

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF

DAVID E. GALICIA, M.D.
License No. 17625

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

TO PRACTICE MEDICINE IN THE
STATE OF WISCONSIN

The complaint filed with the Board on November 18, 1977, alleges that Respondent suffers from a mental illness or defect such that he cannot practice or attempt to practice medicine with reasonable skill or safety to patients, constituting unprofessional conduct as defined by Sec. MED 10.02(2)(i), Wis. Adm. Code.

On November 18, 1977, a Notice of Hearing scheduling the hearing for December 12, 1977, and an Order for Answer were served on Respondent by mail. Respondent did not file an answer.

The hearing was held on December 12, 1977, at Central State Hospital, Waupun, Wisconsin. The following appearances were entered: John C. Temby, staff attorney of the Department of Regulation and Licensing, as counsel for the Complainant; Respondent appeared in person and by Roland J. Steinle III, who appeared for Gerald P. Boyle, Respondent's counsel. Attorney Keith R. Clifford acted as the Board's authorized Hearing Examiner.

Findings of Fact

1. Respondent is a physician as defined in Sec. 448.01(5), Stats., is duly licensed by the Board to practice medicine and surgery in the State of Wisconsin, and specializes in psychiatry.

2. On August 19, 1977, in the Milwaukee County Circuit Court, Branch 13, Hon. Victor Manian presiding, Respondent was found not guilty by reason of mental illness of the crimes of carrying a concealed weapon under sec. 941.23(1), Stats., reckless use of a weapon under 941.20(1)(c), Stats., threat to injure under sec. 943.30, Stats., and false imprisonment under sec. 940.30, Stats.

3. On the same date the said Court found Respondent mentally ill and dangerous to himself and others and ordered him committed to Central State Hospital, Waupun, until he recovered from such mental illness.

4. On October 28, 1977, the Court granted Respondent a conditional release from Central State Hospital, and ordered that he continue to receive psychiatric supervision and treatment.

5. On November 14, 1977, Respondent was recommitted to Central State Hospital by the Court for violating the terms of his conditional release, such recommitment to continue until such time as he was recovered from his mental illness.

6. During the period of October 28 - November 14, 1977, while on conditional release from Central State Hospital, Respondent wrote a prescription for himself and had it filled as found by the aforementioned Court in its order dated November 14, 1977, recommitting Respondent to Central State Hospital.

7. During that same period of time, Respondent continued to suffer from mental illness and to be dangerous to himself and others.

8. At the time of the hearing Respondent continued to suffer from mental illness and remains under commitment to Central State Hospital at Waupun.

Conclusions of Law


During the period of October 28 - November 14, 1977, Respondent practiced medicine under license when unable to do so with reasonable skill and safety to patients constituting unprofessional conduct pursuant to sec. MED 10.02(2)(i), Wis. Adm. Code.

Order

1. That the license of David E. Galicia, M.D. (License No. 17625) to practice medicine and surgery in the State of Wisconsin be and hereby is suspended forthwith until such time as he recovers from his mental illness and demonstrates to the Board that he is able to practice medicine and surgery with reasonable skill and safety to his patients.

2. That David E. Galicia, M.D., surrender his license to practice medicine and surgery forthwith to the Medical Examining Board at Room 174, 1400 E. Washington Avenue, Madison, Wisconsin, 53702, to be held by the Board for the period of the suspension.

Dated this 8th day of March, 1978.


William Baker, M.D.
Vice-Chairman
Medical Examining Board

HEARING EXAMINER'S MEMORANDUM ACCOMPANYING RECOMMENDED FINDINGS OF FACT,
RECOMMENDED CONCLUSIONS OF LAW AND RECOMMENDED ORDER

The Respondent in this matter has not filed an answer to the allegations of the complaint and, therefore, the allegations are admitted as true. Exhibit 1 is a certified copy of records in the Circuit Court of Milwaukee County in which criminal proceedings against the Respondent were held. That exhibit includes an order of the court recommitting the Respondent to Central State Hospital. As part of that order, the court found that the defendant had written a prescription and had it filled during a time that Respondent was on conditional release from Central State Hospital. By that action, which is not denied, the Respondent has clearly practiced medicine during the period of his incapacity. Therefore, his conduct meets the definition of "unprofessional conduct" under Sec. MED 10.02(2)(i), Wis. Adm. Code.

Having found that the Respondent's conduct constitutes unprofessional conduct, the question remains of the sanction to be applied by the Board under the circumstances as presented herein. Respondent's violative conduct is clearly related to his current mental illness which has caused him to be a danger to himself and others. Under these circumstances, a revocation of his license would seem not only unduly harsh but not in accord with the interests which the statutes seek to protect. Rather, a suspension of Respondent's license until he can show the Board that he is able to practice with reasonable skill and safety to his patients absolutely protects the public for the duration of his inability. Section 448.01(13), Stats., provides that a suspension is a withdrawal or withholding of license rights, privileges, and authority "for a period of time". Since a period of time can be defined either by specific date or by the occurrence of a happening or an event, it would seem that the proposed remedy is in accordance with the statutory language. Therefore, a suspension pending a showing of ability to practice with reasonable skill and safety combines conformance with the statutory requirement and protection of the public from an unintended and unpreventable illness of Respondent.