

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
MAGTANGOL R. deQUINA, MD,	:	LS9612031MED
RESPONDENT.	:	

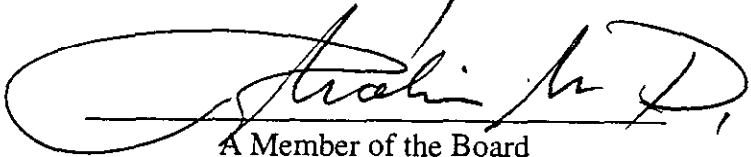
The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

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 26 day of February, 1997.


A Member of the Board

**STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD**

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
MAGTANGOL R. DEQUINA, M.D.,
RESPONDENT.

PROPOSED DECISION
Case No. LS-9612031-MED
(DOE case no. 96 MED 365)

PARTIES

The parties in this matter under section 227.44 of the Statutes and section RL 2.037 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Magtangol R. deQuina, M.D.
4819 South Packard
Cudahy, WI 53110

Disciplinary Authority:

Medical Examining Board
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. This case was initiated by the filing of a complaint with the Medical Examining Board on December 2, 1996, and a notice that a disciplinary proceeding (hearing) would be scheduled by the administrative law judge at a prehearing conference. Notice of Hearing was prepared by the Division of Enforcement of the Department of Regulation and Licensing and sent by certified mail to Dr. deQuina on December 2, 1996.

B. No answer was filed by Dr. deQuina as required within 20 days of the notice, but by letter dated December 9, 1996 and received by the department on December 16, 1996, Dr. deQuina stated an intention to surrender his license.

APPLICABLE STATUTES AND RULES

Statutes

448.02 Authority.

...

(5) Voluntary surrender. The holder of any license, certificate or limited permit granted by the board may voluntarily surrender the license, certificate or limited permit to the secretary of the board, but the secretary may refuse to accept the surrender if the board has received allegations of unprofessional conduct against the holder of the license, certificate or limited permit. The board may negotiate stipulations in consideration for accepting the surrender of licenses.

...

Wisconsin Administrative Code

Med 10.02 Definitions.

...

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding and abetting the same:

...

(b) Violating or attempting to violate any term, provision, or condition of any order of the board.

...

FINDINGS OF FACT

1. The respondent, Magtangol R. deQuina, M.D., is licensed to practice medicine and surgery in the state of Wisconsin, under license number 20505.

2. On September 27, 1995, the Medical Examining Board issued a Final Decision and Order pursuant to the stipulated resolution of a disciplinary case filed against Dr. deQuina. In relevant part, the order was as follows:

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of Magtangol deQuina, M.D., is LIMITED as provided in §448.02(3)(e), Wis. Stats., and in these respects:

...

B. Respondent shall, within nine months of this order, take and achieve a score of 75 on the SPEX (Special Purpose Examination). Respondent may attempt the test twice during this time

C. If and only if he has not achieved a score of 75 on the SPEX within nine months of this order (or, under the circumstances, cannot possibly do so within the terms of this Order), respondent's license shall be further LIMITED by staff without further order of the Board in the following respects:

i. Respondent shall not have, maintain, or apply for hospital admitting privileges, nor admit or attempt to admit any patient to any hospital, nor be on the staff of any

hospital, effective fifteen (15) days after receiving notice from staff that this limitation has been placed into effect. Respondent shall participate in an assessment of his knowledge and skills in the practice of internal medicine to be conducted by or in conjunction with the University of Wisconsin School of Medicine, Continuing Medical Education Program (UW-CME), pursuant to the attached protocol. Respondent shall initiate the assessment process within fifteen (15) days of the date after receiving notice from staff that this limitation has been placed into effect, and complete the assessment no later than ninety (90) days after that date.

IT IS FURTHER ORDERED, that pursuant to §448.02(4), Wis. Stats., if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license and registration of the respondent be summarily suspended pending investigation of the alleged violation.

3. Pursuant to the above order, Dr. deQuina took the SPEX on May 9, 1996 and again on June 20, 1996, and received scores of 70 on both occasions.
4. On June 28, 1996, department staff notified Dr. deQuina that his license would henceforth be further limited pursuant to paragraph C.i. of the above order, that his hospital privileges would be terminated, and that he would be required to undergo the UW-CME assessment and training.
5. Dr. deQuina has not initiated the UW-CME assessment and training.
6. Dr. deQuina is in violation of paragraph C.i. of the above order.

CONCLUSIONS OF LAW

I. The Medical Examining Board is the legal authority responsible for issuing and controlling credentials for physicians and surgeons, under ch. 448, Stats., and the board has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., sec. 448.02(3), Stats., and ch. Med 10, Wis. Admin. Code. The board also has personal jurisdiction over the respondent, Magtangol R. deQuina, M.D., based on his holding a credential issued by the board, and based on notice under sec. 801.04 (2), Stats.

II. Having filed no answer, Dr. deQuina is in default under sec. RL 2.14, Wis. Admin. Code, and the board may make findings and enter an order on the basis of the complaint and other evidence.

III. The violation in Fact 6 above constitutes unprofessional conduct under Med 10.02(2)(b), Wis. Admin. Code, and discipline may be imposed, under sec. 448.02(3), Stats.

IV. Under sec. 448.02(5), Stats., the Medical Examining Board may accept, or it may refuse to accept, Dr. deQuina's voluntary surrender of his license. Voluntary surrender constitutes an appropriate resolution of this case.

ORDER

THEREFORE, the Medical Examining Board accepts the voluntary surrender of the license to practice medicine and surgery issued to Dr. Magtangol R. deQuina.

OPINION

This action is the continuation of a disciplinary action taken earlier against Dr. deQuina, the nature of which does not appear in this record. The earlier action was resolved with the issuance of an order by the Medical Examining Board on September 27, 1995, which placed limitations on Dr. deQuina's practice. Specifically, Dr. deQuina was required to demonstrate his ability to practice safely either by passing the SPEX or by entering and completing the assessment and training program offered by the U.W. CME office.

Dr. deQuina was unable to pass the SPEX, and he was informed on June 28, 1996 that he would have to satisfy the alternate requirement. Under the terms of the board's order, failure to comply would be grounds for summary suspension. Dr. deQuina did not enter into the assessment and training program and instead, after being notified that this action was being brought, wrote a letter to the board stating "I, Magtangol R. deQuina M.D. hereby surrender my license to practice medicine in the state of Wisconsin."

Under sec. 448.02(5), Stats., the Medical Examining Board may accept the voluntary surrender of a license, or it may reject the offer "if the board has received allegations of unprofessional conduct against the holder of the license, certificate or limited permit." This discretion is granted to the board to prevent a credential-holder from avoiding discipline for unprofessional conduct by simply turning in his or her credential. In this case, Dr. deQuina's unprofessional conduct consists of violating an order issued as the resolution of an earlier disciplinary action. The earlier case was reported to the profession, and Dr. deQuina has avoided neither discipline nor publicity. No further purpose would be served, either for Dr. deQuina or for the profession, by refusing to accept his voluntary surrender.

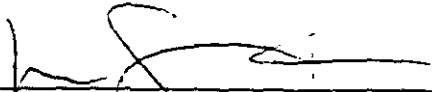
A complete loss of license is an appropriate resolution to this case, since the board's previous order reflects a concern for Dr. deQuina's competence to practice safely, his failure to pass the SPEX confirms the board's concerns, and his failure to take the remedial option offered to him leaves little if any alternative.

If the board chooses not to accept the voluntary surrender of Dr. deQuina's license, it may find him in default for not filing a timely answer, it may make findings and enter an order based on the complaint, and it may impose discipline, presumably revocation, for a violation of sec. Med 10.02(2)(b), Wis. Admin. Code.

As for the costs of this action, one reason for Dr. deQuina's decision not to contest the allegations of the complaint may well have been the potential cost of legal representation. Cost may

also have been a factor in his decision not to pursue the assessment and training program. Since the very nature of the charge in the complaint indicates that little time or effort was required by the department in its preparation, I recommend that no further costs be assessed against Dr. deQuina.

Dated and signed: January 28, 1997.



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Magtangol R. deQuina, MD,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

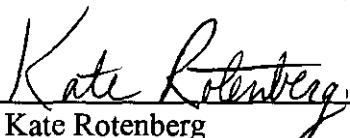
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On March 3, 1997, I served the Final Decision and Order dated February 26, 1997, LS9612031MED, upon the Respondent Magtangol R. deQuina, MD by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 374 034.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:


Magtangol R. deQuina, MD
4819 South Packard
Cudahy WI 53110



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 3rd day of March, 1997.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

March 3, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)