

BEFORE THE IOWA BOARD OF PHARMACY

Re:)	
Pharmacist License of)	Docket No. 2015-25
INIE CLEMENT)	DIA No. 16PHB007
License No. 16963,)	
)	ORDER GRANTING
Respondent.)	PETITION TO VACATE
)	

Procedural History: The Board of Pharmacy filed a Statement of Charges concerning the pharmacist license of Respondent Inie Clement on June 23, 2015. A contested case hearing was scheduled for September 1, 2015. The Board attempted to serve Respondent by restricted certified mail and by first class mail. When the certified mail was returned to the Board unclaimed, the Board rescheduled the hearing for November 3, 2015.

Respondent appeared for the hearing on September 1, 2015, having received notice of the hearing by regular mail. On that date, the Board personally served Respondent with the Statement of Charges with the November 3, 2015 hearing date.

Respondent failed to appear for the November 3, 2015 hearing. The Board elected to proceed in her absence. On January 12, 2016, the Board issued Findings of Fact, Conclusions of Law, Decision and Order. The Board found that Respondent failed to notify the Board of a change in her address and, as a result, indefinitely suspended her license and ordered her to pay a civil penalty in the amount of \$1,000. While the Board left a copy of the Order at Respondent's last known address, it also served the Order through publication in the Des Moines Register on February 2, 9, and 16, 2016.

Respondent filed a Petition to Vacate on March 11, 2016. The State filed State's Response to Petition to Vacate on March 21, 2016. The Board took up the Petition to Vacate at its meeting on May 3, 2016.

Petition to Vacate: In her motion to vacate, Respondent alleges that she did not appear at the November 3, 2015 hearing because she was recovering from a severe car accident that occurred on October 17, 2015. Since the accident, Respondent has been living with her daughter in Minnesota as she is unable to physically care for herself without assistance and is not able to work. When Respondent returned to Iowa on March 6, 2016 for appointments, she found the Board's Order taped to the door at her home.

Respondent asserts in her petition that she disputes the allegations in the Statement of Charges and wishes to have an opportunity to present evidence to the Board on these issues.

State's Response to Petition to Vacate: In its response to the petition, the State concedes that Respondent has established good cause for her failure to appear at the contested case hearing pursuant to 657 Iowa Administrative Code 35.21(6). The State does not resist the Petition to Vacate, asserting that neither fundamental fairness nor the public interest is served by refusing to vacate the January 16, 2016 Order.

ORDER

IT IS THEREFORE ORDERED that the Petition to Vacate is granted. The Board's Findings of Fact, Conclusions of Law, Decision and Order issued January 16, 2016 is vacated. A new hearing on the June 23, 2015 Statement of Charges shall take place on **June 29, 2016 during the afternoon session beginning at 1:00 PM.** The hearing will be held in the Board conference room located at the Iowa Board of Pharmacy Office, 400 S.W. 8th Street, Suite E, Des Moines, Iowa 50309.

Dated this 4th day of May, 2016.

A handwritten signature in black ink, appearing to read 'James Miller', written over a large, faint circular stamp or watermark.

James Miller
Chairperson, Iowa Board of Pharmacy

cc: Patricia Hulting, Attorney for Respondent
Meghan Gavin, Assistant Attorney General