

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

IN THE MATTER OF THE LICENSE OF:)
)
THE DRUG STORE, INC.)
PERMIT NO.: 60002372A)



**FINDINGS OF FACT, ULTIMATE FINDING OF FACT,
CONCLUSION OF LAW AND ORDER**

The Indiana Board of Pharmacy (“Board”) held an administrative hearing on August 10, 2015, in the Indiana Government Center South, Room W064, 402 West Washington Street, Indianapolis, Indiana 46204, concerning the Order to Show Cause (“OTSC”) filed by the Board against the Indiana pharmacy license of The Drug Store, Inc. (“Respondent”) on March 30, 2015.

The State of Indiana (“Petitioner”) was represented by the Office of the Indiana Attorney General, by Kelsie E. Duggan, Counsel for the State. J. Lynne Freiburger, R.Ph. (“Freiberger”) was present on behalf of Respondent.

The Board held proceedings and, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 7-0-0, issues the following Findings of Fact, Conclusions of Law, Ultimate Findings of Fact, and Order (“Order”):

FINDINGS OF FACT

1. Respondent’s last known mailing address is 1044 N. Luther Road, Georgetown, Indiana 47122.
2. Freiburger is the Respondent’s pharmacist in charge.
3. The Board placed Respondent’s license on indefinite probation subject to certain terms and conditions on August 18, 2014, after Respondent and Petitioner submitted a Proposed Settlement Agreement to the Board for approval on August 11, 2014.

4. While on probation, Respondent failed to comply with paragraph 7(a) of the Board's August 18, 2014 order, which states that "Respondent shall not have any expired products in active inventory."

5. Based on Respondent's failure to comply with the Board's order, the Board issued an Order to Show Cause on July 15, 2015, setting the matter for hearing on August 10, 2015.

6. On August 10, 2015, after considering the evidence presented and taking official notice of its file in this matter, the Board found the Respondent was in violation of the Board's August 18, 2014 order for the reasons identified above in paragraph three (3).

CONCLUSION OF LAW

Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(10) in that Respondent has failed to comply with an order imposing sanctions under section 9 of that chapter.

ULTIMATE FINDING OF FACT

Respondent's violation is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, revocation, and/or a fine up to the amount of One Thousand Dollars (\$1,000.00) per violation, as detailed in Ind. Code § 25-1-9-9.

ORDER

Based upon the above Findings of Fact, by a vote of 7-0-0, the Board issues the following Order:

1. Respondent's license remains on **INDEFINITE PROBATION**;
2. The Board modifies the terms of indefinite probation previously ordered to include the following:

a. Respondent shall obtain a needs assessment, outside review of its policies and practices and submit a report to the Board summarizing the findings within three (3) months of the date of this Order. This needs assessment, outside review must focus on the following areas of Respondents practice: inventory, controlled substances, work flow management, and personnel/staffing.

b. Respondent shall pull, verify, and document that all expired inventory has been removed from its shelves every thirty (30) days. Respondent shall submit proof of documentation at the request of the Board.

c. Respondent shall make personal appearance before the Board every two (2) months.

3. The Board will re-evaluate Respondent's progress on this probation modification in three (3) months to determine if further modifications need to be made. To make that determination, the Board will use information provided to it by Respondent, Board member review, and a follow up inspection completed by an inspector from the Board.

4. Respondent understands that a violation of this Order, and non-compliance with the statutes or regulations regarding the practice of medicine, or any violation of the Board's August 18, 2014 order may result in the State requesting 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 leave to additional sanctions, up to and including a revocation of Respondent's license.

SO ORDERED, this 26th day of August, 2015.

INDIANA BOARD OF PHARMACY

By: Herbert W. Price
for William J. Cover, R.Ph., President
Indiana Board of Pharmacy

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CERTIFICATE OF SERVICE

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

The Drug Store, Inc.
1044 N. Luther Road.
Georgetown, IN 47122
Service by U.S. Mail

J. Lynne Freiberger
2919 Freiberger Rd.
Floyds Knobs, IN 47119
Service by U.S. Mail

Kelsie E. Duggan
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

8-26-2015
Date

Megan O'Neal
Megan O'Neal, Litigation Specialist

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