voted 2 to 2 on the Petitioner's request to suspend the Practitioner's license on an emergency basis. As a result of the tie vote NO EMERGENCY SUSPENSION WAS ISSUED.

All of which is ORDERED, ADJUDGED AND DECREED, THIS 30th day of April, 1996.

INDIANA STATE BOARD OF
PHARMACY

By: 

Laura Langford
Executive Director
Health Professions Bureau

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