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BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of the Hearing to)	
Determine Whether or Not to Revoke,)	FINDINGS OF FACT
Suspend, or Place on Probation the)	CONCLUSIONS OF LAW
Certificate of Registration Number)	AND ORDER
6834 censure or fine MICHAEL R.)	No. 88 - 1 - H
BERGMANN.)	

DIRECTED TO: MICHAEL R. BERGMANN
c/o Alvin & Deborah Bergmann
8620 Havesway
Juno, Alaska 99801

This matter came before the Arizona State Board of Pharmacy for hearing on the 18th day of May, 1988, pursuant to Complaint and Notice of Hearing No. 88-1-H (hereinafter referred to as "Complaint"), Daniel Jacob, president of the Board, presided, with Norma McConnell, vice president, and members Sumner "Al" Brooks, Michael Noel, and Martha Barron in attendance and participating therein.

The State was represented by the office of the Attorney General, Michael Baker, Assistant Attorney General. The respondent, was represented by Emmett Ronan, attorney of 45 West Jefferson, Phoenix, Arizona.

The Board, after consideration of the evidence and testimony presented, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I

MICHAEL R. BERGMANN is a pharmacist holding Certificate of Registration No. 6834 issued by the Board under A.R.S. § 32-1922.

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II

Sufficient evidence was presented, including stipulation by MICHAEL R. BERGMANN and testimony by Board of Pharmacy Investigator, James Threadgill, to substantiate the charges contained in the Complaint.

CONCLUSIONS OF LAW

III

That the Findings of Fact set forth herein above constitute sufficient evidence to find that MICHAEL R. BERGMANN is in violation of those State and Federal Laws, Rules and Regulations contained in paragraph IV, A thru E of the Complaint.

IV

The above described violations constitute grounds for discipline pursuant to A.R.S. § 32-1927.B.

ORDER

V

In view of the above Findings of Fact and Conclusions of Law the Board hereby issues the following Order:

1. That the Certificate of Registration No. 6834 issued to MICHAEL R. BERGMANN be suspended for a period of 5 years, effective May 18, 1988 and terminating May 18, 1993.

2. That Suspension of Certificate of Registration No. 6834, issued to MICHAEL R. BERGMANN may be stayed on or after May 18, 1990 subject to the following conditions:

1 A. Respondent may appear before the Board at any time on or after May 18, 1990
2 for the purpose of presenting formal application for Stay of Suspension.
3 If the Board, by majority vote, grants the Stay of Suspension, then the
4 Certificate 6834 issued to MICHAEL R. BERGMANN shall be placed on Probation
5 terminating May 18, 1993.

6 B. Respondent shall complete the Arizona Pharmacy Jurisprudence Exam with a
7 score of 90% or better prior to granting of Stay of Suspension.
8

9 C. Respondent shall complete the Arizona Pharmacy Practical Exam with a score
10 of 85% or better prior to granting of stay.

11 D. Respondent shall abstain completely from the personal use or possession of
12 Controlled Substances as defined in Federal and State Controlled Substances
13 Act, with the exception of those medications lawfully prescribed by a phy-
14 sician to the Respondent for a legitimate medical need.
15

16 E. Within 30 days of the effective date of this Order, Respondent shall submit
17 to random biological fluid testing for the presence of drugs in the system.
18 Such tests shall include but not be limited to:

- | | | | |
|----|-----------------|--------------------------|---------------------|
| 19 | Amphetamines | Sedatives/Hypnotics | Phencyclidine (PCP) |
| | Barbiturates | Volatiles (Alcohol, Etc) | Narcotics |
| 20 | Benzodiazepines | Cocaine/Metabolite | |

21 Reports on these tests will be directed to the Board of Pharmacy quarterly
22 and due on the 10th day of the month of July, October, January and April
23 and continuing until May 18, 1993 at the expense of the Respondent.
24 Positive results of such testing without justification will violate this
25 condition of the Order.
26

- 1 F. Respondent shall be required to participate in an Alcoholics Anonymous or a
2 similar program from May 18, 1988 until May 18, 1993 and shall furnish the
3 Board with quarterly reports on attendance. Such reports will be due on
4 the 10th day of each month due July, October, January and April.
- 5
6 G. Respondent shall submit written reports to the Board or its designee on or
7 before the 10th day of each month due on a quarterly basis - July, October,
8 January, and April - regarding the Respondent's practice activities,
9 continuing throughout the Probation period if such is granted and until
10 May 18, 1993.
- 11 H. All fees and C.E. requirements are due during the term of the Suspension
12 and/or probation.
- 13
14 I. Respondent shall obey all Federal and State Laws and Rules governing the
15 practice of pharmacy.
- 16 J. Respondent shall bear responsibility for the release of information forms
17 and reports as directed by the Order.
- 18 K. Respondent shall bear all costs for testing, rehabilitation, after
19 programs and reports to be filed.
- 20
21 L. If respondent violates this Order in any way, or fails to fulfill the
22 requirements of this Order in a timely fashion, the Board, after giving the
23 Respondent notice and the opportunity to be heard, may revoke, suspend or
24 take other disciplinary action against the Respondent.
- 25 M. Respondent shall "hold harmless" the Provider of any required reports to
26 the Board of Pharmacy.

1 N. Reinstatement of License Number 6834 issued to MICHAEL R. BERGMANN is con-
2 tingent upon MICHAEL R. BERGMANN appearing before the Board of Pharmacy on
3 or after May 18, 1993 offering evidence of compliance with all conditions
4 of this Order, including, but not limited to, completion of the Arizona
5 Jurisprudence Examination (AZPLEX) with a score of 90% or better and the
6 Arizona Practical Examination with a score of 85% or better.

7 MICHAEL R. BERGMANN is hereby notified that he has the right to petition
8 this Board for a rehearing within ten (10) days after receipt of this Order pur-
9 suant to the provisions of Administrative Rule R4-23-109.

10
11 DATED this 21st day of June, 1988

12 ARIZONA STATE BOARD OF PHARMACY

13
14
15 S E A L

16 By *Llyn A. Lloyd*
17 Llyn A. Lloyd
18 Executive Secretary

19 Copies of the Foregoing Notice of
20 Hearing mailed by certified mail
21 this 22nd day of June, 1988, to:

22 Michael R. Bergmann
23 c/o Alvin & Deborah Bergmann
24 8620 Havesway
25 Juno, AK 99801

26 Emmet J. Ronan, Attorney
45 W. Jefferson, 11th Floor
Phoenix, AZ 85003

And by Courier Mail to:

Michael Baker
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State.