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

In the Matter of the First Amended Accusation/Petition to Revoke Probation Against: **Matthew David Cole, M.D.** **Physician's and Surgeon's Certificate No. A 98152** **Respondent.**	**Case No.: 800-2021-077509**

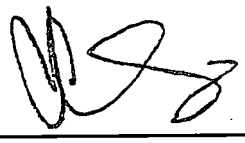
DECISION

The attached Stipulated Settlement and Disciplinary Order 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 September 16, 2022.

IT IS SO ORDERED: August 19, 2022.

MEDICAL BOARD OF CALIFORNIA



Laurie Rose Lubiano, J.D., Chair
Panel A

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

In the Matter of the First Amended Accusation/Petition to Revoke Probation Against: **MATTHEW DAVID COLE, M.D.** **369 San Miguel Dr., Suite 200** **Newport Beach, CA 92660-7818** **Physician's and Surgeon's Certificate No. A 98152,** Respondent.	Case No. 800-2021-077509 OAH No. 2021100067 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Latrice R. Hemphill, Deputy Attorney General.

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2. Matthew David Cole, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff, Esq., whose address is: 355 South Grand Avenue, Suite 1750, Los Angeles, CA 90071-1562.

3. On or about November 29, 2006, the Board issued Physician's and Surgeon's Certificate No. A 98152 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation/Petition to Revoke Probation No. 800-2021-077509, and will expire on March 31, 2022, unless renewed.

JURISDICTION

4. First Amended Accusation/Petition to Revoke Probation No. 800-2021-077509 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on February 4, 2022. Respondent timely filed his Notice of Defense contesting the First Amended Accusation/Petition to Revoke.

5. A copy of First Amended Accusation/Petition to Revoke Probation No. 800-2021-077509 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Frist Amended Accusation/Petition to Revoke Probation No. 800-2021-077509. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation/Petition to Revoke Probation No. 800-2021-077509, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations in First Amended Accusation/Petition to Revoke Probation No. 800-2021-077509, a true and correct copy of which is attached hereto as Exhibit A, and that he has thereby subjected his Physician's and Surgeon's Certificate, No. A 98152 to disciplinary action.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in First Amended Accusation/Petition to

Revoke Probation No. 800-2021-077509 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by the Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 98152 issued to Respondent MATTHEW DAVID COLE, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for one (1) year on the terms and conditions below. This Order is to run consecutive to, and shall take effect immediately upon completion of, the probationary order in Case No. 800-2015-019100.

1. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall provide proof of completion of, or enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have

been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

4. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

5. INVESTIGATION/ENFORCEMENT COST RECOVERY. Respondent is hereby ordered to reimburse the Board its costs of investigation and enforcement, in the amount of $2,192.50 (two thousand one hundred and ninety-two dollars and fifty cents). Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be considered a violation of probation.

Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board.

The filing of bankruptcy by Respondent shall not relieve respondent of the responsibility to

repay investigation and enforcement costs.

6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

7. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of

departure and return.

8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws;

General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

10. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

12. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

14. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. 800-2021-077509 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 3/23/22

MATTHEW DAVID COLE, M.D.
Respondent

I have read and fully discussed with Respondent Matthew David Cole, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/23/2022

PETER R. OSINOFF, ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 3/24/2022

Respectfully submitted,

ROB BONTA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

LATRICE R. HEMPHILL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation/Petition to Revoke Probation No. 800-2021-077509

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

In the Matter of the First Amended Accusation And Petition to Revoke Probation Against: **MATTHEW DAVID COLE, M.D.** **369 San Miguel Drive, Suite 200** **Newport Beach, CA 92660-7818** **Physician's and Surgeon's Certificate No. A 98152,** Respondent.	Case No. 800-2021-077509 OAH No. 2021100067 **FIRST AMENDED ACCUSATION AND PETITION TO REVOKE PROBATION**

PARTIES

1. William Prasifka (Complainant) brings this First Amended Accusation and Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about November 29, 2006, the Board issued Physician's and Surgeon's Certificate Number A 98152 to Matthew David 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 March 31, 2022, unless renewed.

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3. In a prior disciplinary action entitled *In the Matter of Accusation Against Matthew Cole, M.D.*, Case No. 800-2015-019100, the Board issued a decision, effective July 25, 2019, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed, and Respondent's license was placed on probation for six years with certain terms and conditions. A copy of the decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This First Amended Accusation and Petition to Revoke Probation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

7. Section 2266 of the Code states:

The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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FACTUAL ALLEGATIONS

9. On August 12, 2020, the Board received a complaint from Patient 1[1] regarding a mole removal procedure that was conducted by Respondent.

10. Patient 1 is a female, who made an appointment with the Respondent to have a large mole above her left eyebrow removed.

11. Prior to her appointment, Patient 1 called the office of Respondent and specifically asked for laser treatment to remove her mole. Patient 1 was told by the technician over the phone that it was their specialty and they would be able to remove her mole by laser. Patient 1 was happy and relieved and made an appointment.

12. On September 21, 2019, Patient 1 consulted with Respondent and signed a Patient Consent Form at the Horizon Dermatology and Laser Institute. Under "Subjective," the clinical note states, "Patient with various skin concerns, cosmetic mole on the left eyebrow, scattered SKs and small cysts in the skin."

13. Respondent reportedly did not mention that he was surgically removing the mole by scalpel until Patient 1 was lying back on the table. Respondent surgically removed her mole using a derma blade scalpel instead of laser.

14. About one-fourth of the hair on Patient 1's eyebrow has not grown back. Respondent told Patient 1 that the healing time would be in a few weeks but despite the passage of more than a year, it still has not healed. There is a gouge out of her eyebrow and a dark brown scar not previously present.

15. Respondent did not spend an appropriate amount of time discussing the procedure with his patient. According to Patient 1, Respondent "moved very fast through the consultation and procedure. He was uninterested in spending a minimal amount of time discussing the procedure, the outcome, my expectations for the service."

16. When interviewed by the Department of Consumer Affair's District Medical Consultant, Respondent was asked if he had a written informed consent for the patient. He replied, "We don't have that in this case. We have the consent form that she signed for the office

[1] Patient's name is rendered as a number for confidentiality.

and we have since updated our consent form...to include that type of information. But in this case...we don't have that. But I did...I did do a verbal consent with her." The District Consultant responded by stating, "unfortunately in this case, you don't have a...didn't document in...this biopsy?" To which the Respondent replied, "I agree." There is no documentation anywhere in the medical records that any verbal or written informed consent was obtained, which is not consistent with the standard of care.

17. In addition, Respondent did not send a sample of the removed mole for testing to determine if any pathology was present. According to Patient 1, Respondent "was completely confused as to whether or not he should send the mole into a lab for a biopsy but then after a verbal outward struggle on the topic he said, 'Nah we won't send it!'" The medical record for Patient 1 contains no documentation as to how Respondent determined that the lesion was benign, since there is no description in the clinical notes of the lesion. There is also no documentation provided that the patient was adequately advised and informed on the risks and benefits of not submitting her tissue for histopathologic review.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

18. Complainant hereby re-alleges the facts set forth in paragraphs 9 to 17, above as though fully set forth at this point.

19. Respondent is subject to disciplinary action under Code section 2234, subdivision (c), in that Respondent was repeatedly negligent in the removal of Patient 1's mole that took place on September 2, 2019. The circumstances are as follows:

A. Respondent failed to obtain or to document any history of the patient's mole prior to performing the mole removal.

B. Respondent failed to document an adequate physical examination prior to patient's mole removal.

C. Respondent's removal of the mole by means of a scalpel was performed contrary to the patient's wishes and without documented verbal or written informed consent of the patient.

D. Respondent failed to send the mole for histopathologic analysis or laboratory testing in order to determine if it was malignant or benign.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Records)

20. Complainant hereby re-alleges the facts set forth in paragraphs 9 to 19, above as though fully set forth at this point.

21. Respondent is subject to disciplinary action under section 2266 of the Code in that he failed to maintain adequate and accurate medical records relating to Patient 1's mole removal that was conducted on September 2, 2019. The circumstances are as follows:

A. Respondent failed to document the medical history of Patient 1's mole, showing its onset, duration, change in size and color, any symptoms (such as itching, bleeding, or pain).

B. There was no clear documentation as to physical examination of the patient's mole, noting the physical description including the location, size, symmetry, appearance, coloration, and borders.

C. Respondent failed to document the patient's verbal or written informed consent, specifically any consent to have the mole removed by scalpel.

D. Respondent failed to document the decision not to submit the mole for laboratory testing in order to determine if it was malignant or benign.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

22. Respondent is subject to disciplinary action under Code section 2234 for unprofessional conduct in his care and treatment of Patient 1. The circumstances, including the facts and allegations as set forth in Paragraphs 9 through 21 above, are incorporated by reference and re-alleged as if fully set forth herein.

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CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

23. At all times after the July 25, 2019 effective date of Respondent's Disciplinary Order in Case No. 800-2015-019100, Condition 19 of his probation imposed the following obligation on the Respondent:

"OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court-ordered criminal probation, payments, and other orders."

24. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 19, referenced above. The facts and circumstances regarding this violation are as follows:

A. The facts and circumstances alleged in the First, Second, and Third Cause for Discipline are incorporated herein as if fully set forth.

B. Based on the facts and circumstances set forth in the First, Second, and Third Cause for Discipline, Respondent violated Business and Professions Code sections 2234, subdivisions (b) and (c), thereby violating Probation Condition 19.

C. Based on the facts and circumstances set forth in the First, Second, and Third Cause for Discipline, Respondent violated Code sections 2234 and 2266, thereby violating Probation Condition 19 referenced above.

DISCIPLINARY CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on Respondent Matthew David Cole, M.D., Complainant alleges that on or about July 25, 2019, in a prior disciplinary action titled *In the Matter of the Accusation Against Matthew David Cole, M.D.* before the Medical Board of California, in Case Number 800-2015-019100, Respondent's license was revoked but was stayed for six years for conviction of a crime, dishonesty, excessive use of drugs, knowing making medical documents known to be false, violation of professional confidence, conviction of drug-related federal statutes, and unprofessional conduct. Probation terms and conditions included the requirement to complete an actual suspension of 30 days, community

service, an education course, a prescribing practices course, a professionalism (ethics) program, a psychiatric evaluation, medical evaluation, and treatment, to have practice and billing monitors, a prohibition prohibiting him from prescribing any controlled substances, a requirement to obey all laws, to notify patients of prohibited practice, to pay for psychiatric evaluation, and to pay probation monitoring costs, among other terms. That decision is now final and is incorporated by reference as if fully set forth herein.

PRAYER

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

1. Revoking the probation that was granted by the Medical Board of California in Case No. 800-2015-019100 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 98152 issued to Matthew David Cole, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate Number A 98152, issued to Matthew David Cole, M.D.;

3. Revoking, suspending or denying approval of Matthew David Cole, M.D.'s authority to supervise physician assistants and advanced practice nurses;

4. Ordering Matthew David Cole, M.D., to pay the Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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

DATED: FEB 0 4 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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