



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

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

20         7. Respondent returned for Phase II of PACE on September 23-27, 2013. His  
21 evaluators determined that overall, Respondent's performance during Phase II was  
22 satisfactory. PACE reported that Respondent demonstrated an adequate fund of  
23 knowledge needed for safe care of candidates for breast surgery and an expertise  
24 pertaining to the limited anesthetic breast surgery practice. The PACE report indicated that  
25 Respondent acknowledged and recognized his limited competence and lack of expertise

1 that would allow him to handle complex cases. PACE recommended that Respondent  
2 continue to limit his breast surgery procedures to simple primary augmentations without  
3 any compounding conditions.

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

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

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

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

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

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

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

23 15. The standard of care when using lidocaine as a tumescent solution in an  
24 office setting during placement of a submuscular augmentation requires a physician to be  
25

1 prepared to treat either inadvertent IV injection of lidocaine with resultant lidocaine toxicity  
2 and allergic reaction to the lidocaine.

3 16. Respondent deviated from the standard of care by using only tumescent  
4 solution for local anesthesia and failing to have adequate contingency in the event of either  
5 inadvertent IV injection of tumescent or allergic reaction to lidocaine.

6 17. DM required revision surgery performed by Respondent due to inappropriate  
7 placement of her breast implants. DM had malpositioned implants with poor support of the  
8 right inframammary fold that causes DM chronic low grade pain and discomfort.

9 18. DM requires further surgery to correct the current incorrect placement of the  
10 implant.

11 19. Respondent affirms that his practice no longer includes breast augmentation,  
12 and he does not intend to perform breast augmentation procedures in the future.

### 13 CONCLUSIONS OF LAW

14 a. The Board possesses jurisdiction over the subject matter hereof and over  
15 Respondent.

16 b. The conduct and circumstances described above constitute unprofessional  
17 conduct pursuant to A.R.S. § 32-1401 (27)(e) (“[f]ailing of refusing to maintain adequate  
18 records on a patient.”).

19 c. The conduct and circumstances described above constitute unprofessional  
20 conduct pursuant to A.R.S. § 32-1401(27)(q) (“[a]ny conduct or practice that is or might be  
21 harmful or dangerous to the health of the patient or the public.”).

### 22 ORDER

23 IT IS HEREBY ORDERED THAT:

- 24 1. Respondent is issued a Letter of Reprimand.  
25 2. This Order supersedes all previous orders entered in this matter.

1 DATED AND EFFECTIVE this 4<sup>th</sup> day of June, 2015.

2  
3 ARIZONA MEDICAL BOARD

4  
5 By Patricia E. McSorley  
6 Patricia E. McSorley  
7 Executive Director

8 **CONSENT TO ENTRY OF ORDER**

9 1. Respondent has read and understands this Consent Agreement and the  
10 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent  
11 acknowledges he has the right to consult with legal counsel regarding this matter.

12 2. Respondent acknowledges and agrees that this Order is entered into freely  
13 and voluntarily and that no promise was made or coercion used to induce such entry.

14 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to  
15 a hearing or judicial review in state or federal court on the matters alleged, or to challenge  
16 this Order in its entirety as issued by the Board, and waives any other cause of action  
17 related thereto or arising from said Order.

18 4. The Order is not effective until approved by the Board and signed by its  
19 Executive Director.

20 5. All admissions made by Respondent are solely for final disposition of this  
21 matter and any subsequent related administrative proceedings or civil litigation involving  
22 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
23 or made for any other use, such as in the context of another state or federal government  
24 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
25 any other state or federal court.

1           6.     Upon signing this agreement, and returning this document (or a copy thereof)  
2 to the Board's Executive Director, Respondent may not revoke the consent to the entry of  
3 the Order. Respondent may not make any modifications to the document. Any  
4 modifications to this original document are ineffective and void unless mutually approved  
5 by the parties.

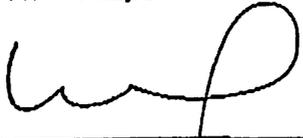
6           7.     This Order is a public record that will be publicly disseminated as a formal  
7 disciplinary action of the Board and will be reported to the National Practitioner's Data  
8 Bank and on the Board's web site as a disciplinary action.

9           8.     If any part of the Order is later declared void or otherwise unenforceable, the  
10 remainder of the Order in its entirety shall remain in force and effect.

11          9.     If the Board does not adopt this Order, Respondent will not assert as a  
12 defense that the Board's consideration of the Order constitutes bias, prejudice,  
13 prejudgment or other similar defense.

14          10.    Any violation of this Order constitutes unprofessional conduct and may result  
15 in disciplinary action. A.R.S. § § 32-1401(27)(f) ("[v]iolating a formal order, probation,  
16 consent agreement or stipulation issued or entered into by the board or its executive  
17 director under this chapter.") and 32-1451.

18          11.    *Respondent has read and understands the terms of this agreement.*

19  
20   
21 KULBHUSHAN SHARMA, M.D.

DATED: 5/4/15.

22  
23 EXECUTED COPY of the foregoing mailed  
24 this 4<sup>th</sup> day of June, 2015 to:  
25 Kulbhushan Sharma, M.D.  
Address of Record

1 EXECUTED COPY of the foregoing mailed  
this 4<sup>th</sup> day of June, 2015 to:

2  
3 Paul J. Giancola, Esq.  
4 Andrew Sniegowski, Esq.  
5 SNELL AND WILMER, L.L.P.  
6 One Arizona Center  
7 400 East Van Buren, Suite 1900  
8 Phoenix, Arizona 85007-2202  
9 Counsel for Respondent

7 Steven B. Perlmutter, Esq.  
8 Perlmutter Medical Law, L.L.C.  
9 8655 East Via de Ventura, Suite G-200  
10 Scottsdale, Arizona 85258  
11 Counsel for Respondent

10 ORIGINAL of the foregoing filed  
11 this 4<sup>th</sup> day of June, 2015 with:

12 Arizona Medical Board  
13 9545 E. Doubletree Ranch Road  
14 Scottsdale, AZ 85258

15 Mam Bodek  
16 Board Staff

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