

SOAH DOCKET NO. _____
LICENSE NO. E-8372

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STATE BOARD OF
MEDICAL EXAMINERS
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IN THE MATTER OF THE §
COMPLAINT AGAINST §
TROY ARTHUR CALDWELL, M.D. §
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BEFORE THE
TEXAS STATE BOARD
OF MEDICAL EXAMINERS

COMPLAINT

TO THE HONORABLE TEXAS STATE BOARD OF MEDICAL EXAMINERS
AND THE HONORABLE ADMINISTRATIVE LAW JUDGE TO BE ASSIGNED:

COMES NOW, the Staff of the Texas State Board of Medical Examiners ("the Board"), by and through the undersigned attorney of record and files this Complaint against Troy Arthur Caldwell, M.D. ("Respondent"), based on Respondent's alleged violations of the Medical Practice Act ("the Act"), TEX. OCC. CODE ANN., Subtitle B (Vernon's 2000), and in support of this Complaint and based upon information and belief, would show the following:

I.

The filing of this Complaint against Respondent, Troy Arthur Caldwell, M.D., and the relief requested herein are necessary to protect the health of the citizens of the State of Texas as mandated by Section 151.003 of the Act.

CONFIDENTIAL

II.

Legal Authority and Jurisdiction

1. Respondent is a licensed Texas physician.
2. Respondent was issued a Texas medical license by the Board in 1980.
3. Respondent holds Texas medical license E-8372.
4. Respondent's Texas medical license was in full force and effect at all times and dates material and relevant to this Complaint.
5. All jurisdictional requirements have been satisfied.

III.

Factual Allegations

Board Staff has received information which indicates that Respondent may have violated the Act. Upon the basis of such information and belief, Board Staff files this Complaint and thereby charges and alleges that:

Count 1

Respondent began treating J.W. for severe abdominal pain on or about March 13, 1997. Respondent prescribed Lorcet, Xanax and Demerol, which are controlled substances, on an "as needed" basis. J.W. was taking 200 mg of Demerol with 25 mg. Phenergan injections four to six times a day, Oxycontin 80 mg. two to three times a day, Roxicodone 5 mg, fourteen tablets approximately every three hours and 1 mg of Xanax, six tablets a day. He last saw her on or about the 8th of May, 1998

The medical records failed to document any physical examination of the patient nor were her blood levels monitored during treatment. Respondent failed to refer the patient to a pain management specialist for evaluation or treatment.

On May 11, 1998, J.W. died of "mixed drug intoxication" according to the autopsy report.

Count 2

The Board consultant reviewed Respondent's medical records of patient's J.C., J.S., K.S., P.S., J.H. and J.W. and concluded that there was a lack documentation of: physical examinations, appropriate clinical monitoring, lack of specific outcome objectives and progress toward meeting those objectives.

IV.

Applicable Rules, Statutes and Agency Policy

1. It is further alleged that the Respondent's conduct, including actions and/or omissions, as described above, individually and collectively, constitute grounds for the Board to revoke or suspend the Respondent's Texas medical license or to impose any other authorized means of discipline upon the Respondent pursuant to Sections 164.051(a)(1), 164.051(a)(3), 164.052(a)(5), 164.051(a)(6), 164.053(a)(2), 164.053(a)(3), 164.053(a)(5), 164.053(a)(6), 164.054, 164.001 of the Act and 22 Tex. Admin. Code Section 165.1 and 170.
2. Section 164.051(a)(1) of the Act authorizes the Board to discipline a licensed Texas physician "who commits an act prohibited under Section 164.052."
3. Section 164.051(a)(3) of the Act authorizes the Board to discipline a licensed Texas physician who "commits a direct or indirect violation of a rule adopted under this Act, either as a principal, accessory, or accomplice," specifically 22 T.A.C. Sec. 165.1 and 170.
4. Section 164.051(a)(6) of the Act authorizes the Board to discipline a licensed Texas physician who "fails to practice medicine in an acceptable professional manner consistent with public health and welfare."
5. Section 164.052(a)(5) of the Act authorizes the Board to discipline a licensed Texas physician who "commits unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public."

6. 164.053(a)(2), and 164.054 of the Act by failing to keep complete and accurate records of purchases and disposals of drugs listed in Chapter 481, Health and Safety Code; or of controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.) to include without limitation the date of purchase; the date of sale or disposal of the drugs by the physician; the name and address of the person receiving the drugs or controlled substances; and the reason for the disposing or dispensing of the drugs or controlled substances to the person.

7. Section 164.053(a)(3) writing prescriptions for or dispensing to a person who is known to be an abuser of narcotic drugs, controlled substances, or dangerous drugs or to a person who the physician should have known was an abuser of the narcotic drugs, controlled substances, or dangerous drugs. This provision does not apply to those persons being treated by the physician for their narcotic use after the physician notifies the Board in writing of the name and address of the person being so treated.

8. Section 164.053(a)(5) by prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

9. Section 164.053(a)(6) prescribing, administering, or dispensing in a manner inconsistent with public health and welfare, dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481 Health and Safety Code; or controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. §801 et seq.).

10. 22 Tex. Admin. Code Section 165.1 Each licensed physician of the Board shall maintain an adequate medical record for each patient. For purposes of this section, "adequate medical record" shall mean any records documenting or memorializing the

history, diagnosis, and treatment of any patient.

11. 22 Tex. Admin. Code Section 170 sets forth the guidelines for prescribing for chronic or intractable pain patients.

12. Section 164.001 of the Act authorizes the revocation, suspension, limitation, restriction, or probation of a physician's Texas license for a violation of the Act or a rule of the Board or for any cause for which the Board is authorized to refuse to admit persons to its examination and to issue a license or renewal license. Section 164.001 of the Act authorizes a range of disciplinary actions against a licensed Texas physician for committing any of the conduct set forth in Sections 164.051 through 164.054 of the Act.

13. Section 165.001 of the Act authorizes the imposition of an administrative penalty for a violation of the Act or rule of the Board. Section 165.003 of the Act authorizes the amount of the administrative penalty, which may not exceed \$5,000 for each violation and every day a violation continues or occurs.

14. Respondent's alleged violations of 164.051(a)(1), 164.051(a)(3), 164.052(a)(5), 164.051(a)(6), 164.053(a)(2), 164.053(a)(3), 164.053(a)(5), 164.053(a)(6), 164.054, 164.001 of the Act and 22 Tex. Admin. Code Section 165.1 and 170, as described above are grounds, individually and collectively, for the Board to enter an Order in regard to Respondent and Respondent's medical license pursuant to Section 164.001 of the Act.

IV.

Relief Requested

WHEREFORE, PREMISES CONSIDERED, the Board requests that a contested case hearing on the merits of this Complaint be held and that upon the trial of the matters asserted herein, and that the Honorable Administrative Law Judge issue a Proposal for Decision ("PFD") which reflects Respondent's violation of the Act as set forth in this Complaint, and

that, following issuance of the PFD, the Texas Board enter an Order to revoke or suspend Respondent's medical license, and in the event Respondent's medical license is not revoked or suspended, it is prayed that other means of discipline be imposed.

Respectfully submitted,

TEXAS STATE BOARD OF MEDICAL EXAMINERS

By: Kalynne Harvey Welsh

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THE STATE OF TEXAS

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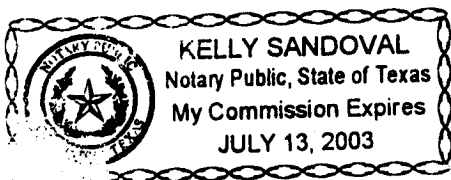
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COUNTY OF TRAVIS

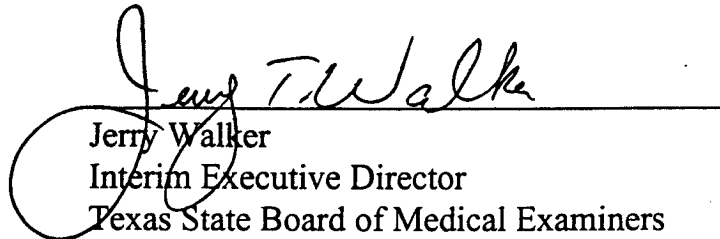
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SUBSCRIBED AND SWORN to before me by the said Kalynne Harvey Welsh on this the 11 day of July, 2001.

Kelly Sandoval
Notary Public, State of Texas



Filed with the Texas State Board of Medical Examiners on this the 11th day
of July, 2001.


Jerry Walker
Interim Executive Director
Texas State Board of Medical Examiners

CERTIFICATE OF SERVICE

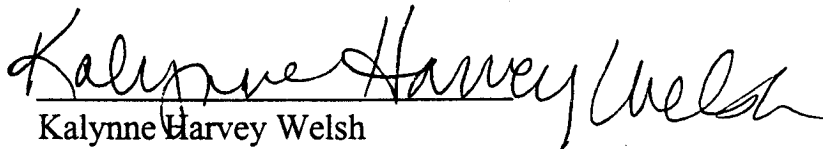
I certify that on this 1st day of July, 2001, a true and correct copy of the foregoing Complaint has been served in compliance with Section 155.25 of the State Office of Administrative Hearings Rules of Procedures on the following individuals at the locations and in the manner indicated below:

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111 Congress Ave., suite 1400
Austin, TX 78701

Dr. Troy Arthur Caldwell
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Richardson, TX 75082

Docket Clerk
State Office of Administrative Hearings
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(VIA COURIER DELIVERY)

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Austin, Texas 78701
(VIA HANDDELIVERY)


Kalyne Harvey Welsh
Staff Attorney