

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

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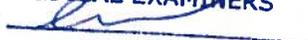
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6 **In the Matter of Charges and**)
7 **Complaint Against**)
8 **KENT ALAN SWAINE, M.D.,**)
9)
10 **Respondent.**)

Case No. 14-20873-1

FILED

FEB - 5 2014

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**

By: 

11
12 **COMPLAINT**

13 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners
14 (Board), composed at the time of filing of Theodore B. Berndt, M.D., Chairman,
15 Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member, by and
16 through Erin L. Albright, Esq., General Counsel and attorney for the IC, having a reasonable basis
17 to believe that Kent Alan Swaine, M.D. (Respondent), violated the provisions of Nevada Revised
18 Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively,
19 the Medical Practice Act), hereby issues its formal Complaint, stating the IC's charges and
20 allegations as follows:

21 1. Respondent was originally licensed to practice medicine in the state of Nevada by
22 the Board on July 1, 2001. On October 14, 2008, the Board revoked Respondent's license to
23 practice medicine in the state of Nevada after obtaining evidence that Respondent was addicted to
24 controlled substances and/or dangerous drugs.

25 2. On August 16, 2010, Respondent enrolled in the Nevada Professionals Assistance
26 Program (NPAP). As part of his enrollment in NPAP, Respondent signed a contract agreeing to
27 abstain from alcohol and drugs.

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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

1 3. On June 10, 2011, the Board issued Respondent an active license to practice
2 medicine (License No. 13917) in the state of Nevada subject to several terms and conditions.
3 Pursuant to these terms and conditions, Respondent was prohibited from prescribing any
4 controlled substances or dangerous drugs to his immediate family or himself and was ordered to
5 remain in compliance with the complete terms of his contract with the NPAP.

6 4. On August 18, 2011, Respondent requested the Board approve a change in his
7 monitoring program from NPAP to Professionals Reaching Nevada (PRN).

8 5. On September 20, 2011, with the Board's approval, Respondent terminated his
9 relationship with NPAP and enrolled in PRN. As part of his enrollment in PRN, Respondent
10 signed a contract agreeing to abstain from alcohol and drugs.

11 6. On August 5, 2011, Alexander Hyt, date of birth September 23, 1926 (Mr. Hyt),
12 passed away from pancreatic cancer. Mr. Hyt was an inpatient at Nathan Adelson Hospice.
13 Respondent was listed on the clinical notes for Mr. Hyt from Nathan Adelson Hospice as a family
14 friend during the admission visit at Mr. Hyt's home.

15 7. On October 24, 2013, Respondent wrote Mr. Hyt a prescription for ninety (90)
16 tablets of Hydromorphone four (4) milligram (mg). Respondent noted the diagnosis as gastric
17 cancer.

18 8. Respondent presented this prescription on October 25, 2013, at CVS pharmacy
19 #8809, located at 4014 S. Rainbow Blvd, Las Vegas, Nevada. When asked for photo
20 identification, Respondent produced photo identification for Mr. Hyt. The prescription was filled.
21 Respondent paid for and left with the prescription.

22 9. On November 8, 2013, Respondent wrote Mr. Hyt a prescription for ninety (90)
23 tablets of Hydromorphone four (4) milligram (mg). Respondent noted the diagnosis as gastric
24 cancer.

25 10. Respondent presented this prescription on November 11, 2013, at CVS pharmacy
26 #8809, located at 4014 S. Rainbow Blvd, Las Vegas, Nevada. When asked for photo
27 identification,

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1 11. Respondent produced photo identification for Mr. Hyt. The prescription was filled.
2 Respondent paid for and left with the prescription.

3 12. On November 22, 2013, Respondent wrote Mr. Hyt a prescription for ninety (90)
4 tablets of Hydromorphone four (4) milligram (mg). Respondent noted the diagnosis as gastric
5 cancer.

6 13. Respondent presented this prescription on November 24, 2013, at CVS pharmacy
7 #8809, located at 4014 S. Rainbow Blvd, Las Vegas, Nevada. When asked for photo
8 identification, Respondent produced photo identification for Mr. Hyt. The prescription was filled.
9 Respondent paid for and left with the prescription.

10 14. On December 16, 2013, Respondent wrote Mr. Hyt a prescription for ninety (90)
11 tablets of Hydromorphone four (4) milligram (mg). Respondent noted the diagnosis as gastric
12 cancer.

13 15. Respondent presented this prescription on December 16, 2013, at CVS pharmacy
14 #8809, located at 4014 S. Rainbow Blvd, Las Vegas, Nevada. When asked for photo
15 identification, Respondent produced photo identification for Mr. Hyt. The prescription was filled.
16 Respondent paid for and left with the prescription.

17 16. The records from CVS show that Mr. Hyt's first filled prescription was on
18 February 25, 2012. Mr. Hyt's prescriptions have been filed at four (4) different CVS pharmacies
19 in Las Vegas, Nevada.

20 17. According to CVS, Mr. Hyt's medications include hydromorphone, methadone and
21 oxycodone-apap. All of Mr. Hyt's medications were prescribed by Respondent. The controlled
22 substance prescriptions written by Respondent for Mr. Hyt total more than fourteen (14) pages.

23 18. On or about January 30, 2014, Dr. Swaine tested positive for amphetamines,
24 benzodiazepine and opiates. This positive test also violates the terms of his contract with PRN.

25 19. The Prescription Monitoring Program demonstrates that Dr. Swaine wrote
26 controlled substance and/or dangerous drug prescriptions for his wife, Jean Swaine, and his father-
27 in-law, Crisostomo Oliveros, in violation of the restrictions currently placed on his license to
28 practice medicine in the state of Nevada.

- 1 2. That the Board set a time and place for a formal hearing after holding an
2 Early Case Conference pursuant to NRS 630.339(3);
3 3. That the Board determine the sanctions it will impose if it finds Respondent
4 violated the Medical Practice Act;
5 4. That the Board make, issue and serve on Respondent, in writing, its findings of
6 fact, conclusions of law and order, which shall include the sanctions imposed; and
7 5. That the Board take such other and further action as may be just and proper in these
8 premises.

9 DATED this 5th day of February, 2014.

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11 By: 
12 Erin L. Albright, Esq.
13 General Counsel
14 Attorney for the Investigative Committee
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VERIFICATION

1 STATE OF NEVADA)
2 : ss.
3 COUNTY OF WASHOE)

4 Theodore B. Berndt, M.D., hereby deposes and states under penalty of perjury under the
5 laws of the state of Nevada that he is the Chairman of the Investigative Committee of the
6 Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the
7 Respondent herein; that he has read the foregoing Complaint; and that based upon information
8 discovered during the course of the investigation into a complaint against Respondent, he believes
9 the allegations and charges in the foregoing Complaint against Respondent are true, accurate and
10 correct.

11 Dated this 5th day of February, 2014.

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13 Theodore B. Berndt
14 Theodore B. Berndt, M.D.
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CERTIFICATE OF SERVICE

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 5th day of February 2014; I served a filed copy of COMPLAINT & FINGERPRINT INFORMATION, via USPS e-certified mail to the following:

Kent Swaine, M.D.
10217 Nightowl Creek Place
Las Vegas, NV 89144

Dated this 5th day of February, 2014.



Angelia L. Donohoe
Legal Assistant