

IN THE MATTER OF  
JASON MURPHY

Respondent

Unlicensed

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BEFORE THE MARYLAND  
STATE BOARD OF  
PHYSICIANS  
Case Number: 2016-0672B

\* \* \* \* \*

**CHARGES UNDER THE MARYLAND MEDICAL PRACTICE ACT**

Disciplinary Panel B of the Maryland State Board of Physicians (the "Board"), hereby charges **JASON MURPHY** (the "Respondent"), unlicensed, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 14-101 et seq.

The Respondent is charged under the following provisions of the Act:

H.O. § 14-601. Practicing without a license

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

HO. § 14-606 provides in pertinent part:

...

(4) Except as provided in paragraph (5) of this subsection,<sup>1</sup> a person who violates § 14-601 of this subtitle is:

...

(ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

H.O. § 14-101 defines the practice of medicine, in pertinent part, as follows:

(n) Practice medicine. -- (1) "Practice medicine" means to engage, with or without compensation, in medical:

...

(iii) Treatment; or  
(iv) Surgery.

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<sup>1</sup> Paragraph (5) does not apply to the Respondent.

- (2) "Practice medicine" includes doing, undertaking, professing to do, and attempting any of the following:
  - (i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:
    - 1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or
    - 2. By appliance, test, drug, operation or treatment[.]

Md. Code Regs. ("COMAR") 10.32.09 provides in pertinent part:

## **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

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### **(4) Cosmetic Medical Device.**

- (a) "Cosmetic medical device" means a device that alters or damages living tissue.
- (b) "Cosmetic medical device" includes any of the following items, when the item is used for cosmetic purposes:
  - (i) Laser;
  - (ii) Device emitting light or intense pulsed light;
  - (iii) Device emitting radio frequency, electric pulses, or sound waves;

...

### **(5) Cosmetic Medical Procedure.**

- (a) "Cosmetic medical procedure" means a procedure using a cosmetic medical device or medical product to improve an individual's appearance.

(b) "Cosmetic medical procedure" includes the following:

- (i) Skin treatments using lasers;
- (ii) Skin treatments using intense pulsed light;
- (ii) Skin treatments using radio frequencies, microwave, or electric pulses;
- ...
- (v) Skin treatments with phototherapy; [and]
- ...
- (ix) Any treatment using a cosmetic medical device for the purpose of improving an individual's appearance.

#### **.04 Qualifications of Individual to Whom Acts May Be Delegated and Assigned.**

- A. A cosmetic medical procedure may be delegated to a physician assistant or assigned to any other health care provider licensed under Health Occupations Article, Annotated Code of Maryland, whose licensing board has determined that the procedure falls within the provider's scope of practice.

...

#### **ALLEGATIONS OF FACT<sup>2</sup>**

The Board bases its charges on the following facts that the Board has cause to believe are true:

##### **I. BACKGROUND**

1. At all times relevant, the Respondent has not been licensed or certified by the Maryland Board of Physicians or the Maryland Board of Nursing in any capacity.

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<sup>2</sup> The allegations set forth in this document are intended to provide the Respondent with notice of the alleged charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with these charges.

2. At all times relevant, the Respondent was employed as a tattoo artist at Studio A, a professional tattoo studio in Knoxville, Maryland.<sup>3</sup> The Respondent has been a professional tattoo artist since 2000 and has been employed at Studio A since approximately 2003.
3. On or about March 26, 2015, the Board received a complaint from a physician alleging that unlicensed individuals were performing laser tattoo removal at Studio A.
4. Thereafter the Board initiated an investigation.
5. On or about June 9, 2015, the Board notified Ms. TK, the owner of Studio A, of the complaint and the Board's investigation. The Board requested a written response.
6. On or about June 19, 2015, the Board received a written response from Ms. TK, on behalf of herself, the Respondent and Ms. JG, another unlicensed individual.<sup>4</sup>
7. According to Ms. TK's written response, in or around 2008, the previous owner of Studio A purchased a Sybaritic SkinClear TA-2, which is a laser used only for tattoo removal.
8. On or about July 23, 2015, Board staff interviewed the Respondent. During the interview, which was under oath, the Respondent stated that between 2008 and January 2013, the Respondent performed laser tattoo removal at Studio A. The Respondent further stated that he performed laser tattoo removal approximately once every three to four months over a period of five years.
9. The Respondent stated that he stopped performing laser tattoo removal after Ms. JG completed her laser tattoo removal training.

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<sup>3</sup> In order to maintain confidentiality, names will not be used in these Charges.

<sup>4</sup> The Board opened investigations against the Respondent, Ms. TK and Ms. JG.



10. The Respondent stated that when performing laser tattoo removal, he evaluated the customer's skin, reviewed relevant medical history and discussed expectations for results. The Respondent also discussed proper aftercare, including advising the customer to use over-the-counter anti-inflammatory medication to treat pain or swelling.

11. The Respondent has not performed laser tattoo removal since approximately 2013. Furthermore, upon receiving notice of the complaint, Studio A ceased offering laser tattoo removal.

12. In response to a Board subpoena, Ms. TK provided copies of completed "Laser Tattoo Removal Informed Consent" forms. The form provides informed consent for the laser tattoo removal procedure and requires the customer to initial after myriad statements pertaining to the laser treatment, possible side effects and aftercare instructions.

### **III. CHARGES**

The Respondent's actions as outlined in pertinent part above constitute the unauthorized practice of medicine in violation of Health Occ. § 14-601, and pursuant to the Board's regulations under COMAR 10.32.09.04A.

### **IV. NOTICE OF POSSIBLE SANCTIONS**

If, after a hearing, the Board finds that there are grounds for action under Health Occ. § 14-601 the Board may impose a civil fine under Health Occ. § 14-606 of not more than \$50,000.

### **IV. NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION CONFERENCE<sup>5</sup>**

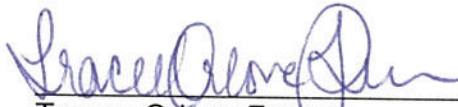
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<sup>5</sup> Md. Code Regs. 10.32.02.03E(9) (2013), effective January 21, 2013, renamed the Case Resolution Conference ("CRC") to the Disciplinary Committee for Case Resolution ("DCCR") without any changes as to its functions.

A Disciplinary Committee for Case Resolution ("DCCR") in this matter is scheduled for **Wednesday, September 28, 2016 at 9:00 a.m.** at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The nature and purpose of the DCCR is described in the attached letter to the Respondent. If this matter is not resolved on terms accepted by the Board, an evidentiary hearing will be scheduled.

**BRIAN E. FROSH**  
**ATTORNEY GENERAL OF MARYLAND**

6/16/16  
Date

  
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