

FILED DATE - SEP 09 2022

Department of Health

By *Angela L. Conway*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2021-17852

LICENSE NO.: ME00121890

JOHN ARGYLE GILMORE SAMPSON, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 5, 2022, in Fort Lauderdale, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise full advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which Respondent was given 7 days to accept. By email dated August 30, 2022, counsel for Respondent accepted the Board's Counter Settlement Agreement. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$5,626.65.

2. Respondent shall document the completion of five (5) hours of continuing medical education (CME) in the area of Medical Records within one (1) year from the date the Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s).

3. Respondent shall submit to a Quality Assurance review of his patients records to be performed by a Certified Professional Healthcare Risk Manager and provide the Board's Probation Committee with the quality assurance report within six (6) months from the date of entry of the Final Order. In addition, the Respondent shall comply with any and all recommendations made by the risk manager and shall document compliance with said recommendations by submitting a follow-up report completed by the licensed risk manager that verifies Respondent's compliance with all prior recommendations. The follow-up report shall be filed with the Board's Probation Committee within 30 days from the date of submission of the quality assurance report.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in

toto and incorporated herein by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 9th day of September, 2022.

BOARD OF MEDICINE

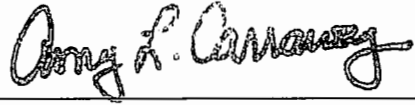
Paul A. Vazquez

Paul A. Vazquez (Sep 7, 2022 11:22 EDT)

Paul A. Vazquez, J.D., Executive Director
For David A. Diamond, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: John Argyle Gilmore Sampson, M.D., 4950 SW 8th Street, Coral Gables, FL 33134; Monica Felder, Esq., 6963 NW 66th Avenue, Parkland, FL 33067 at monica@felderhealthlaw.com and Kubs Lalchandani, Esq., 25 SE 2nd Avenue, Suite 1020, Miami, FL 33131; by email to: Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 9 day of September, 2022.



Deputy Agency Clerk

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

STATE OF FLORIDA
BOARD OF MEDICINE

CLERK: Elizabeth Eubanks

DATE: August 25, 2022

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2021-17852

LICENSE NO.: ME00121890

JOHN ARGYLE GILMORE SAMPSON, M.D.,

Respondent.

ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on August 5, 2022, in Fort Lauderdale, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise full advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which Respondent was given 7 days to accept. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$5,626.65.

2. Respondent shall document the completion of five (5) hours of continuing medical education (CME) in the area of Medical Records within one (1) year from the date the Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s).

3. Respondent shall submit to a Quality Assurance review of his patients records to be performed by a Certified Professional Healthcare Risk Manager and provide the Board's Probation Committee with the quality assurance report within six (6) months from the date of entry of the Final Order. In addition, the Respondent shall comply with any and all recommendations made by the risk manager and shall document compliance with said recommendations by submitting a follow-up report completed by the licensed risk manager that verifies Respondent's compliance with all prior recommendations. The follow-up report shall be filed with the Board's Probation Committee within 30 days from the date of submission of the quality assurance report.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted is rejected and Respondent shall have 7 days from the date this Order is filed to accept the Board's Counter Settlement Agreement. Acceptance of said Counter

Settlement Agreement shall be made in writing to: Edward A. Tellechea, Chief Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; or emailed to Ed.Tellechea@myfloridalegal.com.

This Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 22nd day of August, 2022.

BOARD OF MEDICINE

Bettye Chriss Strickland

Paul A. Vazquez, J.D., Executive Director
For David A. Diamond, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by U.S. Mail to: John Argyle Gilmore Sampson, M.D., 4950 SW 8th Street, Coral Gables, FL 33134; Monica Felder, Esq., 6963 NW 66th Avenue, Parkland, FL 33067 and Kubs Lalchandani, Esq., 25 SE 2nd Avenue, Suite 1020, Miami, FL 33131; by email to: Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 25 day of August, 2022.

Elizabeth Eubanks
Deputy Agency Clerk

Mission:

To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.

**Ron DeSantis**

Governor

Joseph A. Ladapo, MD, PhD
State Surgeon General**Vision:** To be the Healthiest State in the Nation

INTEROFFICE MEMORANDUM

DATE: August 19, 2022

TO: Janet Hartman, Bureau Chief
Bureau of Health Care Practitioner Regulation

FROM: Paul A. Vazquez, Executive Director
Board of Medicine

SUBJECT: Delegation of Authority

This is to advise you that while I am out of the office Monday August 22, 2022, the following individual is delegated to serve as Acting Executive Director for the Board of Medicine:

Bettye Cherise Strickland Program Operations Administrator (850) 245-4132

PAV/sb

cc: Executive Management Team
Executive Directors
Board Counsel
PSU Counsel
DOH Counsel
DOH Communications
Board of Medicine Staff
Board/Council Chairs and Vice Chairs
Jenny Cooley



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2021-17852

JOHN ARGYLE GILMORE SAMPSON, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

John Argyle Gilmore Sampson, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes, and chapters 456 and 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 121890.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of chapters 456 and 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

Sampson, M.D. (6/7/2022)

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of chapter 456 and/or 458, Florida Statutes.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Fine** - The Board shall impose an administrative fine of ***Twenty Thousand Dollars and Zero Cents (\$20,000.00)*** against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of any fine imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS THEIR LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS

SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. **Reimbursement of Costs** - Pursuant to section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is ***Four Thousand Six Hundred and Twenty-Six Dollars and Sixty-Five Cents (\$4,626.65), but shall not exceed Five Thousand Six Hundred and Twenty-Six Dollars and Sixty-Five Cents (\$5,626.65).*** Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any change in the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS THIER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

4. **Laws And Rules Course** - Respondent shall document completion of a Board-approved laws and rules course within one (1) year from the date the Final Order is filed.

5. **Lecture/Seminar** – Within six (6) months following the filing date of a Final Order, Respondent shall present a one (1) hour lecture/seminar on complications related to liposuction and gluteal fat grafting to medical staff at an approved medical facility. Respondent shall submit a written plan to the Board's Probation Committee for approval prior to performance of said lecture/seminar. Within six months of the date of filing of the Final Order, Respondent shall obtain a letter from the Risk Manager of the approved medical facility indicating that the lecture/seminar has been completed and submit such letter to the Board's Probation Committee.

6. **Restriction -**

(a) **Restriction on Practice** – Respondent is permanently restricted from performing gluteal fat grafting procedures.

(b) **Restriction on Practice** – Respondent is permanently restricted from serving as the Designated Physician of an office surgery center regulated by the Department of Health.

7.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** - Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall

be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner profile and licensure renewal updates. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard,

Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. **No Preclusion Of Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

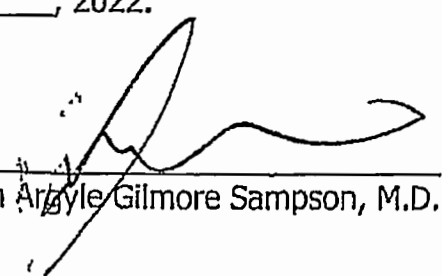
9. **Waiver Of Attorney's Fees And Costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of Further Procedural Steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly

waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

[Signatures appear on the following page.]

SIGNED this 9th day of JUNE, 2022.


John Argyle Gilmore Sampson, M.D.

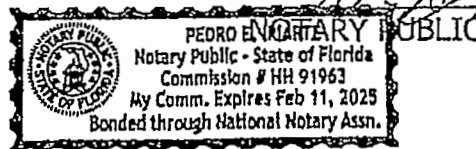
STATE OF FLORIDA

COUNTY OF DADE

BEFORE ME personally appeared JOHN A G. SAMPSON whose identity is known to me or who produced KNOWN TO ME (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 9 day of JUNE, 2022.

My Commission Expires:



APPROVED this 9th day of May, 2022.

Joseph A. Ladapo, MD, PhD
State Surgeon General

By: /s/ Kristen Summers
Kristen Summers
Chief Legal Counsel
Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Charalish Eulank*
DATE: APR 12 2022

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2021-17852

JOHN ARGYLE GILMORE SAMPSON, M.D.,

RESPONDENT,
_____ /

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner Department of Health (Department) files this Amended Administrative Complaint before the Board of Medicine (Board) against John Argyle Gilmore Sampson, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes (2021); and chapters 456 and 458, Florida Statutes (2021).

2. At all times material to this Complaint, Respondent was licensed to practice medicine within the State of Florida, having been issued license number ME 121890.

3. At all times material to this Complaint, Respondent's address of record was 4950 S.W. 8th Street, Coral Gables, Florida 33134.

4. At all times material to this Complaint, Respondent worked at Seduction Cosmetic Center, (Seduction) an office surgery center, registration number OSR 1504, located in Miami, Florida.

5. On or about May 22, 2020, Seduction submitted an application to the Department designating Respondent as the Designated Physician for Seduction. The application did not list Respondent as a surgeon practicing at Seduction.

6. Upon receipt of the application, the Department notified Seduction that the Department needed a letter that Respondent was a practicing physician at the facility but was not performing surgeries.

7. On or about June 5, 2020, Seduction provided the Department with a letter from Respondent stating "06/04/2020 Please have this letter serve as a notification that Im currently a practicing physician at Seduction Cosmetic Corp. located at 4950 SW 8 Street Coral Gables FL 33134. However I do not perform surgical procedures at this location. Sincerely, Dr. John Sampson".

8. On June 12, 2020, the Department approved Seduction's application after receiving this attestation.

9. Prior to performing surgeries at Seduction, or within ten days of

beginning practice at Seduction, Respondent did not provide documentation of the level of surgery he intended to perform at Seduction; the types of procedures he intended to perform at Seduction; whether he held a board certification with a specialty board; and/or a list of the dates of attendance and specialty areas of all residency, fellowship, background experience, and additional trainings he completed.

10. At all times material to this Complaint, Respondent was not approved to perform surgical procedures at Seduction.

11. Between April 2021, and June 2021, Respondent performed plastic surgery procedures at Seduction.

12. On or about June 15, 2021, Patient E.R. presented to Seduction for pre-surgery assessment and paperwork.

13. Seduction provided Patient E.R. with a document entitled "Notification of Surgeon Hospital Privileges or Hospital Transfer Agreement."

14. The document identifies that Respondent has plastic and cosmetic privileges at Coral Gables Hospital, located at 3100 Douglas Road, Coral Gables, Florida.

15. Respondent does not have plastic and cosmetic privileges at Coral Gables Hospital.

16. Patient E.R. signed the document in acknowledgement that Respondent had privileges at Coral Gables Hospital.

17. On June 16, 2021, Respondent performed at least seven surgical procedures at Seduction, beginning at or around 6:32 a.m.

18. On the evening of June 16, 2021, Patient E.R., a 33-year-old woman, presented to Respondent at Seduction to receive liposuction with gluteal fat transfer, or a Brazilian Butt Lift (BBL). This was Respondent's seventh procedure in the day.

19. On or about June 15 or 16, 2021, Respondent signed a "Post Anesthesia Record Form" indicating that the patient was "medically stable, cleared and ready for Discharge." Patient E.R. was not medically stable, cleared and/or ready for discharge at the time that Respondent signed this attestation.

20. Respondent performed a BBL on Patient E.R. The procedure began at or around 8:31 p.m.

21. While harvesting the fat, Respondent failed to maintain appropriate control of his cannula and/or failed to maintain knowledge of the location of the cannula tip within Patient E.R.'s anatomy, resulting in his failure to keep the tip of his cannula in the subcutaneous portion of Patient

E.R.'s abdomen and/or flanks.

22. Respondent perforated or injured Patient E.R.'s abdominal wall with the cannula one or more times and punctured or injured her liver, bladder, and/or intestines.

23. The minimum prevailing standard of care requires physicians to maintain appropriate control of their cannula, maintain knowledge of the location of the cannula tip, and only keep the cannula tip in the subcutaneous layer of fat.

24. While injecting fat into Patient E.R.'s gluteal area, Respondent failed to maintain appropriate control of his cannula and/or failed to maintain knowledge of the location of the cannula tip within Patient E.R.'s anatomy.

25. During the procedure, Respondent repeatedly inserted a cannula into and/or through Patient E.R.'s gluteal fascia.

26. During the procedure, Respondent repeatedly injected fat into and/or under Patient E.R.'s gluteal muscles.

27. During the procedure, Respondent injected fat into Patient E.R.'s deep gluteal planes.

28. The minimum prevailing standard of care requires physicians to not cross the gluteal fascia during a gluteal fat grafting procedure.

29. The minimum prevailing standard of care requires physicians to not inject fat into or under the gluteal muscles during a gluteal fat grafting procedure.

30. At or around 10:50 p.m., Patient E.R. experienced cardiac arrest. Patient E.R. died.

31. Patient E.R.'s cause of death was determined to be pulmonary fat emboli and hemo-peritoneum due to liposuction and bilateral gluteal augmentation surgery.

Count I

32. Petitioner realleges and incorporates paragraphs one through thirty-one as if fully set forth herein.

33. Section 458.331(1)(t), Florida Statutes (2020), authorizes the Board to impose discipline against medical doctors for committing medical malpractice as defined in section 456.50, Florida Statutes (2020).

34. Section 456.50 defines medical malpractice to mean the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

35. Rule 64B8-9.009(2)(f), Florida Administrative Code, defines the standard of care for gluteal fat grafting and states, "[w]hen performing

gluteal fat grafting procedures, fat may only be injected into the subcutaneous space and must never cross the gluteal fascia. Intramuscular or submuscular fat injections are prohibited.”

36. Respondent committed medical malpractice by falling below the standard of care in one or more of the following ways:

- a. By failing to maintain appropriate control of the cannula during the procedure;
- b. By failing to maintain awareness of the location of the cannula tip within the patient’s anatomy during the procedure;
- c. By inserting fat into Patient E.R.’s gluteal muscles during her gluteal fat grafting procedure;
- d. By inserting fat under Patient E.R.’s gluteal muscles during her gluteal fat grafting procedure; and/or
- e. By crossing the gluteal fascia to inject fat during Patient E.R.’s gluteal fat grafting procedure;
- f. By perforating Patient E.R.’s abdominal wall and puncturing or injuring Patient E.R.’s internal organs one or more times.

37. Based on the foregoing, Respondent violated section 458.331(1)(t), Florida Statutes.

Count II

38. Petitioner realleges and incorporates paragraphs one through thirty-one as if fully set forth herein.

39. Section 458.331(1)(nn), Florida Statutes (2020), authorizes the Board to impose discipline against a medical doctor for violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

40. Rule 64B8-9.009(2)(f), Florida Administrative Code, defines the standard of care for gluteal fat grafting and states, "[w]hen performing gluteal fat grafting procedures, fat may only be injected into the subcutaneous space and must never cross the gluteal fascia. Intramuscular or submuscular fat injections are prohibited."

41. Respondent violated Rule 64B8-9.009(2)(f) in one or more of the following ways:

- a. By inserting fat into Patient E.R.'s gluteal muscles during her gluteal fat grafting procedure;
- b. By inserting fat under Patient E.R.'s gluteal muscles during her gluteal fat grafting procedure; and/or
- c. By crossing the gluteal fascia to inject fat during Patient E.R.'s

gluteal fat grafting procedure.

42. Based on the foregoing, Respondent violated section 458.331(1)(nn) by violating Rule 64B8-9.009(2)(f).

Count III

43. Petitioner realleges and incorporates paragraphs one through thirty-one as if fully set forth herein.

44. Section 458.331(1)(k), Florida Statutes (2020), authorizes the Board to impose discipline against a medical doctor for making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

45. Respondent made a deceptive, untrue, or fraudulent representation in or related to the practice of medicine by:

- a. signing a post-operative medical record prior to the completion of the surgical procedure that contained untrue information;
- b. attesting that he would not be performing surgeries at Seduction when Respondent did perform surgeries at Seduction; and/or
- c. Representing to a patient that Respondent had surgical

privileges at Coral Gables Hospital when he did not.

46. Based on the foregoing, Respondent violated section 458.331(1)(k), Florida Statutes.

Count IV

47. Petitioner realleges and incorporates paragraphs one through thirty-one as if fully set forth herein.

48. Section 458.331(1)(nn) authorizes the Board to impose discipline against a medical doctor for violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

49. Section 458.328(1)(g), Florida Statutes (2020), provides that the department may impose any penalty set forth in section 456.072(2) against the designated physician for failure of the office to operate in compliance with the office health and safety requirements of this section and rules adopted hereunder or section 459.0138 and rules adopted thereunder.

50. Rule 64B8-9.0091(1)(c), Florida Administrative Code, provides:

Each physician practicing at a registered office shall notify the Board in writing within 10 calendar days after beginning or ending his or her practice at a registered office. The physician must comply with the requirements and qualifications of Section 458.328, F.S., Rule 64B8-9.009, F.A.C., and this rule. The written

notification for beginning office surgery practice requires the physician to provide and document the following information:

1. Financial Responsibility. All physicians practicing at a registered office must meet the financial responsibility requirements of Sections 458.320 and 459.0085, F.S., as applicable, and notify the Board of the option he or she elects.

2. For surgeons:

- a. The level of surgery the physician intends to perform;
- b. The types of procedures the physician intends to perform at this registered office;
- c. Whether the physician holds current certification of eligibility with a specialty board approved by the Florida Board of Medicine and if so, to submit a copy of the certificate or board-eligibility letter with the notification;
- d. If the physician does not hold current certification or board eligibility, the physician must provide documentation to establish comparable background, training, and experience;
- e. If the physician intends to perform procedures not covered by the registered office's transfer agreement, submission of a letter of good standing and a copy of the delineation of staff privileges as set forth in subparagraph 64B8-9.009 (4)(b)1., F.A.C.;
- f. Submit a copy of the physician's current Advanced Cardiac Life Support (ACLS) certification; and
- g. List the dates of attendance and specialty areas of all residency, fellowship, background experience, and additional training.

51. Respondent and/or Seduction, failed to provide to the Department and/or document the following information within ten days of Respondent beginning his practice at Seduction:

- a. The level of surgery he intended to perform at Seduction;

- b. The types of procedures he intended to perform at Seduction;
- c. Whether he holds a board certification with a specialty board;
and/or
- d. A list of the dates of attendance and specialty areas of all
residency, fellowship, background experience, and additional
trainings he completed.

52. Respondent and/or Seduction falsely attested that Respondent would not be performing surgeries at Seduction in lieu of providing the necessary documents to the Department.

53. Based on the forgoing, Respondent violated section 458.331(1)(nn), and/or 458.328(1)(g) by violating Rule 64B8-9.001, Florida Administrative Code.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, Petitioner respectfully requests that the Board enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 12th day of April, 2022.

Joseph A. Ladapo, MD, PhD
State Surgeon General

/s/ Kristen Summers

Kristen M. Summers
Chief Legal Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar Number 112206
(T) (850) 558-9909
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PCP: October 29, 2021
PCP Members: El-Bahr, Lopez, Romanello

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.