

Jim Gibbons, Governor
F. Fuller Royal, *President*
Valerie Kilgore, *Vice President*
Bruce Fong, *Secretary-Treasurer*



Diane Kennedy, *Member*
Cyrus Pourzan, *Member*
Leticia Gardea, *Member*

Declaration of the Members

of

The State of Nevada Board of Homeopathic Medical Examiners

We, F. Fuller Royal, MD, HMD, Valerie Kilgore, Bruce Fong, DO, HMD, Diane Kennedy, Cyrus Pourzan, MD, HMD and Leticia Gardea, as standing members of this Board, as defined below, and Robert Eslinger, DO, HMD as a former temporary member of this Board (collectively, the “Members” and individually, a “Member”) do hereby collectively declare as follows.

1. Each of us is either a Standing Member or a former Temporary Member of the State of Nevada Board of Homeopathic Medical Examiners (the “Board”) and has been at all times relevant herein other than such time as Dr. Robert Eslinger’s temporary appointment to this Board had expired.

2. As a Member of the Board, each of us is familiar with the matters set forth herein and could competently testify at trial in regards to each matter set forth herein if required to do so.

3. At a duly and legally called meeting of this Board held on September 15, 2007, the matter of Complaint No. 2007-02 (the “Complaint”) asserted against Dr. Daniel Royal, DO, HMD was addressed by this Board. The substance of the Complaint was that

Dr. Daniel Royal had allowed, and has continued to allow, an unlicensed individual, one Dean Friesen, to practice homeopathic medicine in his office in contravention of the laws of the State of Nevada.

4. At the advice of the Office of the Attorney General of the State of Nevada, this Board had two (2) temporary members appointed by the Office of the Governor of the State of Nevada for the purpose of this meeting so as to avoid any potential conflicts of interests and to insure that there was a quorum at such time as the members of the Complaint Committee and any Member having a potential conflict of interest recused themselves from considering the Complaint asserted against Dr. Daniel Royal.

5. The temporary members of this Board for this purpose for this meeting were Robert Eslinger, DO, HMD and Ms. K. J. Smith, both of whom were duly appointed for this specific purpose by the Governor of the State of Nevada.

6. For the purpose of addressing the Complaint asserted against Dr. Daniel Royal, Keith Marcher, Senior Attorney General represented the interests of the Board.

7. The regular Counsel for the Board, Edward T. Reed, Senior Attorney General, recused himself as Counsel for the Board in order to enable him to prosecute the Complaint asserted against Dr. Daniel Royal.

8. In order to eliminate any potential conflicts of interest, Dr. F. Fuller Royal, Diane Kennedy, Dr. Cyrus Pourzan and Leticia Gardea also recused themselves from the consideration of the Complaint asserted against Dr. Daniel Royal.

9. Dr. Daniel Royal was given all requisite notices of the meeting held on September 15, 2007, the nature of the Complaint asserted against him, his right to

counsel and his right to present evidence and testimony on his behalf in regards to the Complaint asserted against him.

10. Neither Dr. Daniel Royal nor any counsel for Dr. Daniel Royal was present to represent the interests of Dr. Daniel Royal in regards to the Complaint at this meeting held on September 15, 2007.

11. The only defense putatively asserted by Dr. Daniel Royal was a letter from his counsel of record asserting that Dr. Daniel Royal did not engage in the practice of homeopathic medicine and that Dr. Daniel Royal only engaged in the practice of osteopathic medicine. This letter also contained an opinion from the Legislative Counsel Board that had been requested in January of 2007 by Senator Michael Schneider for the benefit of Dr. Daniel Royal regarding potential jurisdictional conflicts issues as they may relate to dual licensed physicians. Accordingly, counsel for Dr. Daniel Royal asserted that this Board did not have subject matter jurisdiction over Dr. Daniel Royal in regards to the Complaint.

12. Upon the advice of counsel to the Board from the Office of the Attorney General, this Board determined that it did, in fact, have subject matter jurisdiction over Dr. Daniel Royal and proceeded to address the Complaint asserted against him.

13. After hearing the presentation of Mr. Reed in regards to the Complaint and duly deliberating on the matter, the Members of the Board hearing this matter voted unanimously to proceed with a further hearing on this matter which was subsequently set for October 25, 2007 and to also summarily suspend the license of Dr, Daniel Royal to practice homeopathic medicine until said hearing could be held regarding the Complaint

in the manner recommended by the Office of the Attorney General of the State of Nevada.

14. Subsequent to the September 15, 2007 meeting of this Board, Dr. Daniel Royal and his counsel of record were given all requisite notices in regards to the hearing regarding the Complaint to be held on October 25, 2007.

15. Following the summary suspension of Dr. Daniel Royal's license to practice homeopathic medicine, to the best of the information and belief of the Members of this Board, Dr. Daniel Royal has continued to illegally practice homeopathic medicine and has continued to illegally advertise that he is a licensee of this Board.

16. Subsequent to the meeting held on September 15, 2007, on October 10, 2007, without any notice to or discussion with this Board, this Board was informed that Edward T. Reed was no longer counsel to this Board and that one Nancy Savage was now counsel to this Board and that this Board could no longer communicate with Mr. Reed regarding matters pertaining to this Board.

17. It is this Board's understanding and belief that the offices of Dr. Daniel Royal were the subject of the execution of a search warrant by the Office of the Attorney General of the State of Nevada on October 8, 2007.

18. It is this Board's further understanding and belief that, on October 9, 2007, Senator Michael Schneider had a private meeting with Attorney General Catherine Cortez- Masto.

19. In reaction to the announcement of October 10, 2007 regarding its long standing counsel, this Board attempted to have an emergency meeting to discuss this matter on October 11, 2007

20. Upon the advise of Senior Attorney General Keith Marcher, it was decided that this meeting would not qualify as an emergency meeting under the provisions of the Nevada Revised Statutes and that a regular meeting should be noticed and held.

21. Such a meeting was to be noticed for October 18, 2007.

22. Prior to the posting of the requisite notices for the October 18, 2007 meeting, the President of this Board, Dr. F. Fuller Royal was contacted by Ms. Savage and was told that now the Board had to hold an emergency meeting on October 18, 2007 to consider solely the matter of Dr. Daniel Royal's summary suspension. Dr. F. Fuller Royal had no intention to hold such a meeting but was instructed to do so by Ms. Savage despite his reservations to do so.

23. At this time Ms. Savage also informed the President of this Board that she was going to hold a meeting with this Board at 7:00 PM during the hour preceeding the Emergency Meeting which was to be held at 8:00 PM.

24. Prior to the commencement of the 7:00 PM meeting, the President of this Board requested that he be allowed to record the meeting and was told that he would not be allowed to do so by one Ms. Christine Guerci-Nyhus, also of the Office of the Attorney General of the State of Nevada, who was with Ms. Savage.

25. Upon the commencement of this October 18, 2007 meeting with Ms. Savage, the Board was confronted by another member of the Office of the Attorney General, one Ms. Christine Guerci-Nyhus who took over the meeting and proceeded to do most of the talking for the Office of the Attorney General. At not time whatsoever did Ms. Guerci-Nyhus assert that she was a legal representative of this Board nor did she inform the Board that its conversations with her would be subject to the attorney client privilege.

26. It is the understanding and belief of this Board that Ms. Guerci-Nyhus was, and may still be, the counsel appointed by the Office of the Attorney General of the State of Nevada to represent the Nevada Institutional Review Board.

27. Given the relationship of Ms. Guerci-Nyhus to the Nevada Institutional Review Board and the fact that she was not acting as legal counsel to this Board, this Board believes that any actions that she may take in relation to this Board carry a high probability of a conflict of interest.

28. When Ms. Savage and Ms. Guerci-Nyhus were asked by Diane Kennedy why the meeting to be held shortly now qualified as an emergency meeting, the Board was told that it was because the Members of this Board might be sued for damages if the Board continued to proceed with the Complaint asserted against Dr. Daniel Royal and that this Board had been given inadequate legal advice in the past in regards to the Complaint and Dr. Royal.

29. Both Ms. Savage and Ms. Guerci-Nyhus then accused Board Members Diane Kennedy, Valerie Kilgore and Dr. Robert Eslinger of being prejudiced against Dr. Daniel Royal based on comments that they alleged these parties had made during the course of prior meetings of this Board and that the votes of Ms. Kilgore and Dr. Eslinger on the matter of the Complaint heard on September 15, 2007 were based on prejudice and not the facts of the matter.

30. Ms. Savage and Ms. Guerci-Nyhus then advised the Board that the summary suspension of Dr. Daniel Royal should be lifted at the meeting to be held at 8:00 PM or risk the possibility of losing the hearing to be held on October 25, 2007.

31. Ms. Savage and Ms. Guerci-Nyhus then further advised the Board that the Members of the Board were at risk of being sued by Dr. Daniel Royal in the event that he prevailed at the October 25, 2007 hearing.

32. Ms. Savage and Ms. Guerci-Nyhus then further advised the Board that, if the Board did not follow their advice and lift the summary suspension of Dr. Daniel Royal, the Office of the Attorney General of the State of Nevada would not protect their interests, as Members of this Board, in the event that they were sued by Dr. Daniel Royal.

33. Ms. Savage and Ms. Guerci-Nyhus then further advised the Board that the license granted to Dr. Daniel Royal was a “constitutionally protected property right” but failed to inform the Board as to the meaning of this statement and failed to provide this Board with any evidence to substantiate this statement.

34. This Board is governed by Chapter 630A of the Nevada Revised Statutes (“NRS”).

35. Section 630A.080 of the NRS clearly states that “Any license issued pursuant to this chapter is a revocable privilege and no holder of such a license acquires thereby any vested right”.

36. The State of Nevada Board of Medical Examiners and the State of Nevada Board of Osteopathic Medical Examiners both have similar provisions regarding the nature of a license that may be granted by either of these boards which are set forth in NRS 630.045 and NRS 633.1512, respectively.

37. It is the understanding and belief of the Members of this Board that, subsequent to the suspension of Dr. Daniel Royal, the Office of the Governor of the State of Nevada removed Dr. Daniel Royal from this Board based on the fact that he was not

licensed to practice homeopathic medicine in the State of Nevada which is an express condition for him being a member of this Board.

38. Contrary to this, Ms. Guerci-Nyhus then told the Board that Dr. Daniel Royal was a still a member of this Board but had only been denied his rights to vote. She claimed that she had been told this by Mr. Nick Vander Poel of the Governor's Office.

39. Based on conversations held between Members of this Board and Mr. Vander Poel, this Board has learned that no only did Mr. Vander Poel never converse with Ms. Guerci-Nyhus in regards to Dr. Daniel Royal but that he had expressly told Ms. Savage, and Ms. Savage only, that Dr. Daniel Royal had been removed from this Board following the legal suspension of his license to practice homeopathic medicine.

40. Prior to the commencement of the 8:00 PM Emergency Meeting, Ms. Savage and Ms. Guerci-Nyhus informed the Board that Dr. Daniel Royal would be attending this meeting telephonically.

41. Nowhere in the posted Notice for this Emergency Meeting was there any provision for telephonic attendance by any party.

42. The President of this Board did not authorize any telephonic attendance of this Emergency Meeting nor did any Member or the Executive Director of this Board.

43. It is the Board's understanding and belief that either Ms. Savage or Ms. Guerci-Nyhus or possibly both authorized the telephonic attendance of Dr, Daniel Royal, on their own accord, without obtaining any prior authority to do so from either the Board or its President.

44. At the insistence of Ms. Savage and Ms. Guerci-Nyhus, Dr. Daniel Royal participated telephonically in the October 18, 2007 Emergency Meeting even though Dr.

Daniel Royal did not inform the Board if any other person was in attendance with him during the course of his telephonic participation in this Emergency Meeting nor did he inform the Board of the location from which he was calling. In addition, as of the date hereof, Dr. Daniel Royal has failed to provide the Affidavit required by this Board of all persons who participate in a meeting of this Board using telephonic means.

45. Dr. Robert Eslinger, who was also in attendance at the 7:00 PM meeting with Ms. Savage and Ms. Guerci-Nyhus, informed all parties to this meeting that he did not believe that he was currently a Temporary Member of this Board given the fact that his temporary appointment expired on September 30, 2007. Ms. Guerci-Nyhus told the Board that this was incorrect and that he was a member until replaced by the Governor.

46. Ms. Guerci-Nyhus then told the Board that the Board must (a) remove the summary suspension of Dr. Daniel Royal, (b) have the Governor appoint a temporary complaint committee of three (3) persons outside the Board to review the Complaint asserted against Dr. Daniel Royal and (c) have the Governor appoint four (4) persons outside the Board to hear the findings of the newly appointed temporary complaint committee.

47. Upon the commencement of the Emergency Meeting, Ms. Guerci-Nyhus removed herself to the area reserved for members of the public and portrayed herself as a member of the public and not a member of the Office of the Attorney General who had previously dispensed advice to this Board. Only Ms. Savage sat at the table with the Board.

48. Dr. F. Fuller Royal, Dr. Cyrus Pourzan, Diane Kennedy and Leticia Gardea recused themselves from participation in the matter of the license of Dr. Daniel Royal

leaving only three (3) persons to act as a Board even though the Board's requirements for a quorum clearly call for four (4) persons or a majority of those physically present which was seven (7) persons at the 8:00 PM Emergency Meeting, provided that Dr. Robert Eslinger is included as a Temporary Member of this Board.

49. Based on the outcome of the 7:00 PM meeting with Ms. Savage and Ms. Guerci-Nyhus and the explicit advice of Ms. Savage and Ms. Guerci-Nyhus given during said meeting that preceded the 8:00 Emergency Meeting, during the course of the 8:00 PM Emergency Meeting, Dr. Bruce Fong, Dr. Robert Eslinger and Valerie Kilgore voted to reinstate the license of Dr. Daniel Royal even though they did not constitute a quorum to act as a Board being as they were only three (3) not four (4) Board Members. Ms. Guerci-Nyhus also made it clear that the October 25, 2007 hearing would not be going forward even though this Board is informed and believes that the matter was ready to be heard under the auspices of Edward T. Reed, Senior Attorney General.

50. Each party to this Declaration believes that the October 25, 2007 hearing should not have been cancelled. Furthermore, each party to this Declaration hereby states that, at no time whatsoever was the Board, or any of its Members, contacted in regards to the cancellation of the October 25, 2007 hearing and that, at no time whatsoever, did this Board, or any of its Members, consent to the cancellation of the October 25, 2007 hearing.

51. Each party to this Declaration believes that the conduct of Ms. Savage and Ms. Guerci-Nyhus during the course of the 7:00 PM meeting was calculated to threaten and coerce the Members of this Board to act in accordance with the desires of the Office of the Attorney General of the State of Nevada and not in reflection of their conscience or

in the best interests of the people of the State of Nevada who this Board is charged to protect from illegal actions on the part of its licensees.

52. Each party to this Declaration believes that he or she was threatened and coerced by the conduct of Ms. Savage and Ms. Guerci-Nyhus during the course of the 7:00 PM meeting and, after subsequent reflection and consideration, that the advice given by Ms. Savage and Ms. Guerci-Nyhus was not in the best interests of this Board, any Member of this Board or the people of the State of Nevada.

53. Each party to this Declaration believes that each Member of this Board and the Board itself was given improper and incompetent legal advice by both Ms. Savage and Ms. Guerci-Nyhus in regards to the propriety of the October 18, 2007 Emergency Meeting and believes that this meeting was held in total violation the State of Nevada Open Meeting Law Statutes.

54. Each party to this Declaration believes that the presence of Ms. Guerci-Nyhus constituted a violation of the Open Meeting Law Statutes of the State of Nevada based on the fact that she was admittedly not legal counsel to this Board.

55. Each party to this Declaration believes that the entirety of the October 18, 2007 Emergency Meeting should be voided and rendered of no force and effect.

56. Each party this Declaration believes that the action taken by this Board on October 18, 2007 in regards to Dr. Daniel Royal should be rescinded and declared null and void.

57. Each party to this Board believes that, to the extent allowed under the laws of the State of Nevada, the license of Dr. Daniel Royal should continue to be suspended

until such time as the hearing originally scheduled for October 25, 2007 can be held in a manner to be determined exclusively by this Board.

58. Each party to this Declaration believes that the procedures already in place to hear the Complaint asserted against Dr. Daniel Royal are fair and adequate and afford Dr. Daniel Royal any and all due process rights required to be afforded to him under the Constitution of the United States of America and the Constitution of the State of Nevada.

59. Each party to this Declaration believes that neither they nor any other party to this Declaration bears any prejudice towards Dr. Daniel Royal that would prevent this Board, or any of its Members, from fulfilling their lawful duties to the people of the State of Nevada.

60. Each party to this Declaration believes that it is impossible for either Ms. Savage or Ms. Guerci-Nyhus to render effective counsel to this Board and hereby demands that the Office of the Attorney General should immediately take action to replace them with counsel that is acceptable to this Board.

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We declare under the penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of our knowledge and belief and that this Declaration was executed on October _____, 2007 at _____, Nevada.

/s/ F. Fuller Royal, MD, HMD

/s/ Valerie Kilgore

/s/ Bruce Fong, DO, HMD

/s/ Diane Kennedy

/s/ Cyrus Pourzan MD, HMD

/s/ Leticia Gardea

/s/ Robert Eslinger, DO, HMD