



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
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NYS Department of Health*

Dennis P. Whalen
*Executive Deputy Commissioner
NYS Department of Health*

Dennis J. Graziano, Director
Office of Professional Medical Conduct

William P. Dillon, M.D.
Chair

Denise M. Bolan, R.P.A.
Vice Chair

Ansel R. Marks, M.D., J.D.
Executive Secretary

March 28, 2002

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Edward Joseph Ivy, M.D.
40 Huyler Landing Road
Cresskill, New Jersey 07626

RE: License No. LP69684

Dear Dr. Ivy:

Enclosed please find Order #BPMC 02-89 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect March 28, 2002.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Stephen W. Gruhin, Esq.
Gruhin and Gruhin
P.O. Box 570
371 Franklin Avenue
Nutley, NJ 07110

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
EDWARD JOSEPH IVY, M.D.

CONSENT
ORDER

BPMC No. 02-89

Upon the application of (Respondent) EDWARD JOSEPH IVY, M.D. 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 SO ORDERED, and it is further

ORDERED, that this 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.

DATED: 3/26/02


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

**IN THE MATTER
OF
EDWARD JOSEPH IVY, M.D.**

**CONSENT
AGREEMENT
AND
ORDER**

EDWARD JOSEPH IVY, M.D., representing that all of the following statements are true, deposes and says:

That from on or about July 1, 1992 through on or about July 1, 1993, I was authorized to practice medicine in the State of New York by the issuance of Limited Permit No. LP#69684 by the New York State Education Department.

My current address is 40 Huyler Landing Road, Cresskill, New Jersey 07626 and, until I have complied with all of the terms of this agreement, I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with five specifications of professional misconduct.

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

I agree not to contest the Second Specification: (a) solely insofar as it pertains to the allegations in Paragraphs B and B3, and (b) excluding any references in the Second Specification to Paragraphs A and A1, in full satisfaction of the charges against me, and agree to the following penalty:

I shall be issued a censure and reprimand;

I shall be subject to a condition, imposed pursuant to Section 230 of

the Public Health Law, requiring that I submit a letter to the editor of the Journal for Plastic and Reconstructive Surgery in the form marked as Exhibit "B" attached to and made a part of this Consent Agreement and Order.

I further agree that the Consent Order shall impose the following conditions:

That during all periods of licensure, if any, Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent is licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC written requests for written periodic verification of Respondent's compliance with this Order. Respondent shall 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

shall remain in effect during the pendency of the current investigation and during any future periods in which Respondent is a licensee in New York State, as that term is defined in Section 230(7) of the Public Health Law.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me 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 the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this 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 me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I

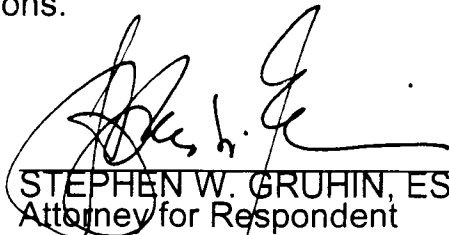
knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

DATED 3/19/02


Edward Joseph WY
EDWARD JOSEPH WY, M.D.
Respondent

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

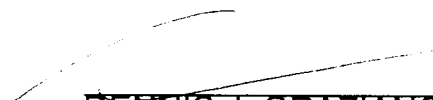
DATE: 3/19/02


STEPHEN W. GRUHIN, ESQ.
Attorney for Respondent

DATE: 3/20/02


PAUL STEIN, ESQ.
Associate Counsel
Bureau of Professional
Medical Conduct

DATE: 3/25/02


DENNIS J. GRAZIANO
Director
Office of Professional
Medical Conduct

IN THE MATTER
OF
EDWARD JOSEPH IVY, M.D.
ZBIGNIEW PAUL LORENC, M.D.

STATEMENT
OF
CHARGES

EDWARD JOSEPH IVY, M.D., the Respondent, was authorized to practice medicine in New York State from on or about July 1, 1992 through on or about July 1, 1993, by the issuance of limited permit number LP#69684 by the New York State Education Department.

ZBIGNIEW PAUL LORENC, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 2, 1984, by the issuance of license number 157786 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Between approximately November 1992 and July 1993 Respondents Ivy and/or Lorenc performed facelifts on 21 patients (all patients are identified in Appendix A, attached below) at Manhattan Eye, Ear, Nose and Throat Hospital (MEETH) in New York, New York as part of an alleged research study.
1. Respondents, without medical indication, did not employ the same facelift technique on the right and left side of each patient's face.

2. Respondents failed to obtain informed consent from each patient to use different facelift techniques on the right and left side of each patient's face and to include him or her in a research study.

3. Respondents failed to keep an adequate record for each patient.

B. In the December 1996 issue of the Journal for Plastic and Reconstructive Surgery, Respondents Ivy and Lorenc, with co-author Sherrill Jerome Aston, M.D., published an article entitled, "Is there a Difference? A Prospective Study Comparing Lateral and Standard SMAS Facelifts with Extended SMAS and Composite Rhytidectomies." In this article, they reported the surgery allegedly performed and reported the results of the surgical research allegedly performed on 21 patients at MEETH (referred to in Paragraph A, above).

1. Respondents, knowingly, with intent to deceive, inaccurately reported the surgery performed on some or all of the 21 patients.

2. Respondents, knowingly, with intent to deceive, inaccurately reported the research study (including its results) allegedly performed on some or all of the 21 patients.

3. Respondents inaccurately reported the surgery and the research study (including its results) allegedly performed on some or all of the 21 patients.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

GROSS NEGLIGENCE

Respondents are charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. Paragraphs B and B3.

SECOND SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondents are charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

2. Paragraphs A, A1, B, and B3.

THIRD SPECIFICATION

FRAUDULENT PRACTICE

Respondents are charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

3. Paragraphs B, B1, and B2

FOURTH SPECIFICATION

PERFORMING UNAUTHORIZED SERVICES

Respondents are charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(26) by performing professional services which

have not been duly authorized by the patient or his or her representative, as alleged in the facts of:

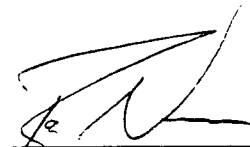
4. Paragraphs A and A2.

FIFTH SPECIFICATION
FAILURE TO MAINTAIN RECORDS

Respondents are charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

5. Paragraphs A and A3.

DATED: February 25, 2002
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct

**LETTER TO BE SENT BY RESPONDENT TO EDITOR OF
JOURNAL FOR PLASTIC AND RECONSTRUCTIVE
SURGERY**

EDWARD J. IVY, M.D.
40 Huyler Landing Road
Cresskill, New Jersey 07626

March __, 2002

Editor
Journal for Plastic and
Reconstructive Surgery

Re: Is There A Difference? A Prospective Study Comparing Lateral And Standard
SMAS Face Lifts With Extended SMAS And Composite Rhytidectomies
(Published In December 1996 Issue)

Dear Editor:

The above-referenced paper authored by myself, Z. Paul Lorenc, M.D. and Sherrell J. Aston, M.D. was published in your December 1996 issue.

In the "Patients and Methods" section thereof, it was stated that "a prospective randomized study was conducted comparing the clinical outcomes of limited (lateral SMASectomy) and conventional SMAS facelifts with extended SMAS and composite rhytidectomies." Recently, concerns have been raised that the term "randomized study" may be somewhat unclear and/or confusing, thereby resulting in a potentially erroneous interpretation of the paper's results.

In an effort to clarify any such possible confusion, I wish to reiterate that the underlying study forming the basis of the paper, was not randomized in the sense that patients randomly did or did not receive placebos. Rather, the study progressed from conventional SMAS (as compared to extended SMAS) to lateral SMASectomy (as compared to extended SMAS), and then to composite comparisons. The term "prospective randomized" was only intended to indicate that none of the study's participants were pre-selected or operated on in any manner or fashion intended to influence any predetermined or preferred surgical outcome. The methods used in the study are otherwise fully described in the paper. Based on the foregoing concerns, perhaps the term "randomized" is not as clear as it could otherwise have been. According to the methods utilized, however, we found the clinical outcomes of these various SMAS facelift procedures similar in routine cases.

Moreover, I was completing a fellowship at the Manhattan Eye, Ear, Nose and Throat Hospital ("MEETH") in New York City at the time the study was undertaken there.

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When I left MEETH at the conclusion of my fellowship in or about June 1993, the further "hands on" responsibility for all additional pre-operative, operative and post-operative follow-up care and observation relative to all of the study's participants was left to Dr. Lorenc and others remaining at MEETH. Thus, given my departure from MEETH in or about June 1993, it has now been brought to my attention, that at least insofar as the underlying protocols referenced in the paper are concerned, one of the study's participants may perhaps, not have fully completed the one (1) year post-operative follow-up regimen therein indicated to have applied to all of the study's participants.

As a result of all the foregoing, I am advising you that had I been aware of these issues at the time of the paper's original submission, it would not have been submitted to you in the form in which it was ultimately published.

Should you have any question regarding the contents of this letter, please do not hesitate to contact me at your earliest convenience.

Very truly yours,

EDWARD J. IVY, M.D.