

IN THE COURT OF APPEALS OF IOWA

No. 0-291 / 09-1559
Filed May 26, 2010

STEPHEN E. SPARKS, M.D.,
Plaintiff-Appellant,

vs.

TWILA WESTERCAMP and
THE IOWA BOARD OF MEDICINE,
Defendants-Appellees.

Appeal from the Iowa District Court for Davis County, Richard E. Meadows, Judge.

Stephen Sparks appeals from the district court's order dismissing a petition for judicial review. **AFFIRMED.**

Michael M. Sellers of Sellers, Haraldson, and Binford, Des Moines, for appellant.

Elaine Eschman, Fort Madison, for appellee Westercamp.

Thomas J. Miller, Attorney General, and Theresa Weeg and Jordan Esbrook, Assistant Attorneys General, for appellee Iowa Board of Medicine.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ.

VOGEL, P.J.

Stephen E. Sparks, M.D., appeals the district court's dismissal of his petition against the Iowa Board of Medicine (Board). The district court's decision rested on its finding that Sparks had not exhausted his administrative remedies under Iowa Code section 17A.19(1) (2009). We review jurisdictional challenges of an administrative proceeding before the district court for corrections of errors at law. *Shors v. Johnson*, 581 N.W.2d 648, 650 (Iowa 1998).

The Board sent a "formal investigative inquiry" letter to Sparks on January 30, 2009. On the request of Sparks's attorney, Sparks was allowed until April 15, 2009, to respond to the letter. Unfortunately, and for an unexplained reason, the Board did not wait until the agreed upon time, but filed a Statement of Charges against Sparks on April 2, 2009. Sparks then filed a petition in district court, seeking several remedies, including that the Board dismiss its Statement of Charges. The Board moved to dismiss Sparks's petition, asserting the district court did not have jurisdiction as there was no final agency action upon which to seek judicial review.

The district court dismissed Sparks's petition finding there had not yet been an administrative hearing on the Board's Statement of Charges. We agree with the district court. As the Board points out, Sparks's remedy is that

[he] may contest the charges that the Board set out in its Statement of Charges, may be represented at a hearing by counsel, and may subpoena witnesses and evidence in his defense. The Board will subsequently issue detailed findings of fact, conclusions of law, and decision and order.

See Iowa Admin. Code r. 653-25.18 (outlining hearing procedures).

Prior to a final administrative ruling, the district court lacked jurisdiction to consider the merits of Sparks's petition. Iowa Code § 17A.19(1). Nor is this a case for interlocutory review, as Sparks has not demonstrated that a contested case hearing is not an adequate remedy and that delaying judicial review of the Board's action until after the hearing would deprive him of an inadequate remedy. *Id.* § 17A.19(1) ("A preliminary, procedural or intermediate agency action is immediately reviewable if all adequate administrative remedies have been exhausted and review of the final agency action would not provide an adequate remedy."); *City of Des Moines v. City Dev. Bd.*, 633 N.W.2d 305, 309 (Iowa 2001); *Salsbury Labs. v. Iowa Dep't of Env'tl. Quality*, 276 N.W.2d 830, 837 (Iowa 1979).¹

We affirm the district court's dismissal of Sparks's petition.

AFFIRMED.

¹ Sparks does not challenge the district court finding, "Thus, the fact that [Sparks] may suffer some loss of business or damage to reputation is not enough at this early stage of the administrative action to allow the District Court to intervene."