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Before The
State Of Wisconsin
MEDICAL EXAMINING BOARD

In the Matter of the Disciplinary Proceedings
Against SARA M. PANGRAZZI, R.C.P.,
Respondent

FINAL DECISION AND ORDER
Case No. DRL-10-0010
ORDER 0000422

Division of Enforcement Case No. 08 MED 129

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on 9/15/10

Member
Medical Examining Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against **SARA M. PANGRAZZI, R.C.P.**,
Respondent

DHA Case No. DRL-10-0010
PROPOSED DECISION

Division of Enforcement Case No. 08MED129

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Sara M. Pangrazzi
3107 Manitowoc Road
Green Bay, WI 54311-6815

Division of Enforcement,
Department of Regulation and Licensing, by

Attorney John R. Zweig
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 57708-8935

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Regulation and Licensing, Division of Enforcement (the "Division") filed a formal Complaint against the Respondent, Sara Pangrazzi. The Division filed said Complaint with the Division of Hearings and Appeals on January 5, 2010. On the same date, the Division sent a copy of the Complaint and a Notice of Hearing via certified and regular mail to Respondent Pangrazzi at her most recent address on file with the Department of Regulation and Licensing; 3033 Conesta Drive, Green Bay, WI 54311. The Notice of Hearing stated that Respondent Pangrazzi was required to file a written Answer to the Complaint within 20 days, failing which "[she would] be found to be in default and a default

judgment [could] be entered against [her] on the basis of the Complaint and other evidence and the Wisconsin Medical Board [could] take disciplinary action against [her] and impose the costs of the investigation, prosecution and decision of this matter upon [her] without further notice or hearing.”

To date, no Answer has been filed.

On February 16, 2010, the undersigned Administrative Law Judge (ALJ) of the Division of Hearings and Appeals issued a Notice of Telephone Prehearing Conference that set a telephone conference with Respondent Pangrazzi and Attorney John Zweig of the Division of Enforcement for March 3, 2010. This Notice instructed Respondent Pangrazzi to contact the undersigned ALJ to provide the telephone number for which she could be reached for the March 3, 2010, telephone conference, and was sent to the address on file for Respondent Pangrazzi, as provided above.

On February 22, 2010, Respondent Pangrazzi contacted the undersigned ALJ with a telephone number that “[she could] be reached at for the March 3, 2010, telephone conference.” However, when the undersigned ALJ attempted to reach Respondent Pangrazzi at that number, an automated voice recording informed said ALJ that the number had been disconnected.

The hearing that was conducted on March 3, 2010, was, thus, without the Respondent Pangrazzi’s participation.

As such, Attorney Zweig made a motion for default pursuant to Wis. Admin. Code § RL 2.14. The undersigned ALJ summarily accepted Attorney Zweig’s default motion and issued a Notice of Default instructing Respondent Pangrazzi that she was in default and that findings would be made and an Order entered on the basis of the Complaint and other evidence. The Notice of Default further instructed Attorney Zweig that the Division was to file written recommendations for discipline and the assessment of costs by March 12, 2010. It was mailed to Respondent Pangrazzi at the last address on record for her, 3033 Contesta Drive, Green Bay, WI, 54311.

On March 8, 2010, before Attorney Zweig had filed the Division’s “written recommendations for discipline and the assessment of costs,” Respondent Pangrazzi left a voice mail message with the undersigned ALJ referencing the March 3, 2010, prehearing conferencing, and indicating that she had moved, and had a new telephone number and address. The undersigned ALJ thus initiated a second telephone conference between the parties on March 9, 2010, during which Respondent Pangrazzi indicated that she had never received a copy of the Notice of Hearing and/or Complaint filed against her, and provided a new mailing address for herself to the Division – 3107 Manitowoc Road, Green Bay, WI, 54311-6815. Attorney Zweig stated that he would resend the Complaint and Notice of Hearing to Respondent Pangrazzi at her

new mailing address, and Respondent Pangrazzi was informed that she would have 20 (twenty) days from the date she received the Complaint to file her Answer. In light of these events, the undersigned ALJ continued the March 3, 2010, prehearing conference until April 6, 2010.

On March 10, 2010, Attorney Zweig sent the Notice of Hearing, Complaint, and a "Stipulation and Final Decision Order" to Respondent Pangrazzi at 3107 Manitowoc Road, Green Bay, WI, 54311.

No Answer was ever filed, and on April 6, 2010, the continued prehearing conference was once again held without Respondent Pangrazzi's participation.¹ The undersigned ALJ thus reissued her Notice of Default, and instructed Attorney Zweig to provide her with the Division's written recommendations for discipline and costs by April 16, 2010. Attorney Jack Zweig followed suit and provided the undersigned ALJ with the Division's written recommendations as to discipline and costs on or about July 2, 2010.

Respondent Pangrazzi failed to respond to either the Notice of Default issued against her on April 6, 2010, or the written recommendations provided by Attorney Zweig on July 2, 2010.

FINDINGS OF FACT

On the evidence presented, the undersigned ALJ makes the following findings of fact:

1. Sara M. Pangrazzi, R.C.P., Respondent, date of birth October 2, 1977, was certified by the Wisconsin Medical Examining Board as a respiratory care practitioner in the state of Wisconsin pursuant to certificate number 3306, which was first granted November 4, 2005. Respondent did not renew the registration of her certification when it expired October 31, 2009.
2. Respondent's last address reported to the Department of Regulation and Licensing at the time the Complaint was served was 3033 Conesta Drive, Green Bay, WI, 54311. Respondent's current address is 3107 Manitowoc Road, Green Bay, WI 54311-6815.
3. From January 31, 2006 until her employment was terminated on June 10, 2008, Respondent was employed as a respiratory care practitioner at Door County Memorial Hospital in Sturgeon Bay, Wisconsin.
4. On March 10, 2008, Respondent was convicted of the misdemeanor criminal offense of 2nd offense Operating a Motor Vehicle While Intoxicated (OWI), in violation of Wis. Stat. § 346.63(1)(a).
 - a. Respondent's first OWI conviction was on January 5, 2006 for driving with a blood alcohol content of .202 on November 24, 2005.

¹ The undersigned ALJ attempted to contact Respondent Pangrazzi at the telephone number she had provided to the ALJ on March 8, 2010, to no avail: Respondent Pangrazzi did not answer her telephone when called for the prehearing conference. The ALJ thus left Respondent Pangrazzi a voicemail message instructing her that said ALJ would find her to be in default, unless she called the ALJ back by the end of the day. Respondent Pangrazzi failed to respond to this voicemail message.

b. Respondent was sentenced to 20 days in jail, with Huber privileges.

c. Respondent was ordered to have an Intoxicated Driver Assessment and Safety Plan, which was performed on April 8, 2008, at Brown County Human Services-AODA Department in Green Bay. Findings included alcohol dependency, irresponsible controlled substance use, and recurrent drinking pattern – early chronicity. The driver safety plan recommended intensive outpatient treatment and aftercare.

5. On April 10, 2008, Respondent self-reported her March 10, 2008, conviction to the Department and this investigation was opened. Respondent appeared at the offices of the Division of Enforcement (DOE) on March 9, 2009, pursuant to an investigative subpoena. In that interview:

a. Respondent admitted that she had a history of several treatments for mental health and alcohol and drug issues beginning in 2002 and signed consents to release information allowing DOE to obtain those records.

b. Respondent admitted that she had illegally used oxycontin (a schedule II controlled substance which is an opioid analgesic) for non-medical purposes, and had last used it prior to commencing outpatient treatment at Libertas in Green Bay two weeks earlier.

c. Respondent admitted illegally smoking marijuana (a schedule I controlled substance) occasionally with her last use 4 months earlier.

d. Respondent admitted illegally using cocaine (a schedule II controlled substance) for non-medical purposes until about 6 years earlier.

6. DOE obtained records of Respondent's treatment from Brown County Human Services Department that disclosed:

a. 02/05/02 Bellin Behavioral Health Psychiatric Evaluation: Diagnostic impressions: Bulimia Nervosa; Major Depression, recurrent, moderate; rule out bipolar disorder.

b. 10/14/02 Brown County Human Services Community Treatment Program Outpatient Psychiatric Evaluation: Previously treated for bulimia, depression and ADHD. Age 14-started having behavioral problems, started drinking; Age 15-started smoking marijuana; Age 17-tried cocaine; drank and smoked marijuana regularly until age 22. Diagnostic impression: Axis I: Mood Disorder NOS, Eating Disorder NOS & Alcohol Abuse; Axis II: Borderline Personality Disorder.

c. 10/14/02 – discharge 09/10/04 Brown County Mental Health Center Diagnosis: Mood disorder NOS, eating disorder; poly substance dependence (alcohol, cannabis and cocaine); borderline personality disorder. Client Closing Summary: Type of treatment-psychiatric; Treatment outcome-somewhat worse; Reason for closing-administratively discontinued. . . Attendance-seldom; Motivation-low; Medication compliance-poor. . .

d. 4/25/03 - Brown County Human Services-AODA Department – Diagnosis: Mood disorder NOS, bulimia, borderline personality disorder. Recommended treatment:

individual outpatient sessions. 4/10/03 – 5/28/03 (7/30/03-unavailable, 9/3/03-unavailable, 10/9/03-unreachable/phone disconnected). Brown County Alcohol/Drug Services Client Staffing form: 6/4/03-“drinking & using cocaine daily.”

e. 2006 OWI assessment and driver safety plan report: Alcohol dependency – recurrent (pattern) – moderately advanced (chronicity) – recommendation – outpatient group and AC.

f. 04/19/06 Brown County Mental Health Center “Outpatient Face Sheet” – Admission & Discharge date 4/19/06; Diagnosis: Mood disorder NOS, eating disorder; poly substance dependence (alcohol, cannabis and cocaine); borderline personality disorder.

g. March 2005 to at least June 2006 – in therapy at Innovative Counseling Inc., Green Bay

h. Driver safety plan treatment at Independent Assessment & Counseling Services: September 6, 2006 to April 2007.

REQUESTED CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3).

2. Wis. Stat. § 448.02(3)(c) provides, in relevant part, “after a disciplinary hearing, the board may, ... when it finds a person guilty of unprofessional conduct or negligence in treatment, do one or more of the following: warn or reprimand that person, or limit, suspend or revoke any license, certificate or limited permit granted by the board to that person....”

3. Wis. Admin. Code § Med 10.02(2)(r) defines as unprofessional conduct the “[c]onviction of any crime which may relate to practice under any license, or [the] violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01(4), Stats.”

4. Wis. Admin. Code § Med 10.02(2)(z) further defines as unprofessional conduct “[v]iolating ... any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of medicine.”

5. In determining whether a particular violation is “substantially related,” to the practice of medicine, “... [i]t is the circumstances which foster criminal activity that are important, e.g., the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person.” *County of Milwaukee v. LIRC*, 139 Wis.2d 805, 821-24, 407 N.W.2d 908 (1987).

6. Wis. Stat. § 346.63(1)(a) (“Operating a Motor Vehicle While Intoxicated (OWI)”) is a crime substantially related to practice under Respondent’s certificate.

7. Respondent, by having been convicted of a crime which substantially relates to practice under her certificate, has committed unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(r) and (z) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

8. Wis. Admin. Code § Med 10.02(2)(p) defines as unprofessional conduct, "... obtaining controlled substances as defined in s. 961.01(4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law."

9. Respondent, by having obtained and used controlled substances as prohibited by law has committed unprofessional conduct as defined by Wis. Admin. Code § Med 10.02(2)(p) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

DISCUSSION

Violations of Wisconsin Statute and Administrative Code

By failing to provide an Answer to the Complaint filed against her, Respondent Pangrazzi has admitted that all allegations contained within the Complaint are true. Wis. Admin. Code § 2.09. As such, it is undisputed that Respondent Pangrazzi (1) was convicted of her 2nd offense of Operating a Motor Vehicle While Intoxicated (OWI) in just over two years on March 10, 2008; (2) was assessed to have alcohol dependency, irresponsible controlled substance use, and a recurrent drinking pattern in an Intoxicated Driver Assessment and Safety Plan performed as a result of her second conviction, on April 8, 2008; and (3) admitted that she had a history of treatment for mental health and alcohol and drug issues beginning in 2002, and that she had illegally used oxycontin (a schedule II controlled substance which is an opioid analgesic), as well as other controlled substances, for non-medical purposes prior to commencing outpatient treatment in February of 2009.

Such conduct is clearly unprofessional per Wis. Admin. Code §§ Wis. Admin. Code § Med 10.02(2)(p), (r) and (z). (*See supra*). Respondent Pangrazzi's repeated OWI convictions and related history of substance abuse are substantially related to her practice as a respiratory care practitioner in that, (1) she has shown a tendency to place members of the public at risk of serious harm when under the influence, and (2) her work necessarily exposes her to controlled substances. Respondent Pangrazzi is thus subject to discipline pursuant to Wis. Stat. § 448.02(3). The only question that remains is what kind of discipline is appropriate.

Appropriate Discipline

The Division requests that Respondent Pangrazzi's certificate to practice as a respiratory care practitioner (which expired on October 31, 2009), and her right to renew that certificate be suspended for an indefinite period of time, which should only end when the respondent "(1) petitions the [Medical] Board and provides proof sufficient to show that she does not suffer from any alcohol or drug related condition or other psychological conditions which impair her ability to function as a respiratory care practitioner, and (2) pays to the Department of Regulation and Licensing the full costs of this proceeding." The Division argues that such is consistent with the three goals of professional discipline – (1) protection of the public, (2) rehabilitation of the licensee, and (3) deterrence of this licensee and others.

The undersigned administrative law judge agrees with the Division's assessment. Respondent Pangrazzi's numerous OWI convictions and other controlled substance violations

evinced that she has not yet been rehabilitated, and that she is still very much a danger to the public. Her inability to remain involved in this case only strengthens this concern. The relief requested by the Division is thus appropriate, and even necessary to protect the public from future instances of misconduct by the respondent.

Costs

The Division requests that Respondent Pangrazzi be ordered to pay the full costs of its investigation and of these proceedings.

In *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI), the Chiropractic Examining Board found that:

The ALJ's recommendation and the ... Board's decision as to whether the full costs of the proceeding should be assessed against the credential holder..., is based on the consideration of several factors, including:

- 1) The number of counts charged, contested, and proven;
- 2) The nature and seriousness of the misconduct;
- 3) The level of discipline sought by the parties
- 4) The respondents cooperation with the disciplinary process;
- 5) Prior discipline, if any;
- 6) The fact that the Department of Regulation and Licensing is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct;
- 7) Any other relevant circumstances.

The respondent, by nature of her being in default has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. To the contrary, her conduct is of a serious nature. The factual allegations were deemed admitted and proven and there is no argument to apportion any counts that were unproven (being none), or that certain factual findings were investigated and litigated that were unnecessary. Given the fact that the Department of Regulation and Licensing is a "program revenue," agency, whose operating costs are funded by the revenue received for licensees, fairness here dictates imposing the costs of disciplining the respondent upon the respondent and not fellow members of the chiropractic profession who have not engaged in such conduct."

For many same reasons as cited in the *Buenzli-Fritz* decision, Respondent Pangrazzi should be assessed the full amount of recoverable costs. Her alleged conduct is of a serious nature, there is no argument that certain factual findings were investigated and litigated unnecessarily, and given the program revenue nature of the Department of Regulation and Licensing, fairness again dictates imposing the costs of disciplining Respondent Pangrazzi on Respondent Pangrazzi, and not fellow members of the medical profession who have not engaged in such conduct. Payment of assessed costs will be necessary before the respondent's license could be reinstated pursuant to Wis. Stat. § 441.07(2). If the Board assesses costs against the respondent, these amount of costs will be determined pursuant Wis. Admin. Code § RL 2.18.

ORDER

For the reasons set forth above, IT IS ORDERED that the certificate of Respondent Sara M. Pangrazzi to practice as a respiratory care practitioner, and her right to renew that certificate, are hereby SUSPENDED for an indefinite period of time.

IT IS FURTHER ORDERED that the above suspensions on the respondent's certificate shall end when:

(1) Respondent petitions the Board and provides proof sufficient to the Board that she does not suffer from any alcohol or drug related conditions or other psychological condition which impairs her ability to function as a respiratory care practitioner, and

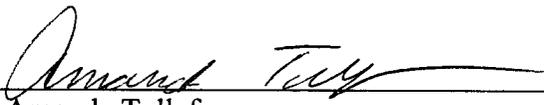
(2) Respondent pays to the Department of Regulation and Licensing all recoverable costs in this matter in an amount to be established pursuant to Wis. Admin. Code § RL 2.18. After the amount is established payment shall be made by certified check or money order payable to the Wisconsin Department of Regulation and Licensing and sent to:

**Department Monitor
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
Telephone: (608) 267-3817
Fax: (608) 266-2264**

IT IS FURTHER ORDERED that the above-captioned matter be and hereby is closed as to Respondent Sara M. Pangrazzi.

Dated at Madison, Wisconsin on August 9, 2010.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: 
Amanda Tolleson
Administrative Law Judge