BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation )
Against: )
) )
John Peter Cole, M.D. ) Case No. 16-2010-207256
) )
Physician’s and Surgeon’s )
Certificate No. G 84836 )
) )
Respondent )

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DECISION

The attached Proposed Decision is hereby adopted as the Decision and
Order of the Medical Board of California, Department of Consumer Affairs,
State of California.

This Decision shall become effective at 5:00 p.m. on April 7, 2011.

IT IS SO ORDERED March 8, 2011.

MEDICAL BOARD OF CALIFORNIA

By: ____________________________

Shelton Duruisseau, Ph.D., Chair
Panel A
BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOHN PETER COLE, M.D.,
Alpharetta, Georgia

Physician’s & Surgeon’s
Certificate No. G 84836

Respondent.

OAH No. 2010100132
Case No. 16-2010-207256

PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, Office of Administrative
Hearings, State of California, heard this matter on January 6, 2011, in Oakland, California.

Susan K. Meadows, Deputy Attorney General, represented the Medical Board of
California.

John R. Bevis, Attorney at Law (licensed in Georgia), and Adam G. Slote, Attorney at
Law, represented Respondent John Peter Cole, M.D., who was present.

The record closed on January 6, 2011.

FACTUAL FINDINGS

1. Complainant Linda K. Whitney filed the Accusation in her official capacity as
Executive Director of the Medical Board of California (Board).

2. On September 11, 1998, the Board issued Physician’s and Surgeon’s
Certificate No. G 84836 to John Peter Cole, M.D. (Respondent). Respondent’s certificate will
expire on December 31, 2011, unless renewed.

3. On April 14, 2010, the Georgia Composite Medical Board approved and issued
a Public Consent Order against Respondent’s medical license in that state. The Order required
Respondent to pay a fine of $20,000. The Georgia Board’s action was based upon the
following factual findings:
Respondent employed one individual who had surrendered his medical license in 2005 and another who was not licensed to practice medicine in Georgia and allowed these individuals to dispense medications, and administer local anesthetic to patients. Respondent also employed a physician assistant without an approved job description as required under the Medical Practice Act.

4. Respondent graduated from Mercer University in 1981 and received his medical degree from the Medical College of Georgia in 1985. He worked briefly as an emergency room physician, but soon became very interested in hair transplantation. Respondent sought out education in that field and practiced in that specialty in North Carolina from 1993 until 2003 and in Maryland from 2001 to 2002. From 2003 until 2005, he also practiced in Cyprus, and from 2005 until 2007, in Belgium. Respondent established his Georgia practice in 2001 and his office in Alpharetta, a suburb of Atlanta, is currently his only location. He does not practice in California.

5. Respondent holds inactive medical licenses in eleven states, including North Carolina and Maryland. In addition to his California and Georgia licenses, he holds an active license in Florida. Respondent is board certified in hair restoration surgery and has been on the Board of Directors of the American Board of Hair Restoration Surgery.

6. Respondent belongs to many professional societies, including some in different countries. He is extensively published in the field of hair transplantation and has presented at many meetings, in the United States and abroad. In addition, he has received numerous awards and engaged in research. Respondent has applied for and received patents on his inventions and has several patents pending.

7. After the Georgia proceedings, Respondent wrote a letter to the Board explaining the Georgia action. He testified consistently with this letter, stating that an investigation in Georgia was triggered by the complaint of a former employee. He had hired a licensed practical nurse as an office manager, and she informed the Georgia Board that unlicensed individuals were performing hair transplants in Respondent’s office.

8. The Georgia Board conducted a thorough investigation that included interviewing every staff member and examining pharmacy records and some patient charts. Respondent appeared before a panel and explained his side of the events. The investigation revealed the violations that Respondent acknowledged when he executed the Consent Order.

9. As soon as the investigation began, Respondent made significant changes in the administration of his practice. He hired a registered nurse, wrote new protocols, and created new log books to keep account of medications. Since that time, he has not dispensed controlled substances from his office; he only provides Tylenol or Advil.
10. At the time of the investigation, Respondent maintained an office in Belgium. He employed another physician, who took medications to Belgium to use in the practice. This was a violation, and Respondent acknowledges this mistake. In addition, Respondent admits his office contained unlabeled and undocumented medications and antibiotics that had expired. This was despite office protocols to the contrary, but Respondent takes full responsibility for the violations. He is very embarrassed about the investigation and the discipline in Georgia, but believes that the experience has made him a better manager.

11. In 2003, Respondent hired a physician, a friend from medical school, to help develop a fellowship training program. This doctor was trained as an anesthesiologist and had expressed an interest in Respondent’s practice. He also worked occasionally as a surgical assistant. Respondent was unaware at the time that the doctor had entered into a program to surrender his license. Respondent does not recall that this other doctor administered local anesthetics, but acknowledged that it is possible.

12. Although administering local anesthetic can be performed by a non-physician in Georgia, Respondent took to heart the Georgia Board’s preference that it only be administered by a medical doctor. Therefore, he is the only person to do so in his office.

13. Respondent asserts that he loves the practice of medicine, is a good doctor, and does not place patients at risk of harm. He notes that he has been licensed in Georgia for 25 years and has had no previous complaints. Respondent has taken action to make sure that his practice is run professionally. He currently employs one office manager, four medical assistants, one full-time and one part-time registered nurse, and an engineer. He does not employ a physician assistant. Respondent travels occasionally to Asia to teach. When he is gone, no patients are seen at his office.

14. Respondent was a credible witness on his own behalf. He was forthcoming and appeared sincere.

LEGAL CONCLUSIONS

1. Business and Professions Code section 141, subdivision (a), provides:

   For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.
Business and Professions Code section 2305 provides:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

2. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code sections 141 and 2305 by reason of the matters set forth in Finding 3.

3. The underlying discipline in this matter involved Respondent’s failure to properly run his practice. No patient harm was involved and the facts do not demonstrate that patients were at significant risk from what appears to have been sloppy management. Since the time of the Georgia action, Respondent has taken action to correct the situation and establish procedures and protocols that will prevent further violations. This is not a revocation case and it is unclear what a probationary term in California would accomplish. The violations do not reflect a need for remedial or ethics education. All things considered, it is concluded that a public reprimand is sufficient to protect the public interest.

ORDER

Physician’s and Surgeon’s Certificate No. G 84836, issued to John Peter Cole, M.D., is publicly reprimanded.

DATED: January 26, 2011

MARY-MARGARET ANDERSON
Administrative Law Judge
Office of Administrative Hearings
In the Matter of the Accusation Against: John Peter Cole, M.D. 1070 Powers Place Alpharetta, GA 30004

Physician's and Surgeon's Certificate No. G 84836

Respondent.

Complainant alleges:

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, State of California (hereinafter “Board”).

2. On or about September 11, 1998, the Board issued Physician's and Surgeon's Certificate Number G 84836 to John Peter Cole, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

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3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

   A. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division\(^1\) deems proper.

   B. Section 2305 of the Code states:

   “The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.”

   C. Section 141 of the Code provides:

   "(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein."

   "(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a

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\(^1\) Cal. Bus. & Prof. Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical practice Act (Cal. Bus. & Prof. Code, sections 2000 et seq.) means the “Medical Board of California,” and references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other provision of law shall be deemed to refer to the Board.
disciplinary action taken against the licensee by another state, an agency of the federal
government, or another country."

4. Respondent is subject to discipline within the meaning of sections 2305 and/or 141 of
the Code as more particularly set forth herein below.

CAUSE FOR DISCIPLINE

(Discipline, Restriction, Limitation Imposed by Another State and/or Unprofessional Conduct)

5. On or about April 14, 2010, the Georgia Composite Medical Board (Georgia Board)
approved and issued Public Consent Order against Respondent’s medical license which resulted
in a $20,000.00 (twenty thousand dollar) fine. The above action was taken against Respondent
based on findings of fact that Respondent had committed acts of unlawful dispensing of drugs,
administering expired drugs, and the unlawful distribution of drugs. In addition, during 2005,
Respondent allowed two unlicensed individuals to dispense medications and administer local
anesthetic to patients at his hair transplant clinic. Further, Respondent employed a physician
assistant without an approved job description as required by the Georgia Medical Practice Act. A
due and correct copy of the Public Consent Order issued by the Georgia Board is attached hereto
and incorporated herein as Exhibit A.

6. The above action taken by the Georgia Board regarding Respondent’s license to
practice medicine, as set forth above, constitutes cause for disciplinary action and/or
unprofessional conduct within the meaning of sections 141 and/or 2305 of the Code. Therefore,
cause for discipline exists.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 84836,
   issued to John Peter Cole, M.D.;

2. Revoking, suspending or denying approval of Respondent's authority to supervise
   physician assistants pursuant to section 3527 of the Code;
3. Ordering Respondent to pay the Medical Board of California the costs of probation monitoring upon order of the Board, and/or;

4. Taking such other and further action as deemed necessary and proper.

DATED: August 12, 2010

LINDA K. WHITNEY
Executive Director
Medical Board of California
State of California
Complainant
To Whom It May Concern:

I, LaSharn Hughes, Executive Director of the Composite State Board of Medical Examiners do hereby certify that the attached are true and correct copies of the public file concerning John Peter Cole, MD in the possession of the Georgia Composite Medical Board.

[Signature]
LaSharn Hughes
Executive Director

Sworn before me 10th of June 2010

[Signature]
Notary Public

My Commission Expires February 15, 2011
BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:

JOHN COLE, M.D.,
License No. 29158,
Respondent.

PUBLIC CONSENT ORDER

By agreement of the Georgia Composite Medical Board ("Board") and John Cole, M.D. ("Respondent"), the following disposition of the matter is entered pursuant to the provisions of O.C.G.A. § 50-13-13(a)(4).

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was so licensed at all times relevant to the matters stated herein.

2.

On or about March 17, 2008, Board investigative agents and agents from the Georgia Drugs and Narcotics Agency ("GDNA") interviewed Respondent and his employees at Respondent's office, a hair transplant clinic in Alpharetta, GA. During the visit, the GDNA agents conducted an inspection of Respondent's dispensing office and found violations of O.C.G.A. §26-4-60(j) for unlawful dispensing of drugs; Board of Pharmacy Rule 480-28-.08 for administering expired drugs; and O.C.G.A. §16-13-30(g) for unlawful distribution of drugs.
3.

Respondent employed one individual who had surrendered his medical license in 2005 and another who was not licensed to practice medicine in Georgia and allowed these individuals to dispense medications, and administer local anesthetic to patients. Respondent also employed a physician assistant without an approved job description as required under the Medical Practice Act.

4.

For the purposes of this Order, Respondent does not contest the findings above. Respondent understands that by doing so he is neither admitting the truth of any of the allegations nor acknowledging any impropriety, but is agreeing that the Board may enter an order based on the allegations without the necessity of receiving evidence in support thereof. Respondent makes no admission herein and reserves the right to contest allegations against him in any forum, including but not limited to any civil or criminal court of law or other proceedings before another state’s lawful licensing authority.

CONCLUSIONS OF LAW

In order to resolve the issues identified herein, Respondent herein waives formal conclusions of law with respect to the above-styled matter and does not contest the Board’s authority to enter the following order.
ORDER

The Georgia Composite Medical Board, having considered the particular facts and circumstances of this case, hereby orders, and Respondent hereby agrees, to the following terms:

1.

Respondent shall submit to the Board a fine of twenty thousand dollars ($20,000.00) to be paid in full by cashier's check or money order made payable to the Georgia Composite Medical Board within ninety (90) days of the effective date of this Consent Order. Failure to pay the entire amount by the 90th day shall be considered a violation of this Order and shall result in further sanctioning of Respondent's license, including revocation, upon substantiation thereof.

2.

This Consent Order shall constitute a public order of the Board and may be disseminated as a public disciplinary action.

3.

Pursuant to O.C.G.A. Title 43, Chapter 34A, the contents of this order shall be placed on Respondent's Physician Profile. Furthermore, by executing this Consent Order, Respondent hereby agrees to permit the Board to update his Physician's Profile reflecting this Consent Order.

4.

Respondent shall abide by all State and Federal laws regulating his practice as a physician or relating to drugs, the Rules and Regulations of the Georgia Composite Medical Board and the terms of the Consent Order. If Respondent shall fail to abide by such laws,
rules or terms, or should Respondent violate the criminal laws of the state, Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Respondent further agrees that any violation of the Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

5.

Respondent acknowledges that he is represented by counsel and that he has read this Consent Order and understands its contents. Respondent understands that he has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Consent Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Board's consideration of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order will not become effective until approved and docketed by the Georgia Composite Medical Board. Respondent understands that this Consent Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Board. However, if this Consent Order is not approved, it shall not constitute an admission against
interest in this proceeding, or prejudice the right of the Board to adjudicate this matter.

Respondent hereby consents to the terms and sanctions contained herein.

Approved, this 1st day of April, 2010.

GEORGIA COMPOSITE MEDICAL BOARD

BY: 

JOHN T. PERRY, M.D.
Chairperson

ATTEST: 

LASHARN HUGHES
Executive Director

[As to Dr. Cole's signature:] 
Sworn to and subscribed before me this 3rd day of February, 2010 

NOTARY PUBLIC
My commission expires:

JOHN COLE, M.D.
Respondent

JOHN BEVIS, ESQ.
Attorney for Respondent