

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 MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FRANCOIS J. SACULLA, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER
LS9304302MED

The State of Wisconsin, Medical Examining Board, having considered the above captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

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

Dated this 19th day of 1999.

Ronald Grossman M.D.

A Member of the Board

STATE OF WISCONSIN BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROPOSED DECISION

PROCEEDINGS AGAINST
FRANCOIS J. SACULLA, M.D.,
RESPONDENT.

GRANTING COMPLAINANT'S MOTION
TO DISMISS COMPLAINT 11
Case No. LS 9304302 MED

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

Francois J. Saculla, M.D.
710 Melvin Avenue
Racine, WI 53402

State of Wisconsin
Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A *Notice of Hearing and Complaint II* was filed in the above-captioned matter on April 3, 1993. During these proceedings the respondent, Dr. Francois J. Saculla, has been represented by attorney, Mary L. Woehrer, Woehrer Law Office, 8145 W. Wisconsin Ave., Wauwatosa, WI 53213. The complainant has been represented by attorney, John R. Zwieg, Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

On March 23, 1999, complainant's attorney filed *Complainant's Notice of Motion and Motion to Dismiss Complaint H*. Attached thereto was an *Affidavit in Support of Complainant's Motion to Dismiss Complaint H*. Respondent's attorney submitted correspondence dated March 31, 1999 indicating that Dr. Saculla had no objection to the motion, but raising a question regarding the "costs" of the proceeding. Complainant's attorney filed correspondence dated April 6, 1999, replying to the issues raised regarding "costs".

Based upon the record herein, the administrative law judge recommends that the Medical Examining Board adopt as its final decision in this proceeding, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. A *Notice of Hearing and Complaint II* was filed against the respondent, Francois J. Saculla, M.D., on April 4, 1993. Dr. Saculla filed an *Answer* dated May 10, 1993.

2. On March 23, 1999 complainant filed *Complainant's Notice of Motion and Motion to Dismiss Complaint H*. Also filed that date was an *Affidavit in Support of Complainant's Motion to Dismiss Complaint II*, a copy of which is attached hereto and incorporated herein as though fully set forth.

3. Both parties to this proceeding agree that the matter should be dismissed and that costs are not to be assessed against Dr. Saculla.

CONCLUSIONS OF LAW

The Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. Ch. 480.

ORDER

NOW, THEREFORE, IT IS ORDERED that complainant's *Motion to Dismiss Complaint II* against the respondent, Francois J. Saculla, M.D., shall be and hereby is GRANTED.

FURTHERMORE, IT IS ORDERED that the costs of this proceeding shall not be assessed either in full or in part against the respondent, Francois J. Saculla, M.D.

OPINION

The complainant's motion requests that this proceeding be dismissed primarily as a matter of administrative efficiency. The issues raised in this complaint have essentially become moot in light of the disciplinary actions taken by the board under a complaint issued just prior to the issuance of *Complaint II*, as well as a third complaint issued after this proceeding was commenced. Respondent agrees that this case should be dismissed.

It is unnecessary to dwell at any length upon the background in this matter, especially in light of the *Affidavit* filed by complainant's attorney setting forth many of the procedural details, which has been incorporated by reference into the findings. The reader is referred to that *Affidavit* for the history of this and related proceedings involving Dr. Saculla.

Although respondent might dispute some of the specific details within the *Affidavit*, this is of no real consequence in that the *Affidavit* is accepted solely for the purpose of assisting in determining this motion, and for no other. The key point is that both parties agree that there is

no real point in continuing to leave this matter open, and that it should be closed. The administrative law judge

agrees.

Complainant's motion also requests that the dismissal be without costs to *any* party. Certainly, no costs may be assessed against Dr. Saculla, in any event. Under Wis. Stats. § 440.22(2), costs may only be assessed against a credential holder if discipline has been imposed. As this matter is being dismissed, no discipline will be forthcoming under *Complaint II*, and therefore costs are not assessable. The order of dismissal thus includes a provision making it clear that no costs are to be assessed against Dr. Saculla in this case.

Finally, the respondent has expressed concern that it is not appropriate to determine the cost issue regarding complainant at this time. Wis. Stats. § 227.485(5), permits credential holders to recover costs against the complainant under certain circumstances. However, credential holders are not required to file a motion for costs under that statute until 30 days from the date of the *Proposed Decision*. Accordingly, that issue is not and may not be addressed in this *Proposed Decision*.

Dated: April 21st 1999.

Respectfully submitted,

Donald R. Rittel

Administrative Law Judge

