

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Case No.22A-54596-MDX

3 **RICHARD M. ROBERTS, M.D.,**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

4 Holder of License No. 54596
5 For the Practice of Allopathic Medicine
6 In the State of Arizona.

7 On April 5, 2023, this matter came before the Arizona Medical Board ("Board") for
8 consideration of Administrative Law Judge ("ALJ") Velva Moses-Thompson's proposed
9 Findings of Fact, Conclusions of Law and Recommended Order. Richard M. Roberts,
10 M.D., ("Respondent") did not appear; Assistant Attorney General Elizabeth Campbell
11 represented the State. Assistant Attorney General Diane DeDea was available to provide
12 independent legal advice to the Board.

13 The Board, having considered the ALJ's Decision and the entire record in this
14 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

15 **FINDINGS OF FACT**

16 1. The Arizona Medical Board (Board) is the duly constituted authority for
17 licensing and regulating the practice of allopathic medicine in the State of Arizona.

18 2. On November 28, 2022, the Arizona Board issued a Complaint and Notice of
19 Hearing setting this matter for hearing at 9:00 a.m. on January 9, 2023.

20 3. No representative appeared for Dr. Roberts at the scheduled hearing-time
21 and the matter was convened in his absence at about 9:15 a.m.

22 4. The Arizona Board presented the testimony of its Licensing Investigations
23 Manager, Marlene Young, and submitted exhibits 1 through 8.

24 5. On April 28, 2016, United Medical Centers (UMC) cancelled Dr. Richard M.
25 Roberts's assignment as a pediatrician at Del Rio San Felipe Clinic (Clinic).

See Exhibit 1. Dr. Roberts was terminated because the nursing staff and Clinic manager
received five complaints from parents regarding the way Dr. Roberts examined their
children's private parts, genital area, and buttocks. See id.

1 6. On June 10, 2016, Dr. Roberts entered into a Remedial Plan with the Texas
2 Medical Board (Texas Board) wherein Dr. Roberts agreed to complete continuing
3 education and pay a remedial plan fee. See Exhibit 2. The Texas Board offered the
4 Remedial Plan based on its finding that Dr. Roberts prescribed non-therapeutically
5 prescribed medications to two patients and failed to maintain adequate medical records.
6 See id.

7 7. By email dated May 12, 2017, and letter dated May 15, 2017, Dr. Roberts
8 responded to a complaint with the Texas Board alleging that he had inappropriately
9 touched a child while working as a physician at the UMC Clinic in Del Rio, Texas. See
10 Exhibit 3.

11 8. On May 16, 2017, approximately 4 days after responding to the Texas Board
12 complaint, Dr. Roberts made initial application for licensure with the Arizona Board. See
13 Exhibit 4. On the May 2017 application, Dr. Roberts answered "No" to the following
14 questions:¹

15 (a) have you ever had any disciplinary or rehabilitative action
16 taken against you by another licensing board, including other
17 health professions; (b) have you had any disciplinary actions,
18 restrictions or limitations taken against you while participating in
19 any type of training program or by any health care provider; (c)
20 have you ever been found in violation of a statute, rule, or
21 regulation or any domestic or foreign governmental agency; and
22 (d) are you currently under investigation by any medical board
23 or peer review board.

24 9. Dr. Roberts failed to disclose the April 28, 2016 termination of his assignment
25 by UMC in Texas; the June 10, 2016 Texas Remedial Plan; or the ongoing investigation by
the Texas Board. See Exhibit 4.

10 10. On September 20, 2017, the Arizona Board issued Dr. Roberts's license.

11 11. On November 3, 2017, a Disciplinary Panel of the Texas Board issued
12 Dr. Roberts an Order of Temporary Restriction after a hearing on allegations including Dr.
13 Roberts's care and treatment of pediatric patients in March and April 2016 while practicing

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¹ See id.

1 at the UMC Clinic in Texas. See Exhibit 5. The Panel found that Dr. Robert's conduct
2 constituted an imminent peril to the public health, safety or welfare that required immediate
3 action, and ordered Dr. Roberts have a chaperone present during all patient examinations.²

4 12. On October 14, 2018, Dr. Roberts submitted his renewal application and
5 disclosed for the first time that he had been issued an Order of Temporary Restriction by
6 the Texas Board. See Exhibit 6.

7 13. The Board initiated an investigation of Dr. Roberts.

8 14. On January 4, 2019, the Arizona Board notified Dr. Roberts that it had
9 initiated an investigation based on his affirmative answers on the 2018 renewal application.
10 See Exhibit 7.

11 15. Effective January 17 2019, Dr. Roberts entered into an interim Consent
12 Agreement for Practice Restriction with the Arizona Board.

13 CONCLUSIONS OF LAW

14 1. The Arizona Board has jurisdiction over Dr. Roberts and the subject matter in
15 this case under Arizona Revised Statutes § 32-3202.

16 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board
17 has the burden of proof in this matter. The standard of proof is by clear and convincing
18 evidence. A.R.S. § 32-1451.04.

19 3. The Arizona Board established by clear and convincing evidence that
20 Dr. Roberts engaged in unprofessional conduct, based on the conduct described in
21 Findings of Facts 1-11, which is a violation of A.R.S. § 32-1401(27)(p).

22 4. The Arizona Board established by clear and convincing evidence that
23 Dr. Roberts engaged in unprofessional conduct, in violation of A.R.S. § 32-1401(27)(bb),
24 by procuring a license and attempting to renew a license by misrepresentation.

25 5. Because Dr. Roberts has committed acts of unprofessional conduct, the
Arizona Board has authority to discipline his license. A.R.S. § 32-1451(M).

6. Given Dr. Roberts's egregious behavior and his failure to appear at the

² In a Mediated Agreed Order dated March 6, 2020, the Texas Board found that Dr. Roberts failed to have a chaperone present for a telephone visit with one patient. The Mediated Agreed Order required that Dr. Roberts had a chaperone present for all patient encounters involving patients under eighteen. See Exhibit 5.

1 duly noticed hearing, Dr. Roberts has demonstrated that he is not amenable to regulation by
2 the Arizona Board. Consequently, Dr. Roberts's license should be revoked.

3 **ORDER**

4 Based on the foregoing, it is **ORDERED** that on the effective date of the final order
5 in this matter, Richard M. Roberts, M.D.'s License No. 54596 for the practice of allopathic
6 medicine in the State of Arizona shall be revoked.

6 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

7 Respondent is hereby notified that he has the right to petition for a rehearing or
8 review. The petition for rehearing or review must be filed with the Board's Executive
9 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The
10 petition for rehearing or review must set forth legally sufficient reasons for granting a
11 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days
12 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not
13 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to
14 Respondent.

15 Respondent is further notified that the filing of a motion for rehearing or review is
16 required to preserve any rights of appeal to the Superior Court.

17 **DATED** this 6th day of April 2023.

18 THE ARIZONA MEDICAL BOARD

19 By Patricia E. McSorley
20 Patricia E. McSorley
21 Executive Director
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1 ORIGINAL of the foregoing filed this
2 6th day of April, 2023 with:

3 Arizona Medical Board
4 1740 W. Adams, Suite 4000
5 Phoenix, Arizona 85007

6 COPY of the foregoing filed
7 this 6th day of April 2023 with:

8 Greg Hanchett, Director
9 Office of Administrative Hearings
10 1740 W. Adams
11 Phoenix, AZ 85007

12 Executed copy of the foregoing
13 mailed by U.S. Mail and emailed
14 this 6th day of April, 2023 to:

15 Richard M. Roberts, M.D.
16 Address of Record

17 Elizabeth A. Campbell
18 Assistant Attorney General
19 Office of the Attorney General
20 SGD/LES
21 2005 N. Central Avenue
22 Phoenix, AZ 85004

23 By: Michelle Roberts
24 Arizona Medical Board
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