



*Public*  
**New York State Board for Professional Medical Conduct**  
433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

*Richard F. Daines, M.D.*  
*Commissioner*  
*NYS Department of Health*  
*James W. Clyne, Jr.*  
*Executive Deputy Commissioner*  
*Keith W. Servis, Director*  
*Office of Professional Medical Conduct*

*Kendrick A. Sears, M.D.*  
*Chair*  
*Carmela Torrelli*  
*Vice Chair*  
*Katherine A. Hawkins, M.D., J.D.*  
*Executive Secretary*

June 25, 2010

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Douglas M. Hargrave, M.D.  
Secretary  
The Plastic Surgery Group, LLP  
1365 Washington Avenue, Suite 200  
Albany, NY 12206-1036

Re: The Plastic Surgery Group, LLP

Dear Dr. Hargrave:

Enclosed please find BPMC Order # 10-112 issued by the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect July 2, 2010

Sincerely,

REDACTED

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Carla Hogan, Esq.  
Tuczinski, Cavalier, Gilchrist & Collura, P.C.  
54 State Street, Suite 803  
Albany, NY 12207

**IN THE MATTER  
OF  
THE PLASTIC SURGERY GROUP, LLP**

CONSENT  
ORDER

Upon the application of (Respondent) THE PLASTIC SURGERY GROUP, LLP in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 6-24-2010

REDACTED

\_\_\_\_\_  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

**IN THE MATTER  
OF  
THE PLASTIC SURGERY GROUP, LLP**

**CONSENT  
AGREEMENT  
AND  
ORDER**

THE PLASTIC SURGERY GROUP, LLP, ["TPSG" or "Respondent"] by and through its Secretary, DOUGLAS HARGRAVE, M.D., represents that all of the following statements are true:

TPSG is a registered limited liability partnership duly authorized to practice medicine in the State of New York pursuant to Article 8-B of the New York Partnership Law. The New York Department of State filed the Respondent's certificate of registration on or about September 18, 2001. The address of the principal office of the Respondent is 1365 Washington Avenue, Suite 200, Albany, New York 12206-1036.

The Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the pre-hearing and hearing procedures of Title II-a of Article 2 of the New York Public Health Law, pursuant to Section 121-1500(m) of the Partnership Law.

The current address of TPSG is 1365 Washington Avenue, Suite 200, Albany, New York 12206, and such group will advise the Director of the Office of Professional Medical Conduct of any change of address.

TPSG understands that the New York State Board for Professional Medical Conduct (Board) has charged it with one specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

Subject to the terms, conditions and limitations of this Consent Agreement and Order, the Respondent admits the factual allegations and Specification of Misconduct [having been convicted of an act constituting a federal crime], in full

satisfaction of the charges against it, and agrees to the following penalty:

It will receive a censure and reprimand. It will also notify in writing all patients who received injections of Botulinum Toxin Type A [TRI-Toxin] that had not been approved for use on human beings, and which patients signed consents for the injection of Botulinum Toxin Type A, which was approved for use on human beings. Such patients will be informed of the fact of the misbranding, and the fact that the consents signed by the patients falsely indicated that they were receiving an injection of a medication approved by the Food and Drug Administration. TPSG will also include copies of such notifications in each patient's medical records. Such notifications and medical record entries shall be made within 90 days of the effective date of the Order herein. Written confirmation of TPSG's compliance with this notice provision, which notice shall include the names and addresses of all patients notified, shall be provided to the Director of OPMC within the 90 day period set out, above.

It further agrees that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 that specifically apply to limited liability companies including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided

in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent through its employees, agents, and officers shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Consent Order. Respondent shall designate a person from among its officers to meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

TPSG stipulates that its failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

TPSG agrees that; if TPSG is charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

TPSG asks the Board to adopt this Consent Agreement.

TPSG understands that if the Board does not adopt this Consent Agreement, none of its terms shall bind TPSG or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against TPSG in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to N.Y. Pub. Health Law.

TPSG agrees that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. TPSG agrees that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to TPSG at the address in this Consent Agreement, or to TPSG's attorney by certified mail, OR upon facsimile transmission to TPSG or TPSG's attorney, whichever is first. The Consent Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

TPSG stipulates that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. TPSG freely, without duress, compulsion or restraint, asks the Board to adopt this Consent Agreement. In consideration of the value to TPSG of the Board's adoption of this Consent Agreement, allowing TPSG to resolve this matter without the various risks and burdens of a hearing on the merits, TPSG knowingly waives its right to contest the Consent Order for which it applies, whether administratively or judicially, TPSG agrees to be bound by the Consent Order, and TPSG asks that the Board adopt this Consent Agreement.

TPSG understands and agrees that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion

either to enter into the proposed agreement and Consent Order, based upon its application, or to decline to do so. TPSG further understands and agrees that no prior or separate written or oral communication can limit that discretion.

DATE 6/9/10

REDACTED

~~THE PLASTIC SURGERY GROUP, LLP~~  
RESPONDENT

BY: DOUGLAS HARGRAVE, M.D.  
SECRETARY

REDACTED

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 6-14-10

REDACTED

CARLA HOGAN, ESQ.  
Attorney for Respondent

DATE: 6/16/10

REDACTED

MICHAEL A. HISER, ESQ.  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 6/22/10

REDACTED

KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct



IN THE MATTER  
OF  
THE PLASTIC SURGERY GROUP, LLP

STATEMENT  
OF  
CHARGES

THE PLASTIC SURGERY GROUP, LLP, the Respondent, ["TPSG"] is a registered limited liability partnership duly authorized to practice medicine in the State of New York pursuant to Article 8-B of the New York Partnership Law. The New York Department of State filed the Respondent's certificate of registration on or about September 18, 2001. The address of the principal office of the Respondent is 1365 Washington Avenue, Suite 200, Albany, New York 12206-1036.

The Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the pre-hearing and hearing procedures of Title II-a of Article 2 of the New York Public Health Law, pursuant to Section 121-1500(m) of the Partnership Law.

**FACTUAL ALLEGATIONS**

- A. Respondent, on or about February 9, 2010, was convicted by plea of guilty of a felony violation of 21 U.S.C. section 331(k), 21 U.S.C. section 352(i)(3), 21 U.S.C. section 333(a)(2), and 18 U.S.C. section 2, to wit, the misbranding of a drug held for resale after shipment in interstate commerce. Respondent was fined \$200,000, ordered to pay restitution of \$106,686, and required to pay a special assessment of \$400.

**SPECIFICATION OF CHARGES**

**SPECIFICATION**

**CRIMINAL CONVICTION (Federal)**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(a)(ii) by having been convicted of committing an act constituting a crime under federal law as alleged in the facts of the following:

1. The facts in Paragraph A, above.

DATE: June 16, 2010  
Albany, New York

REDACTED

Peter D. Van Buren  
Deputy Counsel  
Bureau of Professional Medical Conduct