

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
:
JOSEPH HILLEL GRABOYES, M.D., :
RESPONDENT. :
ORDER 0000963

Division of Enforcement Case No. 09MED241

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Joseph Hillel Graboyes, M.D.
3003 W. Good Hope Rd.
Milwaukee, WI 53209

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Joseph Hillel Graboyes, M.D. (DOB July 26, 1954) is duly licensed and currently registered to practice medicine and surgery in the state of Wisconsin under license number 26658-20. This license was first granted on April 19, 1985.

2. Respondent's address of record with the Wisconsin Medical Examining Board is 3003 W. Good Hope Rd., Milwaukee, Wisconsin 53209.

3. At all times relevant to this matter, Respondent was working as a physician at Aurora Advanced Healthcare, Germantown, Wisconsin.

4. On June 29, 2009, the National Practitioner Data Bank notified the Department of a medical malpractice payment report on Respondent's behalf. The report indicated:

Subsequent to the procedure the patient developed further nasal airway obstruction due to an internal valve collapse. The patient required subsequent medical treatment to address the airway obstruction.

5. On May 4, 2007, Patient KG, a 33 year-old female, was referred to Respondent by her family physician due to chronic sinusitis and difficulty breathing through her nose. Patient KG reported sinus headaches, nasal discharge and occasional migraines. Respondent ordered a CT scan which revealed clear sphenoid sinuses and:

1. Bilateral maxillary sinus polyps or mucous retention cysts, one on the left and two on the right, with the largest being inferiorly on the left up to 1.8 cm in size.
2. Moderate right nasal septal deviation is seen, with a large mid right nasal septal bony spur seen abutting the lateral aspect of the upper right inferior nasal turbinate.

6. In examining KG, Respondent noted a narrow nose with bilateral valve collapse, right-side septal spur and a bony hump on the dorsum. He determined that KG's sinus cysts/polyps did not need treatment and would not cause her symptoms. Respondent felt symptoms would be reduced or eliminated by correcting the deviated septum and spur. After discussion, KG agreed to have a total nasoseptal reconstruction. She elected to have the bony hump removed for cosmetic purposes.

7. On June 20, 2007, Respondent performed a septorhinoplasty. Septorhinoplasty is surgical reshaping of the nose and correction of a deviated septum; it is intended to enhance appearance and function of the patient's nose with improved breathing. The post-surgical contacts were as follows:

- a. On June 21, 2007, Respondent saw KG and noted she was doing well, and had some nausea with dizziness. The septum and incisions looked good.
- b. On June 26, 2007, Respondent saw KG again and she reported left side stuffiness. Respondent noted the incisions were okay and "some septal swelling as well as left medial crural flap swelling."
- c. On July 10, 2007, KG reported tenderness at the bridge of the nose, and the left nostril felt clogged relative to the right but her overall breathing was improved. Respondent noted columellar area with some swelling, dorsum with tenderness left nasal bone area. Respondent wrote: "Uncertain as to cause of nasal bone tenderness and swelling as had only filing of dorsum and no nasal bone work done there."

- d. By August 14, 2007, Respondent determined the patient had a good cosmetic result but a fair functional result. The left nostril had narrowed, the septum was good, KG continued to have trouble with allergies/humidity and had general tenderness.
- e. On September 18, 2007, KG reported a bad smell apparently emanating from within her nose. Respondent thought the smell might be associated with a mild infection and observed a caudal septal twist to the left. He prescribed an antibiotic to address the possible infection.
- f. On February 12, 2008, Patient KG reported that her left nostril felt closed. Respondent concluded that Patient KG had bilateral crural winging, which was then causing a valve to collapse to the left.

8. On March 20, 2008, Respondent performed a revisional surgery under local anesthesia. Respondent addressed the columella particularly on the left nose, with skin elevation off the medial crura, and cauterization of the soft tissue between the medial crura. This procedure was done with lidocaine and epinephrine injection to the columella. No decongestant was administered. Immediately after the operation the patient stated that her nose appeared to be open.

- a. On March 25, 2008, Respondent reported pain and swelling on the left. His note indicated, "hope swelling will resolve". Respondent instructed KG to return in 4 weeks.
- b. On March 27, 2008, KG reported a white suture-looking thing that was causing her discomfort. Respondent did not see the patient but advised it probably was a dissolvable suture.
- c. By April 15, 2008, KG experienced continued swelling and narrowing in the left nostril, and reported she still had difficulty breathing with no improvement. Respondent told her to report for follow-up on May 20, 2008.
- d. On May 20, 2008, Respondent saw Patient KG for the last time. He noted that two months out from the revisional nasal surgery, KG's left nostril was blocked, the nose was slightly twisted and KG continued to detect a foul odor. Respondent's impression was that KG was not getting good relief from the twisted tip of her nose and "perhaps with foul smell has some sinusitis also". Respondent prescribed Ceftin, and instructed that he would recheck prn.

9. On September 25, 2008, KG saw another physician who noted a flattened nasal dorsum consistent with rasping done without lateral osteotomies. She underwent revisional surgery performed by that physician on November 25, 2008. The pre- and post-operative diagnoses were:

- a. Nasal airway obstruction due to internal valve collapse on the left with left nasal aperture excessive scarring, creating secondary obstruction.
- b. Malrotation of the mid nasal vault.
- c. Irregular nasal bony surfaces due to iatrogenic manipulation.
- d. Tip malrotation.

10. The subsequent physician performed the following:

- a. Revision septoplasty with harvest of cartilage.
- b. Bilateral spreader grafts of mid nasal vault.
- c. Dorsal only grafts to nasal bony region, with takedown of hump on the right nasal bones.
- d. Correction of tip malformation with re-establishment of tip symmetry and to support.

11. One month post nasal septal reconstruction, Patient KG was breathing well and very pleased with the appearance.

12. Respondent's care of Patient KG fell below the standard of minimal competence, when, on June 20, 2007, his treatment of the bilateral valve collapse failed to correct KG's condition. Respondent's failure created an unacceptable risk that KG would have difficulty breathing and require additional surgeries. Performing the surgery as an open procedure created a risk of problematic scar tissue.

13. Between August 18-21, 2011, Respondent will attend "Rhinofest 2011", a Mayo Clinic Comprehensive Course in Rhinology, a 30 credit program, in Rochester, MN. Course learning objectives include identifying complications during and after all types of sinus surgery; and avoidance of complications in rhinoplasty.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by failing to correct KG's collapsed valves as set out above, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h).

3. Respondent is therefore subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

IT IS HEREBY ORDERED that Joseph Hillel Graboyes, M.D. is hereby REPRIMANDED.

IT IS HEREBY FURTHER ORDERED that:

1. Respondent shall, within sixty (60) days from the date of the Order, pay costs of this proceeding in the amount of one thousand eight hundred dollars (\$1,800.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed to the Department of Monitor at the address below:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

2. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of the costs, or fails to submit evidence that he has successfully completed the education program described above, Respondent's license (No. 26658-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

3. This Order is effective on the date of its signing.

MEDICAL EXAMINING BOARD

By: Skarles MD MBA 7/20/11
A Member of the Board Date