

1 BEFORE THE ARIZONA MEDICAL BOARD

2
3 In the Matter of

4 **KULBHUSHAN SHARMA, M.D.**

5 Holder of License No. 22286
6 For the Performance of Healthcare Tasks
7 In the State of Arizona

Case No. MD-12-1050A

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR LETTER
OF REPRIMAND AND PROBATION**

8 The Arizona Medical Board ("Board") considered this matter at its public meeting on
9 February 5, 2014. Kulbhushan Sharma, M.D. ("Respondent") appeared before the Board
10 for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-
11 1451(H). The Board voted to issue Findings of Fact, Conclusions of Law and Order after
12 due consideration of the facts and law applicable to this matter.

13 **FINDINGS OF FACT**

14 1. The Board is the duly constituted authority for the regulation and control of
15 the practice of allopathic medicine in the State of Arizona.

16 2. Respondent is the holder of license number 22286 for the practice of
17 allopathic medicine in the State of Arizona.

18 3. The Board initiated case number MD-12-1050A after receiving a complaint
19 regarding Respondent's care and treatment of a 27 year-old female patient ("DM"). The
20 complaint alleged that Respondent failed to properly perform a breast augmentation.

21 4. On September 19, 2011, Respondent initially saw and examined DM. She
22 returned on April 12, 2012 for submuscular placement of saline breast implants. DM was
23 seen in postoperative follow up and on May 11, 2012, Respondent noted a "double
24 bubble" deformity on the right breast. On May 21, 2012, Respondent documented that the
25 "double bubble" was still present in the right breast, and he planned to explore the breast
but did not mention timing or specifics of his surgical plan.

1 5. On June 1, 2012, Respondent noted that the swelling on the right breast was
2 improving, but not better. Respondent documented that he may need to take the implant
3 out and reposition it, but did not mentioned how this was going to be done. DM was
4 returned to surgery that same day for correction of a "double bubble" deformity. DM was
5 seen in postoperative follow up and on June 26, 2012, Respondent dictated an office note
6 indicating that the deformity was gone and DM was happy with the surgical result. This is
7 in contradiction to the left lateral view of DM's breast dated June 26, 2012, which clearly
8 showed the deformity. DM subsequently sought opinions from two other surgeons about
9 possible correction of this complication.

10 6. After the Board ordered him to do so, Respondent participated in Phase I of
11 the Physician Assessment and Clinical Education ("PACE") Program on April 18-19, 2013.
12 His evaluators found that his overall performance of the two-day assessment was varied.
13 Specifically, Respondent demonstrated familiarity with concepts of revisional breast
14 surgery during his oral exam. One of his patient chart notes was found to have not met the
15 standard of care and the remaining six charts were barely satisfactory, according to the
16 PACE evaluators. Additionally, Respondent diagnosed seven of the eight patients
17 correctly, and though he performed best on the surgical cases, his management was
18 adequate in all but one case. PACE determined that based on Respondent's performance
19 during Phase I of PACE, he did not appear to pose an imminent threat to patient safety.
20 PACE recommended that Respondent return for Phase II in order to complete the
21 assessment process and obtain an official final grade.

22 7. Respondent returned for Phase II of PACE on September 23-27, 2013. His
23 evaluators determined that overall, Respondent's performance during Phase II was
24 satisfactory. PACE reported that Respondent demonstrated an adequate fund of
25 knowledge needed for safe care of candidates for breast surgery and an expertise

1 pertaining to the limited anesthetic breast surgery practice. The PACE report indicated that
2 Respondent acknowledged and recognized his limited competence and lack of expertise
3 that would allow him to handle complex cases. PACE recommended that Respondent
4 continue to limit his breast surgery procedures to simple primary augmentations without
5 any compounding conditions.

6 8. PACE determined that Respondent passed the assessment with
7 recommendations, signifying a performance during which minor deficiencies were noted
8 that do not affect the physician's ability to practice safely, but may have an effect on
9 optimal performance.

10 9. The standard of care for a patient with grade 3 ptosis of the breast who does
11 not want a mastopexy scar requires a physician to offer the patient a subglandular
12 augmentation and inform her that she is not a candidate for a submuscular augmentation
13 alone without mastopexy.

14 10. Respondent deviated from the standard of care by failing to counsel DM
15 appropriately regarding mastopexy and submuscular augmentation, allowing DM the
16 opportunity to make an incorrect decision.

17 11. The standard of care in performing a submuscular breast augmentation
18 requires a physician to position the implant in the central breast mound.

19 12. Respondent deviated from the standard of care by incorrectly placing the
20 implant where the ptotic breast was located.

21 13. The standard of care requires a physician to avoid performing elective re-
22 operative surgery until a minimum of three months after the initial procedure.

23 14. Respondent deviated from the standard of care by re-operating on DM at 5
24 weeks and 6 days following the initial surgery.

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1 a. Practice Restriction

2 Respondent's breast cosmetic surgery procedures shall be limited to simple
3 primary augmentation without any compounding conditions.

4 b. Practice Monitor

5 Within 30 days of the effective date of this order, Respondent shall enter a
6 contract with a Board pre-approved monitoring company ("Monitor") to provide all
7 monitoring services. Respondent shall bear all costs of monitoring requirements and
8 services. The Monitor shall conduct quarterly chart reviews. The purpose of the chart
9 review is to determine if Respondent is compliant with the practice restriction requirement
10 of probation. Based upon the chart review, the Board retains jurisdiction to take additional
11 disciplinary or remedial action.

12 c. Obey All Laws

13 Respondent shall obey all state, federal and local laws, all rules governing
14 the performance of health care tasks in Arizona, and remain in full compliance with any
15 court order criminal probation, payments and other orders.

16 d. Tolling

17 In the event Respondent should leave Arizona to reside or perform health
18 care tasks outside the State or for any reason should Respondent stop performing health
19 care tasks in Arizona, Respondent shall notify the Executive Director in writing within ten
20 days of departure and return or the dates of non-performance within Arizona. Non-
21 performance is defined as any period of time exceeding thirty days during which
22 Respondent is not engaging in the performance of health care tasks. Periods of temporary
23 or permanent residence or performance of health care tasks outside Arizona or of non-
24 performance of health care tasks within Arizona, will not apply to the reduction of the
25 probationary period.

