

CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO. _____

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

In re: **Kenneth Kierstein, D.P.M.**

Petition No. 930714-19-004

CONSENT ORDER

WHEREAS, Kenneth Kierstein of New London (hereinafter "respondent") has been issued license number 000098 to practice podiatric medicine by the Department of Public Health and Addiction Services (hereinafter "the Department") pursuant to Chapter 375 of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. Between March of 1989 and March of 1991, he provided podiatric care and treatment to David Francis.
2. During the above-referenced time, he failed to keep full and adequate records regarding the care provided to David Francis; and,
3. By his conduct as set forth in paragraph 2 above, respondent's license is subject to disciplinary action pursuant to §20-59(4) of the Connecticut General Statutes.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing and agrees that for purposes of this or any future proceedings before the Connecticut Board of Examiners in Podiatry (hereinafter "the Board") the above allegations in this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §19a-9, §19a-14, and §20-59 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-59 of the Connecticut General Statutes, as amended, Kenneth Kierstein, D.P.M. hereby stipulates and agrees to the following:

1. That he hereby waives his right to a hearing on the merits of this matter.
2. That he is hereby ~~reprimanded~~.
3. That he shall pay a **civil penalty** of seven hundred fifty dollars (\$750.00) by certified or cashiers' check payable to "Treasurer, State of Connecticut."
Said civil penalty shall be payable at the time respondent submits the executed Consent Order to the Department.
4. That within sixty days of the ordering of this Consent Order, a podiatrist, licensed in the state of Connecticut and pre-approved by the Department, shall conduct a random records review of no fewer than fifty or 20% of respondents patient records, whichever is fewer. Said review shall be restricted to patient records made after January 1, 1994. Said reviewer shall examine the selected records for adequacy of recordkeeping, including all aspects of patient care from diagnosis and initial intake through termination of treatment or discharge. Within thirty days after completing said review the reviewer shall provide a report to the Department stating that respondent's records appropriately document the care and treatment provided, and that said records meet the minimum standard of care for podiatrists in the State of Connecticut.
5. That the respondent has attended various seminars with respect to record keeping and has also updated and upgraded his recordkeeping methods to include documentation of the patient's history and prior treatment, if any, detailed entries of patient's complaints, the adoption of the "SOAP" (subjective/objective/assessment/plan) notation format, the documentation of medications prescribed and the reasons for same; new preprinted history and

physical forms and separate x-ray evaluation forms are being incorporated into new patient files.

6. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Public Health Hearing Office
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

7. That he shall comply with all state and federal statutes and regulations applicable to his licensure.
8. That he understands that this Consent Order is a matter of public record.
9. That any alleged violation of any provision of this Consent Order, may result in the following procedures at the discretion of the Department:

- (a) The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
- (b) Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
- (c) Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9(a) above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
- (d) If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a

final determination of the disciplinary action to be taken.

- (e) Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

10. That, in the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a podiatrist, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c).
11. That, in the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
12. That legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Medical Quality Assurance of the Department.
13. That this Consent Order is effective on the first day of the month immediately

following the date said order is accepted and ordered by the Board.

14. That the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which (1) his compliance with this Consent Order is at issue, or (2) his compliance with §20-59 of the General Statutes of Connecticut, as amended, is at issue.
15. That any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
16. That this Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, that this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
17. That this Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
18. That respondent permits a representative of the Public Health Hearing Office of the Division of Medical Quality Assurance of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.
19. That respondent has the right to consult with an attorney prior to signing this document.

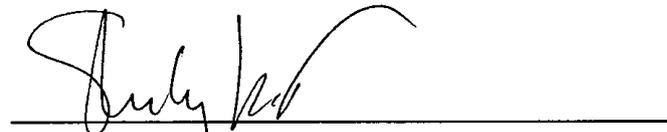
I, Kenneth Kierstein, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


Kenneth Kierstein, DPM

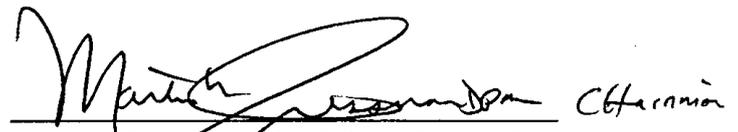
Subscribed and sworn to before me this 23rd day of May 1995.


Notary Public or person authorized
by law to administer an oath or
affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health and Addiction Services on the 23rd day of May 1995, it is hereby accepted.


Stanley K. Peck, Director
Division of Medical Quality Assurance

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners in Podiatry on the 24th day of May 1995, it is hereby ordered and accepted.


Connecticut Board of Examiners in
Podiatry

✓ DT 7/19/95



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES
BUREAU OF HEALTH SYSTEM REGULATION

July 17, 1995

Kenneth Kierstein, D.P.M.
182 Montauk Avenue
New London, Connecticut 06320Re: Consent Order
Petition No. 930714-19-004
License No. 000098
D.O.B. [REDACTED]
S.S.N. [REDACTED]

Dear Dr. Kierstein:

Please accept this letter as notification that you have successfully completed the terms of the above-referenced Consent Order, effective July 17, 1995.

Notice will be sent to our License and Renewal section to remove any restrictions from your license.

Thank you for your cooperation in this process. If you have any questions regarding this matter, do not hesitate to call me at 566-1011.

Very truly yours,

Bonnie Pinkerton
Nurse Consultant
Public Health Hearing OfficeBEP
1119Q/43
7/95cc: Donna-Maria Lonergan
Debra TomassonePhone: TDD: 203-566-1279
150 Washington Street — Hartford, CT 06106
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