

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3 In the Matter of

Board Case No. MD-00-0333

4
5 **HARA MISRA, M.D.**

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

6 Holder of License No. **14933**
7 For the Practice of Medicine
In the State of Arizona.

(Probation)

8 This matter was considered by the Arizona Board of Medical Examiners ("Board")
9 at its public meeting on February 6, 2002. Hara Misra, M.D., ("Respondent") appeared
10 before the Board with legal counsel, Cynthia Cheney, for a formal interview pursuant to
11 the authority vested in the Board by A.R.S. § 32-1451(I). After due consideration of the
12 facts and law applicable to this matter, the Board voted to issue the following findings of
13 fact, conclusions of law and order.
14

15 **FINDINGS OF FACT**

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

18 2. Respondent is the holder of License No. 14933 for the practice of medicine
19 in the State of Arizona.

20 3. The Board initiated case number MD-00-0333 after receiving a complaint
21 regarding Respondent's care and treatment of a patient ("Patient").

22 4. Patient presented to Dr. Misra for surgical evaluation of varicose veins in
23 her right leg. The surgery was performed on July 1, 1999. Subsequent to the surgery,
24 Patient complained to the Board that the surgery was unsatisfactory because she has
25 multiple visible scars and discoloration. According to Patient, prior to the surgery, she

1 had communicated her concerns over scarring and discoloration to Respondent and he
2 had assured her that there would be a nominal number of incisions, that the scars from
3 the incisions would not be detectable, that the discoloration would be minimized, and that
4 the discomfort would be alleviated.

5 5. Patient indicated that on the day of surgery Respondent marked her leg
6 with 15 horizontal lines from her knee down to approximately 2 inches above her ankle.
7 Patient stated that she was surprised by the number of planned incisions and expressed
8 concern to Respondent. According to Patient, Respondent asked her whether he had
9 shown her what he was going to do and explained the "ladder" pattern up her leg that he
10 was going to use. Although Patient responded "no" and had reservations, the surgery
11 was completed as scheduled.

12 6. Patient stated that after surgery the level of her discomfort improved and
13 that the visual status of her condition did not, and was in fact worsened. In follow-up
14 visits Patient asked Respondent what could be done to correct the way her leg appeared
15 and Respondent told her that she could visit a plastic surgeon.

16 7. In her complaint, Patient also stated that at an October 18, 1999 visit
17 Patient asked Respondent's staff ("Staff") for her medical records and was told to fill out a
18 release form. Staff indicated that the records would be available on Patient's next visit.
19 On November 11, 1999, when Patient had still not be given the records, Patient called
20 Respondent's office and was told that the release form indicated that she had been given
21 the records. Patient told Staff this was incorrect and sent a fax request for her records.

22 8. On January 2, 2000, Patient sent Respondent a registered letter requesting
23 her medical records. On March 13, 2000, Patient received a letter from Respondent's
24 office requesting payment of \$25.00 for her records.

25

1 9. A Board medical consultant ("Medical Consultant") and an outside medical
2 consultant ("Outside Medical Consultant") reviewed Patient's medical records and
3 complaint. The Medical Consultant testified at the formal interview that in his opinion,
4 which was supported by the outside medical consultant, the preoperative evaluation was
5 incomplete, the ultrasound testing only displayed a mild or moderate incompetence
6 without identifying the specific veins that were incompetent, that the operative technique
7 was below the standard of care and outdated and that the greater saphenous vein should
8 have been removed and was not. The Medical Consultant also noted that the surgical
9 technique of using 15 transverse incisions is known to be cosmetically deforming and has
10 not been used for many years.

11 10. At the formal interview Respondent noted that the outside medical
12 consultant had indicated that scarring is within the standards of surgical care and that
13 results after varicose vein surgery are often in the eye of the beholder. Respondent also
14 noted that the multiple incisions are meant to cure a patient's varicose vein problem.
15 Respondent testified that according to a surgical journal there are 16 perforators between
16 the knee and the ankle and to get the best results from surgery you need to go after the
17 perforators through incisions. Respondent testified that he did not use the ultrasound
18 technique because of a high recurrence rate of 25% and that he did not use the hook
19 technique because it is an incomplete vein stripping.

20 11. Regarding the greater saphenous vein, Respondent testified that if there is
21 regurgitation from the common femoral vein to the greater saphenous vein then stripping
22 the greater saphenous is appropriate. But, that tests indicated there was no regurgitation
23 in Patient and the valves were normal. Respondent testified that the taking out of the
24 secondary veins at the calf, the veins which are involved in the problem, is appropriate
25 and within the standard of care.

1 12. Regarding Patient's medical record claim, Respondent stated that Patient
2 was given the records when she initially requested them and Staff did not promptly
3 respond to Patient's *second* request for her records. Respondent also noted that Patient
4 was appropriately charged \$25 because this was the second time the records were being
5 provided.

6 13. The Board queried Respondent as to what defects he found when he
7 performed the workup of Patient. Respondent stated that it was in the superficial system
8 with the lesser saphenous vein and the perforators in the calf area of the right leg.
9 Respondent indicated that he found the attached perforators to be incompetent. The
10 Board further queried Respondent regarding his knowledge of the procedure.

11 14. In response to a Board query as to whether Respondent was aware of any
12 more contemporary methods to performing varicose vein surgery Respondent stated that
13 he was not and that there was no other procedure available to take care of the
14 perforators. According to Respondent the ultrasound procedure has not yet been proven
15 to be the most successful treatment for varicose veins.

16 15. The Board queried Respondent as to how specific Respondent was in his
17 informed consent regarding the number of possible scars and what the patient can
18 expect after surgery. Specifically, Respondent was asked what documentation he had of
19 clearly explaining to Patient that he was going to perform the "ladder" procedure on
20 Patient and that she knew what procedure he would use. Respondent referred the Board
21 to his operative note, which he stated contained the preliminary discussion with Patient
22 prior to surgery in the preoperative room.

23 16. The Medical Consultant was asked to comment on Respondent's testimony
24 and noted that the venous study performed by Respondent did not isolate the greater
25 saphenous vein or the saphenal-femoral junction and mention incompetence there. The

1 Medical Consultant also noted his concurrence with the Outside Medical Consultant that
2 Patient did not have the correct surgery and that she will still have more secondary
3 varicosities. The Medical Consultant noted that the procedure employed by Respondent
4 is a horrendous operation that is reserved for people who have had chronic
5 thrombophlebitis and marked stasis from perforator veins that come off an incompetent
6 deep system. The Medical Consultant also noted that the preferable procedure for
7 Patient would have involved stripping a segment of the greater saphenous vein that was
8 incompetent and removing the secondary varicosities through small incisions and a little
9 "pig tail" incision. If Respondent had done so, Patient's problem would have been
10 resolved and the result would have been much more cosmetically acceptable. For
11 instance, the incisions could have been covered with a steri-strip. The Medical
12 Consultant noted that the preferred procedure has been in use for about ten years.

13 17. Based on the conflicting statements of Respondent and Patient it is unclear
14 as to whether Respondent's Staff failed to promptly respond to Patient's first or second
15 request for her records.

16 **CONCLUSIONS OF LAW**

17 1. The Board of Medical Examiners of the State of Arizona possesses
18 jurisdiction over the subject matter hereof and over Respondent.

19 2. The Board has received substantial evidence supporting the Findings of
20 Fact described above and said findings constitute unprofessional conduct or other
21 grounds for the Board to take disciplinary action.

22 3. The conduct and circumstances above in paragraphs 9 and 16 constitutes
23 unprofessional conduct pursuant to A.R.S. § 32-1401(25)(q) "[a]ny conduct or practice
24 which is or might be harmful or dangerous to the health of the patient or the public."
25

1 **ORDER**

2 Based upon the foregoing Findings of Fact and Conclusions of Law,

3 IT IS HEREBY ORDERED that:

4 1. Respondent is placed on Probation for one year with the following terms
5 and conditions:

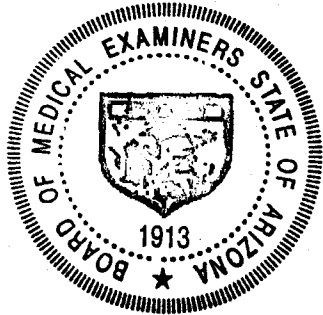
6 (a) Respondent shall within one year of the effective date of this Order, obtain
7 20 hours of Board staff pre-approved Category I Continuing Medical Education (CME) in
8 diagnosis, management and treatment of venous disease of the lower extremity
9 specifically involving varicose veins. Respondent is to provide Board staff with
10 satisfactory proof of attendance. The CME hours shall be in addition to the hours
11 required for biennial renewal of Respondent's medical license.

12 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

13 Respondent is hereby notified that he has the right to petition for a rehearing or
14 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or
15 review must be filed with the Board's Executive Director within thirty (30) days after
16 service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient
17 reasons for granting a rehearing or review. Service of this order is effective five (5) days
18 after date of mailing. If a motion for rehearing or review is not filed, the Board's Order
19 becomes effective thirty-five (35) days after it is mailed to Respondent.

20 Respondent is further notified that the filing of a motion for rehearing or review is
21 required to preserve any rights of appeal to the Superior Court.

1 DATED this 2nd day of May, 2002.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

7
8

By Claudia Foutz
CLAUDIA FOUTZ
Executive Director

9 ORIGINAL of the foregoing filed this
3rd day of MAY, 2002 with:

10 The Arizona Board of Medical Examiners
11 9545 East Doubletree Ranch Road
12 Scottsdale, Arizona 85258

13 Executed copy of the foregoing
14 mailed by U.S. Certified Mail this
3rd day of MAY, 2002, to:

15 Cynthia Cheney, Esq.
16 Fadell, Cheney & Burt, PLLC
17 1601 N. Seventh Street, Suite 400
18 Phoenix, AZ 85006-2204

19 Executed copy of the foregoing
20 mailed by U.S. Mail this
3rd day of MAY, 2002, to:

21 Hara P. Misra, M.D.
22 10210 N. 92 Street, Suite 306
23 Scottsdale, AZ 85258

24 Copy of the foregoing hand-delivered this
3rd day of MAY, 2002, to:

25 Christine Cassetta
Assistant Attorney General
Sandra Waitt, Management Analyst

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Lynda Mottram, Compliance Officer
Investigations (Investigation File)
Arizona Board of Medical Examiners
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

