

STATE OF OHIO
THE STATE MEDICAL BOARD OF OHIO
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS, OHIO 43215

(614)466-3934

October 14, 1988

Kenneth B. Rehm, D.P.M.
131 N. Vine Street
Fallbrook, CA 92028

Dear Doctor Rehm:

Please find enclosed copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of Minutes of the Board, meeting in regular session on October 12, 1988, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Henry G. Cramblett, M.D.
Secretary

HGC:em
Enclosures

CERTIFIED MAIL NO. P-746-510-435
RETURN RECEIPT REQUESTED

cc: Robert I. Chernett, Esq.

CERTIFIED MAIL NO. P 746-510-451
RETURN RECEIPT REQUESTED

mailed 10/17/88

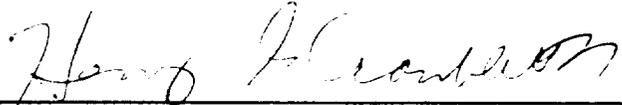
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on October 12, 1988, including Motions approving and confirming said Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Kenneth B. Rehm, D.P.M., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

10/17/88

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF ★
 ★
KENNETH B. REHM, D.P.M. ★

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 12th day of October, 1988.

Upon the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which is attached hereto and incorporated herein, and upon approval and confirmation by vote of the Board on October 12, 1988, the following Order is hereby entered on the Journal of the State Medical Board for the 12th day of October, 1988.

It is hereby ORDERED that:

1. The certificate of Kenneth B. Rehm, D.P.M., to practice podiatry in Ohio is hereby REVOKED. Such revocation shall be stayed, and Dr. Rehm's certificate shall be SUSPENDED for an indefinite period of time, but not less than two (2) years.
2. The State Medical Board of Ohio shall not consider reinstatement of Dr. Rehm's certificate to practice unless and until all of the following minimum requirements are met:
 - a. Dr. Rehm shall submit to the Board the appropriate application for reinstatement, accompanied by all appropriate fees. Dr. Rehm shall not make such application for at least two (2) years from the effective date of this Order.
 - b. Dr. Rehm shall provide written documentation acceptable to the Board verifying that he holds a full and unrestricted license to practice podiatry in all other states in which he is at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.

Kenneth B. Rehm, D.P.M.

- c. In the event that Dr. Rehm has not been engaged in the active practice of podiatry for a period in excess of two (2) years prior to his application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require evidence of Dr. Rehm's fitness to resume practice.
3. Upon reinstatement, the license of Kenneth B. Rehm, D.P.M., to practice podiatry shall be subject to the following probationary terms, conditions, and limitations for a period of five (5) years:
 - a. Dr. Rehm shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Rehm shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of probation.
 - c. Dr. Rehm shall appear in person for interviews before the full Board or its designated representative at six (6) month intervals, or as otherwise requested by the Board.
 - d. In the event that Dr. Rehm should leave Ohio for three (3) continuous months, or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure or return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
 - e. In the event that Dr. Rehm violates any conditions of probation, whether during suspension or probation, the Board, after giving Dr. Rehm notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Rehm's certificate to practice podiatry in the State of Ohio.

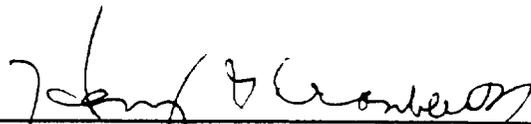
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Kenneth B. Rehm, D.P.M.

- f. Upon successful completion of probation, Dr. Rehm's certificate shall be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

10/17/88

Date

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REPORT AND RECOMMENDATION
IN THE MATTER OF KENNETH B. REHM, D.P.M.

The Matter of Kenneth B. Rehm, D.P.M., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on July 12, 1988.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of April 13, 1988 (State's Exhibit #2), the State Medical Board advised Dr. Rehm that it proposed to take disciplinary action against his certificate to practice podiatry in Ohio. The Board alleged that Dr. Rehm's incorrect responses to certain questions on his renewal application for the 1987-88 biennium constituted "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that clause is used in Section 4731.22(A), Ohio Revised Code, and "publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code. Dr. Rehm was advised of his right to request a hearing in this Matter.
- B. By letter received by the State Medical Board on May 9, 1988 (State's Exhibit #4), Robert I. Chernett, Esq., requested a hearing on behalf of Dr. Rehm.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. On behalf of the Respondent: Robert I. Chernett, Esq.

III. Testimony Heard

Dr. Rehm was the sole witness at hearing.

IV. Exhibits Examined

In addition to those listed above, the following exhibits were identified and admitted into evidence in this matter:

- A. Presented by the State
 1. State's Exhibit #1: June 2, 1988, letter to Robert I. Chernett, Esq., from the State Medical Board scheduling the hearing for July 12, 1988.

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2. State's Exhibit #3: May 16, 1988, letter to Robert I. Chernett, Esq., from the State Medical Board advising that a hearing initially set for May 19, 1988, was postponed pursuant to Section 119.09, Ohio Revised Code.
3. State's Exhibit #5: Certification of the Florida Department of Professional Regulation with regard to attached documents consisting of: Final Order of the Florida Board of Podiatry filed on February 6, 1986, in Case Nos. 0056477, 0049582, and 0060038, In Re: Kenneth B. Rehm, D.P.M.; February 3, 1986, Stipulation of Dr. Rehm and the Florida Department of Regulation with regard to those cases; Administrative Complaint filed on August 12, 1985, in Case No. 0056477; Administrative Complaint filed on October 4, 1985, in Case No. 0049582; and Administrative Complaint filed on September 24, 1985, in Case No. 0060038.
4. State's Exhibit #6: Copy of Dr. Rehm's Ohio Application For Biennial License Renewal for the 1987-88 biennium, signed by Dr. Rehm on January 16, 1987.

8. Presented by the Respondent

1. Respondent's Exhibit A: Copy of Dr. Rehm's July 6, 1988, certificate of registration from the Florida Board of Podiatry for the year expiring December 31, 1989.

V. Post-Hearing Admission to the Record

On July 15, 1988, three days subsequent to the hearing in this Matter, counsel for both the State and the Respondent filed a joint notice reopening the record in this Matter for a period of 30 days for purposes of negotiation and tolling this Hearing Examiner's time period pursuant to Section 4731.23, Ohio Revised Code, for issuance of Findings of Fact and Conclusions of Law. No subsequent notice of settlement having been submitted by the parties, the record in this Matter is deemed closed as of August 15, 1988, with 27 days of this Hearing Examiner's statutory 30-day period remaining thereafter. The forementioned joint notice is hereby admitted into the record in this Matter upon the Hearing Examiner's own motion.

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FINDINGS OF FACT

1. On August 12, September 24, and October 4, 1985, the Florida Department of Professional Regulation filed with the Florida Board of Podiatry Administrative Complaints against Kenneth B. Rehm, D.P.M., in Case Nos. 0056477, 0060038, and 0049582, respectively. Each of these Administrative Complaints alleged that Dr. Rehm had violated certain provisions of Florida law. In addition, each of these Administrative Complaints contained a request that the Board of Podiatry "enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate."

On or about February 3, 1986, a Stipulation was entered into by Dr. Rehm and the Department of Professional Regulation with reference to these three cases. By the terms of this Stipulation, Dr. Rehm acknowledged that he had been charged by three separate Administrative Complaints filed by the Department, but neither admitted nor denied the allegations of facts contained in the three Complaints. Further, Dr. Rehm stipulated that he was subject to the laws of Florida and to the jurisdiction of the Florida Department of Professional Regulation and the Florida Board of Podiatry, but neither admitted nor denied that the stipulated facts constituted violations of Florida law. By Stipulated Disposition, Dr. Rehm agreed, among other things, to voluntarily relinquish his license to practice podiatry in Florida for a period of 18 months beginning on March 15, 1986, with said license to be subject to a one-year period of probation upon its return. Paragraph 11 of the Stipulated Disposition specifically states: "Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the joint stipulation of facts, conclusions of law and imposition of discipline, and the Final Order of the Board incorporating said Stipulation." (Underlining added for emphasis).

On February 6, 1986, the Florida Board of Podiatry filed its Final Order with reference to these three cases, approving and adopting the proposed Stipulation, as amended by the parties at the time of its consideration by that Board.

These facts are established by State's Exhibit #5 and by the admissions of Dr. Rehm at hearing.

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2. On or about January 16, 1987, Dr. Rehm submitted to the State Medical Board of Ohio an "Application For Biennial License Renewal to Practice as a Doctor of Podiatric Medicine" for the 1987-88 biennium. On this renewal application, Dr. Rehm responded "No" to the question, "At any time since the last renewal of your certificate have you had any disciplinary action taken or initiated against you by a state licensing agency?" Dr. Rehm also responded "No" to the application question, "At any time since the last renewal of your certificate have you surrendered or consented to limitation upon a license to practice medicine, or state or federal privileges to prescribe controlled substances?"

These facts are established by State's Exhibit #6 and by the admissions of Dr. Rehm at hearing.

3. Although the Florida Board of Podiatry reissued a Florida license to Dr. Rehm on or about July 6, 1988, that license is subject to the probationary terms and conditions set forth in that Board's February 6, 1986, Final Order until December 31, 1988.

These facts are established by State's Exhibit #5, Respondent's Exhibit A, and the testimony of Dr. Rehm (Tr. at 41-44).

CONCLUSIONS

Dr. Rehm admitted the validity of all the documents included in State's Exhibit #5. He admitted that, as a result of three Administrative Complaints issued against him by the Florida Department of Professional Regulation, he had "voluntarily relinquished" his Florida Podiatry license for a period of 18 months and had agreed to a one-year probation upon its return. He admitted that all of these events affecting his Florida licensure had occurred prior to the completion of his Ohio renewal application on which he denied both that any disciplinary action had been taken or initiated against him by a state licensing agency and that he had surrendered or consented to limitation upon a license to practice. Yet, at hearing, Dr. Rehm maintained that his answers on his Ohio renewal application were technically correct and that he had had no intention of defrauding or misleading the Ohio Board. Dr. Rehm's arguments are not persuasive.

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Dr. Rehm contended that no disciplinary action had occurred in Florida because he had neither admitted nor denied the allegations set forth in the Florida Administrative Complaints, had never submitted to administrative hearing on those allegations, and had himself suggested the "voluntary relinquishment" of his license. Dr. Rehm's offered interpretations of language and events simply do not conform with standards of reasonableness, either from a legal viewpoint or from a viewpoint of common human understanding. The fact that he suggested and agreed to the relinquishment with subsequent probation of his Florida license as a means of disposing of the Florida charges does not make such relinquishment less of a limitation or obviate the fact that disciplinary action had been initiated by the Florida Department of Professional Regulation's seeking of sanctions against Dr. Rehm by means of its Administrative Complaints.

Dr. Rehm claimed to have relied upon the representations of prior legal counsel, who purportedly advised him before he signed the Florida Stipulation that its wording had been carefully negotiated so that Dr. Rehm could honestly state on any renewal application that no disciplinary action had been taken in Florida. Such unsupported claim is contradicted by the wording of that Stipulation; paragraph 11 specifically waives Dr. Rehm's right to seek judicial review or to otherwise contest the validity of, among other things, the "imposition of discipline." Dr. Rehm did not claim that he had sought legal advice at the time he completed his Ohio application.

Therefore, it is concluded that Dr. Rehm knew or should have known at the time he completed his Ohio renewal application that disciplinary action had been taken or initiated against him by the Florida Board of Podiatry. It is further concluded that Dr. Rehm knew or should have known that his "voluntary relinquishment" of his Florida podiatry license for a period of 18 months with a subsequent probationary period constituted his consenting to limitation upon his Florida podiatry license. Consequently, it is concluded that the acts, conduct, and/or omissions of Kenneth B. Rehm, D.P.M., with regard to Findings of Fact #1 and #2, above, constitute:

1. "Fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that clause is used in Section 4731.22(A), Ohio Revised Code, which Section specifically provides grounds for the Board to revoke or refuse to grant a certificate to a person found in violation; and
2. "Publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

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PROPOSED ORDER

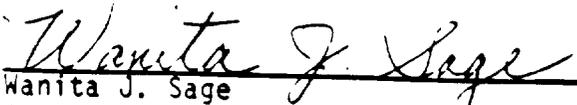
It is hereby ORDERED that:

1. The certificate of Kenneth B. Rehm, D.P.M., to practice podiatry in Ohio is hereby revoked. Such revocation shall be stayed, and Dr. Rehm's certificate shall be suspended for an indefinite period of time, but not less than two (2) years.
2. The State Medical Board of Ohio shall not consider reinstatement of Dr. Rehm's certificate to practice unless and until all of the following minimum requirements are met:
 - a. Dr. Rehm shall submit to the Board the appropriate application for reinstatement, accompanied by all appropriate fees. Dr. Rehm shall not make such application for at least two (2) years from the effective date of this Order.
 - b. Dr. Rehm shall provide written documentation acceptable to the Board verifying that he holds a full and unrestricted license to practice podiatry in all other states in which he is at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
 - c. In the event that Dr. Rehm has not been engaged in the active practice of podiatry for a period in excess of two (2) years prior to his application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require evidence of Dr. Rehm's fitness to resume practice.
3. Upon reinstatement, the license of Kenneth B. Rehm, D.P.M., to practice podiatry shall be subject to the following probationary terms, conditions, and limitations for a period of five (5) years:
 - a. Dr. Rehm shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
 - b. Dr. Rehm shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of probation.
 - c. Dr. Rehm shall appear in person for interviews before the full Board or its designated representative at six (6) month intervals, or as otherwise requested by the Board.

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- d. In the event that Dr. Rehm should leave Ohio for three (3) continuous months, or reside or practice outside the State, he must notify the State Medical Board in writing of the dates of departure or return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
- e. In the event that Dr. Rehm violates any conditions of probation, whether during suspension or probation, the Board, after giving Dr. Rehm notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Rehm's certificate to practice podiatry in the State of Ohio.
- f. Upon successful completion of probation, Dr. Rehm's certificate shall be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.


Wanita J. Sage
Attorney Hearing Examiner

EXCERPT FROM THE MINUTES OF OCTOBER 12, 1988

REPORTS AND RECOMMENDATIONS

Mr. Culley, Ms. Nester, and Ms. Belenker left the meeting at this time.

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Dr. Stephens asked if each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Robert J. Algaier, M.D., Kenneth P. Rehm, D.P.M., and Robert P. Plosscowe, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- aye
	Dr. Gretter	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- aye
	Dr. Agresta	- aye
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. O'Day	- aye
	Ms. Rolfes	- aye
	Mr. Jost	- aye
	Dr. Stephens	- aye

.....

REPORT AND RECOMMENDATION IN THE MATTER OF KENNETH B. REHM, D.P.M.

Ms. Belenker returned to the meeting at this time.

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DR. AGRESTA MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KENNETH B. REHM, D.P.M. DR. GRETTOR SECONDED THE MOTION.

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A roll call vote was taken on Dr. Agresta's motion:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Gretter	- aye
	Dr. Barnes	- aye
	Dr. Kaplansky	- abstain
	Dr. Agresta	- aye
	Dr. Rauch	- abstain
	Mr. Albert	- aye
	Dr. O'Day	- abstain
	Ms. Rolfes	- aye
	Mr. Jost	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
65 South Front Street
Suite 510
Columbus, Ohio 43266-0315

April 13, 1988

Kenneth B. Rehm, D.P.M.
23414 Greenlawn
Beachwood, Ohio 44122

Dear Doctor Rehm:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice podiatry or to reprimand or place you on probation for one or more of the following reasons:

- (1) In applying for a certificate of registration to practice podiatry for the 1987-1988 biennium, which you signed on or about January 16, 1987, you responded in the negative to the question, "At any time since the last renewal of your certificate have you had any disciplinary action taken or initiated against you by a state licensing agency?" In fact, the Florida Department of Professional Regulation had initiated three (3) separate disciplinary actions against you before the Board of Podiatry by issuance of Complaints on or about August 9, 1985 (Case No. 0056477), on or about September 24, 1985 (Case No. 0060038), and on or about October 4, 1985 (Case No. 0049582). Further, the Board of Podiatry signed a Final Order on or about February 6, 1986, accepting the Stipulation entered into between the Department of Professional Regulation and yourself on or about February 3, 1986, and incorporating it into the Final Order. The results of these actions include your agreement to voluntarily relinquish your license to practice podiatry for a period of eighteen (18) months beginning June 30, 1986. Upon the return of your license at the end of this period, it was to be placed on probation for one (1) year at which time you would pay an administrative fine and subject yourself to various other terms of probation. The dates of the Final Order, Stipulation, and Administrative Complaints were all subsequent to the last renewal of your certificate at the time you signed the application for your certificate of registration for the 1987-1988 biennium.

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Kenneth B. Rehm, D.P.M.

April 13, 1988

- (2) In applying for a certificate of registration to practice medicine or surgery for the 1987-1988 biennium, which application you signed on or about January 16, 1987, you responded in the negative to the question, "At any time since your last renewal of your certificate have you surrendered or consented to limitation upon a license to practice medicine, or state or federal privileges to prescribe controlled substances?"

In fact, you surrendered or consented to limitation upon your license to practice medicine in the Stipulation with the Department of Regulation on or about February 3, 1986, that is incorporated in the Board of Podiatry's Final Order on or about February 6, 1986. The said Final Order and Stipulation includes among other things your agreement to voluntarily relinquish your license for an eighteen (18) month period and have your license put on probation for one (1) year upon its return to you at the end of that period. The dates of the Final Order and Stipulation are both subsequent to the last renewal of your certificate at the time you signed the application for your certificate of registration for the 1987-1988 biennium.

Such acts as alleged in the above paragraphs (1) and (2), individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, such acts as alleged in the above paragraphs (1) and (2), individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, that request must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

STATE OF OHIO
THE STATE MEDICAL BOARD

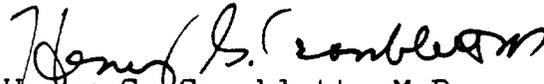
Page Three
Kenneth B. Rehm, D.P.M.

April 13, 1988

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice podiatry or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Henry G. Cramblett, M.D.
Secretary

HGC:caa

enclosures

CERTIFIED MAIL RECEIPT NO. P 026 073 462
RETURN RECEIPT REQUESTED