

**BEFORE THE MEDICAL LICENSING  
BOARD OF INDIANA  
CAUSE NO. 2014 MLB 0043**



IN THE MATTER OF THE LICENSE OF: )  
 )  
RAYMOND ROBINSON, M.D. )  
 )  
LICENSE NO. 01053717A )

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

The Medical Licensing Board of Indiana ("Board") held a hearing on September 24, 2015, in Room W064 of the Indiana Government Center South, 302 W. Washington Street, Indianapolis, Indiana, concerning an administrative complaint filed against the medical license of Raymond E. Robinson, M.D. ("Respondent") on September 17, 2014.

The State of Indiana ("Petitioner") was represented by counsel, Deputy Attorneys General, Kelsie E. Duggan and N. Renee Gallagher. Respondent appeared in person and by his counsel, Kenneth J. Falk and Gavin M. Rose. The Board, after considering the evidence and taking official notice of its file in this case, issues the following Findings of Fact, Conclusions of Law, and Final Order

**FINDINGS OF FACT**

1. Respondent is a licensed Doctor of Medicine, holding Indiana license number 01053717A issued February 22, 2001.
2. Respondent is an obstetrician/gynecologist, licensed to practice medicine in the State of Indiana.
3. Respondent has been performing abortions in Indiana since 2006.
4. At all relevant times, Respondent performed surgical and medical abortions at the Clinic for Women, located at 3607 West 16th Street, Suite B-2, Indianapolis, Indiana 46222.

5. Clinic for Women employs staff who have contact with the patients and who assist in gathering information from the patients. At all relevant times, the Clinic for Women and its staff used forms that they created to collect patient information to be included in patient medical charts.

6. The specific forms used at Clinic for Women are: Patient Contact Information and a Prelab Payment Consent Form, Medical history, Emotional health questionnaire, Document of patient education, Patient consent for termination of pregnancy, A form entitled "Contraceptives" that discusses contraception, including its risks and benefits.

7. If and when a micropathology report is received, it is also placed in the patient chart.

8. Dr. Robinson and the other physicians performing abortions at Clinic for Women will enter information into the surgery report. The other documents are completed by the non-physician staff at the Clinic for Women.

9. The staff of the Clinic for Women used the information in the medical charts of patients to complete and submit in June of 2014 the 566 Terminated Pregnancy Reports ("TPRs") that are the subject of this licensing action.

10. Respondent signed each of the 566 TPRs that are the subject of this licensing action after staff of the Clinic for Women completed them.

11. The TPR is a form created by the Indiana State Department of Health ("ISDH").

12. The data on the TPR is not used to treat the patient and the ISDH was not aware of the information on the TPR being used in any specific way to develop programs.

13. The TPR explicitly states that by signing it the physician certifies that the procedure was performed according to Indiana Code § 16-34-2 and therefore by signing each

TPR the Respondent certified that the procedure was performed according to Indiana Code § 16-34-2.

14. Respondent relied on Clinic for Women staff to insure that each of the 566 TPRs that are the subject of this licensing action were complete.

15. Respondent relied on Clinic for Women staff to transmit each of the 566 TPRs that are the subject of this action to the ISDH.

16. Respondent has submitted TPRs in this manner for eight years.

17. The TPRs were not submitted in a timely fashion to the ISDH by the Clinic for Women staff.

- 315 were submitted to the ISDH 330 days late
- 248 were submitted to the ISDH 146 days late

18. However, at no time did the ISDH notify Respondent that reports had been submitted late.

19. At no time prior to the complaint giving rise to this action was Respondent notified by any office or entity that the TPRs submitted by the Clinic for Women Staff had been submitted late.

20. Although there are numerous information fields contained in the TPR, during the time at issue in this case (concerning TPRs for procedures done prior to July 1, 2014), the ISDH deemed TPRs to be incomplete only if they failed to have one of the following fields completed:

- Facility's name
- Patient's age
- Date of termination
- Procedure used to terminate pregnancy
- Specification of medications
- Specification of "other" procedure type
- Physician estimate of gestation (in weeks)
- Post fertilization age of the fetus (in weeks)

21. If these fields were left incomplete the TPR would be returned to the facility where the abortion was performed so that it could be completed.

22. If other fields were left incomplete the documents would not be deemed incomplete by the ISDH and would not be returned to the facility for completion.

23. Of the TPRs in question, completed by staff at the Clinic for Women from information contained in patients' records, and signed by Dr. Robinson:

- the type of termination procedure performed was left blank 59 times, although only one surgical abortion procedure is performed at Clinic for Women
- 249 did not have completed the dates of prior terminations for patients who indicated they had prior abortions or miscarriages
- 2 left blank the number of living children
- 3 left blank the number of deceased children
- 3 left blank the number of spontaneous terminations
- 3 left blank the number of induced terminations
- 42 left blank the age of the father
- 43 left blank the name of the father
- 21 left blank or incomplete the dates of the patient's last menses
- 4 left blank the estimated gestational age
- 4 left blank the estimated post-fertilization age

24. At no time prior to the filing of this action did the ISDH notify Respondent that the TPRs were incomplete in any way.

25. At no time prior to the complaint giving rise to this action was Respondent notified by any office or entity that the TPRs submitted by the staff of the Clinic for Women were incomplete.

26. Based on the above findings of fact, the Respondent has knowingly violated state statutes regulating the profession specifically:

A. Ind. Code § 16-34-2-5(a)(6) and § 16-34-2-2(a), as evidenced by his failure to ensure that the post-fertilization or estimated gestation age of the fetus was included and

certified; and, Respondent's failure to determine the date of fertilization by questioning the patient about the date of her last menses on 29 TPRs submitted to ISDH.

B. Ind. Code § 16-34-2-5(a)(8), as evidenced by his failure to ensure that the obstetrical history of patients, specifically, the dates of prior terminations, were included on 251 TPRs submitted to ISDH.

C. Ind. Code § 16-34-2-5(a)(7), as evidenced by his failure to record the "medical procedure employed to administer the abortion" 60 times on TPRs submitted to ISDH.

D. Ind. Code § 16-34-2-5(a)(4) and (5), as evidenced by his failure to record "the name of the father if known" and "the age of the father, or the approximate age of the father if the father's age is unknown" 85 times on TPRs submitted to ISDH.

27. Any finding of fact shall be deemed to be a conclusion of law to the extent necessary.

#### **CONCLUSIONS OF LAW**

1. The State of Indiana has sought discipline against Respondent for three separate reasons:

a. Because the above facts demonstrate that he is professionally incompetent and has failed to exercise reasonable care and diligence as is normally exercised by practitioners in the same or similar circumstances in violation of Indiana Code § 25-19-4(4) and 844 IAC 5-1-1(15). Found in paragraph 15 of the State's Complaint, this will be referred to below as Count I.

b. Because the fact that the TPRs were not timely filed demonstrates a knowing violation by Respondent of Indiana law in violation of Indiana Code § 25-1-9-

4(a)(3). Found in paragraph 14 of the State's Complaint, this will be referred to as Count II.

c. Because the fact that the TPRs were filed without all fields being completed demonstrates a knowing violation by Respondent of Indiana law in violation of Indiana Code § 25-1-9-4(a)(3). Found in paragraph 10 through 13 of the State's Complaint, this will be referred to as Count III.

2. The Board concludes that the State of Indiana did not sustain its burden regarding Counts I and II and on these counts it finds for the Respondent.

3. As to Count III the Board concludes that Respondent is ultimately responsible for the failure of the staff at Clinic for Women to complete all fields of the TPR and has violated a state statute or rule as noted in Indiana Code § 25-19-4(a)(3). This renders Respondent subject to sanctions from this Board.

4. Respondent's violations of Indiana Code § 25-1-9-4 are cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, revocation, and/or a fine up to the amount of one thousand dollars (\$1,000.00) per violation as detailed in Ind. Code §25-1-9-9.

5. The Board determines that a fine of \$1,000 should be imposed against Respondent for the actions and inactions covered by Count III. The Board has jurisdiction and authority to impose this fine pursuant to Indiana Code § 25-1-9-9.

6. Although the Board has determined that Respondent should be fined, the Board specifically concludes that the actions noted in Count III are not connected to the delivery of health services and are not in any way related to professional competence, conduct or licensure. Specifically, the Board concludes that the fine imposed is administrative only, not based on any

other licensure action. Accordingly, the Board concludes that this fine, and this action, shall not be reported, and is not reportable, to the National Practitioner Data Bank.

7. Costs may be imposed against the Respondent pursuant to Indiana Code § 25-1-9-15.

8. Subsequent to this action the State of Indiana submitted an affidavit of an employee indicating that its costs are:

\$113.20	-	copying costs
\$625.00	-	expert fees
\$198.47	-	transcript fees
\$ 6.25	-	deposition expense

for a total of \$942.92. The Board finds that the expert utilized by the State, Dr. William Gentry, was used by the State in an unsuccessful attempt to demonstrate its allegations under Count I. Inasmuch as the State did not prevail in this claim it is not entitled to expert fees. Therefore, the State should be awarded costs equal to its copying costs, transcript fees, and deposition expenses - \$317.92.

9. Any conclusion of law shall be deemed to be a finding of fact to the extent necessary.

#### **FINAL ORDER**

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that:

1. Respondent shall, within ninety (90) days of this Final Order, pay a FINE in the amount of **One Thousand Dollars (\$1,000.00)** payable to the Indiana Professional Licensing Agency and submitted to the following address, which fine shall not be reportable to the National Practitioner Databank:

Indiana Professional Licensing Agency  
402 W. Washington Street, Room W072  
Indianapolis, Indiana 46204

2. Respondent shall, within ninety (90) days of this Final Order, pay **COSTS** in the amount of **Three Hundred and Seventeen Dollars and Ninety Two Cents (\$317.92)** payable to the Office of the Indiana Attorney General and submitted to the following address:

Indiana Office of the Attorney General  
Attn: Maurcia D. Crutcher, Paralegal  
302 West Washington Street, 5th Floor  
Indianapolis, IN 46204

3. Respondent shall, within ninety (90) days of this Final Order, pay **COSTS** in the amount of **Twenty Two Dollars and Eighty Six Cents (\$22.86)** payable to the Indiana Professional Licensing Agency and submitted to the following address:

Indiana Professional Licensing Agency  
ATTN: Medical Licensing Board  
402 W. Washington Street, Room W072  
Indianapolis, Indiana 46204

4. Respondent shall, within ninety (90) days of this Final Order, pay **COSTS** in the amount of **Forty One Dollars and Sixty Seven Cents (\$41.67)** payable to Rutledge Reporting and submitted to the following address:

Indiana Professional Licensing Agency  
ATTN: Medical Licensing Board  
402 W. Washington Street, Room W072  
Indianapolis, Indiana 46204

5. Respondent shall, within ninety (90) days of this Final Order, pursuant to Ind. Code §4-6-14-10(b) pay a **FEE** of **FIVE DOLLARS (\$5.00)** to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund. This fee shall be paid by check or money order payable to the **State of Indiana**, and submitted to the following address:



Office of the Indiana Attorney General  
Attn: Maurcia D. Crutcher, Paralegal  
302 West Washington Street, 5th Floor  
Indianapolis, Indiana 46204

6. The above fine and costs of this proceeding and other matters found in this Final Order shall not be reportable to the National Practitioner Data Bank for the reasons noted above in the Conclusions of Law.

7. A violation of this Final Order or any non-compliance with the statutes or regulations regarding the practice of medicine may result in an Order to Show Cause as may be issued by the Board, or a new cause of action pursuant to Ind. Code § 25-1-9-4, and or all of which could lead to additional sanctions.

**SO ORDERED**, this 1st day of February, 2016.

MEDICAL LICENSING BOARD OF INDIANA

By: Kirk E. Masten, D.O. / Pres. / KEM  
Kirk E. Masten, D.O., President  
Medical Licensing Board of Indiana

**CERTIFICATE OF SERVICE**

I certify that a copy of the "Findings or Fact, Conclusions of Law, and Final Order" has been duly served upon:

Kenneth J. Falk and Gavin R. Rose  
Attorneys for Respondents  
ACLU of Indiana  
1031 E. Washington Street  
Indianapolis, IN 46202  
**Service by U.S. Mail**

Raymond Robinson, M.D.  
244 Curly Lane  
Bennettsville, SC 29512  
**Service by U.S. Mail**

Kelsie Duggan  
Renee Gallagher  
Deputy Attorney General  
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**Service by Email**

2-1-16  
Date

Donna Moran  
Donna Moran, Litigation Specialist

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**Explanation of Service Methods**

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.