



# State Medical Board of Ohio

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November 17, 1999

Candace Jean Galat, D.P.M.  
2950 W. Market Street, Suite F  
Akron, OH 44313

Dear Doctor Galat:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 17, 1999, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.  
Secretary

AGG:jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 896 590  
RETURN RECEIPT REQUESTED

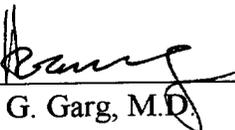
cc: Kevin P. Byers, Esq.  
CERTIFIED MAIL RECEIPT NO. Z 233 896 591  
RETURN RECEIPT REQUESTED

*Mailed 12/02/99*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on November 17, 1999, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Candace Jean Galat, D.P.M., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

  
\_\_\_\_\_  
Anand G. Garg, M.D.  
Secretary

(SEAL)

NOVEMBER 17, 1999  
\_\_\_\_\_  
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CANDACE JEAN GALAT, D.P.M.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on November 17, 1999.

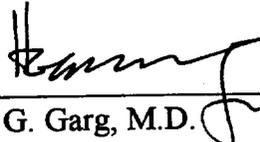
Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The application of Candace Jean Galat, D.P.M., for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio shall be DENIED.
2. Dr. Galat shall be ineligible to submit an application for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio for one year, such time to be calculated from April 28, 1999, the last date on which Dr. Galat engaged in the practice of podiatry. Such application shall be accompanied by all licensure renewal fees incurred since the Dr. Galat last renewed her certificate.
3. Dr. Galat is hereby REPRIMANDED.

This Order shall become effective immediately upon mailing of notification of approval by the Board.

(SEAL)

  
Anand G. Garg, M.D.  
Secretary

NOVEMBER 17, 1999

Date

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**REPORT AND RECOMMENDATION  
IN THE MATTER OF CANDACE JEAN GALAT, D.P.M.**

The Matter of Candace Jean Galat, D.P.M., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on August 23, 1999.

**INTRODUCTION**

I. Basis for Hearing

A. By letter dated May 12, 1999, the State Medical Board of Ohio [Board] notified Candace Jean Galat, D.P.M., that it had proposed to take disciplinary action against her certificate to practice podiatric medicine and surgery in Ohio. The Board based its action on the following allegations:

- (1) On or about October 16, 1981, the State Medical Board of Ohio issued Dr. Galat a certificate to practice podiatry in the state of Ohio. Dr. Galat's license was suspended by operation of law on October 1, 1994, for failure to submit an application for renewal pursuant to Section 4731.281, Ohio Revised Code. On or about September 9, 1998, Dr. Galat submitted an application to restore her license to practice podiatry in the state of Ohio. Dr. Galat's application remains pending.
- (2) Despite the suspension of her license, Dr. Galat continued to practice podiatry in the state of Ohio from October 1, 1994, to April 28, 1999.
- (3) Further, despite the suspension of her license on October 1, 1994, Dr. Galat issued the following prescriptions to Patients 1, 2 and 3:

<b>Date</b>	<b>Patient</b>	<b>Drug</b>
11/24/98	1	Amoxicillin 500 mg
11/30/98	1	Amoxicillin 500 mg
12/07/98	2	Lamisil 250 mg
03/04/99	3	Anaprox DS 550 mg

The Board asserted that Dr. Galat's conduct, as alleged in paragraph (2) above, occurring before March 9, 1999, constitutes "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used

in Section 4731.22(B)(12), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4731.60, Ohio Revised Code, Practicing podiatry without a certificate, to wit: Section 4731.99, Ohio Revised Code, as in effect prior to March 9, 1999.”

In addition, the Board asserted that Dr. Galat’s conduct, as alleged in paragraph (2) above, occurring on or after March 9, 1999, constitutes “[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 4731.60, Ohio Revised Code, Practicing podiatry without a certificate, to wit: Section 4731.99, Ohio Revised Code.”

Finally, the Board alleged that Dr. Galat’s conduct, as alleged in paragraph (3) above, constitutes “[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.”

Accordingly, the Board advised Dr. Galat of her right to request a hearing in this matter. (State’s Exhibit 1A).

- B. On June 1, 1999, Frank H. Chapman II, Esq., submitted a written hearing request on behalf of Dr. Galat. (State’s Exhibit 1C).

## II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

## EVIDENCE EXAMINED

### I. Testimony Heard

- A. Presented by the State
  - 1. Candace Jean Galat, D.P.M., as upon cross-examination
  - 2. Debra L. Jones
  - 3. Brenda Harrison
  - 4. Shawn McCafferty

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B. Presented by the Respondent

1. Jerome J. Lamendola, D.P.M.
2. Candace Jean Galat, D.P.M.

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1S: Procedural exhibits. (Note: State's Exhibit 1B is a Patient Key which will be sealed to protect patient confidentiality.)
2. State's Exhibits 2, 4-7: Copies of correspondence between Dr. Galat and the Board.
3. State's Exhibit 3: Copy of Dr. Galat's Application for Restoration of her Podiatric Certificate filed with the Board on September 9, 1998.
4. State's Exhibit 8: Copy of a November 24, 1998, facsimile transmission to the Board from the Margo-Suppan Foot and Ankle Clinic.
5. State's Exhibit 9: Copy of a November 25, 1998, letter to M.L. Suppan, M.D., from the Board.
6. State's Exhibit 10: Copy of a certificate of recommendation filed December 3, 1998, as part of Dr. Galat's restoration application.
7. State's Exhibits 11-14: Copies of Dr. Galat's renewal applications for 1986 through 1992.
8. State's Exhibit 15: Four prescriptions written by Dr. Galat. (Note: Exhibit sealed to protect patient confidentiality.)

B. Presented by the Respondent

1. Respondent's Exhibit A: Copies of the instructions portion of the renewal application sent to Dr. Galat for the 1994-1996 renewal period; and copies of a statement and register from Dr. Galat's checking account.
2. Respondent's Exhibit B: Copy of a notice to Dr. Galat from the Board acknowledging that her application for restoration had been received on September 25, 1998, with a copy of a canceled check from Dr. Galat dated September 2, 1998.

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3. Respondent's Exhibits C, D, and G: Copies of letters written in support of Dr. Galat.

(Please Note: All exhibits were inadvertently date/time-stamped by the Board on August 31, 1999. Accordingly, the date/time-stamp for that date has no relevance to the substantive or procedural issues in this matter.)

### PROCEDURAL MATTERS

At the hearing, the Respondent requested an opportunity to submit two additional exhibits. The Attorney Hearing Examiner agreed to hold the record open until September 1, 1999, for submission of the additional exhibits. Nevertheless, on August 30, 1999, counsel for the Respondent advised the Attorney Hearing Examiner that no additional exhibits would be submitted. Therefore, the hearing record closed at that time.

### SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Attorney Hearing Examiner prior to preparing this Report and Recommendation.

1. Candace Jean Galat, D.P.M., graduated from the Ohio College of Podiatric Medicine in 1981. Dr. Galat then "spent some time" at the Podiatry Hospital of Pittsburgh and "in North Carolina and in California doing like a couple month program with different doctors to learn medical care in the offices and surgery." Thereafter, Dr. Galat returned to Ohio and accepted a position with a podiatrist in Cleveland. At the same time, Dr. Galat started her own practice in Akron, Ohio. Eighteen months later, Dr. Galat left the employ of the Cleveland podiatrist, and devoted herself full time to her own practice in Akron. Dr. Galat continued to practice at that location until April 1998. (Transcript [Tr.] at 7-8).
2. Debra L. Jones, Chief of Continuing Medical Education, Records, and Renewal, for the Board, testified at hearing on behalf of the State. Ms. Jones advised that her responsibilities include the renewal of all physicians' licenses, as well as the restoration of lapsed licenses. (Tr. at 21).

Ms. Jones testified that Dr. Galat had originally been licensed to practice podiatry in the state of Ohio on October 16, 1981. Dr. Galat renewed her license to practice bi-annually, as required, through September 1994. Nevertheless, Ms. Jones testified that the Board's files contain neither an application nor any other correspondence from Dr. Galat in 1994. Ms. Jones further testified, because had failed to renew her license in 1994, her license was

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suspended by operation of law on September 30, 1994. (Tr. at 21-22, 28; State's Exhibits [St. Exs.] 2, 11-14).

Ms. Jones also testified that, at the end of the 1994-1996 registration period, the Board did not send Dr. Galat renewal materials for the 1996-1998 registration period. Dr. Galat explained that, once a licensee allows a certificate to lapse, the Board does not send renewal materials to the physician until the physician requests restoration reinstatement of the license. (Tr. at 32).

Ms. Jones testified that Dr. Galat contacted the Board in August 1998, and requested an application for restoration of her license to practice podiatry. On August 24, 1998, Ms. Jones sent Dr. Galat an application for restoration. Dr. Galat submitted the application for restoration on September 9, 1998. (St. Exs. 2, 3). On October 27, 1998, Ms. Jones notified Dr. Galat that Dr. Galat needed to send a log of the Continuing Medical Education that Dr. Galat had completed since 1993. Dr. Galat submitted the log on November 10, 1998. (Tr. at 25; St. Exs. 5, 6). Subsequently, on November 19, 1998, Ms. Jones notified Dr. Galat that the Board had not received the required number of recommendations to complete the application. The Board received the final recommendation on December 3, 1998. (Tr. at 26; St. Exs. 7-10).

Ms. Jones testified that, upon reviewing the application for restoration, she noted that the information provided by Dr. Galat suggested that Dr. Galat had been practicing in Ohio since the suspension of her license. Therefore, Ms. Jones submitted Dr. Galat's application to the Board's complaint department. (Tr. at 23). Ms. Jones further testified that, when a physician applies for restoration, she does not routinely advise physician that he or she should not be practicing in Ohio. Nevertheless, Ms. Jones stated that she would so advise a physician if the physician were to ask. (Tr. at 39).

3. Brenda Harrison, Enforcement Investigator for the Board, testified on behalf of the State. Investigator Harrison testified that she had been assigned by the Board to investigate Dr. Galat's possible practice without a license. (Tr. at 43-44).

In the course of the investigation, Investigator Harrison contacted Dr. Galat for an interview on February 25, 1999. Dr. Galat met Investigator Harrison at a local restaurant in Akron. Investigator Harrison stated that she had advised Dr. Galat that she had been sent by the Board in regard to her application for restoration. Investigator Harrison asked Dr. Galat if she was practicing medicine at that time. Dr. Galat stated that she was practicing, and admitted that she was seeing and treating patients. Investigator Harrison further testified that she then advised Dr. Galat that "practicing medicine without an active, valid, current license was in direct violation of state law, which carries disciplinary action by the Board." Investigator Harrison stated that Dr. Galat acknowledged that she had been aware that her practice was in violation of the law. (Tr. at 43-45, 47-49).

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Investigator Harrison further testified that she had interviewed Dr. Galat a second time on April 27, 1999. Investigator Harrison stated that the purpose of the second interview was to determine if Dr. Galat had continued to practice without a license. Dr. Galat advised Investigator Harrison that she had seen several patients that day. Investigator Harrison again advised Dr. Galat that practicing without a license is a violation of the law. At that time, Dr. Galat asked for clarification of the law. Investigator Harrison referred Dr. Galat to a Board attorney. (Tr. at 45-47).

Investigator Harrison testified that she had not, during either interview with Dr. Galat, informed Dr. Galat that Dr. Galat should stop practicing podiatry. Investigator Harrison emphasized that she had advised Dr. Galat that continued practice was in direct violation of the law. Investigator Harrison added, however, that Dr. Galat never inquired as to whether she should stop practicing. (Tr. at 48-48).

4. Shawn McCafferty, Drug Diversion Investigator for the Board, testified on behalf of the State. Investigator McCafferty testified that his responsibilities for the Board include the investigation of possible violations of drug laws and statutes. Investigator McCafferty stated that, in his investigation of Dr. Galat, he had visited three pharmacies located near Dr. Galat's office and found four prescriptions written by Dr. Galat. Investigator McCafferty identified the prescriptions as follows:

<b>Date</b>	<b>Patient</b>	<b>Drug</b>
11/24/98	1	Amoxicillin 500 mg
11/30/98	1	Amoxicillin 500 mg
12/07/98	2	Lamisil 250 mg
03/04/99	3	Anaprox DS 550 mg

(Tr. at 50; St. Ex. 15) (Note: Patients 1 through 3 are identified on a confidential patient key, State's Exhibit 1B).

5. Dr. Galat testified on her own behalf. Dr. Galat stated that, since first being licensed in 1981, she had renewed her podiatric license every two years until 1994. Dr. Galat acknowledged that, for each biennial renewal period, she had received a wallet card from the Board. (Tr. at 9, 12).

Dr. Galat further testified that she had completed an application for the 1994-1996 renewal period. Moreover, Dr. Galat stated that she had written the appropriate check and mailed the application to the Board. Nevertheless, Dr. Galat admitted that her bank has no record of processing such a check, and Dr. Galat cannot find a canceled check in her records. Moreover, Dr. Galat testified she never received the wallet card she would have received if her renewal application had been properly filed and processed. Dr. Galat explained that she may have failed to notice that she had not received these things because she had been

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distracted by events in her life, including a marriage, two miscarriages, and her father's open-heart surgery. (Tr. at 9-10, 67-68; Respondent's Exhibit [Resp. Ex.] A).

Dr. Galat explained that she did not renew her license for the subsequent renewal period because the Board had not sent her a renewal application. (Tr. at 10).

Dr. Galat testified that, in the fall of 1998, she first became aware that she had failed to renew her license, after applying for a position with a medical group. A member of the group had requested a copy of her current license. Dr. Galat stated that, when she retrieved her wallet card, she saw that it had expired in 1994. Dr. Galat testified that, at first, she believed she had merely failed to replace the expired card in her wallet. (Tr. at 11; Resp. Ex. E).

Dr. Galat further explained that, when she returned home, her husband checked the Board's website on the Internet and discovered that Dr. Galat's license had expired in 1994. Dr. Galat also found the annual renewal fee on the website and sent a check for that amount, dated July 31, 1998, to the Board. Dr. Galat stated that she had hoped that the Board would simply send her a new wallet card. [Note: there is no indication when the Board received that check; nevertheless, the Board returned the check to Dr. Galat in October 1998.] (Tr. at 13, 76; St. Ex. 4).

Dr. Galat testified that after the Board returned the check, she contacted the Board by telephone. She spoke to someone in the Board's licensure department and was advised that she would need to apply for restoration of her license. Dr. Galat testified that the Board sent her the application, and she returned it as soon as possible. (Tr. at 14-15). [Note, however, that other evidence indicates that Dr. Galat requested a restoration application in August 1998 and that she filed the restoration application in September 1998; but that the Board did not return Dr. Galat's check until October 1998. (St. Exs. 2-4).

Dr. Galat testified that when she first contacted the Board, she was very upset, and asked a staff person what she needed to do. The staff person advised that she would need to complete the restoration application process. Dr. Galat testified that the staff person did not specifically tell her that she could not continue to practice podiatry; therefore, Dr. Galat continued to practice. Dr. Galat had at least two additional conversations with Board staff, and numerous letters of correspondence. Dr. Galat could not recall that she had ever inquired as to whether she could continue to practice podiatry. (Tr. at 15-18, 71-72; St. Exs. 2 and 4-7).

Dr. Galat explained that she had called the Board a few times when she first discovered that her license had expired to check on the application for restoration. She stated that it became difficult for her to speak to Board staff because the whole process was so emotionally upsetting. Therefore, her husband "took over" communication the Board. (Tr. at 65-66).

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Dr. Galat acknowledged that Investigator Harrison had met with Dr. Galat in February 1998. Dr. Galat stated that she had discussed her licensure status with Investigator Harrison and was aware that "action was being taken" by the Board. Nevertheless, Dr. Galat testified that she had believed that she was authorized to continue practicing, including the writing of prescriptions, despite the fact that she was not licensed to practice. Dr. Galat testified that she had been waiting for "a response" from the Board, possibly a certified letter, but had not yet received one. Dr. Galat further stated that, since she had started the restoration process, she had hoped to have her license reinstated retroactively. (Tr. at 16-18; St. Ex. 3).

Dr. Galat further testified that, after Investigator Harrison's second visit in April 1999, she had been very upset and frustrated. She stated that Investigator Harrison had been "clear in dictating the letter of the law, but not in applying it to [Dr. Galat's] case." She further stated that Investigator Harrison had directed her to contact the legal staff at the Board. (Tr. at 65).

Dr. Galat stated that she had never been clearly told by anyone that she had to stop practicing podiatry until after Investigator Harrison's second visit. Dr. Galat stated that, the following day, her attorney contacted someone at the Board, and she stopped seeing patients. Dr. Galat admitted that no one at the Board had ever told her that she could continue to practice; but emphasized that no one had stated that she could not. Dr. Galat acknowledged that by becoming licensed by the Board she was responsible for knowing the laws regarding the practice of podiatry. (Tr. at 18, 71-72).

6. Jerome J. Lamendola, D.P.M., testified on behalf of Dr. Galat. Dr. Lamendola testified that he is a podiatrist practicing in Lakewood, Ohio, and serves as adjunct faculty at the Ohio College of Podiatric Medicine. Dr. Lamendola testified that he first met Dr. Galat as a podiatry student in 1977, and has maintained a casual friendship with her since that time. Dr. Lamendola stated that, approximately one year ago, Dr. Galat approached him for assistance with surgical procedures. Dr. Lamendola agreed to teach her certain procedures and to help her obtain staff privileges at some of the local hospitals. (Tr. at 56-59).

Dr. Lamendola testified that Dr. Galat is an excellent practitioner. He further stated that he has never had reason to question her integrity. (Tr. at 61).

7. Dr. Galat provided letters of support from colleagues and patients. (Resp. Exs. C, D, and G).

#### FINDINGS OF FACT

1. On or about October 16, 1981, the State Medical Board of Ohio issued Candace Jean Galat, D.P.M., a certificate to practice podiatry in the state of Ohio. Pursuant to Section 4731.281, Ohio Revised Code, Dr. Galat's license was suspended by operation of law on October 1, 1994, for failure to submit an application for renewal.

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2. On or about September 9, 1998, Dr. Galat submitted an application to restore her license to practice podiatry in the state of Ohio.
3. Despite the suspension of her license, Dr. Galat continued to practice podiatry in the state of Ohio from October 1, 1994, to April 28, 1999.
4. Further, despite the suspension of her license on October 1, 1994, Dr. Galat issued the following prescriptions to Patients 1, 2 and 3:

<b>Date</b>	<b>Patient</b>	<b>Drug</b>
11/24/98	1	Amoxicillin 500 mg
11/30/98	1	Amoxicillin 500 mg
12/07/98	2	Lamisil 250 mg
03/04/99	3	Anaprox DS 550 mg

#### CONCLUSIONS OF LAW

1. The acts, conduct, and/or omissions of Candace Jean Galat, D.P.M., as alleged in Findings of Fact 3, occurring before March 9, 1999, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4731.60, Ohio Revised Code, practicing podiatry without a certificate, and Section 4731.99, Ohio Revised Code, as in effect prior to March 9, 1999.
2. Dr. Galat's acts, conduct, and/or omissions as alleged in Findings of Fact 3, occurring on or after March 9, 1999, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 4731.60, Ohio Revised Code, Practicing podiatry without a certificate, and Section 4731.99, Ohio Revised Code.
3. Dr. Galat's acts, conduct, and/or omissions as alleged in Findings of Fact 4, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.

\* \* \* \* \*

Dr. Galat's attempt to characterize as excusable neglect her continued practice of podiatric medicine and surgery without a license - for nearly five years - is not persuasive. Her argument

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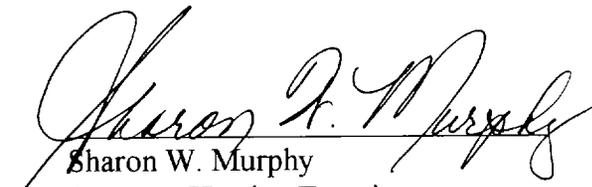
would have been more convincing had she ceased practicing when she discovered that her certificate had lapsed. Moreover, Dr. Galat's story may have been more convincing had she responded to Investigator Harrison's February 1998 admonition in that practicing podiatry without a license is a violation of the law. Instead, Dr. Galat continued to practice. Ultimately, the evidence supports a conclusion that Dr. Galat demonstrated utter disregard, if not contempt, for the laws of the State of Ohio and the regulatory authority of the Board.

### PROPOSED ORDER

It is hereby ORDERED that:

1. The application of Candace Jean Galat, D.P.M., for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio shall be DENIED.
2. Dr. Galat shall be ineligible to submit an application for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio for one year from the effective date of this Order.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

  
Sharon W. Murphy  
Attorney Hearing Examiner



# State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF NOVEMBER 17, 1999

## REPORTS AND RECOMMENDATIONS

Dr. Steinbergh announced that the Board would now consider the findings and orders appearing on the Board's agenda. She advised that the matter of Jeffrey A. McErlean, M.D., originally scheduled for consideration this month, will be considered at the December meeting instead. She asked that Board members retain their copies of the hearing record until such time as the Board has considered the case.

Dr. Steinbergh asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Candace Jean Galat, D.P.M.; David T. Gilliam, M.D.; Samuel R. Lowery, M.D.; and Malcolm E. Wagner, M.D. A roll call was taken:

ROLL CALL:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

Dr. Steinbergh asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

In accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Steinbergh stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

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CANDACE JEAN GALAT, D.P.M.

Dr. Steinbergh directed the Board's attention to the matter of Candace Jean Galat, D.P.M. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

Dr. Steinbergh continued that a request to address the Board has been timely filed on behalf of Dr. Galat. Five minutes would be allowed for that address.

Mr. Byers stated that he is sure the Board members have received and, hopefully, seriously considered the objections filed on Dr. Galat's behalf. Mr. Byers at this time introduced Dr. Galat.

Dr. Galat thanked the Board for meeting with her. She stated that she can't believe that she's here, and she's a little nervous, but she basically wanted to state that there was no intent on her part to practice without an updated license. As soon as she was aware of her lapsed license, she immediately took action to remedy the situation. As far as she was concerned, she thought that she was following the protocol to be able to continue her practice.

Dr. Galat continued that she is pretty much the responsible party in her immediate and extended family, and those responsibilities are sometimes overwhelming. Her practice was always the most important thing to her, but it was also being run by herself and her staff. The fact that this oversight occurred is just beyond belief.

Dr. Galat stated that she has always tried to uphold the profession and tried to be a credit to medicine. She's enjoyed her practice and would like to get back to it as soon as she can.

Dr. Galat stated that she would be happy to try to answer questions.

Dr. Steinbergh asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that Dr. Galat had not renewed her license since 1994. To say it's an oversight is a drastic understatement. When a physician is licensed by this Board, he or she is responsible for knowing the laws and rules that govern the license and practice. When Dr. Galat found out her license had expired in August, she did not stop practicing. Again, when the investigator came to see her in February, she again did not stop practicing until the second time the investigator came to see her. Ms. Albers stated that that fact raises serious questions as far as Dr. Galat's attitude, as was spelled out in the Report and Recommendation. Ms. Albers urged the Board to adopt Ms. Murphy's Report and Recommendation.

**DR. AGRESTA MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CANDACE JEAN GALAT, D.P.M. MS. NOBLE SECONDED THE MOTION.**

Dr. Steinbergh stated that she would now entertain discussion in the above matter.

Dr. Stienecker stated that this case represents a compliance issue, not a competency issue. He could not determine from the hearing record Dr. Galat's demeanor or how she looked upon her lapse of memory and failure to keep her license up to date. He believes that a more reasonable Order in this case, if the Board had the ability to levy fines in such cases, would be a reprimand, granting restoration upon recovery of past fees, cost of the investigation and hearing, and a deterrent fine in some amount. Since the Board is precluded from that course, he would amend the Order.

**DR. STIENECKER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF CANDACE JEAN GALAT, D.P.M., BE AMENDED BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that:

1. The application of Candace Jean Galat, D.P.M., for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio shall be DENIED.
2. Dr. Galat shall be ineligible to submit an application for restoration of her certificate to practice podiatric medicine and surgery in the State of Ohio for one year, such time to be calculated from April 28, 1999, the last date on which Dr. Galat engaged in the practice of podiatry. Such application shall be accompanied by all licensure renewal fees incurred since Dr. Galat last renewed her certificate.
3. Dr. Galat is hereby REPRIMANDED.

This Order shall become effective immediately upon mailing of notification of approval by the Board.

Dr. Stienecker stated that his intent is that, because the Board lacks the authority to fine this individual for back fees and costs incurred by the Board in following up on Dr. Galat's failure to renew her license, the Board will in effect give Dr. Galat a year out of practice, going back to when she last practiced. Moreover, the Board will reprimand Dr. Galat for practicing without an active license. At such time as Dr. Galat is allowed to apply for restoration next April, and pays the accompanying fees, the Board will have at least recaptured some of the cost of the effort the Board put into this. Dr. Galat will have paid the Board for the time that she was practicing without that license. Dr. Stienecker stated that he believes this is probably as equitable an arrangement as the Board can come to at this time.

**DR. AGRESTA SECONDED THE MOTION.**

Dr. Egner stated that Dr. Galat, and previous licensees the Board has had before it, have a better understanding of their driver's licenses than their medical licenses. Dr. Egner stated that she doesn't understand that. If a policeman had pulled Dr. Galat over and told her that her driver's license was expired, she would know from that day forward that she may not drive until she gets a driver's license. She added that it is beyond her that, when the investigator came to Dr. Galat's office and told her that she had no medical license, and that she had been practicing without a license for five years, Dr. Galat didn't understand. Dr. Egner stated that she is not opposed to the amendment, but she did want to voice her opinion that it is truly more than an oversight. Had Dr. Galat ceased practicing right away, she would probably be more sympathetic, but since it took a couple of trips to explain that continued practice was against the law, she has a little harder time.

Dr. Buchan spoke in support of the amended Order, adding that he believes leniency is in order. This was a compliance issue, but Dr. Galat has been out of practice for six months. That seems a reasonable period of time. He believes the point is well made that the Board takes this seriously, and doesn't take it lightly. It appears as though she's kept up-to-date. Her C.M.E. is current. Dr. Galat has learned a very harsh lesson.

Dr. Talmage asked whether the Board is legally able to collect the past licensure fees. He asked whether there isn't a maximum amount the Board can charge now.

Ms. Strait stated that the old law applies to this case because the application for restoration was filed prior to the change in the law.

Dr. Agresta stated that he doesn't see that the amendment changes things too much. It just changes the date when Dr. Galat can apply for restoration. She'll still have been out of practice for a year by the time she reapplies.

A vote was taken on Dr. Stienecker's motion to amend:

VOTE: Dr. Bhati - aye

Dr. Talmage	- aye
Dr. Somani	- aye
Dr. Egner	- nay
Mr. Browning	- aye
Ms. Noble	- nay
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Buchan	- aye
Dr. Steinbergh	- aye

The motion carried.

**DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF CANDACE JEAN GALAT, D.P.M. DR. TALMAGE SECONDED THE MOTION. A vote was taken:**

Vote:	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Noble	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.



# State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43260-0311 • 614/456-2950 • Website: www.state.oh.us/med

May 12, 1999

Candace Jean Galat, D.P.M.  
2950 West Market Street, Suite F  
Akron, OH 44333

Dear Doctor Galat:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice podiatry, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about October 16, 1981, the State Medical Board of Ohio issued your certificate to practice podiatry in the state of Ohio. Your license was suspended by operation of law on October 1, 1994, for failure to submit an application for renewal pursuant to Section 4731.281, Ohio Revised Code. On or about September 9, 1998, you submitted an application to restore your license to practice podiatry in the state of Ohio. Your application remains pending.
- (2) Despite the suspension of your license, you continued to practice podiatry in the state of Ohio, from October 1, 1994 to April 28, 1999.
- (3) Further, despite the suspension of your license on October 1, 1994, you issued the following prescriptions to Patients 1, 2 and 3:

<b>Date</b>	<b>Patient</b>	<b>Drug</b>
11/24/98	1	Amoxicillin 500 mg
11/30/98	1	Amoxicillin 500 mg
12/07/98	2	Lamisil 250 mg
03/04/99	3	Anaprox DS 550 mg

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, occurring before March 9, 1999, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, as in effect prior to March 9, 1999, to wit: Section 4731.60, Ohio Revised Code, Practicing podiatry without a certificate, to wit: Section 4731.99, Ohio Revised Code, as in effect prior to March 9, 1999.

*Mailed 5/13/99*

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, occurring on or after March 9, 1999, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 4731.60, Ohio Revised Code, Practicing podiatry without a certificate, to wit: Section 4731.99, Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.23, Ohio Revised Code, Illegal processing of drug documents.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice podiatry or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.  
Secretary

AGG/bjs  
Enclosures

CERTIFIED MAIL #Z 395 591 290  
RETURN RECEIPT REQUESTED