

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF)	DIA NO: 95DPHMB-26
THE COMPLAINT AND STATEMENT)	CASE NO: 03-93-327
OF CHARGES AGAINST)	
)	FINDINGS OF FACT,
Robert A. Komer, D.O.)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
Respondent)	

TO: ROBERT A. KOMER, D.O.

On September 7, 1995, a Complaint and Statement of Charges was filed against Robert A. Komer, D.O., (Respondent) by the Iowa Board of Medical Examiners (Board) alleging that the Respondent's license to practice osteopathic medicine and surgery in the state of Michigan had been revoked. The Complaint further alleged that the Iowa Board was authorized to take disciplinary action against the Respondent pursuant to Iowa Code sections 148.6(1), (2)(d), and 653 IAC 12.4(28).

An Original Notice and Order for Hearing were issued setting the hearing for November 29, 1995 at 1:30 p.m. An Order issued September 21, 1995 rescheduled the hearing to November 30, 1995 at 8:30 a.m. The hearing was held before the full Board. The state was represented by Jeff Maydew, student intern, and Andrew Anderson, Assistant Attorney General. The Respondent did not appear for the hearing nor was he represented by counsel. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge, presided.

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(1995) to deliberate. They directed the administrative law judge to prepare their decision, in accordance with their deliberations. Final action was taken in open session.

THE RECORD

The record includes the Complaint and Statement of Charges, the Original Notice, the Order for Hearing, Order Rescheduling Hearing, the testimony of the witness, and the following exhibits:

- State Exhibit A: Affidavit of Publication
- State Exhibit B: Complaint and Statement of Charges
- State Exhibit C: Michigan Complaint and Attached Affidavits

State Exhibit D: Michigan Consent Order and Stipulation

State Exhibit E: Missouri Revocation Order

FINDINGS OF FACT

1. The Respondent was issued license number 01291 to practice osteopathic medicine and surgery in the State of Iowa on January 6, 1966, as recorded in the permanent records in the office of the Board. The Respondent's license is invalid for practice due to expiration and non-renewal. (State Exhibit B)

2. On December 6, 1989, a disciplinary action was filed against the Respondent by the Michigan Board of Osteopathic Medicine and Surgery. The administrative complaint alleged that the Respondent, a psychiatrist, had violated numerous Michigan statutes and rules pertaining to the practice of osteopathic medicine by engaging in sex acts with at least six patients, by inappropriately using sodium amytal in conducting interviews with several patients, and by inappropriately prescribing drugs to at least one psychiatric patient. (Testimony of Gail Beebe; State Exhibit C)

3. On April 6, 1990, the Respondent entered into a Stipulation with the state of Michigan, in which he states that he does not contest the allegations as set forth in the administrative complaint and agrees that the Michigan Board may treat those allegations as true. On June 7, 1990, the Respondent's license to practice osteopathic medicine and surgery in the state of Michigan was revoked by Consent Order. (Testimony of Gail Beebe; State Exhibit D)

4. On February 11, 1993, the Missouri State Board of Registration for The Healing Arts revoked the Respondent's license to practice osteopathic medicine and surgery in Missouri, based upon the revocation in Michigan. (Testimony of Gail Beebe; State Exhibit E)

5. The staff of the Board was unable to locate the Respondent, despite a diligent search. The Complaint and Statement of Charges, Original Notice, and Order for Hearing were sent to his last known address in Saginaw, Michigan by ordinary mail. Notice was then published in the Des Moines Register on October 4, October 11, and October 18, 1995. (Testimony of Gail Beebe; Affidavits of Dennis Carr dated 9/21/95 in Board file; State Exhibit A)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides that a written notice of hearing together with a statement of charges shall be served upon the licensee at least 30 days before the hearing in the manner required for the service of an original notice or by restricted certified mail, return receipt requested.

653 IAC 12.50(10) provides that if licensees have absented or removed themselves from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensees may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

653 IAC 12.50(21) provides that if a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The Respondent has removed himself from the state of Iowa and his whereabouts are unknown. The Respondent was properly served with the notice of hearing and statement of charges by publication. He is bound by the decision of the Board to the same extent as if he had appeared.

2. Iowa Code sections 148.6(1) and (2)(d) (1995) provide in relevant part:

148.6 Revocation.

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...
d. Having the license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

3. 653 IAC 12.4(28) provides in relevant part:

653-12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

4. The preponderance of the evidence established that the Michigan Board of Osteopathic Medicine and Surgery revoked the Respondent's license to practice osteopathic medicine and surgery in Michigan as discipline for his numerous violations of Board statutes and rules. Subsequently, the Missouri Board of Healing Arts also revoked the Respondent's license. The Respondent has violated Iowa Code section 148.6(2)(d) and 653 IAC 12.4(28).

DECISION AND ORDER

The certified record from the state of Michigan establishes that the Respondent is an unsafe practitioner and a threat to public health and safety. IT IS THEREFORE ORDERED, that the license to practice osteopathic medicine and surgery issued to Robert A. Komer, D.O., license no. 01291, is permanently REVOKED, effective immediately upon service of this order.

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this *4TH* day of *Dec*, 1995.

Edra Broich

Edra Broich, Secretary
Iowa Board of Medical Examiners

cc: Jeff Maydew and Andrew Anderson
Department of Justice
Hoover Building

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST

ROBERT A. KOMER, DO, RESPONDENT

No. 03-93-327

COMPLAINT AND STATEMENT OF CHARGES

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (the Board), on September 7, 1995, and at the direction of the Board files this Complaint and Statement of Charges against Robert A. Komer, DO (the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; Laura J. Stensrud, Vice Chairperson; Edra E. Broich, Secretary; James M. Caterine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Dale R. Holdiman, MD; Teresa A. Mock, MD; Donna M. Norman, DO; and Roger F. Senty, DO, are the duly appointed, qualified and acting members of the Board.

2. That the Respondent was issued license number 01291 to practice osteopathic medicine and surgery in Iowa on January 6, 1966.

3. That the Respondent's license is invalid for practice due to expiration and non-renewal.

4. That on or about December 6, 1989, a disciplinary action was filed against the Respondent before the Michigan Board of Osteopathic Medicine and Surgery. The Administrative Complaint initiating the action alleged that the Respondent, a psychiatrist, had violated various Michigan statutes and regulations pertaining to the practice of osteopathic medicine by engaging in sex acts with at least six patients; by inappropriately using sodium amytal in

conducting interviews with several patients; and, by inappropriately prescribing drugs to at least one psychiatric patient.

5. That on or about April 6, 1990, the Respondent entered into a Consent Order with the Michigan Board of Osteopathic Medicine and Surgery, which Revoked the Respondent's Michigan osteopathic medical license.

6. The Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1), 148.6(2) and 148.6(2)d of the 1995 Code of Iowa and 653 IAC 12.4 and 12.4(28) which state in whole or in part:

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection ...

148.6(2) - Pursuant to this section, the Board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

148.6(2)d - Having the license to practice ... osteopathic medicine and surgery ... revoked ... by another state ...

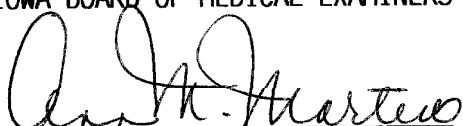
653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

653-12.4(28) - Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections ... 148.6.

WHEREFORE the undersigned charges that pursuant to the provisions of the Iowa Code sections and Iowa Administrative Code rules outlined herein, the Respondent is subject to disciplinary action by the Board. The undersigned prays

that the Board enter an order fixing a time and place of hearing for the Complaint and Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the Respondent's Iowa license to practice osteopathic medicine and surgery.

IOWA BOARD OF MEDICAL EXAMINERS



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