

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934

med.ohio.gov

October 8, 2014

Theodore J. Cole, D.O.
7760 W. VOA Park Drive, Suite C
West Chester, OH 45069

RE: Case No. 14-CRF-016

Dear Doctor Cole:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Craig R. Mayton, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2014, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio, and adopting an Amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Any such appeal must be filed in accordance with all requirements specified in Section 119.12, Ohio Revised Code, and must be filed with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within (15) days after the date of mailing of this notice.

THE STATE MEDICAL BOARD OF OHIO

Mark Bechtel, MD
by J. Blanton

Mark A. Bechtel, M.D.
Secretary

MAB:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3939 6428 6270
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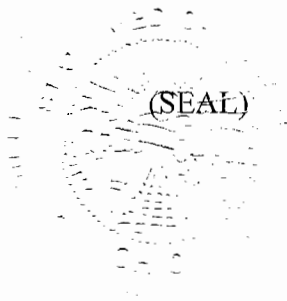
Cc: Daniel S. Zinsmaster, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3939 6428 6287
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Mailed 10-30-14

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Craig R. Mayton, State Medical Board Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 8, 2014, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Theodore J. Cole, D.O., Case No. 14-CRF-016, as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Mark Bechtel, M.D.
Mark A. Bechtel, M.D. by J. Blanton
Secretary

October 8, 2014
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

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CASE NO. 14-CRF-016

THEODORE J. COLE, D.O.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 8, 2014

Upon the Report and Recommendation of Craig R. Mayton, State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval, and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

Theodore J. Cole, D.O. is REPRIMANDED.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.


Mark A. Bechtel, M.D. *by J. Bechtel*
Secretary

(SEAL)

October 8, 2014
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

AUG 21 2014
STATE MEDICAL BOARD
OF OHIO

In The Matter Of :
THEODORE J. COLE, D.O. : Case No. 14-CRF-016
RESPONDENT. :

REPORT AND RECOMMENDATION

Basis for Hearing:

In a Notice of Opportunity for Hearing ["Notice"] dated February 12, 2014, the State Medical Board of Ohio ["Board"] notified Theodore J. Cole, D.O., ["Dr. Cole"], that it intended to determine whether to take disciplinary action against his certificate to practice osteopathic medicine and surgery in Ohio. The Board stated that its proposed action was based on two allegations:

(1) From in or around October 2002 to in or around July 2011, Dr. Cole provided treatment to Patient One. Patient One is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Adm. Code. On a few occasions, Dr. Cole wrote prescriptions for controlled substances to treat Patient One, which included Ambien, Lunesta, and Restoril, and there was no emergency.

(2) From in or around January 2009 to in or around January 2011, Dr. Cole provided care and treatment to Patient Two. Patient Two is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Adm. Code. It was alleged that on a few occasions Dr. Cole wrote prescriptions for controlled substances to treat Patient Two, which included Xanax, Vicodin, Xyrem, and Lomotil, and there was no emergency.

Dr. Cole's acts, conduct, and/or omissions as alleged in paragraphs (1) and (2), individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code ["R.C."], to-wit: Rule 4731-11-08, Ohio Adm. Code, Utilizing Controlled Substances for Self and Family Members. Accordingly, the Board advised Dr. Cole of his right to request a hearing, and received his written request on February 28, 2014. (State's Exhibits ["St. Exs."] 1A, 1B)

Appearances:

Mike DeWine, Attorney General of Ohio, and Kyle Wilcox, Assistant Attorney General, for the State of Ohio. Daniel Zinsmaster, Esq., representing Respondent Theodore J. Cole, D.O.

Hearing Date: August 7, 2014

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, including the testimony, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information

1. Dr. Cole graduated from Cincinnati Moeller High School in 1971. He completed his undergraduate education at Centre College in Danville, Kentucky, in 1975 with a major in psycho-biology. Dr. Cole completed a master's degree at Western Kentucky University in 1978 with a double major in clinical and experimental psychology. He graduated from the Ohio University College of Osteopathic Medicine in 1986 and completed his internship at the Detroit Osteopathic Hospital in 1987. Dr. Cole concluded his residency in family practice in 1988 at Doctor's Hospital in Columbus, Ohio. (Hearing Transcript ["Tr."] 20-21, Respondent's Exhibit ["Resp. Ex."] F)
2. Dr. Cole began his career as an osteopathic physician in 1988 at Wright-Patterson Air Force Base where he treated military retirees and military family members. In 1989 Dr. Cole founded his own private practice originally called West Chester Family Practice. This practice was later renamed the Cole Center for Healing. Dr. Cole's suburban Cincinnati practice is opened Monday through Thursday. Dr. Cole stated that he sees approximately 25 to 30 patients per day and that he has between 2,000 and 3,000 patients of all ages on record with his office. He employs 10 full time and 1 part-time workers in support of his practice, including 2 registered nurses and 1 medical assistant. (Tr. at 21-22, Resp. Ex. F)
3. Dr. Cole holds the position of Associate Professor of Clinical Medicine at both the Ohio University College of Osteopathic Medicine and the University of Cincinnati College of Medicine. His teaching responsibilities in this position consist of rotating medical students through his office for purposes of observing his practice. Approximately eight medical students per year participate in this rotation. He is also a member of the mentoring program of the American Osteopathic Association. Since 1998, he has been Board Certified in family practice by the American Osteopathic Board of Family Practitioners. Until July 1, 2014, Dr. Cole held medical staff privileges at West Chester Hospital (affiliated with University Hospital). Those privileges lapsed on July 1, 2014, as a result of Dr. Cole self-reporting the Board's current disciplinary action in his application for reappointment. (Tr. at 25-26, 53, Resp. Exs. F and S)

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4. Dr. Cole was initially licensed to practice osteopathic medicine and surgery in Ohio in 1987 and has continuously held that license until the present time. He has never held nor applied for licenses to practice medicine in other states. (Tr. 20, 51, Resp. Ex. F)

Stipulations of Parties

5. The State and Dr. Cole entered into a Stipulation that the allegations in paragraphs (1) and (2) contained in the Board's February 12, 2014 Notice are true and accurate with the exception that both parties agree that Dr. Cole did not prescribe Xanax for Patient Two as alleged in the Notice. (Tr. 10-12)

Treatment of Patient One

6. During the course of Dr. Cole's treatment of Patient One, she was also receiving treatment from a neurosurgeon, a National Cancer Institute limb profusion physician, a pain physician, a vascular surgeon, a gastroenterologist, and a cardiologist for a variety of serious illnesses including cancer and cardiovascular disease. Dr. Cole readily admitted that Patient One is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Adm. Code. Dr. Cole obtained medical records from Patient One's other treating physicians and coordinated her care with them. (Tr. 27-28, Resp. Ex. A)
7. Dr. Cole admitted that he prescribed Ambien, Lunesta, and Restoril for Patient One. He stated that these prescriptions were based on his diagnosis that Patient One suffered from insomnia. He also said that he tried three sleeping medications because at least one was not effective and the other was not covered by Patient One's healthcare insurance. Patient One's medical records reveal that Dr. Cole prescribed Lunesta for her on six occasions, and Ambien and Restoril on one occasion each. Dr. Cole conceded that there were no emergency circumstances that necessitated the writing of any of these prescriptions for sleeping medications. (Tr. 28-29, St. Ex. 3, pages 91, 117, 133, 175, 193, 221, 451, and 743)

Treatment of Patient Two

8. Patient Two was under the care and treatment of two physicians other than Dr. Cole for fibromyalgia and chronic fatigue syndrome. Dr. Cole admitted that his treatment of Patient Two overlapped to some degree with the treatment being provided by her primary care physician. However, he characterized his treatment of Patient Two as more limited in scope. (Tr. 35, Resp. Ex. E)
9. Dr. Cole readily admitted, and the record confirms, that he prescribed Vicodin to Patient Two on only one occasion. He said that this prescription was written as a pain relief "bridge" because Patient Two was unable to get up due to severe neck and back pain. He conceded that there was no emergency specification for writing this Vicodin prescription. (Tr. 35-36, St. Ex. 3, page 99)

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10. Dr. Cole admitted that he prescribed Lomotil to Patient Two for diarrhea. He testified, and the record confirms, that he wrote a Lomotil prescription to Patient Two on only one occasion. (Tr. 38-39, 71, Resp. Ex. D, page 4)
 11. Dr. Cole admitted that he wrote Patient Two a prescription for Xyrem. He stated that it was his recollection that he wrote one prescription with one refill. However, he deferred to the accuracy of Patient Two's medical record which indicates that one prescription was written with three refills. Dr. Cole testified that Xyrem is a tightly controlled drug that is distributed only through the Central Pharmacy (one in the United States) that requires extensive patient medical records and justification for the prescription. He stated that Xyrem is primarily used to treat narcolepsy and is virtually non-addictive. Dr. Cole suggested that Xyrem is highly regulated because it has been used as a date-rape drug, has been abused by body builders, and has a multiplier effect when it interacts with alcohol and can cause respiratory failure in such circumstances. He testified that he prescribed Xyrem to Patient Two to treat her insomnia and chronic fatigue syndrome. He conceded that there was no emergency situation that required any of the Xyrem prescriptions to be written. (Tr. 39-43, St. Ex. 3, at pages 89, 95, 97, and 231)
 12. One of Patient Two's treating physicians wrote to the Board on July 7, 2014 that:

She [Patient Two] had seen me years ago for fibromyalgia type symptoms. She saw specialists and tried acupuncture. She never got great results. She switched to a holistic type approach per Dr. Ted Cole. However his management approach was, it has turned her health around. She is physically and mentally the best she has been since I have known her. She is only taking estrogen replacement for her menopausal symptoms.

(Resp. Ex. C)

Dr. Cole's Remedial Efforts

13. On July 9 to July 11, 2014, Dr. Cole completed a continuing medical education course entitled "Prescribing Controlled Drugs" at Vanderbilt University. This course consisted of 22.75 AMA PRA category one credits. It contained such topics as "DEA/Medical Board and Office Practices" and "SBIRT & Prescribing Practices." (Tr. 44-46, 79, Resp. Exs. G and H)
14. Dr. Cole said that he learned a great deal from the disciplinary process instituted by the Board and the continuing medical education course he took at Vanderbilt University. Based on these experiences, he has made changes in his practice including active use of the SBIRT system and the use of motivational interviewing techniques. Dr. Cole stated that the Vanderbilt CME course strongly opposed the prescription of controlled substances to family members, even if that practice is not prohibited in the physician's

state of licensure. He said he now more fully understands how the family relationship can potentially cloud a physician's judgment in prescribing controlled substances and how this practice can go bad. (Tr. 34, 76-79)

15. Although Dr. Cole claimed that he was not aware of the Board's proscription against prescribing controlled substances to family members, absent emergency circumstances, he nonetheless readily accepted the concept that ignorance of the law is no excuse. (Tr. 31, 75)
16. In his testimony, Dr. Cole was forthright and displayed sincere contrition. (Tr. 81-86)

FINDINGS OF FACT

1. From in or around October, 2002, to in or around July, 2011, Dr. Cole provided treatment to Patient One. Patient One is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Adm. Code. On a few occasions, Dr. Cole wrote prescriptions for controlled substances to treat Patient One, which included Ambien, Lunesta, and Restoril, and there was no emergency.
2. From in or around January 2009 to in or around January 2011, Dr. Cole provided care and treatment to Patient Two. Patient Two is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Adm. Code. On a few occasions, Dr. Cole wrote prescriptions for controlled substances to treat Patient Two, which included Vicodin, Xyrem, and Lomotil, and there was no emergency.

CONCLUSION OF LAW

Dr. Cole's acts in prescribing controlled substances to family members, Patients One and Two, absent emergency circumstances, as described in Findings of Fact 1 and 2, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the Board," as that clause is used in R.C. § 4731.22(B)(20), to-wit: Rule 4731-11-08, Ohio Adm. Code, utilizing controlled substances for self and family members.

DISCUSSION OF PROPOSED ORDER

Respondent Dr. Cole's violation of Section 4731-11-08, Ohio Adm. Code, Utilizing Controlled Substances for Self and Family Members, is the first instance of discipline in his career in osteopathic medicine. Other mitigating factors are present in this case as well. His violations

were not based on dishonest or selfish motives and are isolated and seem very unlikely to recur. He has been forthcoming in his disclosures to the Board and also to the hospital where he previously enjoyed privileges. Dr. Cole has taken significant rehabilitative measures by enrolling and completing the Vanderbilt continuing medical education course "Prescribing Controlled Drugs." His violations were neither willful nor reckless and there is no evidence that they had any adverse impact on either Patient One or Patient Two. The last violation took place in July 2011. Dr. Cole displayed sincere and heartfelt remorse about his violation of the rule prohibiting the prescription of controlled substances to family members absent emergency circumstances.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **REPRIMAND:** Theodore J. Cole, D.O., is REPRIMANDED.
- B. **PROBATION:** The certificate of Dr. Cole to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least six months:
 1. **Obey the Law:** Dr. Cole shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Cole shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there had been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. The final declaration must be received in the Board's offices on or before the first day of the sixth month of this period of probation.
 3. **Personal Appearances:** Dr. Cole shall appear in person for an interview before the full Board or its designated representative during the sixth month following the month in which this Order becomes effective, or as otherwise directed by the Board.
 4. **Required Reporting of Change of Address:** Dr. Cole shall notify the Board in writing of any changes of address and/or principal practice address within thirty (30) days of change.
 5. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Cole is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such

period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Cole's certificate will be fully restored.
- D. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Cole violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- E. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Cole shall provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payers), or applies for or receives training; and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Cole receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Cole provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio in the future, he shall promptly provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Cole receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities:** Dr. Cole shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Cole receives from the Board written notification of the successful completion of his probation.
3. **Required Documentation of the Reporting Required by Paragraph E:** Dr. Cole shall provide this Board with **one** of the following documents as proof of required notification within 30 days of the date of such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to

whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.



Craig R. Mayton
Hearing Examiner

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 8, 2014

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Ramprasad announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Dr. Ramprasad asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Mounir Boutros, M.D.; Rebecca Joy Carpenter, M.T.; Theodore J. Cole, D.O.; Jessica J. Dussault; and Mark A. Weiner, D.O.

A roll call was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Dr. Bechtel | - aye |
| | Dr. Saferin | - aye |
| | Dr. Rothermel | - aye |
| | Dr. Steinbergh | - aye |
| | Mr. Kenney | - aye |
| | Dr. Ramprasad | - aye |
| | Dr. Sethi | - aye |
| | Dr. Soin | - aye |
| | Dr. Schachat | - aye |
| | Mr. Gonidakis | - aye |
| | Mr. Giacalone | - aye |

Dr. Ramprasad asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Dr. Bechtel | - aye |
| | Dr. Saferin | - aye |
| | Dr. Rothermel | - aye |
| | Dr. Steinbergh | - aye |
| | Mr. Kenney | - aye |
| | Dr. Ramprasad | - aye |
| | Dr. Sethi | - aye |
| | Dr. Soin | - aye |
| | Dr. Schachat | - aye |
| | Mr. Gonidakis | - aye |
| | Mr. Giacalone | - aye |

Dr. Ramprasad noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr. Bechtel served as Secretary and Dr. Saferin served as Supervising Member.

Dr. Ramprasad reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....
THEODORE J. COLE, D.O.
.....

Dr. Rothermel moved to approve and confirm Mr. Mayton's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Theodore J. Cole, D.O. Mr. Kenney seconded the motion.

Dr. Ramprasad stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she will abstain from discussion and voting in this matter.

Dr. Ramprasad briefly reviewed Dr. Cole's medical career. Patient 1, a family member of Dr. Cole's, suffered from insomnia. Dr. Cole prescribed Lunesta to Patient 1 on six occasions, and he prescribed Ambien and Restoril to Patient 1 on one occasion each. At his hearing, Dr. Cole conceded that these prescriptions were not written for emergency situations.

Dr. Ramprasad continued that Patient 2, also a family member of Dr. Cole's, was under the care of two physicians other than Dr. Cole for treatment of fibromyalgia and chronic fatigue syndrome. Dr. Cole prescribed Vicodin to Patient 2 on one occasion to treat severe neck and back pain in a non-emergency situation. Dr. Cole also prescribed Lomitol and Xyrem to Patient 2.

Dr. Ramprasad opined that Dr. Cole seems to have honestly overlooked the prohibition against prescribing to family members. Dr. Ramprasad stated that Dr. Cole has taken steps to correct this by taking a very good course on prescribing controlled substances at Vanderbilt University. Dr. Ramprasad agreed with the Report and Recommendation's Findings of Fact and Conclusions of Law. However, Dr. Ramprasad suggested that the Proposed Order be amended to remove the probationary terms and leave only the reprimand. Dr. Ramprasad opined that there was no proper role for probation in this matter and reiterated that Dr. Cole has taken the prescribing course at Vanderbilt University.

Mr. Giacalone moved to amend the Proposed Order to remove the probationary terms, leaving only

the reprimand. Dr. Soin seconded the motion. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Dr. Bechtel | - abstain |
| | Dr. Saferin | - abstain |
| | Dr. Rothermel | - aye |
| | Dr. Steinbergh | - abstain |
| | Mr. Kenney | - aye |
| | Dr. Ramprasad | - aye |
| | Dr. Sethi | - aye |
| | Dr. Soin | - aye |
| | Dr. Schachat | - aye |
| | Mr. Gonidakis | - aye |
| | Mr. Giacalone | - aye |

The motion to amend carried

Dr. Rothermel moved to approve and confirm Mr. Mayton's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Theodore J. Cole, D.O. Dr. Sethi seconded the motion. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Dr. Bechtel | - abstain |
| | Dr. Saferin | - abstain |
| | Dr. Rothermel | - aye |
| | Dr. Steinbergh | - abstain |
| | Mr. Kenney | - aye |
| | Dr. Ramprasad | - aye |
| | Dr. Sethi | - aye |
| | Dr. Soin | - aye |
| | Dr. Schachat | - aye |
| | Mr. Gonidakis | - aye |
| | Mr. Giacalone | - aye |

The motion to approve carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934

med.ohio.gov

February 12, 2014

Case number: 14-CRF-016

Theodore J. Cole, D.O.
Cole Center for Healing
7760 West VOA Park Drive
Suite C
West Chester, Ohio 45069

Dear Doctor Cole:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) From in or around October 2002 to in or around July 2011 you provided care and treatment to Patient 1. Patient 1 is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Administrative Code. On a few occasions you wrote prescriptions for controlled substances to treat Patient 1, which included Ambien, Lunesta, and Restoril, and there was no emergency.
- (2) From in or around January 2009 to in or around January 2011 you provided care and treatment to Patient 2. Patient 2 is a family member, as that term is defined in Rule 4731-11-08(C), Ohio Administrative Code. On a few occasions you wrote prescriptions for controlled substances to treat Patient 2, which included Xanax, Vicodin, Xyrem and Lomotil, and there was no emergency.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) and (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-08, Ohio Administrative Code, Utilizing Controlled Substances for Self and Family Members.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must

Mailed 2-13-14

be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



J. Craig Strafford, M.D., M.P.H.
Secretary

JCS/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7032 2856 3813
RETURN RECEIPT REQUESTED

CC: Daniel S. Zinsmaster
Dinsmore & Shohl, LLP
191 West Nationwide Blvd.
Suite 300
Columbus, Ohio 43215

Theodore J. Cole, D.O.
Page 3

CERTIFIED MAIL #91 7199 9991 7032 2856 3806
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CC: Lori A. Landrum
Dinsmore & Shohl, LLP
255 East Fifth Street
Suite 1900
Cincinnati, Ohio 45202

CERTIFIED MAIL #91 7199 9991 7032 2856 3790
RETURN RECEIPT REQUESTED

**IN THE MATTER OF
THEODORE J. COLE, D.O.**

14-CRF-016

**FEBRUARY 12, 2014, NOTICE OF
OPPORTUNITY FOR HEARING -
PATIENT KEY**

**SEALED TO
PROTECT PATIENT
CONFIDENTIALITY AND
MAINTAINED IN CASE
RECORD FILE.**