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**BEFORE THE BOARD OF
HOMEOPATHIC MEDICAL EXAMINERS**

STATE OF NEVADA, BOARD OF
HOMEOPATHIC MEDICAL
EXAMINERS,

Petitioner,

vs.

MICHAEL L. GERBER, H.M.D,

Respondent.

Case No. 17-01

ORDER

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

This matter was heard by the STATE OF NEVADA, BOARD OF HOMEOPATHIC MEDICAL EXAMINERS ("Board") on July 22, August 23, and 24, 2017 with Board President Diane Kennedy and Board members Dr. Bruce Fong, Dr. Keith Scott-Mumby, Dr. Cora Ibarra and Dawn Minstrel present. Board member Dr. Robert Eslinger recused himself and Board member KJ Smith was absent from the July 22 and August 23, 2017 hearings and therefore was precluded from participating at the August 24, 2017 hearing. Respondent was represented by Julie Cavanaugh-Bill, Esq. The Board staff was represented by Adam Paul Laxalt, Attorney General, and Henna Rasul, Senior Deputy Attorney General. Sarah Bradley, Senior Deputy Attorney General, provided legal counsel to the Board.

The Board, having considered the testimony of witnesses, the Exhibits introduced at the hearing together with all papers and pleadings filed with the Board in this matter makes the following findings of fact, conclusions of law and decision.

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1 **FINDINGS OF FACT**

2 1. On or about December 27, 1984, the Board Office received an application for
3 licensure from Respondent.

4 a. In this application, Respondent indicates that he was issued a medical
5 license from Kansas and California.

6 b. Respondent attached a copy of his medical license (certificate
7 number 15355) from the State of Kansas which indicated he was
8 licensed on or about July 10, 1973.

9 c. Respondent's California medical license number C35438 was revoked
10 on June 20, 1984.

11 d. Respondent's Kansas medical license was cancelled by the Kansas
12 State Board of Healing Arts on June 30, 1990, due to Respondent's
13 failure to renew.

14 2. At a later date, Respondent indicated to the Board that he was licensed to
15 practice medicine in the Government of the District of Columbia, Department of
16 Health of Medicine.

17 3. According to a letter dated April 27, 2017, from Counsel to Government
18 of the District of Columbia, Department of Health of Medicine (D.C. Board of Medicine),
19 Suzanne M. Fenzel, states the Respondent "is not 'currently licensed in good standing to
20 practice medicine in the District of Columbia pursuant to DCMR 17-4600.'" She further states that "Mr. Gerber's D.C. license was indefinitely restricted via a
21 Consent Order effective October 8, 1986" which states the Respondent "will not practice
22 or attempt to practice medicine in the District of Columbia without the prior approval
23 of the Board. As of today's date, the Board has given no such approval."

24 4. Consequently, Respondent no longer qualified for licensure by the Board
25 as of June 30, 1990.

26 5. Respondent was issued a homeopathic license by the Arizona Board of
27 Homeopathic and Integrated Medicine on September 25, 1990.
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1 6. Pursuant to NRS 630A.230(2)(d), licensure as a homeopathic physician in
2 the State of Nevada requires that the applicant "is licensed in good standing to practice
3 allopathic or osteopathic medicine in any state or country, the District of Columbia
4 or a territory or possession of the United States[.]"

5 7. Staff employed by the Board is not licensed homeopathic physicians.

6 8. Board practice and procedure requires that the file for each applicant for
7 licensure as a homeopathic physician be reviewed and approved by a Board member(s)
8 pursuant to NAC 630A.050.

9 9. This review is intended to verify that educational and internship
10 requirements, codified in NRS and NAC Chapter 630A, for licensure are met by
11 each applicant prior to licensure.

12 10. The Board member who initially approved Respondent's file for licensure
13 relied on Respondent's Kansas medical license.

14 11. Respondent allowed his Kansas medical license to expire on June 30, 1990.

15 12. Respondent was issued license number 84106 that became invalid
16 on June 30, 1990.

17 13. Respondent relied upon his Nevada homeopathic license to obtain his
18 Arizona homeopathic license on September 25, 1990.

19 14. In NRS 630A.050, the Nevada Legislature declared that a
20 "homeopathic physician" means a person who has complied with all of the requirements
21 set forth in this chapter and the regulations adopted by the Board for the practice
22 of homeopathic medicine."

23 15. In NRS 630A.144, the Nevada Legislature declared that the Board
24 shall "regulate the practice of homeopathic medicine in this State and any activities that
25 are within the scope of such practice, to protect the public health and safety
26 and the general welfare of the people of this State" and "license or certify those
27 applicants it finds to be qualified."

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1 16. Further, in NRS 622.080, the Nevada Legislature has mandated that the
2 Board "carry out and enforce the provisions of [its chapter] for the protection and benefit
3 of the public."

4 17. Respondent's failure to hold a valid medical license from the
5 District of Columbia, Department of Health of Medicine, California or Kansas in good
6 standing prevents him from safely practicing homeopathic medicine in the State of
7 Nevada.

8 18. Further, Respondent's application became invalid on June 30, 1990,
9 when he allowed his Kansas medical license to expire, thus raising concerns about
10 his "good moral character," which is a requirement for licensure pursuant
11 to NRS 630A.230(2)(b).

12 19. Respondent advertises and/or holds himself out as a medical doctor and
13 homeopathic physician.

14 20. Unless and until Respondent satisfies the requirements in
15 NRS 630A.230(2)(d), he is not eligible for licensure as a homeopathic physician in
16 the State of Nevada.

17 21. The Board has a duty pursuant to NRS 630A.144 and/or NRS 622.080
18 to take action against Respondent's license to protect the public's health,
19 safety, and welfare.

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CONCLUSIONS OF LAW

By falsely indicating that he was licensed in good standing to practice allopathic or osteopathic medicine in any state or county, the District of Columbia or territory or possession of the United States, Respondent provided an untrue statement to the Board in his renewal licensure applications in violation of NRS 630A350, and which is grounds for disciplinary action.

DECISION

IT IS HEREBY ORDERED, by majority decision of the Board as follows:

1. Respondent Michael L. Gerber, H.M.D. is hereby **publicly reprimanded** for the conduct in the Findings of Fact numbers 1-21 and the Conclusions of Law, as set forth above.

2. Respondent is placed on probation until December 31, 2017, during which time he will seek to reinstate any of his medical licenses in any of the fifty (50) states, the District of Columbia or U.S. territories.

3. Following January 1, 2018, should Respondent not have reinstated his medical license in any of the aforementioned jurisdictions, Respondent will be placed on a restricted license for six (6) months, and he will be supervised by a Board approved H.M.D.

4. Respondent must submit the name of the supervising H.M.D. for Board approval by the Board by December 1, 2017.

5. On or before February 28, 2018, Respondent shall pay all attorney's fees and costs incurred by the Board in the investigation of the disciplinary proceedings in this matter not to exceed \$30,000.

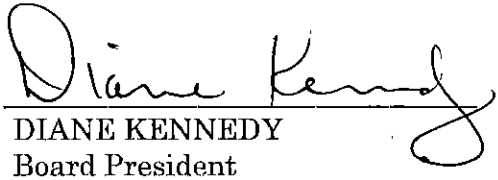
6. The Board may institute collection proceedings and recovery actions against Respondent if Respondent fails to pay the costs assessed above within the time given for payment; and

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1 7. Violation of any term of this Order may constitute unprofessional conduct
2 and be grounds for further discipline against Respondent.

3 DATED this 23rd day of October, 2017.

4 STATE OF NEVADA BOARD OF
5 HOMEOPATHIC MEDICAL EXAMINERS

6
7 By: 
8 DIANE KENNEDY
9 Board President

10 Submitted by:

11 ADAM PAUL LAXALT
12 Attorney General

13 By: 

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20 *Homeopathic Medical Examiners*
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