

STATE OF NORTH CAROLINA
NORTH CAROLINA BOARD OF PHARMACY

IN THE MATTER OF)
)
LARRY DALE COLE) **ORDER REINSTATING LICENSE**
License Number 8576) **WITH CONDITIONS**

THIS MATTER came on to be heard before the North Carolina Board of Pharmacy (the “Board”) at its September 17, 2013 meeting, pursuant to the request of Respondent Larry Dale Cole (“Cole”) for reinstatement of his license to practice pharmacy, which the Board summarily suspended by Order dated May 15, 2007, and pursuant to the request of Board staff for final discipline. The matter was heard by Board Members Gene Minton; Dr. J. Parker Chesson, Jr.; Carol Yates Day; E. Lazelle Marks; Robert McLaughlin, Jr., and William A. Mixon at the offices of the Board. John S. Buford represented the Board staff. Cole was present and represented by Richard D. Yeoman.

The Board received evidence and testimony presented by both the Board staff and Cole. Considering the evidence, the Board hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Board is a body duly organized under the laws of North Carolina and is the proper body for this proceeding under the authority granted it in Chapter 90 of the General Statutes of North Carolina, and the rules and regulations promulgated thereunder.
2. Cole received all required notice of the September 17, 2013 hearing.
3. From 1984 through May 15, 2007, Cole was the holder of North Carolina Board of Pharmacy License Number 8576.

4. At all relevant times before May 15, 2007, Cole was employed as a pharmacist by Cashiers Valley Pharmacy, Highway 64E, Cashiers, North Carolina, Permit Number 4928.

5. Between January 17, 2005 and January 28, 2006, Cole dispensed Tramadol HCL 50 mg tablets (the "Subject Drugs") to a patient referred to hereafter as "Patient A" on 37 occasions.

6. On all but one occasion, Cole dispensed 90 tablets of the Subject Drugs. On that one occasion, Cole dispensed 12 tablets.

7. The maximum recommended therapeutic dosage of the Subject Drugs is 400 mg daily, which equates to eight 50 mg tablets. At the maximum dosage, 90 tablets would be a supply of more than 11 days. Cole knew or in the exercise of reasonable diligence should have known the maximum therapeutic dosage of the Subject Drugs.

8. On 21 different occasions, Cole dispensed the Subject Drugs earlier than the maximum therapeutic dosage would allow, thereby providing a supply significantly in excess of the maximum therapeutic dosage.

9. For example, between November 7, 2005 and January 28, 2006, a span of 80 days, Cole dispensed 1,182 tablets of the Subject Drugs to Patient A, the equivalent of a 147-day supply at the maximum therapeutic dosage.

10. Cole's actions in dispensing the Subject Drugs significantly in excess of the maximum therapeutic dosage were related to an inappropriate relationship between Cole and Patient A.

11. Cole stipulated that on approximately four to six occasions, Cole requested that Patient A provide sexual favors in exchange for the Subject Drugs. These requests began with

Cole's request that Patient A show him her breasts, and culminated in Cole's request that Patient A perform oral sex on Cole. Patient A agreed to Cole's requests.

12. Cole testified that each of these sexual encounters occurred after business hours, in the pharmacy area of the Cashiers Valley Pharmacy.

13. Cole testified that, on most or all of the occasions of the sexual encounters, Cole did not charge Patient A for the Subject Drugs, instead paying the pharmacy himself and exchanging the Subject Drugs for the sexual favors.

14. Cole intentionally violated the pharmacy laws and committed professional negligence in dispensing the Subject Drugs.

15. Cole further testified that he became concerned that Patient A was sharing the Subject Drugs with her husband. Although Cole believed that Patient A was not using the Subject Drugs as authorized and was providing the Subject Drugs to others, Cole continued to dispense the Subject Drugs in excess of the maximum therapeutic dosage and the physician's orders.

16. Both Cole and licensed clinical social worker Greg Letourneau testified that Cole has undergone significant individual and group therapy in the time since his license was summarily suspended, and particularly in the last two and one-half years; that Mr. Cole has learned and demonstrated strategies for dealing with stress and anxiety underlying his sexual compulsion disorder; that Cole recognizes that his actions constituted a gross violation of the laws and regulations governing the practice of pharmacy in North Carolina and of common professional ethics inherent in the profession; and that Cole is genuinely remorseful for his actions.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law:

1. The evidence demonstrates that Cole violated one or more of the following statutes and rules in the dispensing and delivery of prescription drugs:

- a. North Carolina General Statutes § 90-85.32(a);
- b. 21 N.C.A.C. 46. 1802; and
- c. 21 N.C.A.C. 46. 1805.

2. The evidence further demonstrates that Cole was negligent in the practice of pharmacy.

3. Pursuant to N.C. Gen. Stat. §§ 90-85.38(a)(6), (7) and (9), the Board may issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a license or may require a licensee to complete remedial education if the licensee has:

- (6) Failed to comply with the laws governing the practice of pharmacy and the distribution of drugs;
- (7) Failed to comply with any provision of [Chapter 90, Article 4A] or rules adopted by the Board; [or]
- (9) Been negligent in the practice of pharmacy.

4. The Board finds as a substantial mitigating factor Cole's evidence of rehabilitation and reform through his years of treatment.

5. Considering all of the facts and circumstances of this matter, the Board finds and concludes that the result set forth in this Final Order is appropriate.

WHEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that the request of the Board staff for discipline is GRANTED and the reinstatement of Cole's license to practice

pharmacy will be based upon certain restrictions and preconditions as set forth hereafter.

FURTHERMORE, it is hereby ORDERED, ADJUDGED AND DECREED that Cole's request for reinstatement of his license is hereby GRANTED, only in the event that Cole satisfies preconditions as set forth hereafter, and subject to the restrictions stated herein.

The Board will permit Cole to apply for reinstatement of his license upon the following terms:

1. As a prerequisite to application for reinstatement, Cole shall:
 - a. Retake and obtain a passing score on the Multistate Pharmacy Jurisprudence Examination.
 - b. Acquire no fewer than 1,500 hours of practical pharmacy experience under the supervision of a licensed pharmacist, such hours to commence no earlier than the date of entry of this Order. At least 1,000 hours of experience shall be acquired in a community or hospital pharmacy setting. Cole shall submit one or more North Carolina Practical Pharmacy Experience Affidavits as evidence of his satisfactory completion of this requirement.
 - c. Cole shall complete Continuing Education courses to the same extent as if his license had not been suspended, for a total of 105 hours through the end of 2013. No fewer than 56 hours must be live programming. In addition, until Cole's license is restored, Cole is expected to complete continuing education in subsequent years as though he were a licensed pharmacist. Cole will submit to the Board's Executive Director all documentation of his satisfaction of continuing education requirements.

2. In addition, if and when Cole's license is restored, as continuing permanent restrictions of his license to practice pharmacy:

- a. Cole shall violate no laws governing the practice of pharmacy or the distribution of drugs.
- b. Cole shall advise the Board promptly in writing of any change of address or change in practice status.
- c. Cole shall not serve as pharmacist manager of any pharmacy.
- d. Cole shall not serve as a preceptor of pharmacy students.
- e. Cole may not be employed as a pharmacist more than 40 hours per week, on average.

If Cole fails to comply with any terms or conditions of this Order, he may be subject to additional disciplinary action by the Board.

This the 9th day of October, 2013.

NORTH CAROLINA BOARD OF PHARMACY

By: _____


Jack W. Campbell, IV
Executive Director

CERTIFICATE OF SERVICE

I certify that on October 9th, 2013, I caused a copy of this Order to be served on Larry Dale Cole, through his counsel, by registered mail, return receipt requested, addressed as follows:

Richard D. Yeoman, Esq.
Post Office Box 16126
High Point, North Carolina 27261
Attorney for Larry D. Cole



Jack W. Campbell IV
Executive Director