BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against Robert Bruce Pollack, M.D. Physician's and Surgeon's License No. G67551 Respondent	Case No. 800-2018-050824

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on March 3, 2021.

IT IS SO ORDERED: February 1, 2021.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson

Kristina D. Lawson, J.D., Chair
Panel B

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
TESSA L. HEUNIS
Deputy Attorney General
State Bar No. 241559
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9403
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ROBERT BRUCE POLLACK, M.D.** **3720 4th Avenue** **San Diego, CA 92103** **Physician's and Surgeon's Certificate** **No. G 67551** Respondent.	Case No. 800-2018-050824 OAH No. 2020070388 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Tessa L. Heunis, Deputy Attorney General.

2. Respondent Robert Bruce Pollack, M.D. (Respondent) is represented in this proceeding by attorney James J. Wallace I, Esq., whose address is: 501 West Broadway, Suite 1075, San Diego, CA 92101.

3. On or about November 20, 1989, the Board issued Physician's and Surgeon's Certificate No. G 67551 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-050824, and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. On June 24, 2020, Accusation No. 800-2018-050824 was filed before the Board, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on June 24, 2020. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2018-050824 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 800-2018-050824. Respondent has also carefully read, fully discussed with his counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, Complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2018-050824 and that his Physician's and Surgeon's Certificate No. G 67551 is therefore

subject to discipline. Respondent further agrees that if he ever petitions for early termination or modification of probation, or if an Accusation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-050824 shall be deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California or elsewhere.

9. Respondent agrees that his Physician's and Surgeon's Certificate No. G 67551 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board does not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order

be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

14. In consideration of the foregoing admissions and stipulations, the parties agree the Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 67551 issued to Respondent Robert Bruce Pollack, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years from the effective date of the Decision on the following terms and conditions:

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 15 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Respondent shall provide proof of attendance for 15 hours of CME in satisfaction of this condition.

2. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the

Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

4. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

5. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

6. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

////

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

8. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

////

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations.

9. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

10. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

11. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

12. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

13. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing action agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2018-050824 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James J. Wallace I, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate G 67551. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10/28/2020

ROBERT BRUCE POLLACK, M.D.
Respondent

////

////

////

////

I have read and fully discussed with Respondent Robert Bruce Pollack, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: October 29, 2020

JAMES J. WALLACE II, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: December 22, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

TESSA L. HEUNIS
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2018-050824

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General
TESSA L. HEUNIS
Deputy Attorney General
State Bar No. 241559
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9403
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Robert Bruce Pollack, M.D.** **3720 4th Avenue** **San Diego, CA 92103-4203** **Physician's and Surgeon's Certificate** **No. G 67551,** Respondent.	Case No. 800-2018-050824 **A C C U S A T I O N**

PARTIES

1. William Prasifka (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about November 20, 1989, the Medical Board issued Physician's and Surgeon's Certificate No. G 67551 to Robert Bruce Pollack, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2021, unless renewed.

////

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2220 of the Code states, in pertinent part, that the Board may take action against all persons guilty of violating the Medical Practice Act, and shall have all the powers granted in Division 5, Chapter 5, of the Code, for these purposes.

STATUTORY PROVISIONS

5. Section 2227 of the Code states:

> (a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
>
> (1) Have his or her license revoked upon order of the board.
>
> (2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.
>
> (3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.
>
> (4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.
>
> (5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.
>
> (b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

6. Section 2234 of the Code, states:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

...

7. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member of good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

FACTUAL ALLEGATIONS

8. At all relevant times, Respondent was a plastic surgeon in private practice in San Diego, California.

9. Patient A[1] is an adult female, born in 1947.

10. Patient A underwent a Roux-en-Y gastric bypass[2] in 2004 and lost 94 pounds. She first consulted Respondent in January 2009, at which time Respondent recommended a breast lift/ implant placement and abdominoplasty.[3]

////

[1] The name of the patient is known to Respondent, but not disclosed here for privacy reasons.

[2] A Roux-en-Y gastric bypass is a type of weight-loss surgery that involves creating a small pouch from the stomach and connecting the newly created pouch directly to the small intestine. It is known to cause malabsorption and vitamin deficiencies.

[3] Abdominoplasty, also referred to as a "tummy tuck," is cosmetic surgery of the abdomen that typically involves removal of excess skin and fat and tightening of the abdominal muscles.

11. Patient A did not proceed with the cosmetic surgery in 2009, but returned to Respondent again on or about July 6, 2017. She had moved to northern California in the intervening years. At that time, Patient A had regained 22 pounds and her BMI was then greater than 30.[4]

12. Respondent noted that Patient A had been treated for asthma in the past, and was currently taking Wellbutrin. He noted that Patient A's nipple ptosis measured 15 cm, and again recommended a breast lift/reduction and placement of a breast implant to improve her breast shape..

13. It is known that the simultaneous performance of a breast lift/reduction and placement of breast implants requires particular care to preserve blood supply to the remaining breast tissue.

14. Respondent also recommended performing abdominoplasty on Patient A, with some hip/lateral thigh liposuction.

15. It is known that combining abdominoplasty with additional procedures increases the risk of complications.

16. On or about July 17, 2017, Respondent had a telephone conversation with Patient A to go over the informed consent document and answer questions. Patient A signed consent documents that indicated she was at risk for various complications. However, there is no documentation in the record of a discussion between Respondent and Patient A of the increased risk of complications with a combined procedure.

17. When planning surgery involving two major body areas, a thorough analysis of the patient's nutritional status is important. Traditional gastric bypass patients can be severely protein deficient, and such deficiency can negatively impact healing capability. Patient A's pre-operative lab analysis demonstrated she was not anemic. However, there was no evaluation of her protein level, albumin or pre-albumin levels.

////

[4] Body mass index (BMI) is a value derived from the mass and height of a person. The BMI is defined as the body mass divided by the square of the body height, and is universally expressed in units of kg/m^2, resulting from mass in kilograms and height in metres. A BMI of less than 18.5 means that a person is underweight. A BMI of between 18.5 and 24.9 is ideal. A BMI of between 25 and 29.9 is overweight. A BMI over 30 indicates obesity.

18. Patient A returned to San Diego for her cosmetic surgery on or about July 25, 2017.

19. On or about July 25, 2017, Respondent performed a breast lift/reduction on Patient A, removing 445 grams of tissue from the left breast and 527 grams of tissue from the right breast, and placed 250 ml submuscular saline breast implants bilaterally.

20. In his operative note, Respondent states that the lateral and medial breast flaps were undermined to allow for repositioning. The nipple was sutured in a higher position and the two flaps were sutured along the vertical incision line to the inframammary fold. Respondent states, further, that "[r]edundant breast tissue was excised from the lower pole of the breast." There is no pathology report in the medical record regarding the breast tissue removed.

21. On the same date, Respondent also performed an abdominoplasty with rectus muscle plication and lateral hip/thigh liposuction, removing five (5) pounds of tissue and an additional 550 grams of liposuctioned fat.

22. The surgery was performed under general anesthesia, with total surgery time being 5 hours, 50 minutes. The surgical procedure did not begin until one hour after the induction of anesthesia, and the total anesthesia time was 7 hours, 15 minutes. There is no information in the record as to why Respondent did not begin surgery sooner after induction of anesthesia.[5]

23. Two days after surgery, Patient A was seen in Respondent's office, at which time he noted "an area of threatened ischemia of the central abdomen flap below the umbilicus" as well as "moderate ecchymosis of the umbilicus" itself. He noted mottled discoloration of the nipples and bilateral blisters on the breast areolae, possibly indicating some mild degree of ischemia.

24. Patient A returned to Respondent for further post-surgery consultations on or about July 31, August 3, and August 10, 2017:

24.1 On or about July 31, Respondent thought the post-operative appearance of the patient "seemed improved." He noted there was "reduction of edema of the breasts with resolution of ischemia of the exposed nipples," and "the area of ischemia of the lower central abdomen [was] also better with just a little red skin stippling." The umbilicus was "also less ischemic."

[5] Total anesthesia time greater than 6 hours increases the risk of complications.

24.2 On or about August 3, 8 days after surgery, Respondent prescribed Silvadene antibiotic cream for Patient A to use on the areolae. The abdomen looked "fine."

24.3 On or about August 10, 15 days after surgery, Respondent noted "black eschar"[6] of the nipples and a "slight breakdown of the central incision" in the lower abdomen. He agreed that Patient A could return home, and asked her to return in 4 – 5 weeks.

25. Respondent neither acknowledged nor informed the patient of the indications of potential nipple loss, nor what reconstructive procedures might be necessary in the future. He also made no arrangements to follow Patient A or have her post-operative complications monitored in the 4 – 5 weeks before her planned return visit.

26. Patient A returned to northern California on or about August 12, 2017. On or about August 15, she was taken by a friend to a local emergency room.

27. At the emergency room, Patient A was thought to be showing signs of sepsis, and underwent a CT scan that showed subcutaneous fluid collections in the abdomen. She was taken to the operating room and her abdomen was washed out, with a second washout performed on or about August 17, 2017. Cultures of the wound grew E.coli and Pseudomonas. Patient A was treated with antibiotics and a wound vac was placed on or about August 18, 2017. She was discharged with home health care on or about August 19, 2017.

28. Subsequently, Patient A underwent multiple surgeries, including to remove the necrotic areolae as well as non-viable underlying breast tissue (228 grams from the left breast and 267 grams of tissue from the right breast) and, after being diagnosed with a left breast peri-implant infection, that implant was removed. Pathologic evaluation of the breast tissue removed revealed "fat necrosis."

////

////

////

[6] Eschar is the scab formed when a wound or skin is sealed by the heat of cautery or burning. At an interview during the Medical Board's investigation of this matter, Respondent explained that by "black eschar" he was implying that there was necrosis of 100% of the nipples.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

29. Respondent Robert Bruce Pollack, M.D., has subjected his Physician's and Surgeon's Certificate No. G 67551 to disciplinary action under section 2234, subdivision (b), of the Code in that he committed gross negligence. The circumstances are as follows:

30. Paragraphs 8 through 28, above, are hereby incorporated by reference and re-alleged as if fully set forth herein.

31. Respondent committed gross negligence in his care and treatment of Patient A which includes, but is not limited to:

31.1 Despite noticing the problems with her nipple-areola complexes in the post-operative period and being aware of the possibility of bilateral nipple loss, Respondent failed to acknowledge and inform the patient of this serious complication, its consequences, and what reconstructive procedures may be necessary in the future;

31.2 Respondent failed to adequately follow the patient for her serious post-operative complications.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

32. Respondent Robert Bruce Pollack, M.D., has further subjected his Physician's and Surgeon's Certificate No. G 67551 to disciplinary action under section 2234, subdivision (c), of the Code in that he committed repeated negligent acts. The circumstances are as follows:

33. Paragraphs 8 through 28, and 31, above, are hereby incorporated by reference as if fully set forth herein.

34. Respondent committed repeated negligent acts in his care and treatment of Patient A which include, but are not limited to, the following:

34.1 Respondent failed to evaluate Patient A's preoperative nutritional status;

34.2 Respondent failed to inform Patient A of her increased risk of complications when performing two procedures at the same time;

34.3 Respondent failed to initiate the surgical procedure expeditiously after the induction of anesthesia, without apparent justification;

34.4 Respondent's surgical technique and/or procedure in performing the breast lift/ reduction failed to comply with the standard of care in that it resulted in nipple loss and fat necrosis;

34.5 Respondent's surgical technique and/or procedure in performing the abdominoplasty failed to comply with the standard of care in that it resulted in infection and wound healing difficulties;

34.6 Respondent failed to send the removed breast tissue for pathologic evaluation;

34.7 In the post-operative period, Respondent failed to acknowledge and inform the patient of her potential nipple loss, its consequences, and what reconstructive procedures may be necessary in the future; and

34.8 Respondent failed to adequately follow Patient A for her serious post-operative complications.

THIRD CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

35. Respondent Robert Bruce Pollack, M.D., has further subjected his Physician's and Surgeon's Certificate No. G 67551 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession as more particularly described in paragraphs 8 through 34, above, which are hereby incorporated by reference and re-alleged as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Medical Practice Act)

36. Respondent Robert Bruce Pollack, M.D., has further subjected his Physician's and Surgeon's Certificate No. G 67551 to disciplinary action under section 2234, subdivision (a), of the Code in that he violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate any provision of the Medical Practice Act as more

particularly alleged in paragraphs 8 through 35, above, which are hereby incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 67551, issued to Robert Bruce Pollack, M.D.;

2. Revoking, suspending or denying approval of Robert Bruce Pollack, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Robert Bruce Pollack, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: JUN 24 2020

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant