

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 12579-AD13-1119-033

IN THE MATTER OF:)

Insurance Producer License
Application of:)

Susan Reynolds,
704 Red Bluff Drive
Ft. Wayne, Indiana 46814
Applicant)

FILED

MAY 20 2014

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On April 17, 2014, the Administrative Law Judge, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order and Notice of Filing Recommended Order on Applicant by mailing the same to her home address.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Applicant filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, within the eighteen (18) days.

Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

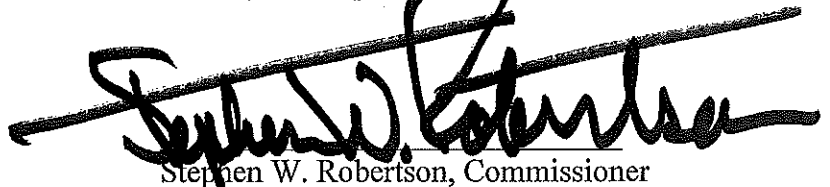
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial issued on December 11, 2013 is upheld.

2. Applicant's request for a insurance producer license is Denied.

Under Ind. Code §4-21.5-5-5, Applicant has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this ^{20th} day of May, 2014.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Susan Reynolds
704 Red Bluff Drive
Ft. Wayne, Indiana 46814

Robert Hummel
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787

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CAUSE NUMBER: 12579-AD13-1119-033

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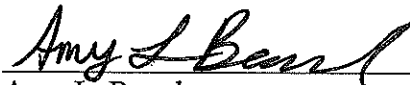
APR 17 2014

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties to this action are hereby notified that the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order are deemed filed as of this date.

To preserve an objection to this Order for judicial review, you must object to the Recommended Order in a writing that: 1) identifies the basis of your objection with reasonable particularity; and 2) is filed with the ultimate authority for the Final Order, Stephen W. Robertson, Commissioner of the Indiana Department of Insurance, within eighteen (18) days from the date stamped on this Recommended Order.


Amy L. Beard
Administrative Law Judge

Distribution:

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington Street, Suite 300
Indianapolis, IN 46204

Susan Reynolds
704 Red Bluff Drive
Ft. Wayne, Indiana 46814

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BEFORE THE INDIANA
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STATE OF INDIANA
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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

Administrative Law Judge, Amy L. Beard, ("ALJ") having considered and reviewed all of the evidence, now renders a decision in the matter of the Insurance Producer License Application of Susan Reynolds ("Petitioner") under Cause Number 12579-AD13-1119-033. This matter came to be heard by the ALJ at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, at 10:00 a.m. on January 17, 2014.

The Indiana Department of Insurance ("Department") was represented at the hearing by counsel, Robert L. Hummel. The Petitioner, Susan Reynolds, appeared in person and without legal counsel. At the hearing, witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at the hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and Recommended Order pursuant to Indiana Code § 4-21.5-3-27.

FINDINGS OF FACT

1. On July 31, 2013, the Petitioner submitted an application for a property and casualty insurance producer license to the Department ("Application"). *Exhibit 1 ("Ex. 1"); Transcript ("Tr. ") p. 37.*
2. On December 11, 2013, the Commissioner issued a Preliminary Administrative Order and Notice of License Denial. The Commissioner denied the Petitioner's Application under Indiana Code § 27-1-15.6-12(b)(8) for failure to comply with an Order from the Indiana State Board of Pharmacy ("Board"). *Preliminary Administrative Order and Notice of License Denial ("Preliminary Admin. Order & Notice of License Denial").*
3. On December 17, 2013, the Petitioner requested a hearing to determine the reasonableness of the Commissioner's decision. *Exhibit 4 ("Ex. 4").*
4. On December 27, 2013, a Notice of Hearing was filed in this matter, which set a hearing date for January 17, 2014 at 10:00 a.m.
5. In 2002, the Petitioner obtained her pharmacy doctorate, and was employed as a staff pharmacist for Walgreen's Pharmacy in Fort Wayne, Indiana. *Tr. p. 7, 45-46.*
6. On June 22, 2007, the Petitioner was questioned by Walgreen's Pharmacy supervisors in regards to missing Tylenol #3 tablets and subsequently was terminated. *Exhibit 2 ("Ex. 2") p. 1, 3.*
7. The Petitioner confessed in writing that she had been diverting Tylenol #3 for her personal use. She admitted to stealing approximately two thousand (2,000) Tylenol #3 tablets since December 2005. The Petitioner signed an agreement to pay restitution to Walgreen's Pharmacy in the amount of \$855.80. *Tr. p. 7, 31, 33-34, 47-49; Ex. 2 p. 1, 3.*

8. On or about December 13, 2007, the Office of the Indiana Attorney General filed a complaint with the Board against the Petitioner's pharmacist license. The complaint alleged three counts of misconduct: 1) continuing to practice although unfit to practice due to addiction to, abuse of, or severe dependency upon alcohol or other drug that endanger the public by impairing the ability to practice safely; 2) diverting a legend drug; and 3) engaging in material deception in the course of professional services. *Ex. 2; Tr. p. 51-52; see I.C. § 25-1-9-4(a)(4)(D); I.C. § 25-1-9-4(a)(8)(A); I.C. § 25-1-9-4(a)(1)(B).*

9. On or about February 21, 2008, the Board issued an Order placing the Petitioner's pharmacist license on indefinite probation. Among other conditions, the terms of probation required the Petitioner to maintain compliance with a Pharmacists' Recovery Network contract ("PRN Contract"). *Tr. p. 7-8; Ex. 2 p. 8.*

10. The Board is within the Indiana Professional Licensing Agency. The Pharmacists' Recovery Network ("PRN") is a monitoring agency which works with the Board and persons who violate their pharmacist licenses. The PRN Contract is an agreement between the PRN and a pharmacist participating in the recovery program which sets forth the terms of probation. *Tr. p. 7-8, 44; Ex. 2 p. 8.*

11. On or about March 19, 2009, the Board issued its first Order to Show Cause stating that the Petitioner had violated the terms of her PRN Contract. The Petitioner had missed six (6) random drug screens. The Petitioner also had failed to enter into the specific rehabilitation program required under the terms of her PRN Contract. Instead, the Petitioner chose a different recovery program not approved by the PRN. The Board, however, determined that further sanctions were not warranted at that time. *Ex. 2, p. 9; Tr. p. 16, 20-22, 51-54, 62.*

12. On or about May 21, 2009, the Board issued its second Order to Show Cause due to the Petitioner's noncompliance with her PRN Contract. As a result of the Petitioner's second PRN Contract violation, the Board modified the Petitioner's terms of probation. The PRN Contract required that the Petitioner use only one physician to obtain prescriptions for controlled substances. The Petitioner was required to enter into a new PRN Contract for a term of five (5) years. *Ex. 2. p. 9; Tr. p. 16-17, 46, 63-64.*

13. On or about February 16, 2010, the Board issued its third Order to Show Cause against the Petitioner for not entering into a new PRN Contract as previously ordered. The Petitioner had made several revisions to her new PRN Contract before signing and submitting it. Because the PRN did not allow revisions to the contract language, it did not accept the Petitioner's new PRN Contract containing her language changes. *Ex. 2. p. 9; Tr. p. 18, 56.*

14. On March 8, 2010, the Board held a hearing on the Order to Show Cause and the Petitioner was represented by counsel. The Board found that the Petitioner failed to comply with an order imposing sanctions. The Petitioner had not entered into a new PRN Contract prior to the hearing. Moreover, there was evidence that the Petitioner had obtained controlled substances from seven (7) different physicians. *Ex. 2. p. 10; Tr. p. 66, 70.*

15. On March 17, 2010, the Board issued a Final Order suspending the Petitioner's pharmacist license indefinitely. The Petitioner was also required to have six months of full compliance with her PRN Contract before petitioning for reinstatement. As of January 17, 2014, the Petitioner's pharmacist license was still suspended indefinitely. *Ex. 2; Tr. p. 70-71.*

16. At the administrative hearing on January 17, 2014, concerning the denial of the Petitioner's Application for insurance producer licensure, the Petitioner presented five letters as evidence. The five letters were all in support of her obtaining an insurance producer license.

None of the letters were written by persons who had attended the Board hearings. *Exhibit A* (“*Ex. A*”); *Tr. p. 30-31, 85*.

17. At the conclusion of the administrative hearing, attorney Robert L. Hummel, representing the Enforcement Division of the Department of Insurance, recommended granting the Petitioner a producer license subject to a two (2) year probationary period. *Tr. p. 89, 95*.

18. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action. Ind. Code § 27-1-15.6-12.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code (“Act”). I.C. § 4-21.5-3 *et. seq.*

3. Service of process was completed through use of the United States Postal Service in compliance with the Act and due process requirements. I.C. § 4-21.5-3-1(b).

4. Pursuant to I.C. § 27-1-15.6-12(b)(8), the Commissioner may refuse to issue an insurance producer license to a person “using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.”

5. It has only been four (4) years since the Petitioner’s pharmacist license was suspended indefinitely.

6. The Petitioner’s failures to comply with the Board’s terms of probation and the indefinite suspension of her pharmacist license is evidence of the Petitioner’s “fraudulent, coercive, or dishonest practices” and demonstrates “incompetence, untrustworthiness, or

financial irresponsibility in the conduct of business in Indiana or elsewhere.” I.C. § 27-1-15.6-12(b)(8).

7. The Petitioner has not met her burden of proof in demonstrating that the Commissioner’s Preliminary Administrative Order and Notice of License Denial was in error.

8. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

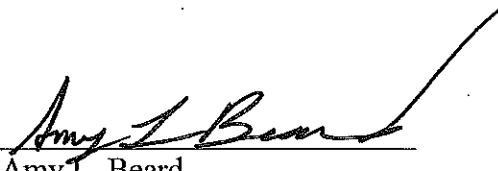
RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. The Preliminary Administrative Order and Notice of License Denial issued on December 11, 2013, shall be AFFIRMED.

2. The Petitioner’s request for insurance producer licensure shall be DENIED.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 17th day of April, 2014.


Amy L. Beard
Administrative Law Judge

Distribution:

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