

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	90 MED 379, 92 MED 150 &
GEOFFREY W. KINNE, D.P.M.,	:	95 MED 43
RESPONDENT.	:	

The parties to this action for the purposes of Wis. Stats. §227.53 are:

Geoffrey W. Kinne, D.P.M.
P.O. Box 1867
Edwards, Colorado 81632

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Geoffrey W. Kinne, D.P.M., the respondent herein, is duly licensed in the state of Wisconsin as a podiatrist. Dr. Kinne's license number is 346. This license was first granted on July 20, 1967.

2. Dr. Kinne's current mailing address is P.O. Box 1867, Edwards, Colorado 81632. His latest address on file with the Department of Regulation and Licensing is 210 North Grand Avenue, Waukesha, Wisconsin 53186. His date of birth is January 2, 1943.

3. Dr. Kinne has retired from the practice of podiatry. He is not practicing podiatry in Wisconsin, nor is he licensed to practice podiatry in the state of Colorado or elsewhere.

4. Case number 90 MED 379 concerns Patient CM. Patient CM is a female whose date of birth was May 13, 1901. Patient CM began receiving podiatric care from Dr. Kinne in July, 1989.

5. On four occasions between July, 1989 and January, 1990, Dr. Kinne performed unnecessary laser vaporizations of lesions on Patient CM's feet.

6. On four occasions between August, 1989 and October, 1990, Dr. Kinne performed arthroplastic surgical procedures on Patient CM's feet that could and should have been performed during previous surgical sessions.

7. In September, 1989 and again in October, 1989, Dr. Kinne submitted bills for professional services that he claimed he provided to Patient CM. Dr. Kinne submitted these bills to CM's health insurance providers for arthroplastic surgeries with fusions of interphalangeal joints that he claimed he had performed upon Patient CM's right foot. Dr. Kinne did not provide to Patient CM arthroplastic surgery with fusion of an interphalangeal joint. The procedure that Dr. Kinne actually provided could not and did not fuse any bones.

8. On or about March 20, 1990, Dr. Kinne administered steroids to Patient CM in order to treat a fracture in the fifth metatarsal of Patient CM's left foot. Use of steroids was not indicated under the circumstances.

9. Case number 92 MED 43 concerns Patient PG. Patient PG is a female whose date of birth was April 19, 1935. At all times relevant to this complaint, Patient PG suffered from a neurogenic right foot.

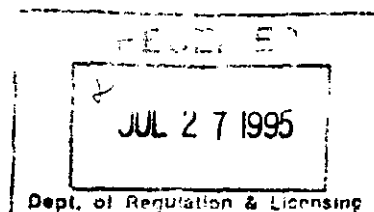
10. On or about December 6, 1985 Dr. Kinne performed or directed another to perform a doppler vascular study upon Patient PG's lower extremities. Dr. Kinne did so without recording PG's ankle-brachial index because he did not know how to calculate PG's ankle-brachial index nor was he aware of the significance of an ankle-brachial index. Dr. Kinne later performed surgery upon Patient PG's right foot.

11. Patient PG remained under Dr. Kinne's care through July, 1986. By May, 1986, Patient PG had developed an infection at the operative site where Dr. Kinne had performed surgery.

12. By July 3, 1986, the aforementioned infection had worsened such that PG required in-patient hospital care. Dr. Kinne failed to recommend to Patient PG that she enter a hospital for in-patient care of this infection.

13. Dr. Kinne does not admit the truth of the allegations set forth in paragraphs four through eight and nine through twelve above and he denies the allegations contained therein. In resolution of this matter, however, Dr. Kinne consents to entry of this Final Decision and Order and surrender of his license to practice podiatry in the state of Wisconsin.

14. Dr. Kinne agrees that he will not reapply for a license to practice podiatry in the state of Wisconsin. Dr. Kinne also agrees to waive his right to a hearing concerning any decision by the Board regarding a future application he might make of the Board for a license to practice podiatry.



CONCLUSIONS OF LAW

1. By the conduct described above, the Medical Examining Board has jurisdiction over this matter, and Dr. Kinne is subject to disciplinary action against his license to practice as a podiatrist in the state of Wisconsin pursuant to Wis. Stats. §448.02.

2. The Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. §§227.44(5) and 448.02(5).

3. Dr. Kinne's conduct described herein constitutes unprofessional conduct in violation Wis. Admin. Code §§MED 10.02(2)(h) & (m).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the Stipulation of the parties is accepted.

IT IS FURTHER ORDERED that the SURRENDER of the respondent's license to practice podiatry (license # 346) is accepted in lieu of other discipline in this matter. Dr. Kinne shall surrender to the Board all of the credentials that the Board has issued to him, including all indicia of licensure, within fourteen days after the date that this Order is signed.

IT IS FURTHER ORDERED that the respondent shall not practice podiatry in the state of Wisconsin, nor shall he reapply for a license to practice podiatry in the state of Wisconsin.

IT IS FURTHER ORDERED that if the respondent reapplies for a license to practice podiatry in Wisconsin, any decision whether to grant the respondent a license to practice and whether to impose conditions on any license the Board elects to grant shall be solely in the discretion of the Medical Examining Board, and any denial of licensure in whole or in part shall not entitle respondent to a hearing pursuant to Wis. Stats. §§227.42 and 227.51, and Wis. Admin. Code Ch RL1.

IT IS FURTHER ORDERED that the informal complaint in case number 95 MED 43 shall be dismissed in the exercise of the Board's prosecutorial discretion.

IT IS FURTHER ORDERED that the Respondent shall pay to the Department the costs of this investigation pursuant to Wis. Stats. §440.22 in the amount of \$2050.00, prior to any application respondent might make for relicensure.

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

WISCONSIN MEDICAL EXAMINING BOARD

Date Aug 23, 1995

FILED
JUL 27 1995
Dept. of Regulation & Licensing

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
GEOFFREY KINNE, D.P.M.,	:	90 MED 379, 92 MED 150 &
RESPONDENT.	:	95 MED 43

It is hereby stipulated between Geoffrey Kinne, D.P.M., personally and on his own behalf and Peter Sammataro, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered in resolution of the pending proceedings concerning Dr. Kinne's license. The Stipulation and proposed Final Decision and Order shall be presented directly to the Medical Examining Board for its consideration for adoption.

2. In resolution of the aforementioned proceedings, Dr. Kinne consents to entry of the attached Final Decision and Order and agrees to tender surrender of his license to practice podiatry and all indicia of licensing in the state of Wisconsin. Dr. Kinne does not admit the truth of the allegations set forth in the attached Final Decision and Order and he denies the allegations contained therein.

3. Dr. Kinne understands and agrees that he shall not apply to the Board for relicensure as a podiatrist in Wisconsin. Dr. Kinne voluntarily and knowingly waives his right to reapply to the Board for relicensure as a podiatrist in Wisconsin. Dr. Kinne voluntarily and knowingly waives his right to a hearing concerning any decision by the Board whether to re-issue to him a license to practice podiatry and whether to impose conditions on any license the Board elects to grant.

4. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Dr. Kinne understands and agrees that by the signing of this Stipulation he waives all rights to any appeal of the Board's order if it is adopted in the form as attached.

5. Dr. Kinne is aware of and understands each of his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

6. Dr. Kinne is aware and understands that by the signing of this Stipulation he voluntarily and knowingly waives the rights set forth in paragraph five above. Dr. Kinne voluntarily and knowingly waives all of the rights set forth in paragraph five above.


7. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

8. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

9. The Division of Enforcement joins Dr. Kinne in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Geoffrey Kinne, D.P.M.

7/24/95
Date

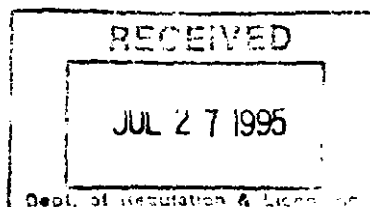

Peter Sammataro, Attorney
Division of Enforcement

8-02-95
Date

WPPSS-5

95 JUL 27 PM 12:10

RECEIVED



NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

AUGUST 24, 1995.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 5.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

5. The savings bank review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings bank review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board and the savings bank review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmation, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.