

<p><b>IN THE MATTER OF</b></p> <p><b>JOSH MORROW</b></p> <p style="padding-left: 40px;"><b>Respondent</b></p> <p><b>Unlicensed</b></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p><b>BEFORE THE MARYLAND</b></p> <p><b>STATE BOARD OF</b></p> <p><b>PHYSICIANS</b></p> <p><b>Case Number: 2015-0866</b></p>
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**CONSENT ORDER**

On December 2, 2015, the Maryland State Board of Physicians (the "Board") charged Josh Morrow (the "Respondent"), under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* The Respondent was charged under the following provision of the Act:

Health Occ. § 14-601:

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.

Health Occ. § 14-606 provides in pertinent part:

*(a) Imposition of penalties.*

...

(4) Except as provided in paragraph (5) of this subsection, a person who violates § 14-601 or § 14-602 of this subtitle is:

...

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

Health Occ. § 14-101 defines the practice of medicine in pertinent part as follows:

(e) *Cosmetic surgical procedure.* -- (1) "Cosmetic surgical procedure" means the use of surgical services to reshape the structure of a human body in order to change the appearance of an individual.

..

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

...

- (iv) Surgery[.]

The American Medical Association's Definition of Surgery, adopted from the American College of Surgeon's Statement ST-11 provides:

**H-475.983 Definition of Surgery**

...

Surgery is performed for the purpose of structurally altering the human body by the incision or destruction of tissues and is part of the practice of medicine. Surgery also is the diagnostic or therapeutic treatment of conditions or disease processes by any instruments causing localized alteration or transposition of live human tissue which include lasers, ultrasound, ionizing radiation, scalpels, probes, and needles. The tissue can be cut, burned, vaporized, frozen, sutured, probed, or manipulated by closed reductions for major dislocations or fractures, or otherwise altered by mechanical, thermal, light-based, electromagnetic, or chemical means. ...

Patient safety and quality of care are paramount and, therefore, patients should be assured that individuals who perform these types of surgery are licensed physicians (defined as doctors of medicine or osteopathy) who meet appropriate professional standards. (Res. 212; A-07; Reaffirmed: BOT Rep. 16, A-13)

On February 10, 2016, Disciplinary Panel A was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

I. **FINDINGS OF FACT**

The Board finds:

**GENERAL FINDINGS**

1. At all times relevant, the Respondent has not been licensed or certified by the Board or any health occupation licensing board in Maryland.
2. At all times relevant, the Respondent had not completed the basic educational qualifications for medical licensure.

3. At all times relevant, the Respondent was employed at Facility A in Severna Park, Maryland as a body piercer. Facility A, which opened in December 2014, provides tattoo and piercing services. Facility A employed the Respondent at the opening of the business.

4. Facility A's website describes the Respondent's background in part as:

[The Respondent] is the body piercer and aspiring body modification artist of Facility A. [The Respondent] has always had an interest in modifying the body and expressing himself through his own vessel since a young age. Using tattoos, piercings, and extreme body modifications to adorn his body, [the Respondent] wanted to share the same passion to the public.

... [The Respondent] has begun expanding into the world of extreme modifications, offering procedures most locals would have to travel out of state to fulfill their body altering needs...

5. On or about June 11, 2015, the Board received a complaint from an individual (the "Complainant")<sup>1</sup> who represented he had obtained a tattoo at Practice A, and overheard a customer ("Patient A") discussing a tongue-splitting procedure. According to the Complainant, following the discussion of the Respondent and Patient A, they proceeded into the "piercing room" and the Respondent allegedly performed a tongue-splitting procedure on Patient A.

6. The Board initiated an investigation of the allegations.

7. On or about August 11, 2015, Board staff conducted an unannounced site visit of Facility A. During the site visit, Board staff provided the Respondent with written notification of the Board's investigation, along with a copy of the written complaint, and requested a written response. The Respondent stated that he did not conduct any

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<sup>1</sup> Aside from a name provided to the Board, and a written complaint, the Complainant did not provide any additional information to the Board, wishing to remain anonymous.

tongue-splitting procedures at Facility A, and that he kept all of his client records in a safe at his residence. He agreed to bring the records to the Board's offices the next day.

8. On or about August 12, 2015, the Respondent provided to Board staff nine informed consent forms for procedures he had conducted as set forth below, and submitted to an interview under oath by Board staff.

9. On or about August 17, 2015, the Respondent submitted to the Board a written response stating that there was no "record" of the Complainant having obtained a tattoo or any other procedure at Facility A. The Respondent denied that he conducted tongue-splitting procedures at Facility A, but admitted that he performed them at another "sterile location."

## **INTERVIEW OF RESPONDENT**

### **TONGUE-SPLITTING**

10. The Respondent acknowledged that he had conducted tongue-splitting procedures at a location outside of Facility A, but refused to provide Board staff with the name of the location.

11. The Respondent stated that he had been conducting tongue-splitting procedures for approximately 1 ½ to 2 years.

12. The Respondent stated that his training consisted of observing a few procedures by an out-of-State "body modification artist." The body modification artist subsequently assisted the Respondent with a few procedures to complete the Respondent's "training."

13. The Respondent stated that subsequent to the completion of his "training" he had completed six tongue-splitting procedures.

14. The Respondent stated that routinely he informs the clients of the possible risks and/or side effects to include infection possibilities and healing times. He stated that initially after the procedures, he follows up daily with the clients, and subsequently weekly. After two weeks, he requests the client return for a follow-up visit or he visits the client.

15. The Respondent provides to the prospective client verbal informed consent and written instructions on request.

16. The Respondent described the procedure he would generally use to perform a tongue-splitting:

I do an incision down the middle. I use hemostats to clamp both sides protecting the area, I do an incision right down the middle, and I suture it shut on both sides to prevent from bleeding and quicker and smoother healing purposes.

17. The Respondent stated the equipment he used was sterilized and included a sterile scalpel and A-D surgical 3-0 silk sutures.

18. The Respondent denied that he injected a local anesthetic prior to cutting the tongue.

19. The Respondent stated that a tongue-splitting procedure generally takes 30 to 45 minutes.

20. The Respondent stated that other than a few days of "pain" none of his clients had experienced any serious complications.

21. The Respondent stated that in the event of an "emergency" he has a single-use cautery pen to stop the bleeding.

## **EAR-CROPPING**

22. The Respondent stated that on one occasion he had performed an “ear-cropping” procedure, because the client had requested “pointed ears.” The Respondent stated that he had performed the ear-cropping procedure at a “sterile location” other than Facility A, before Facility A had opened for business.

23. The Respondent stated that during the ear-cropping procedure, he had “cut” each of the client’s ears “in angles” and subsequently sutured each ear “back together” to give the appearance “that it’s been pointed.”

24. The Respondent stated that routinely the completion of an ear-cropping procedure takes approximately one to two hours.

25. The Respondent stated that on the occasion he performed the ear-cropping procedure, he had informed the client before and after about the risks of the procedure.

26. The Respondent stated that ear-cropping is a permanent procedure.

## **SCARIFICATION**

27. The Respondent acknowledged that he also performed procedures known as “scarification”:

It’s essentially just light skin removal that just causes a scar where --some people get them for religious purposes, meditation purposes; some people just want that form of art. Instead of it being a tattoo where ink is injected into the skin, they prefer the incisions or the little bit of skin removal. So, you’ll scar, and it’s -- now you have the scar tissue as an art form.

28. The Respondent stated that he uses a hemostat and scalpel to perform a scarification procedure, and routinely “slightly” removes the “first few layers of skin.”

29. The Respondent stated that the approximate time to complete a scarification procedure is 20 minutes to three hours.

30. The Respondent stated that he informs the client before and after about the risks of the procedure.

### **PATIENT-SPECIFIC FINDINGS**

31. Patients A through I as set forth below, signed “releases” for the Respondent to perform “body modification, scarification, ritual and/or piercing.”<sup>2</sup>

32. During the Respondent’s interview, he acknowledged that he had performed tongue-splitting procedures on Patients A through F set forth below.

#### **PATIENT A**

33. Patient A, a male in his 20s, signed two release forms dated November 29, 2014 and April 31, 2015.

34. Patient A completed a history section on both release forms stating that he had not been tested for Hepatitis or HIV, and that he did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

35. Patient A documented that he had not ingested any drugs or alcohol within the prior 24 hours.

#### **PATIENT B**

36. Patient B, a male in his 20s, signed two release forms dated January 8, 2015 and February 7, 2015.

37. Patient B completed history sections on the release forms stating that he had not been tested for hepatitis or HIV. He documented that he suffered from “fainting” but that he did not suffer from diabetes, hemophilia, epilepsy or a heart condition.

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<sup>2</sup> The Board is not alleging that piercing constitutes the unauthorized practice of medicine, and it is unclear what “ritual” refers to on the form. The charges in this case involve the unauthorized practice of surgery which would include ear-cropping, tongue-splitting and scarification.

38. Patient B documented on both forms that he had not ingested any drugs or alcohol within the prior 24 hours.

**PATIENT C**

39. Patient C, a female in her 20s, signed a release form dated February 9, 2015.

40. Patient C completed a history section on the release form stating that she had not been tested for hepatitis or HIV, and that she did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

41. Patient C documented that she had not ingested any drugs or alcohol within the prior 24 hours.

**PATIENT D**

42. Patient D, a male in his 20s, signed a release form dated March 14, 2015.

43. Patient D completed a history section on the release form stating that he had not been tested for hepatitis or HIV, and that he did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

44. Patient D documented that he had not ingested any drugs or alcohol within the prior 24 hours.

**PATIENT E**

45. Patient E, a female in her 20s, signed a release form dated February 28, 2015.

46. Patient E completed a history section on the release form stating that she had been tested for hepatitis and HIV, and that she did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

47. Patient E documented that she had not ingested any drugs or alcohol within the prior 24 hours.



## **PATIENT F**

48. Patient F, a male in his teens, signed a release form dated May 25, 2015.

49. Patient F completed a history section on the release form stating that he had not been tested for Hepatitis or HIV, and that he did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

50. Patient F documented that he had not ingested any drugs or alcohol within the prior 24 hours.

## **PATIENT G**

51. Patient G, a female in her 20s, signed an undated release form.

52. Patient G completed a history section on the release form stating that she had not been tested for hepatitis or HIV, and that she did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

53. Patient G documented that she had not ingested any drugs or alcohol within the prior 24 hours.

## **PATIENT H**

54. Patient H, a male in his 50s, signed a release form dated April 8, 2015.

55. Patient H completed a history section on the release form stating that he had been tested for hepatitis and HIV, and the results were negative; and that he did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

56. Patient H documented that he had not ingested any drugs or alcohol within the prior 24 hours.

## **PATIENT I**

57. Patient I, a female in her 20s, signed a release form dated August 8, 2015.

58. Patient I completed a history section on the release form stating that she had been tested for hepatitis and HIV, and the results were negative, and that she did not suffer from diabetes, hemophilia, epilepsy, fainting or a heart condition.

59. Patient I documented that she had not ingested any alcohol, but had ingested Adderall during the prior 24 hours.

### **EXPERT REVIEW**

60. The Board transmitted relevant records to a board-certified physician (“physician reviewer”) for review in this case.

61. The physician reviewer opined that the Respondent’s actions constituted the practice of medicine.

62. Based on her review of the records, the physician reviewer opined that the rationale for her opinion was based on the definition of the practice of medicine under Health Occ. § 14-101, that the Respondent had engaged in the practice of cosmetic surgery in the performance of tongue-splitting, scarification or ear-cropping, obtaining informed consent for the procedures and by using a scalpel and suturing the wound(s) he has created.

### **II. CONCLUSION OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent’s actions and inactions constitute violations of Health Occ. § 14-601.

### **III. ORDER**

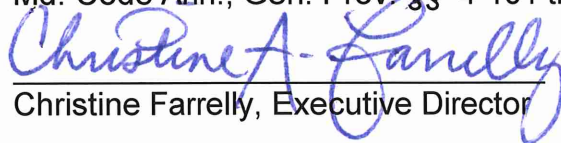
It is, on the affirmative vote of a majority of the quorum of the Board, hereby:

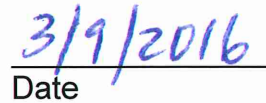
**ORDERED** that, pursuant to the authority vested by the Maryland Medical Practice Act, Health Occ. § 14-206(e) (2), the Respondent shall **IMMEDIATELY CEASE AND DESIST** from performing any surgical procedures including but not limited to procedures including tongue splitting, ear cropping and scarification; and it is hereby

**ORDERED** that within **ONE (1) YEAR** of the date of this Consent Order, the Respondent shall pay a monetary fine in the total amount of **FIVE HUNDRED (\$500.00) DOLLARS**. The payment or payments shall be by certified or bank guaranteed check(s) made payable to the Maryland State Board of Physicians. The check(s) should be mailed to: Maryland State Board of Physicians, P.O. Box 37217, Baltimore, Maryland, 21297; and it is further

**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2014 & 2015 Supp.).

  
Christine Farrelly, Executive Director

  
Date

**CONSENT**

I, Josh Morrow acknowledge that I am representing myself in these proceedings. I have been advised of my right to be represented by the attorney of my choice throughout proceedings before the Board, including the right to consult with an attorney prior to signing this Consent Order. I have knowingly, willfully and intelligently waived my right to be represented by an attorney before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that I might have filed after any such a hearing.

I sign this Consent Order after knowingly, willfully and intelligently waiving my right to be represented by an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

2/17/16  
Date

  
Josh Morrow

**STATE OF MARYLAND**

**CITY/COUNTY OF:**

I **HEREBY CERTIFY** that on this 17 day of February, 2016, before me, a Notary Public of the State and County aforesaid, personally appeared Josh Morrow, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

**AS WITNESS**, my hand and Notary Seal.

  
Notary Public

My commission expires: 02/07/2018

