

BEFORE IOWA BOARD OF PODIATRY

IN THE MATTER OF)	NO. 12-008
)	
David Ahnen, DPM)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
Respondent.)	

COMES NOW the Iowa Board of Podiatry (Board) and hereby files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued license number 00611 to practice podiatric medicine in the state of Iowa on August 28, 1995. Respondent's license is active, and will expire on June 30, 2014. Respondent's address as reported to the Board is Bethany Foot and Ankle, 3016 Bel Aire Rd, Des Moines, IA 50310.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **July 12, 2013**, before the Board of Podiatry. The hearing shall begin at 9:00 a.m. and shall be located in Room 526, Lucas State Office Building, Des Moines, Iowa, 50319.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Podiatry, 5th Floor, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: September Lau, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 149, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A, 147, 149, and 272C and 645 IAC chapter 224.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged pursuant to Iowa Code section 147.55(9), and 645 IAC 224.2(20) and 645 IAC 4.15(7) with failure to comply with the terms of a Board Order for Evaluation.

Count II

Respondent is charged pursuant to Iowa Code section 147.55(4), and 645 IAC 224.2(6) with habitual intoxication or addiction to the use of drugs.

Count III

Respondent is charged pursuant to Iowa Code section 147.55(9), and 645 IAC 224.2(2)(e) with inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

D. FACTUAL CIRCUMSTANCES

1. 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.

2. Respondent owns and operates Bethany Foot and Ankle Clinic, and practices podiatry at several nursing home facilities.
3. 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.
4. Respondent's former employees have reported to the Board that Respondent frequently cancels patient appointments due to his drinking.
5. Respondent voluntarily admitted himself to Powell Chemical Dependency Center in Des Moines for in-patient treatment, however he was unable to complete such treatment.
6. Respondent has exhibited violence against his mother and fiancée. Former employees and Respondent's fiancée have observed that Respondent becomes violent when drinking.
7. On June 5, 2012, Respondent pled guilty to assault against his fiancée.
8. On December 12, 2012, Respondent was convicted of domestic abuse assault for a September incident involving his mother.
9. 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.
10. Respondent has also lost privileges at several nursing homes.
11. 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.
12. Pursuant to the Order, Respondent was to obtain the required Evaluation within 15 days of the date of the Order.
13. Respondent was served a copy of the Order on April 9, 2013.

14. As of April 25, 2013, Respondent has failed to comply with the Order.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact September Lau, Assistant Attorney General, at (515) 281-7175.

F. PROBABLE CAUSE FINDING

On this May 3, 2013 the Iowa Board of Podiatry found probable cause to file this Notice of Hearing and Statement of Charges.



Denise Mandi, DPM
Interim Chair, Iowa Board of Podiatry

Copies to:

September Lau
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319

David Ahnen, DPM