



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
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NYS Department of Health*

Dennis P. Whalen  
*Executive Deputy Commissioner  
NYS Department of Health*

Dennis J. Graziano, Director  
*Office of Professional Medical Conduct*

PUBLIC

Michael A. Gonzalez, R.P.A.  
*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

November 12, 2004

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

James R. Cole, M.D.  
95 Chestnut Street  
Englewood, NJ 97631

Re: License No. 098148

Dear Dr. Cole:

Enclosed please find Order #BPMC 04-256 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect November 19, 2004.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Sharif Mahdavian, Esq.  
Friedman and Mahdavian  
The Bar Building  
36 West 44th Street, Suite 316  
New York, NY 10036

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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**IN THE MATTER**  
**OF**  
**JAMES R. COLE, M.D.**  
**CO-04-02-4204-A**

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**CONSENT AGREEMENT**  
**AND ORDER**

BPMC No. 04-256

**JAMES R. COLE, M.D.**, (Respondent) states:

That on or about February 15, 1967, I was licensed to practice as a physician in the State of New York, having been issued License No. 098148 by the New York State Education Department.

My current address is 95 Chestnut Street, Englewood, NJ 97631, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board for Professional Medical Conduct has charged me with two (2) specification(s) of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I do not contest the two (2) specification(s), in full satisfaction of the charges against me. I, hereby, agree to the following penalty:

Indefinite suspension of my New York state license to practice medicine until my license to practice medicine in the State of New Jersey is fully restored, to be followed by five (5) years probation.

Should I return to practice medicine in New York state or in any other jurisdiction where that practice is predicated upon my license to practice medicine in New York state prior to my license being fully restored without conditions by the State of New Jersey, I shall provide ninety (90) days notice, in writing, to the Director, OPMC. The Director in his sole discretion, may impose whatever probation, limitation(s), term(s) or further conditions, he deems reasonable.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while Respondent possesses his license; and

That I shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. I shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. I shall meet with a person designated by the Director of OPMC as directed. I shall respond promptly and provide any and all documents and information within my control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while I possess my license.

I, hereby, stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I, hereby, make this application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

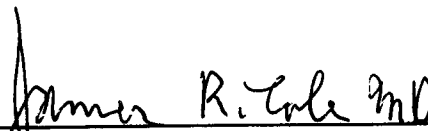
I understand that, in the event that this application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the application be granted.

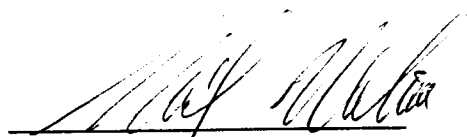
AFFIRMED

DATED Nov. 4, 2004

  
\_\_\_\_\_  
JAMES R. COLE, M.D.  
Respondent

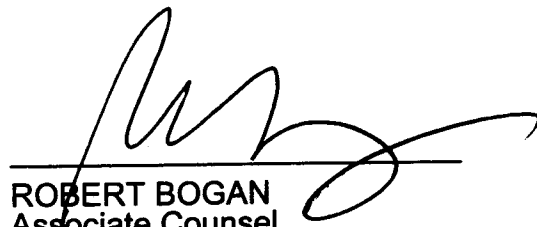
The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 11/4/04



SHARIF MAHDAVIAN  
Attorney for Respondent

DATE: 05 November 2004



ROBERT BOGAN  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 10 November 2004



DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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**IN THE MATTER**  
**OF**  
**JAMES R. COLE, M.D.**

**CONSENT ORDER**

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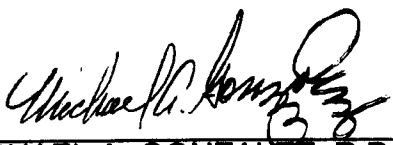
Upon the proposed agreement of **JAMES R. COLE, M.D.**, (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

**ORDERED**, that the application and the provisions thereof are hereby adopted; and it is further

**ORDERED**, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 11/11/04

  
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MICHAEL A. GONZALEZ, R.P.A.  
Vice Chair  
State Board for Professional  
Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER  
OF  
JAMES R. COLE, M.D.  
CO-04-08-4204-A

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STATEMENT  
OF  
CHARGES

JAMES R. COLE, M.D., Respondent, was authorized to practice medicine in New York state on February 15, 1967, by the issuance of license number 098148 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about July 27, 2004, the State of New Jersey, Department of Law & Public Safety, Division of Consumer Affairs, State Board of Medical Examiners (hereinafter "New Jersey Board"), by a Consent Order of Voluntary Surrender (hereinafter "New Jersey Order"), accepted the immediate surrender of Respondent's license to practice medicine for a minimum period of six (6) months from May 31, 2004, and imposed conditions, based on a relapse into the abuse of alcohol and prescription medications.

B. The conduct resulting in the New Jersey Board disciplinary action against Respondent would constitute misconduct under the laws of New York State, pursuant to the following sections of New York State law:

1. New York Education Law §6530(8) (being a habitual abuser or alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects).

**SPECIFICATIONS**

**FIRST SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(b) by having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

1. The facts in Paragraphs A and/or B.

**SECOND SPECIFICATION**

Respondent violated New York State Education Law §6530(9)(d) by having disciplinary action taken or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional agency of another state where the conduct resulting in the surrender or other disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges:

2. The facts in Paragraphs A and/or B.

DATED: *October 25*, 2004  
Albany, New York



PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct



## **EXHIBIT B**

### **Terms of Probation**

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his staff at practice locations or OPMC offices.
6. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall comply fully with any and all terms and/or conditions with regard to restoration of his New Jersey license as directed by the New Jersey Board and any extension or modification thereof.
8. Respondent shall provide a written authorization for the New Jersey Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the New Jersey Order.
9. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the New Jersey Order during the declaration period specified.
10. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.