

**BEFORE THE INDIANA  
BOARD OF PHARMACY  
CAUSE NUMBER: 2012 IBP 0034**

**IN THE MATTER OF THE INDIANA  
PHARMACY LICENSE OF:**

**THE DRUG STORE, INC.  
LICENSE NUMBER: 60002372A.**

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**FILED**

JUN 26 2012

Indiana Professional  
Licensing Agency

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

The Indiana Board of Pharmacy ("Board") held an administrative hearing on June 11, 2012, in Conference Room C of the Indiana State Government Center South, 402 West Washington Street, Indianapolis, Indiana, 46204, concerning an Administrative Complaint ("Complaint") filed against The Drug Store, Inc. ("Respondent") on May 2, 2012.

The State of Indiana was represented by Darren R. Covington, Deputy Attorney General. Respondent appeared in person and chose to proceed without counsel.

The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 6-0-0, 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 is 1044 North Luther Road, Georgetown, Indiana 47122.
2. Respondent is a licensed pharmacy in the State of Indiana having been issued license number 60002372A on December 31, 1987. Respondent also holds Controlled Substances Registration number 60002372B issued on March 31, 1986.

3. Ind. Code § 35-48-7-8.1 requires all dispensers of controlled substances to transmit to the Indiana Scheduled Prescription Electronic Collection and Tracking Program (INSPECT) a list of all controlled substances dispensed by the dispenser within seven days of dispensing.

4. On or around May 5, 2011, INSPECT sent a letter of non-compliance to Respondent after an audit revealed that Respondent's last transmission of data to INSPECT was completed on April 13, 2011.

5. A second non-compliance letter was issued on July 8, 2011 by INSPECT. Respondent made only three transmissions between May 21 and June 27, 2011; there should have been six transmissions.

6. A final non-compliance letter was issued on December 6, 2011 by INSPECT. Respondent made only six transmissions between October 15 and December 3, 2011; there should have been eight transmissions.

7. Respondent was scheduled to appear before the Indiana Board of Pharmacy on January 9, 2012 to address Respondent's noncompliance. Respondent failed to attend this meeting.

#### **ULTIMATE FINDINGS OF FACT**

1. Respondent violated Ind. Code § 25-1-9-4(a)(3) by violating Ind. Code § 35-48-7-8.1 as evidenced by Respondent's failure to make weekly data transmissions of controlled substances dispensed to INSPECT.

## 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 shall be placed on **INDEFINITE PROBATION**. Respondent may not petition for withdrawal of probation until one year from the date of this Order.

2. While on probation, Respondent shall comply fully with the laws and regulations regarding INSPECT.

3. Within ninety (90) days of the Board's Order, Respondent shall pay a **FINE** in the amount of **THREE THOUSAND DOLLARS (\$3,000.00)** payable to the Indiana Professional Licensing Agency.

4. Within thirty (30) days of the Board's Order, Respondent shall, pursuant to I.C. § 4-6-14-10(b), 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: Katherine Thorpe  
302 West Washington Street, 5<sup>th</sup> Floor  
Indianapolis, IN 46204

5. Respondent's violation of the Final Order, any non-compliance with the statutes or regulations regarding the practice of pharmacy may result in the State requesting a summary suspension of Respondent's certification, an Order to Show Cause as may be issued by the Committee, 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 Respondent's certification.

**ORDERED** this 26<sup>th</sup> day of June, 2012.

INDIANA BOARD OF PHARMACY

By:

  
Frances L. Kelly  
Executive Director  
Indiana Professional Licensing Agency


**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:

The Drug Store, Inc.  
ATTN: J. Lynne Freiburger  
1044 N. Luther Rd.  
Georgetown, IN 47122  
**Service by U.S. Mail**

Darren R. Covington  
Deputy Attorney General  
302 W. Washington St., 5<sup>th</sup> Flr.  
Indianapolis, IN 46204  
**Service by Email**

6/27/12  
Date

  
Greg Pachmayr

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](mailto: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.