

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

STATE OF INDIANA,

Petitioner,

vs.

CARMELLA MARTIN DUNN,

Respondent.

FILED
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HEALTH PROFESSIONS
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FINDINGS OF FACT AND ORDER

An administrative hearing was held before the Indiana State Board of Pharmacy ("Board") on December 9, 1996, in the conference center of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204. The hearing concerned whether to modify the probationary order of Carmella M. Dunn, R.Ph. ("Respondent").

The State was represented by Amy Huffman Oliver, Deputy Attorney General, Respondent was present and represented by Steven H. Johnsonbaugh, Indianapolis, Indiana. The Board, after taking official notice of its file and considering the evidence presented, by a vote of 6 to 0 issues the following findings of fact.

FINDINGS OF FACT

1. Respondent resides at 624 South 20th Street, Terre Haute, Indiana 47803 and is a duly licensed pharmacist holding license number 26016517.
2. Respondent and her counsel received timely notice of this hearing pursuant to I.C. 4-21.5-3.
3. By order dated August 15, 1995, *nunc pro tunc* to July 17, 1995, Respondent's

license was placed on probation by this Board based on Respondent's abuse of cocaine.

4. On September 16, 1996, Respondent filed a petition to modify subparagraph 2(e) of the Board's Order, which provided: "The Respondent shall not handle, possess, or have access to any controlled substances and shall not work as a pharmacist without another pharmacist on site."

5. At the December 9, 1996, hearing on Respondent's Petitioner to Modify, Respondent orally moved the Board to move modify subparagraph 2(g) of Respondent's Order provides: "The Respondent shall not work more than forty-five (45) hours per week as a pharmacist."

6. At the December 9, 1996 hearing, Respondent testified that she has been in a solid recovery from drug and alcohol abuse since October of 1995.

7. Respondent further testified that she regularly attends four AA/NA meetings per week and has developed a strong support system of family, her counselor, her sponsor, and her PRN representative.

8. Respondent testified that she under a written contract with the Indiana Pharmacy Recovery Network (PRN) and that her PRN representative monitors her recovery and communicates with her on a regular basis.

9. Barbara Nelson of the PRN Committee testified that Respondent is and has been in compliance with the terms of her contract with the committee.

10. Respondent further testified that subparagraph 2(e) of the Board's Order, which prohibited her from having access to controlled substances, made it impossible for her to retain employment with Terre Haute Regional Hospital because they had no pharmacy positions which did not require the pharmacist to handle, possess, and have access to controlled substances.

Therefore, Respondent's employment with the hospital was terminated.

11. Respondent testified that she is very comfortable in her recovery program and that she believes she can return to the practice of pharmacy with reasonable skill and safety to the public.

12. Respondent further testified that subparagraph 2(e) made it impossible for her to find employment as a pharmacist in any pharmacy. As a consequence, Respondent has not worked as a registered pharmacist since receiving the Board's Order of August 15, 1995.

13. The Board finds that Respondent has complied with all of her probationary terms to date.

14. The Board may modify a probationary order if it finds, after a hearing, that changed circumstances warrant a modification of the Order.

ULTIMATE FINDINGS OF FACT

1. The Board finds that changed circumstances warrant a modification of Respondent's probationary order.

ORDER

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

1. Respondent's Motion to Modify subparagraph 2 (e) of her August 15, 1995 Probationary Order is **GRANTED**.

2. Subparagraph 2(e) of Respondent's August 15, 1995 Probationary Order is modified to read as follows:

(e) Respondent shall not handle, administer, possess, or have access to cocaine or cocaine containing substances. Otherwise, Respondent, may handle, administer, possess, or have access to any and all controlled substances other than cocaine.

3. Subparagraph 2(d) of Respondent's August 15, 1995 Probationary Order is modified to read as follows:

(d) During the period of Respondent's probation, the Respondent shall cause any pharmacy employer, including any successive pharmacy employer, to submit written supervisor reports to the Board describing the Respondent's work performance, attendance, and ability to practice pharmacy safely. Such reports shall be submitted by each pharmacy employer on a monthly basis for the first six months of Respondent's employment with any such employer and quarterly thereafter.

4. Subparagraph 2(h) of Respondent's August 15, 1995 Probationary Order is modified to read as follows:

(b) The Respondent shall enter into a new contract with the PRN committee of the Indiana Pharmacists Association by which the PRN committee accepts and assumes responsibility for ordering and monitoring random drug screens according to a schedule deemed appropriate by the committee. Respondent shall be responsible for maintaining a contract with the PRN committee during the entire period of this probationary order.

5. Subparagraph 2(m) of Respondent's August 15, 1995 Probationary Order is modified to read as follows:

(m) The Respondent shall submit to random, urine drug and alcohol screens at her

own expense at the request of and according to a schedule established by the PRN committee of the Indiana Pharmacists Association. Respondent shall submit to a screen within eight (8) hours of notification of request for a screen by a representative of the PRN committee. Respondent shall also submit to a random, urine drug and alcohol screen at her own expense, within eight (8) hours of notification of such a request by the Board, Respondent's counselor, Respondent's employer, or Respondent's primary care physician, but shall not be obligated to submit to any more than one screen in any given calendar month. The results of each drug or alcohol screen shall be submitted directly to the Board.

6. Subparagraph 2(p) of Respondent's August 15, 1995 Probationary Order is modified to read as follows:

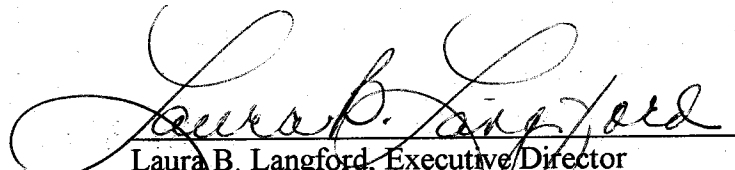
(p) Upon Respondent's return to work in any pharmacy position, Respondent shall appear before the Board on a monthly basis for the first six (6) months of her employment, on a quarterly basis for the next two and one-half years (2 1/2) and semi-annually for the balance of this Probationary Order.

7. Respondent's oral motion to modify subparagraph 2(g) of Respondent's August 15, 1995 Probationary Order limiting her from working any more than forty-five (45) hours per week as a pharmacist is **DENIED**.

8. All other terms of Respondent's Probationary Order of August 15, 1995, shall remain in full force and affect.

SO ORDERED this 13th day of February, 1997, *nunc pro tunc*, to December 9, 1996.

INDIANA STATE BOARD OF PHARMACY



Laura B. Langford, Executive Director
Health Professions Bureau

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