

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **HARA P. MISRA, M.D.**

4 Holder of License No. 14933
5 For the Practice of Medicine
6 In the State of Arizona.

Case No. MD-03-1016A
MD-06-0579A
MD-06-0353A
MD-02-0713A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND
PROBATION WITH PRACTICE
RESTRICTION**

7
8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board
10 ("Board") and Hara P. Misra, M.D. ("Respondent"), the parties agreed to the following
11 disposition of this matter.

12 1. Respondent has read and understands this Consent Agreement and the
13 stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement").
14 Respondent acknowledges that he has the right to consult with legal counsel regarding
15 this matter and has done so or chooses not to do so.

16 2. By entering into this Consent Agreement, Respondent voluntarily
17 relinquishes any rights to a hearing or judicial review in state or federal court on the
18 matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
19 Board, and waives any other cause of action related thereto or arising from said Consent
20 Agreement.

21 3. This Consent Agreement is not effective until approved by the Board and
22 signed by its Executive Director.

23 4. The Board may adopt this Consent Agreement or any part thereof. This
24 Consent Agreement, or any part thereof, may be considered in any future disciplinary
25 action against Respondent.

1 5. This Consent Agreement does not constitute a dismissal or resolution of other
2 matters currently pending before the Board, if any, and does not constitute any waiver,
3 express or implied, of the Board's statutory authority or jurisdiction regarding any other
4 pending or future investigation, action or proceeding. The acceptance of this Consent
5 Agreement does not preclude any other agency, subdivision or officer of this State from
6 instituting other civil or criminal proceedings with respect to the conduct that is the subject
7 of this Consent Agreement.

8 6. All admissions made by Respondent are solely for final disposition of this
9 matter and any subsequent related administrative proceedings or civil litigation involving
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended
11 or made for any other use, such as in the context of another state or federal government
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
13 any other state or federal court.

14 7. Upon signing this agreement, and returning this document (or a copy thereof) to
15 the Board's Executive Director, Respondent may not revoke the acceptance of the
16 Consent Agreement. Respondent may not make any modifications to the document. Any
17 modifications to this original document are ineffective and void unless mutually approved
18 by the parties.

19 8. If the Board does not adopt this Consent Agreement, Respondent will not
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes
21 bias, prejudice, prejudgment or other similar defense.

22 9. This Consent Agreement, once approved and signed, is a public record that will
23 be publicly disseminated as a formal action of the Board and will be reported to the
24 National Practitioner Data Bank and to the Arizona Medical Board's website.

25

1 10. If any part of the Consent Agreement is later declared void or otherwise
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
3 force and effect.

4 11. Any violation of this Consent Agreement constitutes unprofessional conduct
5 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) (“[v]iolating a formal order,
6 probation, consent agreement or stipulation issued or entered into by the board or its
7 executive director under this chapter”) and 32-1451.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Hara P. Misra M.D.
HARA P. MISRA, M.D.

Dated: 6-30-08

1 **FINDINGS OF FACT**

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

4 2. Respondent is the holder of license number 14933 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-03-1016A and MD-06-0579A after
7 receiving a complaint regarding Respondent's care and treatment of a forty-eight year-old
8 female patient ("SH") and a forty-one year-old female patient ("TS"). The Board also
9 initiated case number MD-06-0353A after receiving notification of a malpractice settlement
10 involving Respondent's care and treatment of a ninety-seven year-old female patient
11 ("AG"). The Board initiated case number MD-02-0713A after receiving a complaint
12 regarding Respondent's care and treatment of a 72 year-old female patient ("EH").

13 **MD-03-1016A – PATIENT SH**

14 4. On September 20, 1999, SH presented to Respondent for burning discomfort
15 and varicose veins in her legs. Respondent examined SH and diagnosed her with Grade
16 IV varicose veins of the left leg and Grade III varicose veins of the right leg. Respondent
17 ordered a Doppler study and interpreted it as showing right and left leg incompetence in
18 the superficial femoral vein with greater saphenous and popliteal. However, there were no
19 abnormalities in the visualized veins and there was no evidence of deep vein thrombosis
20 or gross valvular damage. Respondent recommended a stripping ligation to SH even
21 though the Doppler study did not address or mention the chief complaint of varicosities.
22 There was no note of superficial dilatation, tortuosity or redundancy, which indicates
23 varicose veins.

24 5. On February 15, 2000, Respondent performed the surgery. The operative
25 report stated a demarcation of the veins on the left thigh and leg were done prior to the

1 anesthesia while SH was in the standing position. Respondent then performed a
2 transversed incision on each demarcated area in which the veins were retrieved and
3 dissected; the communicators were clamped and ligated and the excision of the segments
4 of the vein was done. Respondent's report did not identify the veins on which he operated.
5 Following the surgery, SH suffered multiple disfiguring transverse incisions on her leg.

6 6. Respondent's operative report indicated he made stepladder incisions along
7 the greater saphenous vein with transverse incisions and took only the communicating
8 veins off of the greater saphenous vein. It was determined that this was an inappropriate
9 technique for varicose vein surgery and that when the greater saphenous vein is
10 incompetent, it is the source of the secondary varicosities and should be removed along
11 with the secondary varicosities.

12 7. The standard of care requires a physician to identify varicosities by clinical
13 and ultrasound evaluations and to excise or ablate surgically the varicosities by utilizing an
14 appropriate technique.

15 8. Respondent deviated from the standard of care because he did not identify
16 varicosities in the Doppler ultrasound evaluation and he did not excise surgically the
17 varicosities utilizing an appropriate technique.

18 9. Respondent's failure to identify varicosities and to excise SH's varicosities
19 appropriately led to sustained multiple disfiguring transverse incisions on her leg without
20 removing the incompetent greater saphenous vein.

21 **MD-06-0579A – PATIENT TS**

22 10. TS began treatment with Respondent on July 18, 2001 for varicose veins on
23 her left leg with associated pain. Respondent evaluated TS with a duplex venous
24 ultrasound, which indicated no greater saphenous vein reflux and treated TS with
25 compression stockings (conservative therapy). TS continued to complain of pain in her

1 legs; therefore, Respondent performed sclerotherapy of both legs. However, the treatment
2 was not effective.

3 11. On November 6, 2002, TS returned complaining of recurrent varicose veins
4 in the left leg. Respondent performed stripping of the left great saphenous vein from the
5 knee to the ankle and stab avulsions of superficial varicose veins on December 13, 2002,
6 even though the venous duplex ultrasound in 2001 revealed no reflux. The stripping
7 procedure resolved the left calf pain; however, TS developed transient numbness over the
8 medial aspect of the ankle and foot, which resolved.

9 12. In July 2003, TS presented to Respondent complaining of pain in the lateral
10 aspect of the right ankle, foot, and inner groins. Following months of conservative therapy
11 and diagnostic studies, Respondent performed a stripping of the right great saphenous
12 vein from the groin to the ankle and stab avulsions of superficial varicose vein on August
13 26, 2004. TS continued to complain of pain in the backside of the right thigh.

14 13. On December 15, 2004, TS presented to Respondent complaining of pain at
15 a segment of vein at the back of her right leg, in an area of some prominent varicose
16 veins. Respondent treated TS with sclerotherapy; however, this failed to relieve her pain.

17 14. On February 23, 2005, TS went to both her primary care physician and
18 respondent. She told her primary care physician she had low back pain starting three
19 weeks ago after fall from a hammock. TS did not mention any leg pain in this visit with her
20 primary care physician. She saw Respondent and did not tell him about the fall from the
21 hammock and any low back pain, indicated she was getting relief from pressure stockings.
22 Respondent's physician exam showed Grade 3 varicose veins, with continued discomfort
23 in the right thigh and popliteal area. Respondent prescribed continued use of the stockings
24 and to follow-up with him in three months. TS eventually obtained a second opinion that
25 indicated her symptoms were not related to vascular etiology. Subsequently, TS

1 underwent a nerve conduction study that revealed findings consistent with a right S1
2 radiculopathy.

3 15. During Respondent's treatment and care of TS, his chart notes were not
4 comprehensive in the exact symptoms experienced by TS, improvements from the
5 conservative therapy, and factors which exacerbated her symptoms, such as prolonged
6 standing or positional changes.

7 16. The standard of care requires a physician to identify reflux in the greater
8 saphenous vein as an indication for vein stripping.

9 17. Respondent deviated from the standard of care because he stripped the left
10 great saphenous vein without a duplex venous ultrasound that demonstrated reflux.
11 During the procedure to address TS's left calf pain, Respondent was making stab incisions
12 and noted medial connections to the distal saphenous vein which he took out below the
13 knee. Respondent did not strip the greater saphenous vein from the groin because there
14 was no reflux.

15 18. When reflux exists, the standard of care requires a physician to strip the vein
16 from the groin to just below the knee in the high calf area, because the saphenous nerve
17 runs immediately adjacent to this vein and there is an extremely high incidence of
18 saphenous nerve injury resulting in numbness or shooting pain in the medial aspect of the
19 calf and foot.

20 19. Respondent deviated from the standard of care because he stripped the
21 distal portion of the left great saphenous vein from the knee to the ankle resulting in TS
22 developing transient numbness in the medial aspect of the ankle and foot, which resolved.

23 20. Respondent's failure to identify the additional etiology led to a delay in
24 diagnosis of TS's right S1 radiculopathy.

25

1 Respondent in March of 2000. EH related to Respondent a history of pelvic pain and
2 abdominal discomfort of two years duration with diarrhea and constipation.

3 25. On April 6, 2000 Respondent admitted EH to Boswell Hospital ("Hospital").
4 Respondent recommended an exploratory laparotomy and evaluation of the abdomen.
5 Respondent's operative note indicates that the potential procedure was discussed with EH
6 and her family. At the time of surgery Respondent noted that EH had extensive
7 carcinomatosis with 2500 ccs of ascites. In his initial response letter to the Board
8 Respondent described a "frozen pelvis." However, his operative note does not specifically
9 mention a frozen pelvis. Respondent's operative note states that both ovaries look
10 tumorous, mostly on the left side in comparison to the right, but noted that it was hard to
11 differentiate in terms of the presence of a tumor at this site. Respondent noted that EH
12 had massive omental metastasis and metastasis to the side walls of the abdomen and the
13 appendix. Respondent undertook an appendectomy, omentectomy, and a repair of a
14 minor tear of the serosa of the colon and performed a debulking procedure. There was no
15 clarification in Respondent's operative note of the cancerous ovaries or the amount of
16 residual tumor that was left. In his initial response letter to the Board, Respondent
17 indicated that further attempts at pelvic surgery would have been hazardous to EH
18 because she had not had a bowel preparation done and because the pelvis was so
19 involved with tumor.

20 26. EH had a normal post-operative course and was discharged from Hospital in
21 good condition. The final diagnosis as a result of the surgery Respondent performed was
22 a poorly differentiated papillary serous carcinoma of the ovary. In addition, EH was to be
23 staged as Stage III ovarian cancer. While still hospitalized, EH was referred to a medical
24 oncologist who undertook her care and initiated the chemotherapy protocol.

25

1 27. In May 2001 EH was again experiencing discomfort and presented to a
2 gynecologic oncologist. A CT scan of the pelvis ordered by the medical oncologist and
3 performed on April 6, 2001 showed a 5.9 cm x 5.6 cm right adnexal mass compatible with
4 ovarian neoplasm that demonstrated an increase in size since the original March 15, 2000
5 CT scan. The left ovary had also increased in size and a small amount of free ascites was
6 reported. Also, a gallstone was found with a small ventral hernia and bilateral renal cysts
7 were noted as incidental findings. On May 8, 2001 the gynecologic oncologist performed
8 an exploratory laparotomy with bilateral salpingo-oophorectomies, tumor debulking, partial
9 omentectomy, diaphragmatic biopsies, and pelvic and periaortic lymphadenectomies. The
10 lymph nodes were all benign, but there was again extensive tumor present in the ovaries
11 bilaterally and into the fallopian tubes and peritubal tissues. The pelvic sidewalls and
12 mesentery again showed metastatic tumor, as did biopsies to the diaphragm. The
13 gynecologic oncologist wrote in his operative note that the pelvis was partially frozen at
14 that time.

15 28. EH started chemotherapy again and did well for a period of time, but
16 subsequently was placed in hospice care at the end of October 2002 and expired shortly
17 thereafter.

18 29. The Board noted that in his pre-operative diagnosis Respondent made note
19 of possible ovarian tumor.

20 30. At the conclusion of the Board's questions, a Staff Medical Consultant noted
21 that although Respondent stated there was no elevated CEA 125, EH's records indicate
22 that on April 11, 2000, about six days after the surgery, there was a CEA125 drawn at
23 Hospital of 277, with the upper normal being 35.

24
25

1 2. Respondent is placed on probation for ten years subject to the terms and
2 conditions enumerated below. After the expiration of five years of the probationary period,
3 Dr. Misra may petition the Board to have the restrictions and remaining five years of the
4 probationary period lifted. If an investigation involving an alleged violation of the probation
5 is initiated, but not resolved prior to the termination of the probation, the Board shall have
6 continuing jurisdiction and the period of probation shall extend until the matter is final.

7 A. Dr. Misra's practice is restricted in that he shall not perform any
8 gynecological surgeries or any surgical vein stripping and ligation surgeries. However, Dr.
9 Misra shall be permitted to perform vein surgeries using a laser technique and
10 radiofrequency ablation. If a laser or radiofrequency ablation procedure requires ligation
11 of a vein, Dr. Misra will submit the chart of that patient for review by the Board.

12 B. Dr. Misra shall maintain a log of all operative procedures he performs. The
13 log shall include the identity of the patient; the indications for the procedure performed; the
14 outcome of the procedure; and any complications experienced. Dr. Misra shall submit the
15 log to the Board each month. The Board shall review the log and may open any
16 investigations based upon that review.

17 C. Board staff shall conduct chart reviews of Dr. Misra's charts every six
18 months.

19 D. Dr. Misra shall notify the Board within five business days of his notification of
20 any pending malpractice action or restriction in his privileges by any hospital or free-
21 standing surgery center.

22 E. Dr. Misra shall submit quarterly declarations under penalty of perjury, stating
23 whether there has been compliance with all conditions of probation. The declarations
24 must be submitted on or before the 15th of March, June, September, and December of
25 each year.

1 F. Dr. Misra shall obey all federal, state, and local laws, and all rules governing
2 the practice of medicine in Arizona.

3 G. In the event that Dr. Misra should leave Arizona to reside or to practice
4 medicine outside the State or for any reason should Dr. Misra stop practicing medicine in
5 Arizona, Dr. Misra shall notify the Executive Director in writing within 10 days of departure
6 and return or the dates of non-practice in Arizona. Non-practice is any period of time
7 exceeding 30 days during which Dr. Misra is not engaging in the practice of medicine.
8 Period of temporary or permanent residence or practice outside of Arizona or of non-
9 practice within Arizona do not apply to the reduction of the probationary period.

10 DATED and effective this 9th day of August, 2008.

11 ARIZONA MEDICAL BOARD

12 (SEAL)



13 By:

14 Lisa S. Wynn
15 LISA S. WYNN
Executive Director

16 ORIGINAL of the foregoing filed
17 this 9th day of August, 2008 with:

18 Arizona Medical Board
19 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

20 EXECUTED COPY of the foregoing mailed
21 this 9th day of August, 2008 to:

22 Peter F. Fisher
23 Bradford Law Offices, PLC
24 4131 North 24th Street, Suite C-201
Phoenix, AZ 85016-6256

25 EXECUTED COPY of the foregoing mailed
this 9th day of August, 2008 to:

1 Hara P. Misra, M.D.
2 Address of Record

3

4 
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25