BEFORE THE BOARD OF MEDICAL EXAMINERS

 OF THE STATE OF NEVADA

 In the Matter of the Charges and

 Complaint Against:

 BELLIOTT SCHMERLER, M.D.,

 Respondent.

 Case No. 08-9279-1

 OC fuber 14, 2008

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 Description

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## FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above-entitled matter came on regularly for decision before the Nevada State Board of Medical Examiners, hereinafter "Board," on Friday, October 3, 2008, at the Board's Office located at 1105 Terminal Way, Suite 301, Reno, Nevada 89502, on the Complaint filed herein. Respondent, ELLIOTT SCHMERLER, M.D., hereinafter "Respondent," was not present at the meeting.

The Members of the Board participating in the decision were: Javaid Anwar, M.D.; Sohail Anjum, M.D.; Van V. Heffner; S. Daniel McBride, M.D; Benjamin J. Rodriguez, M.D. and Renee West. All other remaining members of the Board, being members of the Investigative Committee which issued the complaint in this matter, were excused from participating and took no part in the proceedings of the Board. Christine M. Guerci-Nyhus, Chief Deputy Attorney General, acted as legal counsel to the Board.

The Board having received and read the complaint and exhibits offered in this matter and having reviewed and read all of the above, proceeded to make a decision pursuant to the provisions of NRS chapter 233B and NRS 630.352.

The Board after due consideration of the record, evidence and law, and being fully advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in this matter as follows:

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## **FINDINGS OF FACT**

١.

Respondent held a license to practice medicine in the State of Nevada at all relevant times.

11.

A complaint was filed by the Investigative Committee against Respondent in March of 2008 alleging violations of Chapter 630 of the Nevada Revised Statutes.

111.

The complaint alleged that on his October 2006 re-application for a medical license, Respondent indicated that he was currently certified by the American Board of Family Medicine. Respondent was granted a license in December of 2006, after an appearance before the Board, with the condition that he maintains that certification. On Respondent's May 2007 renewal, he again indicated that he was certified. However, ABFM had revoked Respondent's certification in 2002 and had notified him by a certified letter of such revocation in February of 2002.

IV.

The complaint in Count I alleged that the Respondent obtained a license to practice medicine by misrepresentation and by a false, misleading and inaccurate statement in violation of NRS 630.304(1) when he indicated on his October 2006 application for licensure and to the Board during his December 2006 appearance that he was certified by the ABFM at the time of the application when in actuality his status had been revoked.

V.

The complaint in Count II alleged that the Respondent renewed a license to practice medicine by misrepresentation and by a false, misleading and inaccurate statement in violation of NRS 630.304(1) when he indicated during the renewal process that he remained certified by the ABFM when in actuality his status had been revoked.

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The Board finds that Respondent violated NRS 630.304(1), as set forth in counts I and 2 3 II of the Complaint by making misrepresentations during the initial re-licensing application and on the subsequent renewal, to wit, that he was certified by the ABFM when that certification 4 had been revoked. 5 VII. 6 7 The Board finds by a preponderance of the evidence, that Respondent's conduct is a violation of NRS Chapter 630 and discipline is warranted. 8 VIII. 9 If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, 10 it may be so construed. 11 12 CONCLUSIONS OF LAW 13 Ι. 14 15 The Board has jurisdiction over Respondent. II. 16 Respondent was properly served with notice of the hearing before the Hearing Officer, 17 pursuant to NRS and NAC Chapters 630 and NRS Chapter 233B. 18 111. 19 The Board concludes that Respondent misrepresented his status with the ABFM during 20 the initial process for re-licensing in 2007 and again in his 2007 renewal. Respondent's 21 misrepresentations, as described above, are violations of NRS 630.304(1) and thus 22 Respondent is subject to discipline. 23 IV. 24 If any of the foregoing Conclusions of Law is more properly deemed a Findings of Fact, 25 26 it may be so construed. 27 28

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1	ORDER
2	Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause
3	appearing therefore,
4	IT IS HEREBY ORDERED that:
5	1. Respondent has violated NRS Chapter 630 and that discipline is warranted;
6	2. Respondent's license as a physician in the State of Nevada is hereby revoked;
7	and
8	3. Respondent shall reimburse the Board all costs and fees incurred in the
9	investigation and prosecution of this case within ninety (90) days from the date
10	of service of this Order. The total costs and fees incurred are Seven Thousand
11	Six Hundred Forty Seven Dollars and eleven cents (\$7,647.11).
12	
13	DATED this $\underline{14^{40}}$ day of October 2008.
14	NEVADA STATE BOARD OF MEDICAL EXAMINERS
15	NEVADA STATE BOARD OF MEDIOAE EX MILLERO
16	
17	By: CHARLES N. HELD, M.D., President
18	CHARLES N. HELD, W.D., Hesiden
19	Cubmitted by
20	Submitted by: CATHERINE CORTEZ MASTO
21	Attorney General
22	
23	By: MI M M M - M CHRISTINE M. &UERCI-NYHUS
24	Chief Deputy Attorney General
25	555 East Washington, # 3900 Las Vegas, Nevada 89101
26	Attorneys for Nevada State Board of Medical Examiners
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Attorney General's Office 555 E. Washington, Suite 3900 Las Vegas, NV 89101

CERTIFICATION
I hereby certify that the foregoing is the full and true original FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners
in the matter of ELLIOTT SCHMERLER, M.D., Case No. 08-9279-1.
I further certify that CHARLES N. HELD, M.D., is the President of the Nevada State
Board of Medical Examiners and that full force and credit is due to his official acts as such;
and that the signature to the foregoing ORDER is the signature of said CHARLES N. HELD,
M.D.
IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as
Secretary-Treasurer of the Nevada State Board of Medical Examiners.
Rence West
RENEE WEST Secretary-Treasurer
Nevada State Board of Medical Examiners
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