

TSBPME Case No. 05-135

IN THE MATTER OF
JARYL G. KORPINEN, D.P.M.

AGREED ORDER

LICENSE No. 1539

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Jaryl G. Korpinen, DPM. By letter dated April 25, 2005, the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Korpinen of its intent to investigate complaints, concerns or reports filed against him. Dr. Korpinen was duly notified of the allegations against him. Dr. Korpinen has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Korpinen hereby waives his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Korpinen understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Korpinen, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Korpinen agrees to this Order for the purpose of resolving this proceeding only. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Korpinen is licensed as a podiatric physician in the State of Texas (License Number 1539) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the rules of the Board.
2. A complaint was filed against Dr. Korpinen, and he was provided with notice of the complaint and with an opportunity to respond to the complaint and to show compliance with the law.
3. Dr. Korpinen, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.
4. Dr. Korpinen saw the patient on 12/09/2004, 01/05/2005, 03/29/2005, 04/05/2005 for treatments pursuant to a complaint of a left great ingrown toenail.
5. The patient complained of persistent difficulties after the original partial phenol

- nail matrixectomy was performed on the left great toenail lateral border.
6. Due to the persistent complaints, revision of treatment was sought for 04/05/2005. The left great toenail medial border was treated with sodium hydroxide instead without clear written patient consent. The use of sodium hydroxide instead of phenol without an existing supply of vinegar in the office to neutralize the chemical is questionable; outside the standard of care for this procedure. The patient purchased vinegar for Dr. Korpinen's office prior to the administering of sodium hydrdorxide.
 7. The patient continued with complaints of pain and an infection. The bilateral revisions were ineffective as Dr. Korpinen failed to diagnose an inclusion cyst at the lateral border that was the primary cause of the patient's persistent complaints. The cyst was eventually removed by another podiatrist, after which the patient healed uneventfully.

CONCLUSIONS OF LAW

1. Dr. Korpinen is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et seq..
2. Texas Occupations Code, §202.253(a)(5) provides that, "the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice."
3. Texas Occupations Code, §202.501(a) provides that, "the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board."
4. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
5. 22 Texas Administrative Code, §376.1(a)(1) provides that, "any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine."
6. The Findings Of Fact numbers 1 through 7 establish that Dr. Korpinen violated: *Texas Occupations Code, §202.253(a)(16)* in that he failed: to practice podiatry in an acceptable manner consistent with public health and welfare.
7. The Findings Of Fact numbers 1 through 7 establish that Dr. Korpinen violated: *22 Texas Administrative Code §375.2(a)*, which provides: "The health and safety of patients shall be the first consideration of the podiatric physician. The principal objective of the podiatric medical profession is to render service to humanity. A podiatric physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatric physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatric physician shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life."

8. The Findings Of Fact numbers 1 through 7 establish that Dr. Korpinen violated: *Texas Occupations Code, §202.253(a)(5)* in that he: directly or indirectly violated or attempted to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.

ORDER

1. Dr. Korpinen shall pay an administrative penalty of \$2,500.00 (Two Thousand Five Hundred Dollars and no/100) fully due and payable within 90 (ninety) days after the effective date of this Agreed Order.
2. Dr. Korpinen shall ensure that adequate, clear and written informed consent be obtained for his patients prior to any treatment.
3. Dr. Korpinen shall ensure that his office is adequately supplied with chemicals and materials to ensure proper patient treatment.
4. Entry of this Order shall finally resolve any and all matters or investigations before the Board pending as of the date this Order is approved by the Board.
5. The terms of this Agreed Order, if accepted by the Board, become effective upon approval of the Board.
6. If Dr. Korpinen fully complies with the terms of the Agreed Order, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.
7. Failure to comply with all the terms of this order will subject Dr. Korpinen to further and additional disciplinary and enforcement action.

GENERAL PROVISIONS

1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed in accordance with the laws of the State of Texas including *Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act;* and *Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.*
4. Acknowledgment of Entire Agreement. Dr. Korpinen acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Korpinen has executed this instrument freely and of his own accord.
5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

