

**BEFORE THE INDIANA  
BOARD OF PHARMACY  
2014 IBP 0025**

**IN THE MATTER OF THE LICENSE OF:**

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

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**FINAL ORDER ACCEPTING  
PROPOSED SETTLEMENT AGREEMENT**

The State of Indiana (“State”), by the Office of the Attorney General, by Maritza K. Webb, Deputy Attorney General, and The Drug Store, Inc. (“Respondent”) signed and filed before the Indiana Board of Pharmacy (“Board”) a proposed Settlement Agreement (“Agreement”) which purports to resolve all issues surrounding a Complaint filed on May 2, 2014 regarding the Respondent’s license and has been submitted to the Board for approval.

The Board, after reviewing the Agreement at the August 11, 2014 meeting held in Room W064 of the Indiana Professional Licensing Agency, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, now finds it has been entered into fairly and without fraud, duress, or undue influence, and is fair and equitable between the parties. The Board hereby incorporates the Agreement, which is attached hereto and incorporated herein as Exhibit A, and approves and adopts in full the Agreement as a final resolution of this matter. The Board approved this Agreement by a vote of 5 to 0 to 0. Incorporated into the Agreement was the consensus of both parties to Findings of Fact, Conclusions of Law, and Order.

WHEREFORE, the Board hereby accepts and approves the Agreement, settling all matters in this case consistent with the terms of the Agreement between the parties, and Respondent is hereby ORDERED to abide by all the terms of the Agreement.

SO ORDERED, this 18<sup>th</sup> day of August, 2014

INDIANA BOARD OF PHARMACY

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

BEFORE THE INDIANA  
BOARD OF PHARMACY  
2014 IBP 0025

IN THE MATTER OF THE LICENSE OF: )  
)  
)  
)  
THE DRUG STORE, INC. )  
LICENSE NUMBER 60002372A (PROBATION) )

**FILED**  
AUG 11 2014  
Indiana Professional  
Licensing Agency

**PROPOSED SETTLEMENT AGREEMENT**

The State of Indiana ("State"), by Maritza K. Webb, Deputy Attorney General, and. The Drug Store, Inc. ("Respondent"), hereby execute this Agreement to a disposition of the Complaint filed in this cause. This Agreement is subject to the review and approval of the Indiana Board of Pharmacy ("Board") pursuant to Ind. Code ch. 25-1-9 and the Administrative Orders and Procedures Act, Ind. Code art. 4-21.5.

**STIPULATED FACTS**

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.
3. On or around June 6, 2013, a routine inspection took place in Respondent's pharmacy. Respondent was cited for having expired medications stocked in active inventory and work stations that were too cluttered to practice in a safe and sanitary manner.
4. Respondent had been warned about expired medications during previous inspections that took place on September 10, 2009 and February 24, 2012. Respondent had been

warned about maintaining a clean and sanitary work area during previous inspections that took place on February 24, 2012 and May 9, 2012.

5. The June 6, 2013 inspection resulted in a required corrective action plan from Respondent, which was due within five days. No such plan was ever submitted.

6. On or around July 10, 2013, a follow-up inspection took place. Expired medication remained in active inventory and the work areas and aisles remained cluttered and unsanitary. The inspection resulted in a failure.

7. Respondent is currently on probation for failing to report to the INSPECT program.

#### **STIPULATED CONCLUSIONS OF LAW**

Respondent violated Ind. Code § 25-1-9-4(a)(3) in that Respondent violated her duty as the qualifying pharmacist under Ind. Code § 25-26-13-2 as evidenced by Respondent's repeated failures to insure that no expired medications were stored in active inventory and that the pharmacy workspace was maintained in a safe and sanitary manner.

#### **AGREED DISPOSITION**

It is now therefore agreed by the Respondent and Petitioner as follows:

1. The Board has jurisdiction over the Respondent and the subject matter in this disciplinary action.
2. The parties execute this Agreement voluntarily.
3. Both parties voluntarily waive their rights to a public hearing on the Complaint.

4. Petitioner agrees that the terms of this Agreement will resolve any and all pending claims or allegations relating to disciplinary action against the Respondent's Indiana pharmacist license.

5. Respondent's license shall remain on **INDEFINITE PROBATION** for no less than three (3) years from the date of the Board's Order accepting this agreement.

6. After three years from the date of this order placing Respondent's license on probation, Respondent may petition the Board to conduct a hearing and decide whether to withdraw or modify the probation.

7. While on probation, Respondent shall be subject to the following **TERMS** and **CONDITIONS**:

- a. Respondent shall not have any expired products in active inventory.
- b. Respondent shall contract with a third party inventory service company to conduct random, physical inventory audits on a quarterly basis.
- c. Within ~~thirty (30)~~ <sup>sixty (60) MKL/E</sup> days of this order, Respondent must submit an executed contract with an inventory service company for review and approval by a designated Board member. The terms of the contract must include the following:
  - i. The third party contractor must conduct random inspections on a quarterly basis.
  - ii. The third party contractor must provide Respondent with a written report within two (2) weeks of the completed of the inventory. The report must include the date of the inventory as well as any and all expired drugs found and any pharmacy compliance concerns and violations identified during the inventory.

- d. Respondent shall provide a copy of the inventory report from the inventory service company to the Board with seven (7) days of receiving the report for the company.
- e. Respondent shall subject to an inspection by an Indiana Board compliance officer no less than one (1) time per year.
8. Within thirty (30) days of the date of the Board's Order, Respondent shall, pursuant to Indiana Code 4-6-14-10 (b), pay a fee of Five Dollars (\$5.00) within thirty (30) days of the date of the Final Order in this matter, to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order made payable to the State of Indiana, and submitted to the following address:

Indiana Office of the Attorney General  
Attn: Kathy Shively  
302 West Washington Street, 5<sup>th</sup> Floor  
Indianapolis, IN 46204

9. The Respondent has carefully read and examined this Agreement and fully understands its terms and that, subject to a final order issued by the Board, this Agreement is a final disposition of all matters and not subject to further review.

10. The Respondent further understands that a violation of the Final Order, any non-compliance with the statutes or regulations regarding the practice of pharmacy, or any violation of the Agreement may result in the Petitioner requesting an emergency suspension of the Respondent's license, an Order to Show Cause as may be issued by the Board, 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 the Respondent's license.

11. The parties agree to the continuing jurisdiction of the Board and that the discipline agreed to, terms of discipline, and licensure status will apply even if the Board renews the Respondent's license at a later date.

J Lynne Freiberger  
The Drug Store, Inc., Respondent  
License Number 60002372A  
By J. Lynne Freiberger, R.Ph.  
License Number 26011641A  
Qualified Pharmacist and Representative for Respondent

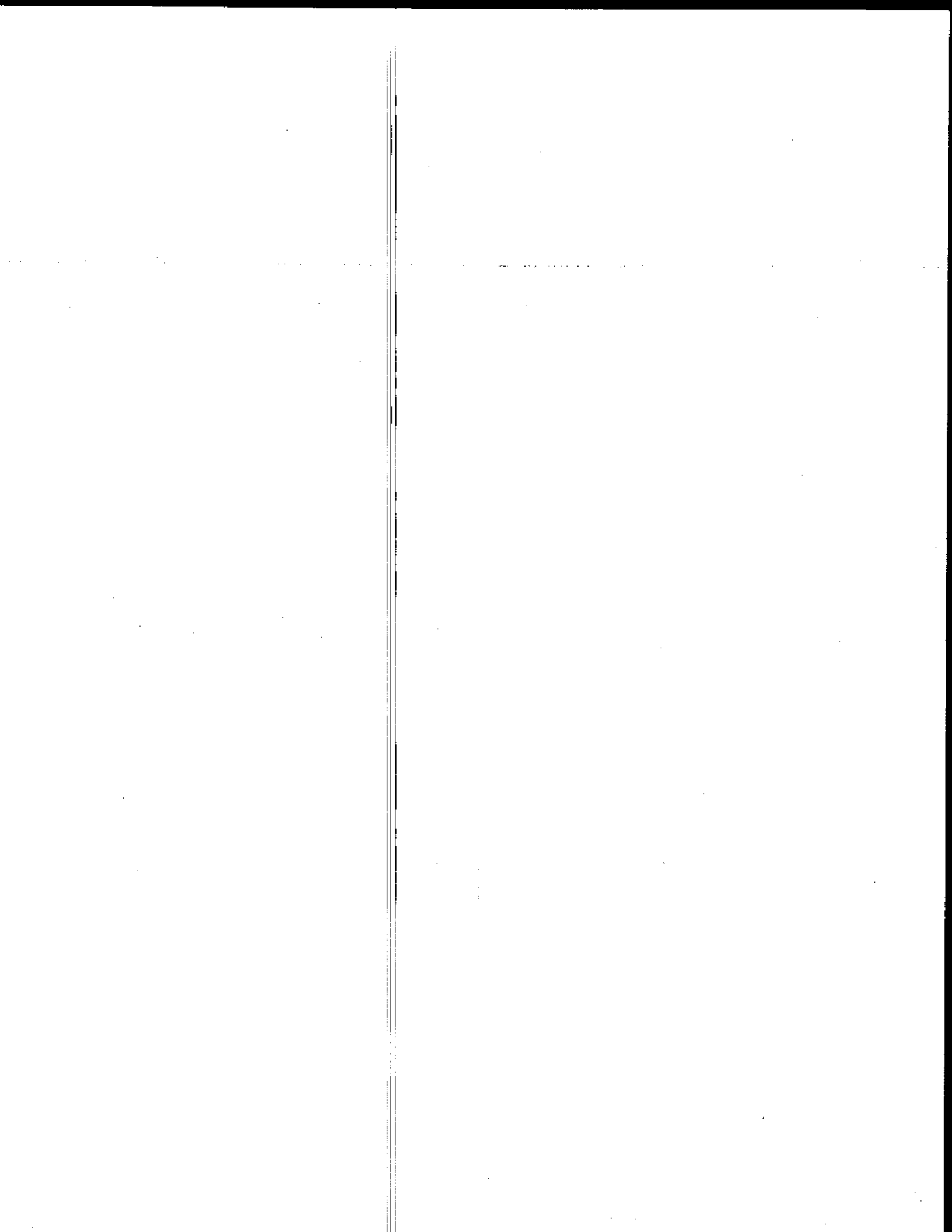
August 11, 2014

Date

Maritza K. Webb  
Maritza K. Webb  
Attorney Number 30904-49  
Deputy Attorney General

8/11/14

Date



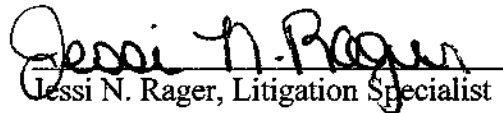
**CERTIFICATE OF SERVICE**

I certify that a copy of the "Final Order Accepting Proposed Settlement Agreement" has been duly served upon:

The Drug Store, Inc.  
2919 Freiburger Rd.  
Floyds Knobs, IN 47119  
**Service by US Mail.**

Maritza K. Webb, 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.**

8/18/2014  
Date

  
Jessi N. Rager, Litigation Specialist

Indiana Board of Pharmacy  
Indiana Government Center South  
402 West Washington St., Room W072  
Indianapolis, IN 46204  
Office: 317-234-2067  
Fax: 317-233-4236  
Email: JRager@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.

