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**Stipulation**

So stipulated:

Dated: 7-10-03

Heidi Weisbaum

Heidi Weisbaum, Deputy Attorney General,  
Attorney for Respondent

So stipulated:

Dated: 7/9/03

Albert J. Garcia

Albert J. Garcia,  
Attorney for Petitioner

**[Proposed] Order**

GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED  
that the stay ordered issued herein on April 1, 2003, remain in effect until  
August 13, 2003 on the same terms and conditions as previously imposed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable David Garcia,  
Judge of the Superior Court

Stipulation Extending Stay Order; [Proposed] Order Thereon

ATTORNEY GENERAL--OFFICE COPY

1 Albert J. Garcia (SBN 70917)  
2 Attorney At Law  
3 1995 University Avenue, Suite 265  
4 Berkeley, California 94704  
5 Telephone: (510) 848-5190

ENDORSED  
FILED  
San Francisco County Superior Court

APR 1 - 2003

GORDON PARK-LI, Clerk  
BY: DANIAL LEMIRE  
Deputy Clerk

6 Attorney For Petitioner,  
7 James Fulton, MD

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO

10 James Fulton, MD, ) Case No. 502689  
11 Petitioner, )  
12 vs. ) [~~Proposed~~]  
13 Medical Board of California, ) Order Staying Administrative Action  
14 Respondent. )  
15 ) [CCP § 1094.5 (h) (1)]  
16 ) Hearing Date: April 1, 2003  
17 ) Time: 11:00 a.m.  
18 ) Dept.: 301

19 The application of James Fulton, MD for an order staying the decision  
20 and order of respondent Medical Board of California, came on for hearing  
21 pursuant to Code of Civil Procedure § 1094.5 (h) (1), on March 28, 2003.

22 Notice of said hearing having been duly given, and respondent having  
23 appeared by Deputy Attorney General Lawrence Mercer, and petitioner having  
24 been represented by Albert J. Garcia, Attorney at Law, and the court having  
25 considered the application and supporting and opposing papers, and

26 THE COURT FINDING GOOD CAUSE THEREFOR, it is ordered that  
the Decision respondent Medical Board of California, in case number 04-1999-  
103031, due to become effective on April 1, 2003, is hereby stayed pending

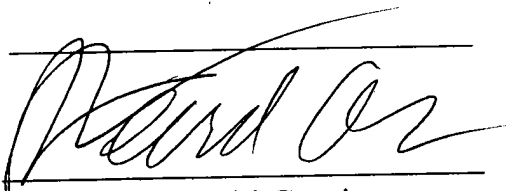
1 hearing and judgment on the underlying petition, on the following terms and  
2 conditions:

3 1. Petitioner is prohibited from <sup>practicing medicine</sup> ~~performing, or supervising others to~~  
4 ~~perform: (a) surgical thigh lift procedures; (b) abdominalplasty procedures, and~~  
5 ~~(c) bilateral augmentation mammoplasty by injection of fat ("BAMBI")~~  
6 ~~procedures during the time this stay order remains in effect.~~

7 2. This order shall expire on August 1, 2003 at 5:00 p.m., unless  
8 petitioner applies for an extension prior thereto, and the court finds good cause  
9 to continue the order in effect.

10 3. Respondent may apply for dissolution of this stay order ex parte,  
11 upon learning of any violation of the above terms by petitioner.

12  
13 Dated: 4/11/03

14   
15 \_\_\_\_\_  
16 Honorable David Garcia  
17 Judge of the Superior Court  
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**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the First Amended  
Accusation Against:**

\_\_\_\_\_ )  
 )  
 )  
 )  
**JAMES E. FULTON, M.D.** )

**File No. 04-1999-103031**

)  
 )  
**Physician's and Surgeon's  
Certificate No. C 32711** )

)  
**Respondent.** )  
\_\_\_\_\_ )

**DECISION**

The attached Stipulation for Surrender of License and Order in case number 04-1999-103031 is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 1, 2003, with the exception of the terms of paragraph 12 of the Stipulation which became effective on November 15, 2002.

**IT IS SO ORDERED** December 17, 2002.

**MEDICAL BOARD OF CALIFORNIA**

By: \_\_\_\_\_

*Lorle G. Rice*  
**Lorle G. Rice, Chair**

**Panel A**

**Division of Medical Quality**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RICHARD D. HENDLIN, [State Bar No. 76742]  
Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
4 San Diego, California 92101  
5 P.O. Box 85266  
San Diego, California 92186-5266  
6 Telephone: (619) 645-2071  
Facsimile: (619) 645-2061

7 Attorneys for Complainant  
8

9 **BEFORE THE**  
10 **DIVISION OF MEDICAL QUALITY**  
11 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation  
Against:

13 JAMES E. FULTON, M.D.  
14 1236 Somerset Lane  
Newport Beach, CA 92660  
15 Physician's and Surgeon's  
16 Certificate No. C 32711

17 Respondent.

Case No. 04-1999-1030311

OAH No. L-2001010373

**STIPULATION FOR**  
**SURRENDER OF LICENSE AND**  
**ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 1. Complainant Ron Joseph is the Executive Director of the Medical Board  
22 of California. He brought this action solely in his official capacity and is represented in this  
23 matter by Bill Lockyer, Attorney General of the State of California, by Richard D. Hendlin,  
24 Deputy Attorney General.

25 2. Respondent JAMES E. FULTON, M.D. ("Respondent"), is represented in  
26 this proceeding by attorney John D. Martin, whose address is Martin & McCormick, 505 South  
27 Main Street, Suite 1017, Orange, California 92868 and whose telephone number is (714) 564-  
28 7788.

1                   3.       On or about October 2, 1970, the Medical Board of California issued  
2 Physician's and Surgeon's Certificate No. C 32711 to JAMES E. FULTON, M.D. The  
3 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
4 charges brought and will expire on February 29, 2004, unless renewed.

5                   4.       The First Amended Accusation No. 04-1999-103031 was filed on April 4,  
6 2002 before the Division of Medical Quality, Medical Board of California of the Department of  
7 Consumer Affairs, ("Division"), and is currently pending against respondent. The First  
8 Amended Accusation, together with all other statutorily required documents, was duly served on  
9 respondent. Respondent timely filed his Notice of Defense contesting the original Accusation  
10 and pursuant to Government Code section 11507 all new charges in the First Amended  
11 Accusation were deemed controverted. A copy of First Amended Accusation No. 04-1999-  
12 103031 is attached as Exhibit A and incorporated herein by reference.

13                   5.       Respondent has carefully read and discussed with his counsel the nature of  
14 the charges and allegations in the First Amended Accusation. Respondent also has read and  
15 carefully considered this Stipulation for Surrender of License and understands the effect it will  
16 have on his ability to practice.

17                   6.       Respondent is fully aware of his legal rights in this matter, including the  
18 right to a hearing on the charges and allegations in the First Amended Accusation, the right to be  
19 represented by counsel, at his own expense, the right to confront and cross-examine the witnesses  
20 against him, the right to present evidence and to testify on his own behalf, the right to the  
21 issuance of subpoenas to compel the attendance of witnesses and the production of documents,  
22 the right to reconsideration and court review of an adverse decision, and all other rights accorded  
23 by the California Administrative Procedure Act and other applicable laws.

24                   7.       Respondent voluntarily, knowingly and intelligently waives and gives up  
25 each and every right set forth above.

26                   8.       Respondent understands that the charges and allegations in the First  
27 Amended Accusation, if proven at a hearing, constitute cause for imposing discipline upon his  
28 Physician's and Surgeon's Certificate No. C 32711.

1           9.     For the purposes of this Stipulation only, respondent does not contest the  
2 allegations contained in the First Amended Accusation No. 04-1999-103031.

3           10.    Respondent hereby gives up his right to contest that cause for discipline  
4 exists based on those charges in the within proceeding and hereby surrenders his Physician's and  
5 Surgeon's Certificate No. C 32711 for the Division's formal acceptance.

6           11.    Respondent understands that by signing this stipulation he enables the  
7 Division to issue its order accepting the surrender of his Physician's and Surgeon's Certificate  
8 No. C 32711 without further process, with an effective date of the surrender to be April 1, 2003.

9           12.    Respondent agrees that immediately upon his signing this Stipulation, and  
10 pending the effective date of his surrender of his Physicians and Surgeon's Certificate, he will  
11 be prohibited from performing or supervising others to perform surgical thigh lifts,  
12 abdominoplasty (also known as "tummy tucks"), and bilateral augmentation mammoplasty by  
13 injection of fat (BAMBI) procedures. Respondent further agrees that pending the effective date  
14 of his surrender of his Physicians and Surgeon's Certificate, he shall not enter into any agreement  
15 with patients to credit their account, discount fees or otherwise compensate them for referrals.  
16 Respondent agrees that any violation of the terms of this paragraph shall constitute sufficient  
17 grounds for immediate summary suspension of respondent's ability to practice medicine in  
18 California.

19           13.    Respondent agrees to reimburse the Division the amount of seven  
20 thousand eight hundred twenty five dollars (\$7825.00) in two payments, the first payment of at  
21 least \$3,913.00 within 90 days from the effective date of this decision, and the second payment  
22 of the balance within the first 180 days from the effective date of this decision, for its costs in  
23 obtaining reporter's transcript as part of its investigation and prosecution costs. The filing of  
24 bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse  
25 the Division for these partial investigative and prosecution costs.

26           14.    Upon acceptance of the stipulation by the Division, Respondent  
27 understands that he will no longer be permitted to practice as Physician and Surgeon or Physician

28 ///



1 Assistants Supervisor in California, and also agrees to surrender and cause to be delivered to the  
2 Division both his license and wallet certificate before the effective date of the decision.

3           15.     Respondent fully understands and agrees that if he ever files an application  
4 for relicensure or reinstatement in the State of California, the Division shall treat it as a petition  
5 for reinstatement. Respondent must comply with all the laws, regulations and procedures for  
6 reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges  
7 and allegations contained in the First Amended Accusation No. 04-1999-103031 will be deemed  
8 to be true and correct by the Division when the Division determines whether to grant or deny the  
9 petition.

10           16.     Respondent understands and agrees that if he ever files an application for  
11 relicensure or reinstatement, he will reimburse the Division the amount of ten thousand dollars  
12 (\$10,000.00) as the partial costs of investigation and prosecution of this matter, upon the granting  
13 of any such application. Unless otherwise agreed by the Division, such reimbursement shall be  
14 paid in full prior to the effective date of the granting of the application for relicensure or  
15 reinstatement.

16           17.     This stipulation shall be subject to the approval of the Division.  
17 Respondent understands and agrees that Medical Board of California's staff and counsel for  
18 complainant may communicate directly with the Division regarding this stipulation and  
19 settlement, without notice to or participation by Respondent or his counsel. If the Division fails  
20 to adopt this stipulation as its Order, the Stipulation for Surrender of License and Order shall be  
21 of no force or effect, it shall be inadmissible in any legal action between the parties, and the  
22 Division shall not be disqualified from further action in this matter by virtue of its consideration  
23 of this stipulation.

24           18.     This Stipulated Surrender of License and Order is intended by the parties  
25 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
26 the agreements of the parties.

27 ///  
28 ///

Nov-15-02 06:54P

FROM :

FAX NO. :

Jun. 13 2000 02:29PM P1

Nov-15-02 06:40P

1                   19.    The parties agree that facsimile copies to this Stipulation for Surrender of  
 2 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
 3 original Stipulation for Settlement and Order and signatures.

**ACCEPTANCE**

4  
 5                   I, James E. Fulton, M.D., have carefully read the above Stipulation for Surrender  
 6 of License and Order and entered into this agreement freely and voluntarily with the advice of  
 7 counsel, and with full knowledge of its force and effect, do hereby surrender my Physician's and  
 8 Surgeon's Certificate to the Division of Medical Quality, Medical Board of California for its  
 9 formal acceptance. By signing this Stipulation for Surrender of License I recognize that upon its  
 10 formal acceptance by the Division, I will lose all rights and privileges to practice as a Physician  
 11 and Surgeon in the State of California and I will also cause to be delivered to the Division both  
 12 my license and wallet certificate before the effective date of the decision.

13                   I further agree that a facsimile copy of this Stipulation for Surrender of License  
 14 and Order including facsimile copies of signatures, may be used with the same force and effect as  
 15 the originals.

DATED: 11/15/02

17  
 18   
 19 JAMES E. FULTON, M.D.  
 Respondent

20  
 21                   I have read and fully discussed with Respondent James E. Fulton, M D., the terms  
 22 and conditions and other matters contained in the above Stipulation for Surrender of License and  
 23 approve its form and content.

DATED: 11/15/02

24  
 25   
 26 JOHN D. MARTIN, Esq.  
 27 Attorney for Respondent

28 //

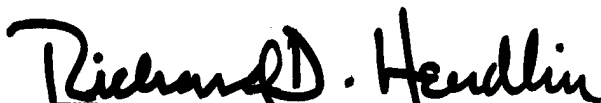
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ENDORSEMENT

The foregoing Stipulation for Surrender of License and Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: NOVEMBER 19, 2002

BILL LOCKYER, Attorney General  
of the State of California



RICHARD D. HENDLIN  
Deputy Attorney General

Attorneys for Complainant

**In the Matter of the First Amended Accusation Against:**

**JAMES E. FULTON, M.D.**

**STIPULATION FOR  
SURRENDER OF LICENSE AND ORDER**

**Exhibit A:**

**First Amended Accusation Case No. 04-1999-103031**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RICHARD D. HENDLIN, State Bar No. 76742  
Deputy Attorney General  
3 California Department of Justice  
110 West "A" Street, Suite 1100  
4 San Diego, California 92101  
P.O. Box 85266  
5 San Diego, California 92186-5266  
Telephone: (619) 645-2071  
6 Facsimile: (619) 645-2061  
7 Attorneys for Complainant

8  
9 **BEFORE THE**  
10 **DIVISION OF MEDICAL QUALITY**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 04-1999-103031

15 **JAMES E. FULTON, M.D.**  
1236 Somerset Lane,  
14 Newport Beach, CA 92660

**FIRST AMENDED  
A C C U S A T I O N**

15 Physician's and Surgeon's  
Certificate No. C 32711

16 Respondent  
17

18 Complainant, Ron Joseph, as cause for disciplinary action alleges:

19 **PARTIES**

20 1. Complainant brings this First Amended Accusation solely in his official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs.

23 2. On or about October 2, 1970, the Medical Board of California issued  
24 Physician's and Surgeon's Certificate No. C 32711, M.D. ("Respondent"). The physician's and  
25 surgeon's certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on February 29, 2004 unless renewed.

27 ///

28 ///

1 **JURISDICTION**

2 3. This First Amended Accusation is brought before the Division of Medical  
3 Quality, Medical Board of California ("Division"), under the authority of the following sections  
4 of the Business and Professions Code ("Code").

5 A. Section 2227 of the Code provides that a licensee who is found  
6 guilty under the Medical Practice Act may have license revoked, suspended for a period  
7 not to exceed one year, placed on probation and required to pay the costs of probation  
8 monitoring, or such other action taken in relation to discipline as the Division deems  
9 proper.

10 B. Section 2234 of the Code provides that unprofessional conduct  
11 includes, but is not limited to, the following:

12 ". . . .

13 (b) Gross negligence.

14 (c) Repeated negligent acts.

15 (d) Incompetence.

16 (e) The commission of any act involving dishonesty or corruption which is  
17 substantially related to the qualifications, functions, or duties of a physician and  
18 surgeon.

19 ". . . ."

20 C. Section 2261 of the Code states:

21 "Knowingly making or signing any certificate or other document  
22 directly or indirectly related to the practice of medicine or podiatry which falsely  
23 represents the existence or nonexistence of a state of facts, constitutes  
24 unprofessional conduct."

25 D. Section 2266 of the Code states:

26 "The failure of a physician and surgeon to maintain adequate and  
27 accurate records relating to the provision of services to their patients constitutes  
28 unprofessional conduct."

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E. Section 2273 of the Code as it read at the relevant time states:

"Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct."

F. Section 125.3 of the states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

4. Section 14124.12 of the Welfare and Institutions Code provides, in pertinent part, that: "Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation."

**FIRST CAUSE FOR DISCIPLINE**

(Gross Negligence, Bus. & Prof.. Code §2234(b))

5. Respondent James Edwin Fulton, M.D., is subject to disciplinary action for unprofessional conduct in that he committed gross negligence in violation of section 2234(b) of the Code in that:

///

///





1 fail to include technical and anatomical description of the procedures performed. In the  
2 course of performing the abdominoplasty, respondent excised the patient's umbilicus, but  
3 failed to reconstruct a new one.

4 E. Thereafter, the patient made several postoperative visits until about  
5 April 1997. During most of these visits, the patient received "crypto" therapy to treat the  
6 redness around the excised umbilicus. Sometime during the postoperative period, the  
7 patient noted a reduction in the size of her breasts. She also felt some lumps in her breast.  
8 In about June or July 1997, the patient consulted with J.R., M.D., about the excised  
9 umbilicus and the lumps in her breasts, among other things. A mammography performed  
10 (by another physician) revealed calcium deposits in her breasts. Eventually, the patient  
11 underwent a breast augmentation using implants. She also underwent a successful  
12 umbilicus reconstruction.

13 **Re: Patient K.M.**

14 F. On or about September 4, 1997, patient K.M. went to respondent's  
15 Fulton Skin Institute/Westcliff Surgesthetics establishment to consult with respondent on  
16 Bilateral Augmentation Mammoplasty By Injection (BAMBI) and "facial resurfacing"  
17 procedures. The patient gave a history of prior surgeries including a Suction Assisted  
18 Lipectomy (SAL), a Medial Thigh Lift, Mastopexy, a "breast lift" procedure, a total left  
19 knee replacement procedure and a rotator cuff repair. Her family history included breast  
20 cancer contracted by her sister at age 42. At the end of the consultation, respondent  
21 recommended the patient undergo BAMBI, SAL, Laser-abrasion and fat transfer into the  
22 patient's lips and cheeks procedures. The procedures were ultimately scheduled for  
23 January 23, 1998. The patient paid respondent for the procedures.

24 G. On or about January 21, 1998, at the preoperative examination,  
25 respondent introduced Patrick Abuzeni, M.D. to patient K.M. as the physician who would  
26 be assisting in the surgery. Patrick Abuzeni, M.D. was undertaking a one year fellowship  
27 with respondent's Fulton Skin Institute and was at all times under respondent's ostensible  
28 supervision. The surgery was performed on January 23, 1998. The fat injected into the

1 patient's breast was obtained from the patient's flank and thigh areas. Even though  
2 respondent knew about the patient's family's breast history, respondent failed to inform  
3 the patient that fat injected into her breasts may become calcified, and that calcification  
4 may render mammography an ineffective diagnostic procedure for breast cancer  
5 detection. On or about January 23, 1998, respondent knowingly participated in an  
6 unauthorized human experimental procedure on patient K.M. by injecting, or causing to  
7 be injected, platelet rich plasma (PRP) with additives of calcium chloride and bovine  
8 thrombin into only one of patient K.M.'s breasts during the BAMBI operation, thereby  
9 using the patient as her own control subject, without her consent, and without any  
10 institutional board review.

11 H. Postoperatively, the patient began to lose volume in her breast. In  
12 about April 1998, respondent recommended the patient undergo a second BAMBI  
13 procedure to add more fat to the patient's breasts. Respondent also recommended the  
14 patient undergo a bilateral thigh lift procedure to correct the patient's sagging medial  
15 thighs. Again, respondent failed to inform the patient that fat injected into her breasts  
16 may become calcified, and that calcification may render mammography an ineffective  
17 diagnostic procedure for breast cancer detection. Respondent also failed to inform the  
18 patient that because of the prior SAL and thigh lift surgeries, the recommended thigh lift  
19 surgery would compromise local tissue of the thighs.

20 I. The recommended surgical procedures were performed on or about  
21 June 25, 1998. Patrick Abuzeni, M.D., performed most of the procedures under  
22 respondent's minimal supervision. The fat injected into the patient's breast was obtained  
23 from the patient's thighs, knees and abdomen. In the course of the thigh lift procedure,  
24 Dr. Abuzeni negligently compromised the blood supply and undermined subcutaneous  
25 tissue of the patient's medial thighs.

26 J. Thereafter, the patient made numerous postoperative visits until  
27 about October 1998. During most of these visits, the patient received hyper baric oxygen  
28 treatment, and debridement and redressing of the thigh wounds by Dr. Abuzeni. The

1 patient was also prescribed Keflex, Cipro and Augmentin (three antibiotics), and  
2 Regranex. <sup>1</sup>However, after July 10, 1998, no more antibiotics were prescribed for the  
3 patient.

4 K. On or about June 28, 1998, the patient's thigh wounds were noted  
5 to have "blistering and discoloration." Beginning on or about July 4, 1998, ischemic skin  
6 necrosis began to develop around the thigh wounds. During the postoperative period  
7 respondent failed to order necessary "cultures and sensitivities" on the patient.  
8 Respondent also failed to refer the patient to a specialist even as the patient's wounds  
9 failed to heal properly. The patient's thigh wounds eventually healed by "secondary  
10 intention." The healing resulted in extensive scarring of the thighs and the wound  
11 "contracture" that developed in the area of the groin, distorted the patient's vulva.

12 L. On or about October 21, 1998, the patient consulted with another  
13 physician. Upon examination, the patient's inner thighs were described as having a  
14 "bright red discoloration." The patient's groin area was described as deformed such that  
15 "sex is out of the question."

16 6. Respondent, James Edwin Fulton, M.D., is subject to disciplinary action  
17 for unprofessional conduct in that he has committed acts or omissions constituting gross  
18 negligence in violation of Code section 2234(b) in that:

19 A. Paragraph 5 is hereby realleged and incorporated by this reference  
20 as if fully set forth at this point.

21 **Re: Patient J.M.:**

22 B. Respondent performed two BAMBI procedures on patient J.M..

23 C. Respondent performed two BAMBI procedures on a patient, J.M.,  
24 who was diagnosed with multiple sclerosis, without first advising the patient that fat  
25 injected into the patient's breasts may become calcified, and that the calcification may  
26 render mammography an ineffective diagnostic tool for detection of breast cancer.

27 \_\_\_\_\_  
28 1. Regranex is approved by the United States Food and Drug Administration for use in  
treating diabetic foot ulcers.

1 C. During the surgical procedure on patient J.M. on July 19, 1996,  
2 respondent excised the patient's umbilicus without the patient's consent.

3 D. During the surgical procedure on patient J.M. on July 19, 1996,  
4 respondent excised the patient's umbilicus and failed to construct a new umbilicus for the  
5 patient.

6 E. Respondent failed to prepare adequate and accurate operative notes  
7 of the surgical procedures he performed on patient J.M.

8 **Re: Patient K.M.:**

9 F. Respondent performed two BAMBI procedures on patient K. M.

10 G. Respondent performed two BAMBI procedures on patient K.M.,  
11 who had a family history of breast cancer without advising patient K.M. that fat injected  
12 into the patient's breasts may become calcified, and that the calcification may render  
13 mammography an ineffective diagnostic tool for detection of breast cancer.

14 H. On January 23, 1998, respondent knowingly participated in  
15 unauthorized human experimental procedures on patient K.M., by injecting or causing to  
16 be injected platelet rich plasma (PRP) with additives of calcium chloride and bovine  
17 thrombin into only one of patient K.M.'s breasts during the bilateral augmentation  
18 mammoplasty by injection (BAMBI) thereby using the patient as her as her own control  
19 subject, without her consent, and without any institutional review board review.

20 I. After the June 25, 1998, surgical procedures on patient K.M.,  
21 respondent failed to order or perform necessary postoperative "culture and sensitivity"  
22 testing on the patient.

23 J. After the June 25, 1998, surgical procedures on patient K.M.,  
24 respondent failed to prescribe (or failed to document he prescribed) antibiotics "to cover"  
25 patient K.M. throughout the entire healing period.

26 ///

27 ///

28 ///

1 K. Respondent performed two SAL procedures and a thigh lift  
2 procedure on patient K.M. who had a history of prior SAL and thigh lift surgeries without  
3 first informing the patient that repeated trauma from SAL and thigh lifts surgeries would  
4 compromise local tissue of the thighs and might lead to skin necrosis.

5 L. In the course of performing the thigh lift procedure on patient K.  
6 M. on June 25, 1998, respondent negligently compromised the blood supply to and  
7 undermined the subcutaneous tissue of patient's medial thighs.

## 8 SECOND CAUSE FOR DISCIPLINE

9 (Incompetence)

10 7. Respondent, James Edwin Fulton, M.D., is further subject to disciplinary  
11 action for unprofessional conduct in that he committed acts or omissions constituting  
12 incompetence in violation of section 2234(d) of the Code in that:

13 A. Paragraph 5 is hereby realleged and incorporated by this reference  
14 as if fully set forth at this point.

### 15 Re: Patient J.M.:

16 B. Respondent performed two BAMBI procedures on patient J.M.

17 C. Respondent performed two BAMBI procedures on a patient, J.M.,  
18 who was diagnosed with multiple sclerosis, without first advising the patient that fat  
19 injected into the patient's breasts may become calcified, and that the calcification may  
20 render mammography an ineffective diagnostic tool for detection of breast cancer.

21 C. During the surgical procedure on patient J.M. on July 19, 1996,  
22 respondent excised the patient's umbilicus without the patient's consent.

23 D. During the surgical procedure on patient J.M. on July 19, 1996,  
24 respondent excised the patient's umbilicus and failed to construct a new umbilicus for the  
25 patient.

26 E. Respondent failed to prepare adequate and accurate operative notes  
27 of the surgical procedures he performed on patient J.M.

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1                                 **Re: Patient K.M.:**

2                                 F.       Respondent performed two BAMBI procedures on patient K.M.

3                                 G.       Respondent performed two BAMBI procedures on patient K.M.,  
4                                 who had a family history of breast cancer without advising patient K.M. that fat injected  
5                                 into the patient's breasts may become calcified, and that the calcification may render  
6                                 mammography an ineffective diagnostic tool for detection of breast cancer.

7                                 H.       On January 23, 1998, respondent knowingly participated in  
8                                 unauthorized human experimental procedures on patient K.M., by injecting or causing to  
9                                 be injected platelet rich plasma (PRP) with additives of calcium chloride and bovine  
10                                 thrombin into only one of patient K.M.'s breasts during the bilateral augmentation  
11                                 mammoplasty by injection (BAMBI) thereby using the patient as her as her own control  
12                                 subject, without her consent, and without any institutional board review.

13                                I.       After the June 25, 1998, surgical procedures on patient K.M.,  
14                                respondent failed to order or perform necessary postoperative "culture and sensitivity"  
15                                testing on the patient.

16                                J.       After the June 25, 1998, surgical procedures on patient K.M.,  
17                                respondent failed to prescribe (or failed to document he prescribed) antibiotics "to cover"  
18                                patient K. M. throughout the entire healing period.

19                                K.       Respondent performed two SAL procedures and a thigh lift  
20                                procedure on patient K.M. who had a history of prior SAL and thigh lift surgeries without  
21                                first informing the patient that repeated trauma from SAL and thigh lifts surgeries would  
22                                compromise local tissue of the thighs and might lead to skin necrosis.

23                                L.       In the course of performing the thigh lift procedure on patient K.  
24                                M. on June 25, 1998, respondent negligently compromised the blood supply to and  
25                                undermined the subcutaneous tissue of patient's medial thighs.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts ~ Bus. & Prof. Code §2234(c))

3 8. Respondent, James Edwin Fulton, M.D., is further subject to disciplinary  
4 action for unprofessional conduct in that he committed repeated negligent acts in violation of  
5 section 2234(c) of the Code in that:

6 A. Paragraph 5 is hereby realleged and incorporated by this reference  
7 as if fully set forth at this point.

8 **Re: Patient J.M.:**

9 B. Respondent performed two BAMBI procedures on patient J.M.

10 C. Respondent performed two BAMBI procedures on a patient, J.M.,  
11 who was diagnosed with multiple sclerosis, without first advising the patient that fat  
12 injected into the patient's breasts may become calcified, and that the calcification may  
13 render mammography an ineffective diagnostic tool for detection of breast cancer.

14 C. During the surgical procedure on patient J.M. on July 19, 1996,  
15 respondent excised the patient's umbilicus without the patient's consent.

16 D. During the surgical procedure on patient J.M. on July 19, 1996,  
17 respondent excised the patient's umbilicus and failed to construct a new umbilicus for the  
18 patient.

19 E. Respondent failed to prepare adequate and accurate operative notes  
20 of the surgical procedures he performed on patient J.M.

21 **Re: Patient K.M.:**

22 F. Respondent performed two BAMBI procedures on patient K.M.

23 G. Respondent performed two BAMBI procedures on patient K.M.  
24 who had a family history of breast cancer without advising patient K.M. that fat injected  
25 into the patient's breasts may become calcified, and that the calcification may render  
26 mammography an ineffective diagnostic tool for detection of breast cancer.

27 H. On January 23, 1998, respondent knowingly participated in  
28 unauthorized human experimental procedures on patient K.M., by injecting or causing to

1 be injected platelet rich plasma (PRP) with additives of calcium chloride and bovine  
2 thrombin into only one of patient K.M.'s breasts during the bilateral augmentation  
3 mammoplasty by injection (BAMBI) thereby using the patient as her as her own control  
4 subject, without her consent, and without any institutional board review.

5 I. After the June 25, 1998, surgical procedures on patient K.M.,  
6 respondent failed to order or perform necessary postoperative "culture and sensitivity"  
7 testing on the patient.

8 J. After the June 25, 1998, surgical procedures on patient K.M.,  
9 respondent failed to prescribe (or failed to document he prescribed) antibiotics "to cover"  
10 patient K. M. throughout the entire healing period.

11 K. Respondent performed two SAL procedures and a thigh lift  
12 procedure on patient K.M. who had a history of prior SAL and thigh lift surgeries without  
13 first informing the patient that repeated trauma from SAL and thigh lifts surgeries would  
14 compromise local tissue of the thighs and might lead to skin necrosis.

15 L. In the course of performing the thigh lift procedure on patient K.  
16 M. on June 25, 1998, respondent negligently compromised the blood supply to and  
17 undermined the subcutaneous tissue of patient's medial thighs.

18 M. Respondent failed to refer patient K.M. to a specialist for treatment  
19 of the patient's necrotic wound after the surgical procedures on June 25, 1998.

20 N. Respondent improperly utilized Regranex to treat patient's K.M.'s  
21 necrotic thigh wound.

#### 22 **FOURTH CAUSE FOR DISCIPLINE**

23 (Failure to Maintain Adequate Records ~ Bus. & Prof. Code §2266)

24 9. Respondent, James E. Fulton, M.D., is further subject to disciplinary  
25 action in that respondent failed to maintain adequate and accurate records relating to the  
26 provision of services he and his subordinate "fellow," Patrick Abuzeni, M.D., provided to patient  
27 K.M., in violation of Business and Professions Code section 2266, in that:

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1 On or about October 20, 1997, respondent signed an application for  
2 reinstatement of his medical license in the State of Florida. In the application, respondent  
3 answered "No" to the question "Was any action taken against you by any licensing  
4 authority?" and, "No" to the question "Were you the subject of any type of disciplinary  
5 action or inquiry by any licensing authority, institution, society, etc.?" Respondent's  
6 answers were false in that on or about June 30, 1997, the Medical Board of California  
7 filed Accusation No. 07-94-33932 against respondent.

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 (Runners, Cappers and Steerers ~ Bus. & Prof. Code § 2272)

10 12. Respondent James Edwin Fulton, M.D., is further subject to disciplinary  
11 action in that he employed a runner, capper, steerer or other persons to procure patients in  
12 violation of Business and Professions Code section 2273 as follows:

13 On or about October 3, 1995, respondent entered into a written agreement  
14 with a patient M.M., whereby respondent agreed to perform \$14,800 worth of cosmetic  
15 surgery on M.M. for a reduced fee of \$7,500 plus \$750 for anesthesia. In return, patient  
16 M.M. agreed to work with respondent's marketing director on a monthly basis to bring in  
17 potential patients to respondent's Fulton Skin Institute. In furtherance of said agreement,  
18 on or about March 17, 1996, M.M. provided respondent a list of potential patients that he  
19 had spoken to about respondent's work, and who planned to make appointments with  
20 respondent.

21 **PRAYER**

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

24 I. Revoking or suspending Physician's and Surgeon's  
25 Certificate No. C 32711, issued to James Edwin Fulton, M.D.;

26 II. Revoking or suspending or denying respondent's approval authority to  
27 supervise physician's assistants;

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III. Ordering James Edwin Fulton, M.D. to pay the Medical Board of California the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

IV. Taking such other and further action as the Medical Board of California deems necessary and proper.

DATED: April 4, 2002

*Richard D. Hendlin, Dep. Atty. Gen.*  
RON JOSEPH  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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RDH 04/04/02