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**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of

**RICHARD CARINO, M.D.**

Holder of License No. 25808  
For the Practice of Allopathic Medicine in the  
State of Arizona

Docket No. **06A-25808-MDX**

Case No. MD-06-0445A

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER FOR  
REVOCATION OF LICENSE**

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On October 11, 2006 this matter came before the Arizona Medical Board ("Board") for oral argument and consideration of the Administrative Law Judge ("ALJ") Brian Brendan Tully's proposed Findings of Fact and Conclusions of Law and Recommended Order involving Richard Carino, M.D. ("Respondent"). Respondent was notified of the Board's intent to consider this matter at the Board's public meeting. Respondent did not appear and was not represented by counsel. The State was represented by Assistant Attorney General Dean E. Brekke. Christine Cassetta, of the Solicitor General's Section of the Attorney General's Office provided legal advice to the Board.

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

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**FINDINGS OF FACT**

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

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2. Respondent is the holder of License No. 25808 for the practice of allopathic medicine in Arizona. He is also licensed to practice allopathic medicine in the State of Florida.

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3. On June 7, 2006 the Board received a newspaper article that described Respondent's May 22, 2006 arrest in Florida on a charge of knowingly receiving materials relating to sexual exploitation of minors via interstate commerce. In response to the newspaper article, Board staff opened investigation number MD-06-0445A.

1           4.     On July 19, 2005 Pasco County Sheriff Detective W.T. Davis assisted in  
2 serving a search warrant on behalf of the Drug Enforcement Agency ("DEA") at Respondent's  
3 medical office, located at 6233 Ridge Road, Port Richey, Florida. The purpose of the search  
4 warrant was to review all of Respondent's office computer software and to obtain any records  
5 pertaining to Respondent's sale of Phentermine, a controlled substance over the internet.

6           5.     The DEA had been investigating Respondent for several months for the sale of  
7 the controlled substance.

8           6.     Upon arriving at Respondent's office, the law enforcement agents made  
9 contact with Autumn Carino, the office manager and Respondent's wife. She told the agents  
10 Respondent had not yet arrived at the office.

11          7.     Ms. Carino appeared nervous to Detective Davis. Detective Davis telephoned  
12 Respondent, who said he was traveling to his office. Detective Davis informed Respondent that  
13 he was assisting DEA agents with the search warrant.

14          8.     Shortly thereafter, Detective Davis went outside the office with Ms. Carino so  
15 she could have a cigarette. She told the detective that Respondent was in a self destructive  
16 pattern. She said that he was abusive to her, a heavy drinker and a marijuana user.

17          9.     Ms. Carino then stated that there were things on their home computer that she  
18 and her husband use, but possibly not on the office computers, that were of grave concern to  
19 her. Detective Davis then asked Ms. Carino if those items pertained to child pornography. Ms.  
20 Carino acknowledged it was child pornography. Ms. Carino then stated that she would allow  
21 Detective Davis to follow her to her residence and show him the pornographic images on the  
22 home computer.

23          10.    Ms. Carino then went back into the office and told Respondent, who had  
24 arrived, that she was going to give her daughter a ride home and then return back.

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1           11.     Unbeknownst to Respondent, Detective Davis followed Ms. Carino to the  
2 couple's residence while Respondent continued to be questioned by DEA agents.

3           12.     At the residence, Ms. Carino turned on the home desktop computer. Ms.  
4 Carino then gave the detective permission to look into the computer. She also gave him  
5 permission to download the hard drive, if necessary.

6           13.     Ms. Carino became concerned that Respondent would become suspicious if  
7 she did not return to the office, so she allowed Detective Davis to remain at the residence and  
8 explore the desktop computer while she returned to the office.

9           14.     Detective Davis then made contact with DEA Special Agent Duralia at  
10 Respondent's office to report the conversation he had with Ms. Carino and to advise that she  
11 was returning to the office. He requested that Brian Nunamaker, a DEA computer forensics  
12 examiner who specializes in computer software, respond to the Carino's residence after he was  
13 finished at the medical office.

14          15.     Detective Davis also spoke to Respondent by telephone. Detective Davis  
15 received permission to search the home desktop computer from Respondent.

16          16.     Shortly thereafter, Agent Nunamaker arrived at the Carino residence to mirror  
17 image the home desktop computer. He intended to have the hard drive information analyzed.

18          17.     Initial DEA examination revealed child pornography on a computer hard drive  
19 located at Respondent's medical office. DEA then sought the assistance of Federal Bureau of  
20 Investigation ("FBI") Special Agent Koo, who specializes in the investigation of sexual  
21 exploitation of children.

22          18.     Special Agent Koo requested a search warrant to authorize the search of four  
23 computers from Respondent's medical office and the desktop computer from his residence. A  
24 federal search warrant was issued for all five hard drives. DEA then resumed the examination  
25 of the computers.

1           19.    On August 25, 2005 Detective Davis responded to a domestic dispute at  
2 Respondent's residence. After arrived at the residence, Detective Davis determined that Ms.  
3 Carino had caught Respondent reviewing child pornography on a home computer and a  
4 domestic dispute ensued. Respondent was arrested on a charge of domestic violence.  
5 Respondent's home computer, a quantity of marijuana, and drug paraphernalia were seized by  
6 law enforcement.

7           20.    The computer that Respondent used to view the child pornography on August  
8 25, 2005 was sent to the Florida Department of Law Enforcement ("FDLE") for examination.  
9 There is no evidence of the results of that examination.

10          21.    FBI Special Agent Bucenell was assigned to facilitate the federal investigation  
11 of Respondent relating to the possession, transportation and distribution of child pornography.

12          22.    Special Agent Bucenell reviewed the contents of a hard drive located in a  
13 computer from Respondent's medical office on July 19, 2005. In that computer a Kazaa file  
14 sharing program was found. Kazaa allows users to search for and download files shared by  
15 other Kazaa users over the internet. The Kazaa program keeps a log of the files on the  
16 computer that the user will share with other Kazaa users. The registered owner of the computer  
17 is Respondent.

18          23.    A Kazaa log found in this computer revealed that approximately 446 files had  
19 been shared with other Kazaa users.

20          24.    The "My Shared Folder" is the default directly that Kazaa uses to store the  
21 actual files that were shared. Many of the files names in the computer's Thumbs.db system  
22 include "pedo," typically the abbreviation for pedophile. Special Agent Bucenell also found such  
23 additional file names as "pedo porn.jpg, pedo-Vicky 6-b, (movie) 6yo pedo incest daughter  
24 alison tex.jpg, extreme rape pedo anal.mpg, (movie) 5yo boy and 7yo sister" which included  
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1 pictures and movies. There are dates of download ranging from July 22, 2003 to July 19, 2005,  
2 the date of the search of the Respondent's medical office.

3 25. Special Agent Bucenell found that no images related to those file names were  
4 recovered from the computer. She attributed that to a file wiping utility called "Incinerator"  
5 installed on the computer, which its manufacturer claims "effectively removes files and folders  
6 on your hard drive...so you can be sure that what you remove is safe from anyone's prying  
7 eyes."

8 26. Special Agent Bucenell reviewed the content of a hard drive located in a  
9 computer from Respondent residence that had been downloaded by DEA on July 19, 2005. A  
10 Kazaa log in that computer contained the same list as the Kazaa list in the office computer.  
11 Most of the file names in this computer also included "pedo," "little girl" and "kiddy" along with  
12 graphic descriptions of the sexual acts depicted in the picture or movie. No images related to  
13 file names in this folder were recovered. "Incinerator" was also installed on this computer.

14 27. Special Agent Bucenell found three video files in this computer. These videos  
15 were found to display graphic sexual acts with children, one of which appeared to be as young  
16 as six years old.

17 28. On May 19, 2006 a Criminal Complaint was filed against Respondent in Case  
18 No. 8:06MJ1173 MSS before the United States District Court, Middle District of Florida, Tampa  
19 Division. The Criminal Complaint alleged Respondent "knowingly received materials relating to  
20 sexual exploitation of minors via interstate commerce, in violation of Title 18, United States  
21 Code, Section 2252(a)(2)," which is a felony charge.

22 29. On May 22, 2006 Respondent was arrested on the federal Criminal Complaint.  
23 He was later released from custody after posting a \$30,000.00 personal appearance bond.

24 30. The federal criminal charge is still pending.

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1           31.     Respondent's domestic violence charge was dismissed after he completed an  
2 anger management program and a diversion program.

3           32.     Respondent failed to self report his arrest on domestic violence, possession of  
4 marijuana, possession of drug paraphernalia and the federal criminal charge to the Board as  
5 required by A.R.S. § 32-3208(A).

6           33.     On or about June 8, 2006 the Board's investigator, Lisa Thornton, prepared a  
7 Preliminary Investigative Report in Case No. MD-06-0445A, summarizing the Board's  
8 investigation of Respondent. Investigator Thornton had interviewed Respondent, Eric Sunde,  
9 Esq., who is Respondent's attorney, and Bridgett Grumet, who is a Pasco County Times  
10 newspaper reporter.

11           34.     The Board considered case number MD-06-0445A at its June 8, 2006 meeting.  
12 The Board concluded Respondent violated the provisions of A.R.S. § 32-1401(27)(a),  
13 specifically A.R.S. § 32-3208(A), and A.R.S. § 32-1401(27)(d). The Board also concluded that  
14 based upon the Interim Findings of Fact and Conclusions of Law, the public health, safety and  
15 welfare required emergency action pursuant to A.R.S. § 32-1451(D). The Board then ordered  
16 the summary suspension of Respondent's allopathic medical license pending a formal hearing  
17 before the Office of Administrative Hearings, an independent agency.

18           35.     By letter dated June 9, 2006 Ms. Thornton advised Respondent that an  
19 investigation in case number MD-06-0445A had been opened against him by the Board.  
20 Respondent was requested to complete and submit a narrative response to the stated  
21 allegations to the Board by June 26, 2006.

22           36.     Investigator Thornton testified that no action has been taken against  
23 Respondent's Florida medical license.



1 felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In  
2 either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive  
3 evidence of the commission"). Although there is no final disposition of Respondent's federal  
4 criminal case, which requires proof beyond reasonable doubt for conviction, the Board met its  
5 burden of proving by a preponderance of the evidence that Respondent committed the acts  
6 constituting a felony.

7 5. The evidence of record supports the Board's summary suspension of  
8 Respondent's medical license, which given the facts presented to the Board, warranted  
9 emergency action to protect the public health, safety and welfare. A.R.S. § 32-1401(D).

10 6. Respondent's viewing of child pornography, including after the execution of the  
11 DEA search warrant, his failure to report his federal criminal felony charge and state  
12 misdemeanor charges to the Board as required by statute and his failure to appear at the  
13 hearing warrants the imposition of permanent disciplinary action against Respondent pursuant  
14 to A.R.S. § 32-1451.

15 7. Respondent's allopathic license may be immediately revoked upon a  
16 determination that his practice poses a threat to the public health, safety and welfare. A.A.C.  
17 R4-16-102(B).

18 **ORDER**

19 Based upon the Findings of Fact and Conclusions of Law as adopted, the Board  
20 hereby enters the following Order:

21 Respondent's license No. 25808 to practice allopathic medicine in the State of Arizona  
22 is revoked on the effective date of this Order and Respondent shall return his wallet card and  
23 certificate of licensure to the Board.

24 **RIGHT TO APPEAL TO SUPERIOR COURT**

25 Respondent is hereby notified that this Order is the final administrative decision of the

1 Board and that Respondent has exhausted his administrative remedies. Respondent is advised  
2 that an appeal to Superior Court in Maricopa County may be taken from this decision pursuant  
3 to Title 12, Chapter 7, Article 6.

4 Dated this 12 day of October, 2006.

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6 (SEAL)



ARIZONA MEDICAL BOARD

7  
8 By: *Timothy C. Miller*  
9 Timothy C. Miller, J.D.  
Executive Director

10 Original of the foregoing filed this  
13<sup>th</sup> day of October, 2006, with:

11 Arizona Medical Board  
12 9545 East Doubletree Ranch Road  
Scottsdale, AZ 85258

13 Copy of the foregoing filed this  
13<sup>th</sup> day of October, 2006, with:

14 Cliff J. Vanell, Director  
15 Office of Administrative Hearings  
16 1400 W. Washington, Ste. 101  
Phoenix, AZ 85007

17 Executed copy of the foregoing mailed  
18 this 13<sup>th</sup> day of October, 2006, to:

19 Richard Carino, M.D.  
20 (Address of record)

21 Dean Brekke  
22 Assistant Attorney General  
23 Office of the Attorney General  
24 CIV/LES  
1275 W. Washington  
Phoenix, Arizona 85007

25 *Richard Carino*