

1 FILE:H
90-04-OR1

2 BEFORE THE ARIZONA STATE BOARD OF PHARMACY

3 In the Matter of:) FINDINGS OF FACT
4) CONCLUSIONS OF LAW
MICHAEL R. BERGMANN) AND THE BOARD ORDER
5 Certificate of Registration)
Number 6834) No. 90 - 04 - OR
6 _____)

7 DIRECTED TO: MICHAEL R. BERGMANN
207 Lewis
8 Charlevoix, Michigan 49720

9 This Matter came before the Arizona State Board of Pharmacy for hearing
10 on the 2nd day of May, 1990 pursuant to Complaint and Notice of Hearing
11 No. 90 - 04 - H (hereinafter referred to as "Complaint"). Michael Noel,
12 president, presided with J. Edward Saba, vice-president, and members Kathryn L.
13 Kalsman, Daniel J. Jacob, and Martha Barron in attendance and participating
14 therein.

15 The State was represented by the office of the Attorney General, John M.
16 Gaylor, Assistant Attorney General. The Respondent MICHAEL R. BERGMANN was
17 not present and was not represented by counsel.

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

21 FINDING OF FACT

22 I

23 1. MICHAEL R. BERGMANN and legal counsel of record, Emmett J. Ronan, did
24 receive proper Notice of Hearing 90-04-H and were advised that the Respondent
25 and or the Legal Counsel may appear upon the date and time specified in the
26 Complaint.

1 CONCLUSIONS OF LAW

2 II

3 1. The Arizona State Board of Pharmacy has authority to act in this
4 Matter pursuant to the provisions of A.R.S. § 32-1932 (A)(3) which states:

5 The Board may, after notice and hearing, impose a civil penalty of not
6 more than five hundred dollars and deny, suspend or revoke any permit issued
7 under the provisions of the chapter or place a permittee on probation, if at any
8 time any one of the following occurs:

9 A permittee fails to completely comply with a board order imposed
10 pursuant to a hearing unless that order is under appeal or judicial
review.

11 2. The conduct alleged and sustained in the Finding of Fact paragraph 3
12 does constitute a violation of the Board Order in the Matter of 88-1-HO in
13 that MICHAEL R. BERGMANN did fail to submit reports of random biological
14 fluid testing for the presence of drugs in the system on the 10th day of October,
15 1989 and the 10th day of January, 1990.

16 3. The conduct alleged and sustained in the Finding of Fact paragraph 4
17 does constitute a violation of the Board Order in the Matter of 88-1-HO in
18 that MICHAEL R. BERGMANN did fail to submit reports of attendance at Alcoholic
19 Anonymous or similar program meetings on the 10th day of April, 1989, the 10th
20 day of July, the 10th day of October, 1989 and the 10th day of January, 1990.

21 4. The conduct alleged and sustained in the Finding of Fact paragraph 5
22 does constitute a violation of the Board Order in the Matter of 88-1-HO in
23 that MICHAEL R. BERGMANN was reported to show positive testing for Codeine and
24 Morphine in the system, both Schedule II Controlled Substances as defined in
25 A.R.S. § 36-2513 and C.F.R. § 1308.12 and are narcotic drugs.
26

1 Copies of the Foregoing Notice of
2 Hearing mailed by certified mail
3 this 17th day of May, 1990 to:

3 MICHAEL R. BERGMANN
4 207 Lewis
5 Charlevoix, Michigan 49720

5 and to

6 Emmett J. Ronan, Attorney
7 45 W. Jefferson, 11th Floor
8 Phoenix, AZ 85003

8 and by courier mail to

9 John M. Gaylord
10 Assistant Attorney General
11 1275 W. Washington
12 Phoenix, AZ 85007
13 Attorney for the State

12 and

13 Anthony Ching
14 Assistant Attorney General
15 1275 W. Washington
16 Phoenix, AZ 85007
17 Solicitor General

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FINDINGS OF FACT CONCLUSIONS OF BOARD ORDER

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1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

<p>3. Article Addressed to:</p> <p>EMMETT J. ROVAN 45 W. JEFFERSON 11th FLOOR PHOENIX, AZ 85003</p>	<p>4. Article Number</p> <p>P143-568-355</p> <p>Type of Service:</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise</p> <p>Always obtain signature of addressee or agent and DATE DELIVERED.</p>
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<p>6. Signature - Agent</p> <p>X <i>L. A. Leathwood</i></p>	
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