

LICENSE NO.:H-4560 (Cancelled)

IN THE MATTER OF  
ROBY MITCHELL, MD

BEFORE THE  
TEXAS MEDICAL BOARD

**CEASE AND DESIST ORDER**

On the 25<sup>th</sup> day of May 2012, this matter was heard before the Texas Medical Board ("Board"). Roby Mitchell ("Respondent") did not appear at the hearing.

The Board was represented by Melinda McMichael, M.D., and Paulette Southard, members of the Board ("Panel"). Rob Blech represented Board staff.

After hearing the evidence presented by Board staff, the Board's Panel makes the following Findings and Conclusions of Law and directs the Executive Director of the Board to execute this Cease and Desist Order pursuant to authority granted to her by the Board.

**FINDINGS**

The Board finds that:

1. Respondent received all notice required by law and all jurisdictional requirements have been satisfied.
2. Respondent is not licensed as a physician in the State of Texas.
3. Respondent was formerly a licensed physician in the State of Texas but his license was revoked by the Board on August 25, 2005 for failing to obey a previous Board order.
4. Respondent has been engaging in the unlicensed practice of medicine in the State of Texas.
5. On February, 4, 2011, the Board entered a Cease and Desist Order against Respondent prohibiting him from practicing medicine. The Order was based upon findings that Respondent engaged in the unlicensed practice of medicine in Amarillo, where he operated a medical practice office, advertised his services and solicited patients, and dispensed medications.
6. On or about April 25, 2011, Respondent evaluated and treated Patient No. 1 for metastatic melanoma, after holding himself out as a physician, specifically, a cancer doctor.

7. Respondent first prescribed a cream to rub on the shoulder where Patient No. 1 received surgery for his melanoma. Respondent then prescribed a course of what he described as "Colostrum Bovine Treatment." This treatment involved drawing blood from Patient No. 1 and injecting that blood into the udder of a pregnant cow. Patient No. 1 was then to drink milk from the cow which, according to Respondent, would contain anti-bodies developed to fight Patient No.1's melanoma.

8. On or about April 25, 2011, Respondent asked for and received \$5,000 in compensation from Patient No. 1 for the Colostrum Bovine Treatment. Respondent distributed \$2,500 to the farmer with the cow, and retained \$2,500 for his treatment.

9. Patient No. 1 passed away in a hospice on May 11, 2011 before he had the opportunity to drink any of the milk that he had paid for.

10. After Patient No. 1's death, the farmer involved called Patient No. 1's wife (the "Complainant") to inform her that he had wired back to her his portion of the \$2,500. Respondent refused to provide a refund to the Complaint, stating "my services were much more than \$2,500, we have no more recourse for you and will not respond further."

11. Following the cancellation of his license by the Board, Respondent maintained an office in a medical office building in Amarillo, and continues to refer to himself as Roby Mitchell, MD, in his advertisements, on the internet, and on social media sites, without clearly designating that he is not licensed to practice medicine in the state of Texas.

### CONCLUSIONS OF LAW

Based on these Findings, the Board concludes the following:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the TEX. OCC. CODE, Title 3, Subtitle B, the Medical Practice Act ("Act").

2. Section 155.001 of the Act provides that a person may not practice medicine in this state unless the person holds a license issued under the subtitle.

3. Section 165.052(a) of the Act authorizes the Board to issue a cease and desist order prohibiting a person from engaging in any activity in violation of the Act.

4. Section 165.052(b) of the Act provides that a violation of an Order under Section 165.052(a) constitutes grounds for imposing an administrative penalty under TEX. OCC. CODE, Title 3, Subtitle B, Chapter 165, Subchapter A, which allows for an administrative penalty of up

to \$5,000 for each violation to be assessed, and each day a violation continues constitutes a separate violation.

5. Section 165.151 of the Act provides that a person commits an offense if the person violates the Act, or any rule of the Texas Medical Board.

6. TEX. OCC. CODE, Title 3, Subtitle B, the Medical Practice Act ("Act"), Section 165.156 a person commits an offense if the person, through the use of letters, words, or terms, affixed on stationary or advertisements, or in any other manner, indicates the person is entitled to practice medicine if the person is not licensed to do so.

7. Board Rule 187.83(f) authorizes the Panel to direct the Executive Director to issue a cease and desist order, effective immediately, in accordance with Section 165.052 of the Act.

8. Sections 165.001 et. seq., of the Act provide that any violation of this Order constitutes grounds for imposing an administrative penalty of up to \$5,000 for each violation and each day a violation continues constitutes a separate violation.

9. Sections 165.101 and 165.103 of the Act provide that any violation of this Order constitutes grounds for imposing a civil penalty of up to \$1,000 for each violation, and for recovery of the reasonable expenses of litigation, by action of the Attorney General, and each day a violation continues constitutes a separate violation.

10. Board Rule 187.84 authorizes the Board to impose an administrative penalty of up to \$5,000 for violation of a cease and desist order, or refer the matter to the Attorney General to institute action for: an injunction against violation of the order; any administrative penalty assessed by the Board; a civil penalty in accord with Section 165.101 of the Act; expenses in accord with Section 165.103 of the Act; and any other remedy provided by law.

### ORDER

Based on the Findings and Conclusions of Law, the Board ORDERS that:



1. Respondent is prohibited from engaging in the practice of medicine in the State of Texas.
2. Respondent is prohibited from acting as, or holding himself out to be, a physician, or in any express or implied manner, exercising the medical practice authority of a physician in the State of Texas.

3. Respondent shall cease and desist: engaging in any practice of medicine; engaging in any express or implied actions in the guise of a physician; and engaging in any exercise of the medical practice authority of a physician, in the State of Texas after the effective date of this Agreed Order.

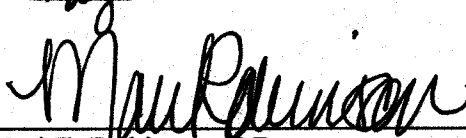
4. Respondent shall not refer to himself as "Dr. Roby Mitchell" or "Roby Mitchell, M.D.", without clearly designating that he is not a medical doctor and that he is not licensed to practice medicine in the state of Texas.

**THIS ORDER IS A PUBLIC RECORD.**

SIGNED AND ENTERED by the representative of the Board on this 25<sup>th</sup> day of May, 2012.

  
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Melinda McMichael, M.D.  
Texas Medical Board  
  
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Paulette Southard  
Texas Medical Board

SIGNED AND ENTERED by Executive Director of the Texas Medical Board pursuant to the direction of the Panel on this 25 th day of May 2012.

  
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Mari E. Robinson, J.D.  
Executive Director  
Texas Medical Board