

# 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

RODRIGO R. ITABLE, M.D.,

Respondent

ORDER ON PETITION

On September 25, 1996, the Medical Examining Board issued its Final Decision and Order in the above-captioned matter. By the terms of the board's order, respondent's license was limited in part to require that within nine months of the Order, Dr. Itable take and achieve a score of 75 on the Special Purpose Examination of the Federation of State Medical Boards. The Order specifies that Dr. Itable not be permitted to take the examination more than twice without board permission, and that the license would be suspended if Dr. Itable failed to achieve a score of 75 in two attempts.

Dr. Itable attempted the SPEX examination on December 31, 1996, and again on June 2, 1997, but failed to achieve a score of 75 in either attempt. Accordingly, he was notified on June 12, 1997, that his license was suspended immediately.

By letter dated June 16, 1997, Dr. Itable petitioned the board to permit him to appear in support of his request that he be permitted to sit for SPEX a third time. He appeared on June 25, 1995, and modified his request to either permit him to practice with a limited license or to enter and complete a remedial education program fashioned by the University of Wisconsin Continuing Medical Education Program. The board instead granted the original request and, by Order dated July 7, 1997, reinstated the license for 90 days and granted permission to take SPEX for the third time.

By notice dated October 24, 1997, the board was notified by the Federation of State Medical Boards that Dr. Itable sat for SPEX on October 15, 1997, and again failed to pass the examination. The board considered the matter at its meeting of November 20, 1997, and ordered the license be suspended until Dr. Itable achieves a passing score on the SPEX.

By letter dated November 28, 1997, Dr. Itable requested that the department consider an accommodation in the examination process in any future attempts by him to pass the examination. The board considered the matter on December 18, 1997, and denied the request by its Order dated December 22, 1997. The basis for the denial was that the policy of the Wisconsin department of Regulation & Licensing and the Medical Examining Board in relation to

examination accommodations is that an individual must suffer from a medical or physical disability in order to be granted an accommodation for the examination. English as a second language is not considered a disability according to this standard.

By letter dated January 23, 1998, Thomas P. Ehr, attorney for Dr. Itable, requested on Dr. Itable's behalf that the board stay the suspension of Dr. Itable's license until he is able to successfully complete the SPEX examination. The board considered the request at its meeting of February 25, 1998, and denied the request by its Order dated March 12, 1998.

Dr. Itable appeared before the board on June 24, 1998, to request the board to accept the score of 74 which he achieved on the SPEX examination which he sat for on May 6, 1998.

Based upon Dr. Itable's request and other information of record herein, the board orders as follows:

#### ORDER

NOW, THEREFORE, IT IS ORDERED that the request of Rodrigo Itable that the board accept as passing the score of 74 achieved by him on SPEX on May 24, 1998, be, and hereby is, denied.

#### DISCUSSION

Dr. Itable came within one point of passing SPEX in his last attempt, and it is regrettable that he has still fallen short. Unfortunately, the board, having established the passing score for the examination at 75, is not in a position to make an exception in Dr. Itable's case. Based on its discussion with Dr. Itable on June 24, the board concluded that it seemed likely that his difficulty with passing the examination may have a great deal to do with the well-recognized phenomenon of loss of test-taking skills as one leaves one's years of formal education behind. The board might therefore recommend that Dr. Itable make recourse to available courses in test-taking ability prior to attempting the examination again.

Dated this 9th day of July, 1998.

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

by Wanda Roever  
Wanda Roever  
Secretary of the Board

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

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In the Matter of Disciplinary Proceedings Against

Rodrigo R. Itable, M.D.,

AFFIDAVIT OF MAILING

Respondent.

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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.

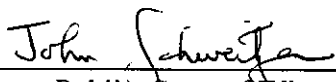
2. On July 16, 1998, I served the Order on Petition dated July 9, 1998 upon the Respondent Rodrigo R. Itable's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope 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 Z 233 819 600.

Thomas P. Ehr, Attorney  
11931 W. Bluemound Road  
Wauwatosa WI 53226

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 16<sup>th</sup> day of July, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

## NOTICE OF RIGHTS OF APPEAL

TO: THOMAS P EHR ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 7/16/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD  
1400 East Washington Avenue  
P.O. Box 8935  
Madison WI 53708-8935