

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR AN ADMINISTRATIVE INJUNCTION INVOLVING	:	
	:	
	:	FINAL
	:	DECISION AND ORDER
ELIZABETH S. BUENZLI-FRITZ,	:	Case No. LS 0802185 UNL
RESPONDENT.	:	

DOE Case No. 07 UNL 121

The parties to this proceeding for the purposes of Wisconsin Statutes, § 227.53 are:

Elizabeth S. Buenzli-Fritz  
3115 County Highway E  
Stitzer, WI 53825

Jeanette Lytle, Attorney for Complainant  
Division of Enforcement  
Wisconsin Department of Regulation & Licensing  
P. O. Box 8935  
Madison, WI 53708-8935

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PROCEDURAL HISTORY

On February 18, 2008, the Division of Enforcement (DOE) filed a Petition for an Administrative Injunction against Elizabeth S. Buenzli-Fritz (respondent) regarding her practice of chiropractic without a license. A hearing on a motion for default in the above-captioned matter was held on June 3, 2008, before Administrative Law Judge William A. Black. The DOE appeared by Attorney John R. Zweig. The respondent did not appear and did not file an answer to the complaint.

FINDINGS OF FACT

1. Elizabeth S. Buenzli-Fritz, D.C., (DOB 03/03/1949) was first granted a chiropractic license on December 1, 1988. On or about September 4, 2002, renewal of her license was denied pursuant to Wis. Stat. § 440.12 due to a tax delinquency. The respondent has not renewed her license.
2. The Wisconsin Chiropractic Examining Board issued an Order on August 15, 2008, revoking the respondent’s right to reinstate her license.
3. The respondent's most recent address on file with the Wisconsin Chiropractic Examining Board is 3115 County Highway E, Stitzer, Wisconsin, 53825.
4. On or about November 4, 2007, a DOE investigator traveled to Fennimore Chiropractic at 1196 Lincoln Avenue in Fennimore, Wisconsin. She observed a picture window containing the words Fennimore Clinic, Dr. Elizabeth Buenzli-Fritz, Chiropractor. The entrance door noted office hours to be Mondays and Wednesdays, 8:00 a.m. to 8:00 p.m., and Tuesdays and Fridays, 8:00 a.m. to 5:00 p.m., Saturdays by appointment.
5. On or about November 14, 2007, a DOE investigator traveled to Fennimore Chiropractic. She spoke to two patients who were waiting for treatment from the respondent. Then she interviewed the respondent, who admitted that she was aware that her license was not current and that she had been practicing without a license in violation of law.
6. On February 18, 2008, DOE sent by certified and first class U.S. mail a copy of the Petition for an Injunction to the respondent at her last known address, 3115 County Highway E, Stitzer, WI 53825. The first class letter was not returned and the certified mail was signed for by Dennis Fritz on February 25, 2008.

7. On May 9, 2008, DOE sent by certified and first class U.S. mail a copy of DOE's Motion for Default to the respondent at her last known address. The first class letter was not returned and the certified mail receipt was signed and returned.
8. On May 15, 2008, DOE sent by first class and certified U.S. mail a copy of DOE's Amended Motion for Default, to the respondent at her last known address. This document included the date and time for the default hearing. The first class letter was not returned to the department but the certified letter was returned on May 30, 2008. On the outside of the envelope it said unclaimed.
9. The department has not received an answer to the Petition for Injunction or any other correspondence from the respondent.
10. The respondent did not appear at her hearing.

### CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter pursuant to Wis. Stats. § 440.21.
2. By failing to file an Answer as required by Wis. Admin. Code § RL 3.08, and by failing to appear at the default hearing, the respondent is in default under Wis. Admin. Code § RL 3.13. The Department of Regulation and Licensing may make findings and enter an order on the basis of the Petition and other evidence in the record.
3. The respondent received sufficient notice as required under Wis. Admin. Code §§ RL 3.06 and 3.07.
3. The evidence in the record establishes that the respondent held herself out to the public as a chiropractor and engaged in the practice of chiropractic without a license in violation of § 446.02 (1) (a), Stats.

### ORDER

NOW THEREFORE, IT IS ORDERED that the Petition is granted.

### OPINION

#### Applicable Wisconsin Statute and Administrative Rule

*Wis. Stat.*, § 440.21 provides in part:

(1) The department may conduct investigations, hold hearings and make findings as to whether a person has engaged in a practice or used a title without a credential required under chs. 440 to 480.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may issue a special order enjoining the person from the continuation of the practice or use of the title.

*Wis. Admin. Code* § RL 3.03 (2)

(2) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 459, Stats

The question to be answered in this case is “Did the respondent practice chiropractic without a license.” The answer is yes she did.

The record clearly indicates that the respondent had an office for her practice in Fennimore. The sign in the window said Fennimore Clinic, Dr. Elizabeth Buenzli-Fritz, Chiropractor. The respondent admitted to the investigator that she knew she did not have an active license and that she had been practicing chiropractic without a license.

An administrative injunction is the proper remedy to stop someone from practicing a profession without a license. Licenses are required to insure that a person is qualified to perform services for the public. It is a health and safety issue.

The department has the authority to order someone to stop practicing without a license by issuing an administrative injunction. Since the respondent was practicing chiropractic without a license it is proper to issue an administrative injunction prohibiting her from continuing to practice.

### EXPLANATION OF VARIANCE

This variance is being issued because the department disagrees with the legal reasoning and conclusion reached by the Administrative Law Judge in the Proposed Final Decision and Order. The Administrative Law Judge denied the petition because he found that the Chiropractic Examining Board had exclusive jurisdiction over the respondent. His reasoning was that because the respondent had once held a chiropractic license, and because the board has not revoked her license, the department has no jurisdiction.

The department has jurisdiction over the respondent because it is the department’s legal obligation to stop people from practicing chiropractic without a license. The board does not have the authority to order an unlicensed person to stop practicing chiropractic.

The statutes create different remedies for the boards than for the department. There is nothing in the law that says that the boards’ remedies and the department’s remedies cannot work together. The board revoked the respondent’s right to reinstate her license. Its decision did not order the respondent to cease practice. It flows logically that the department may issue an injunction against the respondent to insure that she stops practice.

Date: 4/28/09

Celia M. Jackson, Secretary  
Department of Regulation and Licensing