

IN THE MATTER OF	§	BEFORE THE
	§	
THE LICENSE OF	§	TEXAS STATE BOARD
	§	
TROY ARTHUR CALDWELL, JR., M.D.	§	OF MEDICAL BOARD

AGREED ORDER

On this the 7th day of September, 2001, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Troy Arthur Caldwell, Jr., M.D. ("Respondent"). On May 30, 2001, an Informal Settlement Conference/Show Compliance Proceeding was held. Respondent appeared in person, without counsel, at the Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board. Kalynne Harvey Welsh represented Board staff.

The Board was represented at the Informal Settlement Conference/Show Compliance Proceeding by Mrs. Ernest Angelo, Jr., a member of the Board, and H. Jane Chihal, M.D., and Phyllis Strother, District Review Committee members. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Troy Arthur Caldwell, Jr., M.D., holds Texas medical licence E8372.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under TEX. OCC. CODE ANN. Subtitle B (Vernon 2000),¹ (hereinafter the "Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice or hearing under the Act; TEX. GOV'T CODE ANN. §§2001.051 through .054; and the Rules of the State Board of Medical Examiners (22 TEX. ADMIN. CODE Chapter 187).

¹ The Medical Practice Act was formerly found at TEX. REV. CIV. STAT. ANN. art. 4495b (Vernon Supp. 1999). It is now codified in the Texas Occupations Code Subtitle B Chapters 151-165, effective September 1, 1999.

3. Respondent is forty-nine years of age who practices psychiatry.
4. Respondent graduated from the University of Texas Southwestern Medical School-Dallas in 1977.
5. Respondent received his Texas medical license in 1977.
6. On August 19, 2000, Respondent, who was in the process of closing his practice, or Respondent's employees or agents improperly disposed of medications and patient records by placing them in a dumpster located in an ally behind his office.
7. Several juveniles retrieved some of the medication, specifically, Depakote, from the dumpster.
8. The dumpster is directly behind a playground used by the Dallas Montessori School.
9. The dumpster has a sign on it that no hazardous waste should be place in it (specifically mentioning medication).
10. On August 22, 2000, Board investigators searched the impounded dumpster and found: patient medical records, billing records, correspondence, sample medications, Triplicate prescriptions (including reorder forms), medication bottles with Respondent's name and patient's names and prescription pads.
11. The sample medications were: Risperdol 1mg – 10 tablets, DayPro 600mg – 4 tablets, Depakote 250mg – 6 tablets, Orap 2mg –12 tablets, Paxil 20 mg – 7 tablets, Lamictal 25mg – 84 tablets, Zoloft 50 mg – 7 tablets in a bottle, Zoloft blister pack 7-25mg tablets and 14-50 mg tablets and Nimotop – 11 tablets.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes the following:

1. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(1) of the Act based on Respondent's commission of an act prohibited under Section 164.052 of the Act.
2. Respondent has committed a prohibited act or practice within the meaning of Sections 164.052(a)(5) and 164.053(a)(1) of the Act by Respondent's commission of an act that violates any law of this state if the act is connected with Respondent's practice of medicine. In

accordance with Section 164.053(b), a complaint, indictment, or conviction of a violation of law is not necessary for enforcement of Section 164.053(a)(1).

3. Respondent violated Section 483.024 of the Texas Health and Safety Code.
4. Respondent is subject to disciplinary action pursuant to Section 164.051(a)(3) of the Act by committing a direct or indirect violation of a rule adopted under this Act, either as a principal, accessory, or accomplice. Respondent violated Board Rule 165.1 – Medical Records.
5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.
7. Sections 165.001 and 165.003 of the Act authorize the Board to impose a monetary administrative penalty not to exceed five thousand dollars (\$5,000.00) for each separate violation of the Act or Board rule by a person licensed or regulated under the Act.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent shall pay an administrative penalty in the amount of One Thousand Five Hundred dollars (\$1,500.00) within sixty (60) days of the signing of this Order by the presiding officer of the Board.

1. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas State Board of Medical Examiners and shall be submitted to the Director of Compliance for the Board for routing so as to be remitted to the comptroller of Texas for deposit in the general revenue fund.
2. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board as provided for in the Act, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.
3. To verify that Respondent has complied with and is in compliance with the terms and conditions of this Order, Respondent shall fully cooperate with the Board and the Board staff, including but not limited to, Board attorneys, investigators, compliance officers,

consultants, and other such employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to cooperate as required by this paragraph and the terms of this Order shall constitute a basis for disciplinary action against Respondent pursuant to the Act.

4. Respondent shall ensure that any inquiries which are made by any person or entity through any means to Respondent or Respondent's employees regarding Respondent's Texas licensure status are answered by accurate reference to this Order.

5. Upon request by any person or entity, either orally or in writing, Respondent shall provide a complete and legible copy of this Order to the requesting party within ten (10) calendar days of the request.

6. Respondent shall comply with all the provisions of the Act, and other statutes regulating the Respondent's practice, as is required by law.


7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, TROY ARTHUR CALDWELL, JR. M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

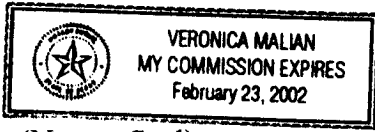
DATED: July 6, 2001.


Troy Arthur Caldwell, Jr., M.D.
RESPONDENT

TEXAS
STATE OF Dallas §
COUNTY OF Dallas §
§

BEFORE ME, the undersigned Notary Public, on this day personally appeared Troy Arthur Caldwell, Jr., M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 6th day of July, 2001.



(Notary Seal)

Veronica Malian
Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 7th day of September, 2001.

Lee S. Anderson
Lee S. Anderson, M.D.
President, Texas State Board of Medical Examiners