

**BEFORE THE INDIANA  
BOARD OF PHARMACY  
CAUSE NUMBER: 2014 IBP 0025**

**IN THE MATTER OF THE INDIANA )  
PHARMACY PERMIT OF: )  
 )  
THE DRUG STORE, INC. )  
 )  
PERMIT NUMBER: 60002372A )**



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

The Drug Store, Inc. appeared at a hearing before the Indiana Board of Pharmacy (“Board”) on November 14, 2016, in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana concerning an order to Show Cause issued against it for its alleged failure to comply with the terms of probation on its permit.

The State of Indiana appeared by Tim Weber, Deputy Attorney General. The Drug Store appeared by its owner and qualifying pharmacist, Lynne Freiberger and waived its right to be represented by counsel.

The Board, after considering the file and the testimony of Freiberger, by a vote of 5 to 1, issues the following Findings of Fact, Conclusions of Law and Order.

**FINDINGS OF FACT**

1. The Drug Store has a mailing address of 1044 North Luther Road, Georgetown, Indiana 47122. It is a duly permitted pharmacy in the State of Indiana holding permit number 60002372A.

2. The Indiana Professional Licensing Agency sent, and The Drug Store received, timely and proper notice of the date, time and location of this hearing pursuant to Ind. Code § 4-21.5-3-20.

3. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code § 25-1-9-9 and Ind. Code § 4-21.5-3.

4. The Board placed The Drug Store's permit on probation in August 2014 because it had expired drugs in the inventory. The Board issued an Order to Show Cause against The Drug Store in August 2015 because it continued to have expired drugs in its inventory. As a result of the Order to Show Cause issued in 2015 the Board modified the terms of probation on the permit.

5. The modified probationary order imposed additional requirements on The Drug Store, the most significant of which was for the store to retain a consultant to assist in operating an efficient drug store that complied with the practice act.

6. At the hearing on the Order to Show Cause, Lynne Freiburger, the owner and pharmacist in charge at The Drug Store, testified that she has not hired a consultant because of the expense involved.

7. The work flow at The Drug store has yet to be evaluated and the pharmacy is being run in an inefficient, incompetent and potentially dangerous manner.

8. The deficiency that led to the discipline on The Drug Store's permit involved incompetent operation. The Drug Store's failure to comply with the Board's order constitutes changed circumstances warranting a modification of the terms and conditions on the permit.

## CONCLUSIONS OF LAW

1. "The board may withdraw or modify the probation ... if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order." Ind. Code § 25-1-9-9(b).

2. The Drug Store's failure to comply with the Board's order constitutes changed circumstances warranting a modification of the terms and conditions on the permit.

## ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board **MODIFIES** the probation on The Drug Store's permit as follows.

1. The Drug Store may not dispense controlled substances.
2. A Board Compliance Officer will go to the Drug Store and impound the controlled substances.
3. The needs assessment which was ordered in August 2015 must be completed by the January 9, 2017 Board meeting.
4. Freiburger may no longer be the qualifying pharmacist at The Drug Store.
5. The Drug Store must retain a new qualifying pharmacist before the January 9, 2017 Board meeting.
6. This case will be heard on January 9, 2017 to evaluate The Drug Store's compliance with this order as well as possible modification of the order or consideration of the imposition of further sanctions.

All other terms and conditions on the permit shall remain in full force and effect.

SO ORDERED this 7<sup>th</sup> of December, 2016.

INDIANA BOARD OF PHARMACY

By: Herbert W. Price

*for* Donna Wall, R.Ph., President

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**CERTIFICATE OF SERVICE**

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

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

Tim Weber  
Deputy Attorney General  
Indiana Attorney General's Office  
302 West Washington Street  
IGCS – 5<sup>th</sup> Floor  
Indianapolis, IN 46204  
Timothy.weber@atg.in.gov  
**Service by e-mail**

12-7-16  
Date

Donna Moran  
Signature

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**

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