

IN THE MATTER OF

HOWARD L. SCHULTHEISS, JR.,
D.P.M.

LICENSE NO.: 01108

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BEFORE THE
MARYLAND BOARD
OF PODIATRIC EXAMINERS

CONSENT ORDER OF PROBATION

On or about May 3, 2017, the Maryland State Board of Podiatric Examiners (the “Board”) notified Howard L. Schultheiss, Jr., D.P.M., (the “Respondent”) that it opened a full investigation under the Maryland Podiatric Examiners Act, Md. Code Ann., Health Occupations Article (“Health Occ.”) §§ 16-101 *et seq* (the “Act”). Based on its investigation, the Board believes that the Respondent violated provisions of the Act, including Health Occ. Code § 16-311(a)(6), (7), and (8) and § 1-223.

The Board and the Respondent have agreed, in lieu of the Board’s filing formal charges, to enter into this Consent Order (the “Order”) with the Board’s approval. The Respondent waives his right to a hearing and agrees to be sanctioned by the Board.

I. FINDINGS OF FACT

The Board finds that:

1. At all times relevant, the Respondent was and is licensed to practice podiatric medicine in the State of Maryland under license number 01108.
2. On April 25, 2017, the Board received a complaint from the Office of Controlled Substance Administration (“OCSA”) regarding the Respondent, alleging that the Respondent prescribed controlled dangerous substances (“CDS”) for his own personal use and that of a family member, including prescriptions that were outside the Respondent’s scope of practice. The complaint also alleges that the Respondent ordered CDS through his practice for his own

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personal use and that of a family member. Upon receipt of the complaint, the Board commenced an investigation into the allegations.

3. On May 3, 2017, in an interview with the Board's investigator, the Respondent admitted that for the prior two years, he wrote prescriptions for his family member for tramadol (C-IV) and oxycodone (C-II). The Respondent admitted to taking some of the oxycodone himself and taking the tramadol in the evenings.

4. In May and June 2017, the Board subpoenaed the Respondent's ordering invoices and practice medication logs. On August 24, 2017, in a follow-up interview with the Board's investigator to address the issue of the medication logs and invoices, the Respondent admitted that he ordered tramadol for himself and his family member and paid for the controlled substance through his practice. The Respondent further admitted that he gave the family member permission to order prescriptions using his Drug Enforcement Administration ("DEA") registration number and admitted to ordering diazepam (C-IV) for his pets.

5. On August 30, 2017, at the recommendation of the Board, the Respondent submitted to a substance addiction evaluation and drug screen. In a September 27, 2017 report to the Board, the evaluator reported that the Respondent's drug screen was negative for drugs and alcohol. The evaluator recommended in his report that the Respondent abstain from mood-altering drugs and alcohol; submit to random drug and alcohol screening for two years; continue group meetings; and have his primary care physician preview and monitor all prescribed medications.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Health Occ. Code § 16-311(a)(6), (7), and (8) of the Act, specifically:

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- (6) Has a condition, illness, or disease that may impair the ability of the individual to perform podiatric services;
- (7) Personal use of a controlled dangerous substance in violation of the law; and
- (8) Prescribed or distributed a controlled dangerous substance to any other person in violation of the law, including in violation of Health Occ. Code § 1-223.

The Respondent's substance abuse may impair his ability to safely practice podiatry, he has personally used controlled dangerous substances in violation of the law, and he has prescribed or distributed a controlled dangerous substance to another person in violation of the law, including a violation of Health Occ. Code § 1-223, concerning limits on prescribing opioids.

The Board finds that these violations fall within categories D(1) and F(2) of the Board's sanctioning guidelines. See COMAR 10.40.11.04D(1) and F(2). The range of potential sanctions for a violation of D(1) is probation for six (6) months to revocation. *Id.* The range of potential sanctions for a violation of F(2) is reprimand with conditions, subsequent probation as appropriate, to revocation. *Id.*

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the license of the Respondent, Howard L. Schultheiss, Jr., to practice as a podiatrist in the State of Maryland, License Number 01108, shall be placed on probation for a **MINIMUM period of TWO (2) YEARS beginning on the effective date of this Consent Order**, subject to the following terms and conditions:

1. The Respondent's status as a podiatrist will be listed on the Board's website with the word "PROBATION;"

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2. The Respondent may continue to work as a podiatrist in his current practice, but shall obtain Board approval before accepting any new position;
3. Within five (5) business days of the effective date of this Consent Order, the Respondent shall contact “FSSolutions” (First Source Solutions, Inc., Professional Health Monitoring) by contacting them at 1-800-732-3784 or on their website at www.firstsourcesolutions.com to schedule an initial consultation for enrollment;
4. Within fifteen (15) business days of the effective date of this Consent Order, the Respondent shall enter into a Professional Health Monitoring Program with FSSolutions.
5. The Respondent shall fully and timely cooperate and comply with all of FSSolutions’ referrals, rules, and requirements, including but not limited to, the terms and conditions of any agreement(s) and plan(s) entered into with FSSolutions, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by FSSolutions;
6. The Respondent shall sign any and all release/consent forms requested by the Board and FSSolutions, including release/consent forms to authorize FSSolutions to make verbal and written disclosures to the Board; and
7. The Respondent shall also sign any and all written release/consent forms to authorize FSSolutions to exchange with (i.e., disclose to and receive from) outside entities (including the Respondent’s current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that FSSolutions is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol treatment records; and it is further

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ORDERED that the Respondent shall continue to participate in treatment throughout the probationary period. In the event the Respondent terminates treatment prior to discharge by the treatment program/treatment provider, has missed or tested positive for a toxicology screen and/or breathalyzer, or is in an unsatisfactory progress status by the treatment program/treatment provider, the Respondent shall immediately notify the Board; and it is further

ORDERED that if the Respondent is prescribed any medication, the Respondent shall notify the Board immediately by telephone and send a copy of the prescription to the Board within **THREE (3) CALENDAR DAYS**. The Respondent shall show this Order to any healthcare provider who prescribes any medication for the Respondent, including, but not limited to, dentists, physicians, nurse practitioners and physicians' assistants. If the Respondent is prescribed any CDS or mood- altering medication, the Respondent shall, in addition to notifying the Board in writing, obtain a copy of the medical record pertaining to the condition which necessitated the prescription and send a copy of that medical record to the Board immediately upon receipt. In addition, the Respondent shall not take any mood-altering drugs unless approved by the Respondent's healthcare provider; and it is further

ORDERED because this Consent Order concludes that the Respondent violated Md. Health Occ. Code §§ 16-311 (a)(6), (7), or (8), and § 1-223; that the offense involves the abuse, misuse or inappropriate prescribing or distributing or use of Schedule II and Schedule IV Controlled Dangerous Substances, the Respondent shall, within **FIVE (5) CALENDAR DAYS** of the effective date of this order provide a copy of this Consent Order to, and:

- (1) Surrender his Controlled Dangerous Substance Registration to the Office of Controlled Substances Administration;
- (2) Surrender his federal Drug Enforcement Agency Registration; and

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(3) Provide documentary proof of these notices to the Board; and it is further

ORDERED that Respondent shall not prescribe any Schedule II through V Controlled Dangerous Substances during the period of probation; and it is further

ORDERED that the Respondent shall obey all State and federal laws. If the Respondent is convicted of, or pleads guilty to, any crimes, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside, the Respondent shall notify the Board, in writing, of any conviction(s) or guilty plea(s) within **SEVENTY-TWO (72) HOURS** of the conviction or guilty plea. Failure to report a conviction or guilty plea to the Board in writing within **SEVENTY-TWO (72) HOURS** is a violation of probation and this Consent Order; and it is further

ORDERED that the Respondent shall be responsible for paying all costs required to comply with all of the terms and conditions of the probation and this Consent Order; and it is further

ORDERED that after **TWO (2) YEARS** from the effective date of this Consent Order has passed, or until such time as the Board receives information from the Respondent's treatment provider/treatment program that the Respondent has satisfied the terms and conditions of the treatment program, the Board will consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been compliant with all of the probationary terms and conditions of this Consent Order; and it is further


ORDERED that if the Respondent violates any of the terms and conditions of this probation and/or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for a show cause hearing before the Board, may impose any other

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disciplinary sanction which the Board may have imposed in this case under Health Occ. Code § 16-311, including a reprimand, additional probation, suspension, revocation, and/or monetary fine; and it is further

ORDERED that this Consent Order of Probation is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.*

1-19-18
Date

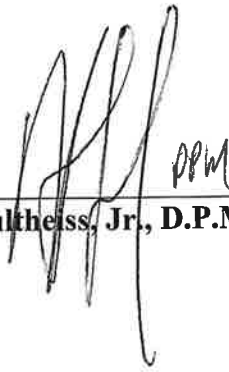

Zachary Chartler, D.P.M.
President
Maryland Board of Podiatric Examiners

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact, and accept and submit to the foregoing Consent Order and its conditions. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.

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Howard L. Schultheiss, Jr., D.P.M., 01108

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NOTARIZATION

STATE OF MARYLAND

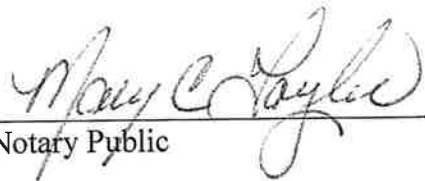
CITY: Bel Air

COUNTY: HARFORD

I **HEREBY CERTIFY** that on this 10th ^{JANUARY} day of 20 18, before me, Notary Public of the State and City/County aforesaid, **Howard L. Schultheiss** personally appeared, and made oath in due form of law that signing the foregoing Consent Order of Probation was the voluntary act and deed of **Howard L. Schultheiss**, and that the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

SEAL



Notary Public

My Commission Expires: 4-16-2018

DCN: 5500000132063233
 Process Date: 02/23/2018
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 For authorized use by:
 BOARD OF PODIATRIC MEDICAL EXAMINERS

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BOARD OF PODIATRIC MEDICAL EXAMINERS

CORRECTION TO STATE LICENSURE ACTION

Date of Action: 01/10/2018

Initial Action

Basis for Initial Action

- PROBATION OF LICENSE
 - PRESCRIPTIVE/DISPENSING AUTHORITY ACTION, SEE SECTION C. OF THE REPORT FOR DETAILS

- PRACTICING BEYOND THE SCOPE OF PRACTICE
 - NARCOTICS VIOLATION OR OTHER VIOLATION OF DRUG STATUTES
 - UNAUTHORIZED PRESCRIBING OF MEDICATION
 - DIVERSION OF CONTROLLED SUBSTANCE

A. REPORTING ENTITY

Entity Name: BOARD OF PODIATRIC MEDICAL EXAMINERS
 Address: 4201 PATTERSON AVE RM 310
 City, State, Zip: BALTIMORE, MD 21215-2222
 Country:
 Name or Office: EVA SCHWARTZ
 Title or Department: EXECUTIVE DIRECTOR
 Telephone: (410) 764-4784
 Entity Internal Report Reference:
 Type of Report: CORRECTION
 Previous Report Number: 5500000132062661 (Please destroy all copies of the previous report)

B. SUBJECT IDENTIFICATION INFORMATION (INDIVIDUAL)

Subject Name: SCHULTHEISS, HOWARD L JR.
 Other Name(s) Used:
 Gender: MALE
 Date of Birth: 06/10/1964
 Organization Name:
 Work Address:
 City, State, ZIP:
 Organization Type:
 Home Address: 437 S MAIN ST
 City, State, ZIP: BEL AIR, MD 21014-3919
 Deceased: NO
 Federal Employer Identification Numbers (FEIN):
 Social Security Numbers (SSN): ***-**-3950
 Individual Taxpayer Identification Numbers (ITIN):
 National Provider Identifiers (NPI):
 Professional School(s) & Year(s) of Graduation: PENNSYLVANIA COLLEGE OF PODIATRIC MEDICINE (1990)
 Occupation/Field of Licensure (Code): PODIATRIST
 State License Number, State of Licensure: 01108, MD
 Drug Enforcement Administration (DEA) Numbers:
 Unique Physician Identification Numbers (UPIN):
 Name(s) of Health Care Entity (Entities) With Which Subject Is Affiliated or Associated (Inclusion Does Not Imply Complicity in the Reported Action.):
 Business Address of Affiliate:
 City, State, ZIP:

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Nature of Relationship(s):

C. INFORMATION REPORTED

NOTE: Information marked with an asterisk (*) was added, corrected, or removed.

Type of Adverse Action: STATE LICENSURE
 Basis for Action: PRACTICING BEYOND THE SCOPE OF PRACTICE (29)
 NARCOTICS VIOLATION OR OTHER VIOLATION OF DRUG STATUTES (H1)
 UNAUTHORIZED PRESCRIBING OF MEDICATION (H2)
 DIVERSION OF CONTROLLED SUBSTANCE (H6)

Name of Agency or Program That Took the Adverse Action Specified in This Report: MARYLAND BOARD OF PODIATRIC MEDICAL EXAMINERS

Adverse Action Classification Code(s): PROBATION OF LICENSE (1125)
 PRESCRIPTIVE/DISPENSING AUTHORITY ACTION - NOT CLASSIFIED, SPECIFY (1179)

Other, as Specified: SURRENDER DEA & MD CDS PERMIT

Date Action Was Taken: 01/10/2018

Date Action Became Effective: 01/10/2018

Length of Action: SPECIFIC PERIOD

Years: 2

Months:

Days:

Total Amount of Monetary Penalty, Assessment and/or Restitution:

Is Subject Automatically Reinstated After Adverse Action Period Is Completed?: NO

* Description of Subject's Act(s) or Omission(s) or Other Reasons for Action(s) Taken and Description of Action(s) Taken by Reporting Entity:

The Board concluded as a matter of law: The respondent has a condition, illness, or disease that may impair the ability of the individual to perform podiatric services; Personal use of controlled dangerous substances in violation of the law; prescribed or distributed a controlled dangerous substance to any other person in violation of law, including Health Occ. Code Section 1-223. Board Order: Respondent's license status is on "Probation" for two(2) years. Responded must enter into a Professional Health Monitoring Program, while still practicing. Respondent must surrender his Controlled Dangerous Substance Registration to the Office of Controlled Substance Administration, and DEA, and shall not prescribe any Schedule II through V Controlled Dangerous Substances during the period of Probation. The Respondent shall obey all State and Federal Laws. If the Respondent violates any terms and conditions of this Probation and /or Consent Order, the Board, may impose disciplinary sanctions including a reprimand, additional probation, suspension, revocation, and /or monetary fine.

Subject identified in Section B has appealed the reported adverse action.

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D. SUBJECT STATEMENT

If the subject identified in Section B of this report has submitted a statement, it appears in this section.

E. REPORT STATUS

Unless a box below is checked, the subject of this report identified in Section B has not contested this report.

- This report has been disputed by the subject identified in Section B.
- At the request of the subject identified in Section B, this report is being reviewed by the Secretary of the U.S. Department of Health and Human Services to determine its accuracy and/or whether it complies with reporting requirements. No decision has been reached.
- At the request of the subject identified in Section B, this report was reviewed by the Secretary of the U.S. Department of Health and Human Services and a decision was reached. The subject has requested that the Secretary reconsider the original decision.
- At the request of the subject identified in Section B, this report was reviewed by the Secretary of the U.S. Department of Health and Human Services. The Secretary's decision is shown below:

Date of Original Submission: 02/23/2018
 Date of Most Recent Change: 02/23/2018

This report is maintained under the provisions of: Section 1921

The information contained in this report is maintained by the National Practitioner Data Bank for restricted use under the provisions of Section 1921 of the Social Security Act, and 45 CFR Part 60. All information is confidential and may be used only for the purpose for which it was disclosed. Disclosure or use of confidential information for other purposes is a violation of federal law. For additional information or clarification, contact the reporting entity identified in Section A.

END OF REPORT

IN THE MATTER OF * BEFORE THE
HOWARD L. SCHULTHEISS, JR., * MARYLAND BOARD
D.P.M. * OF PODIATRIC EXAMINERS
LICENSE NO.: 01108 *

* * * * *

AMENDED CONSENT ORDER OF PROBATION

On or about January 10, 2018, the Maryland Board of Podiatric Examiners (the "Board") and Howard L. Schultheiss, Jr., D.P.M., (the "Respondent") agreed, in lieu of the Board's filing formal charges, to enter a Consent Order of Probation (the "Order") with the Board's approval, consisting of Findings of Fact, Conclusions of Law, and an Order. The Order resulted from a full investigation and determination that the Respondent may be in violation of the Maryland Podiatric Examiners Act, Md. Code Ann., Health Occupations Article ("Health Occ.") §§ 16-101 *et seq* (the "Act"), namely Health Occ. Code § 16-311(a)(6), (7), and (8) and § 1-223. The Respondent waived his right to a hearing and agreed to be sanctioned by the Board.

The Board contends that the Respondent is non-compliant with the following term(s) and conditions of the Order:

5. The Respondent shall fully and timely cooperate and comply with all of FSSolutions' referrals, rules and requirements, including but not limited to, the terms and conditions of any agreement(s) and plans entered into with FSSolutions, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by FSSolutions...

On or about April 12, 2018, the Board met with the Respondent concerning noncompliance with condition #5 of the Order. Since that meeting, the Board has received the Agreement and several reports from First Source Solutions, Inc., Professional Health Monitoring ("FSSolutions"). The Agreement is dated January 18, 2018 and states that the Respondent agrees to check-in 7 days a week to determine whether he has been selected for testing that day; however, an FSSolutions representative sent a welcome email to Dr. Schultheiss on January 31, 2018, which states that check-in was required Monday-Friday. Upon review, the Board found that documentation shows the Respondent missed 8 scheduled weekday check-ins on the following dates: Tuesday, 5/22/18; Monday, 5/14/18; Monday, 4/30/18; Tuesday, 4/3/18; Monday, 4/2/18; Thursday, 3/1/18; Tuesday, 2/20/18; and, Tuesday, 2/13/18. Based on the reports of eight missed check-in days from FSSolutions, the Board determined that the Respondent is in violation of condition #5 of the Order. The Respondent agrees to accept the following amended probation terms in lieu of a hearing on the violation of the Order.

It is hereby ORDERED that, except the term that is the subject of this Amended Consent Order of Probation, the Findings, Conclusions and Orders presented in the Consent Order of Probation shall remain in full force and effect for two years from the date of this Order. Condition # 5 of the Consent Order of Probation is amended as follows:

5. ORDERED that the Respondent shall fully and timely cooperate and comply with all of FSSolutions' referrals, rules, and requirements, including but not limited to, the terms and conditions of any agreement(s) and plan(s) entered into with FSSolutions, including conditions B(1)-(6) of the 1/18/18 Agreement, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by FSSolutions.


- a. The Respondent shall immediately contact FSSolutions and request that the following changes be made to the contract:
 1. Testing shall be with observation at time of the sample;

2. Respondent shall submit any requests for out of state travel to the Board and FSSolutions for approval 14 days prior to the dates of travel; and,
 3. Respondent shall as soon as practicable report any emergency out of state travel to the Board and FSSolutions.
- b. The foregoing amendment shall be effective the date of this Amended Consent Order of Probation.

ORDERED that this Consent Order of Probation is a PUBLIC RECORD pursuant to Md.

Code Ann., Gen. Prov. §§ 4-101 *et seq.*

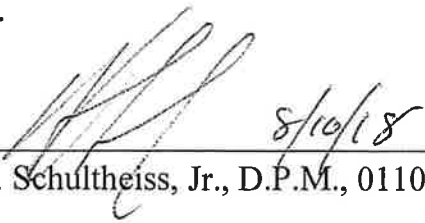
August 14, 2018
Date


Zachary Chattler, D.P.M.
President
Maryland Board of Podiatric Examiners

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety. I agree to the terms and conditions set forth in the Amended Consent Order of Probation. I acknowledge the validity of this Amended Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article §§ 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.


Howard L. Schultheiss, Jr., D.P.M., 01108

NOTARIZATION

STATE OF MARYLAND

CITY: Maryland

COUNTY: Harford

I HEREBY CERTIFY that on this 10 day of August, 2018 before me, Notary Public of the State and City/County aforesaid, Howard L. Schultheiss, DPM personally appeared, and made oath in due form of law that signing the foregoing Amended Consent Order of Probation was the voluntary act and deed of Howard L. Schultheiss, DPM, and that the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

SEAL

Hollyf. DiBella
Notary Public

My Commission Expires:

2/16/22