## BEFORE THE IOWA BOARD OF PODIATRY

IN THE MATTER OF	)	No. 12-008
David Ahnen,	)	EMERGENCY ADJUDICATIVE ORDER
Respondent	)	ADJUDICATIVE ORDER

Comes now the Iowa Board of Podiatry (Board), on this 3<sup>rd</sup> day of May, 2013, and finds it was presented with evidence which establishes that Respondent's continued practice as a podiatrist constitutes an immediate danger to the public health, safety, and welfare. A summary of the evidence obtained by the Board is as follows:

## FINDINGS OF FACT

- 1. The Board has jurisdiction over this matter pursuant to Iowa Code Chapters 147, 149, and 272C.
- 2. Respondent is licensed to practice as a podiatrist in the state of Iowa. His license is currently active and shall expire on June 30, 2014.
- 3. Respondent owns and operates Bethany Foot and Ankle Clinic, and practices podiatry at several nursing home facilities.
- 4. At least three former employees of Respondent have reported that Respondent frequently consumes alcohol to excess. At least one former employee has concerns that he treats patients while under the influence of alcohol.
- 5. Respondent's former employees have reported to the Board that Respondent frequently cancels patient appointments due to his drinking.
- 6. Respondent voluntarily admitted himself to Powell Chemical Dependency Center in Des Moines for in-patient treatment, however he was unable to complete such treatment.
- 7. Respondent has exhibited violence against his mother and fiancée. Former employees and Respondent's fiancée have observed that Respondent becomes violent when drinking.
- 8. On June 5, 2012, Respondent pled guilty to assault against his fiancée.
- 9. On December 12, 2012, Respondent was convicted of domestic abuse assault for a September incident involving his mother.

- 10. The Board also notes numerous practice issues which are concerning and may be related to alcohol consumption. These include:
  - a. Lax procedures to ensure patient confidentiality,
  - b. Failure to follow sanitary procedures,
  - c. Failure to obtain consent for patient procedures,
  - d. Making inappropriate or offensive comments,
  - e. Failure to properly document patient care, and
  - f. Failure to timely bill patients and pay employees.
  - 11. Respondent has also lost privileges at several nursing homes.
- 12. On or about March 28, 2013, the Board issued to Respondent a Confidential Order for Evaluation ("Order"). Pursuant to the Order, Respondent was to obtain a chemical dependency evaluation ("Evaluation") assessing Respondent's safety to practice as a podiatrist. The Order set forth the abovelisted allegations.
- 13. Pursuant to the Order, Respondent was to obtain the required Evaluation within 15 days of the date of the Order.
  - 14. Respondent was served a copy of the Order on April 9, 2013.
  - 15. As of May 3, 2013, Respondent has failed to comply with the Order.

## CONCLUSIONS OF LAW

- 16. In a contested case proceeding, if sufficient evidence is presented to prove an allegation and the Board finds the action constitutes a violation, the Board has the authority to impose disciplinary sanctions including civil penalty, additional educational training, probation, suspension, or revocation of a license. 645 Iowa Administrative Code 13.1.
- 17. However, in an emergency adjudicative order, "[a]n agency may only take such action as is necessary to prevent or avoid the immediate danger to the public, health, safety, or welfare that justifies use of emergency adjudication." Iowa Code § 17A.18A(2).
- 18. "Before issuing an emergency adjudicative order, the board shall consider whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information, whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing, whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare, whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or

welfare, and whether the specific action contemplated by the board is necessary to avoid the immediate danger." 645 Iowa Administrative Code 11.28(2).

- 19. The facts set forth above establish that Respondent is suffering from a severe impairment related to alcohol use.
- 20. Further, Iowa Code 272C.9(1) states that "upon refusal of [a] licensee to submit to [an examination ordered pursuant to that subsection] the licensing board may order that the allegations pursuant to which the order of physical, mental, or clinical competency examination was made shall be taken to be established.
- 21. The facts set forth above establish that Respondent's continued practice as a podiatrist poses an immediate danger to the public health, safety or welfare. Respondent's alcohol abuse directly impacts his ability to safely treat patients.
- 22. The Board finds that the public health, safety, and welfare cannot be adequately safeguarded without further assurances that Respondent is safe to practice podiatric medicine unsupervised.

## **ORDER**

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A and 645 Iowa Administrative Code 11.28, that Respondent's license shall be immediately suspended until such time as he complies with the March 28, 2013 Order, and receives a recommendation from a board-approved evaluator that Respondent can safely continue the practice of podiatric medicine unsupervised.

A hearing on this Emergency Adjudicative Order shall be held on May 31, 2013. The hearing will begin at 9:00 a.m., and will be held at the following location: Iowa Department of Public Health, Lucas State Office Building, Room 526, 321 East 12<sup>th</sup> Street, Des Moines Iowa 50319-0075.

This Emergency Adjudicative Order was approved by the Board this 3rd day of May, 2013.

Denise Mandi, DPM

Interim Chair, Iowa Board of Podiatry

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David Ahnen, DPM