

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE PHYSICAL THERAPISTS AFFILIATED
CREDENTIALING BOARD
IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:

TRACY L. KIENER,
RESPONDENT

FINAL DECISION AND ORDER
LS0109251PHT

Division of Enforcement Case No. 00 PHT 002

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Tracy L. Kiener
908 Goodman Court N.,
Sparta, WI 54656

Physical Therapists Affiliated Credentialing Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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 Physical Therapists Affiliated Credentialing Board (hereafter the "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. Tracy L. Kiener (D.O.B. 06-24-68), the Respondent, is duly licensed as Physical Therapist in the State of Wisconsin (Lic. # 24-4188). Respondent's license was first granted on December 23, 1991, and has been renewed through October 31, 2001.
2. Respondent's most recent address on file with the Department of Regulation and Licensing is 908 Goodman Court N., Sparta, Wisconsin, 54656.
3. At all times relevant to this action, Respondent was employed by the MJ Care, Corporation as a temporary (PRN) Physical Therapist.
4. On February 8, 2000, Respondent was scheduled to work at Lakeview Health Care Center in West Salem, Wisconsin. During the course of her duties, Respondent provided whirlpool therapy to an elderly patient for the treatment of a heel ulcer. The patient suffered from dementia and was not verbally communicative.
5. Kiener indicated that when she placed the patient's foot into the whirlpool tub, she checked the water with her finger, and that it felt warm. Kiener did not measure the water temperature with a thermometer. Kiener

placed the patient's foot in the whirlpool and set the timer for 20 minutes. When Kiener returned to recheck the patient, she noticed that the patient looked uncomfortable and had rubbed one of his toes along the edge of the tub. The patient's foot had been in the whirlpool for approximately ten to fifteen minutes.

6. Kiener removed the patient's foot from the whirlpool tub, and observed that it was red and blistered on the top and sides. Kiener debrided the patient's wound, called for assistance and reported the incident to the facility supervising nurse.

7. After the patient was removed, Sue Schrams, the Physical Therapy Assistant, noticed that the water gauge for the faucet used to draw water for the patient's whirlpool tub was set at the hottest level. Schrams located the thermometer and checked the temperature of the water. The temperature reading of the water in the whirlpool tub was approximately 110 degrees. A true and correct copy of Schrams's statement is attached and incorporated herein as **State's Exhibit 1**.

8. The patient was assessed with second-degree burns to the top of his left foot and toe, with skin tears on the toe. A true and correct copy of the patient's assessment is attached and incorporated herein as **State's Exhibit 2**.

9. The whirlpool therapy policy of MJ Care, Inc., required that the therapist check for the appropriate water temperature and make adjustments per the patient and the patient's condition. A true and correct copy of the facility's whirlpool policy and procedure is attached and incorporated herein as **State's Exhibit 3**.

10. After the incident described above, Respondent was placed on the "do not hire" list at MJ Care, Inc. and requested by her employer to review their policies and procedures relating to the provision of hydrotherapy services. Respondent signed a statement confirming her review and willingness to pursue independent study in the area of hydrotherapy and treatment modifications while treating older adults. A true and correct copy of Respondent's statement is attached and incorporated herein as **State's Exhibit 4**.

CONCLUSIONS OF LAW

1. The Wisconsin Physical Therapists Affiliated Credentialing Board has jurisdiction over this matter, pursuant to s. 15.085 (5) (b), Stats., and is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Stats.

2. The conduct described in paragraphs above violated § PT 7.02 (8) of the Wis. Adm. Code, which defines unprofessional conduct as any practice, or conduct which tends to constitute a danger to the health, welfare or safety of a patient or the public.

3. The Findings of Fact set forth above constitute an agency finding within the meaning of secs. 48.685 and 50.065, Stats. and a copy of this order and the investigative findings shall be referred to the Department of Health and Family Services for review.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Tracy L. Kiener to practice as a physical therapist in the State of Wisconsin (Lic.# 24-4188) is LIMITED as follows:

Continuing Education

A. Within one [1] year from the date of this Order, Respondent shall submit documentation of successful completion of at least three [3] credits in Physical Therapy Modalities, including hot and cold whirlpool therapy, and four [4] hours in Patient's Rights, with an emphasis on sensitivity to elderly patients. To be acceptable, the educational courses shall be approved by a member or designated agent of the Board. Acceptable documentation shall include certification from the sponsoring organization and a statement signed by Respondent verifying her attendance and completion of the educational requirements.

B. Respondent shall be responsible for all expenses incurred for the education required by this order.

Practice restrictions

C. Within thirty (30) days from the date of this Order, the Respondent shall submit a copy of this Order to the Wisconsin Department of Health and Family Services and complete an application for a Rehabilitation Review with that agency. Until such time as Respondent successfully completes the Rehabilitation Review, she shall be ineligible for employment in any Wisconsin DHFS-licensed facility.

Department Monitor

D. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including the verification of the completion of educational requirements, as well as coordinating all requests for approval of education or other petitions. Respondent shall provide a copy of the

DHFS Rehabilitation Review decision to the monitor.

The information required to be provided to the Board shall be sent to the Department Monitor at the following address:

Department Monitor
Division of Enforcement
PO Box 8935, Madison, WI 53708-8935
(FAX) (608) 266-2264

Petition for Modification or Termination of Limitations

E. Respondent may at any time petition the Board to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

Summary Suspension

F. In the event that Respondent fails to timely comply with the requirements set forth in the paragraphs above, her Wisconsin license to practice as a physical therapist shall be **SUSPENDED**, without further notice or hearing, until he has complied with the terms of this Order. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license pursuant to the procedures set forth in Wis. Admin. Code RL Ch. 6. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

WISCONSIN PHYSICAL THERAPISTS AFFILIATED CREDENTIALING BOARD

By: Shirley Mook

9-25-01

On behalf of the Board

Date