

IN THE MATTER OF	*	BEFORE THE
	*	MARYLAND STATE
FRANKLIN H. CUSTER	*	BOARD OF PHYSICIANS
Respondent		
(Unlicensed)	*	Case Number: 2218-0263B
* * * * *	*	* * * * *

CONSENT ORDER

Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged Franklin H. Custer (the "Respondent"), an unlicensed individual, under the Maryland Athletic Trainers Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-5D-01 *et seq.* (2014 Repl. Vol. & 2017 Supp.).

The pertinent provisions of the Act provide as follows:

§ 14-5D-07. License required; exception

- (a) *License required.* Except as otherwise provided in this subtitle,¹ on or after October 1, 2011, an individual shall be licensed by the Board before the individual may practice athletic training in the State.

§ 14-5D-01. Definitions

- ...
- (p) *Practice athletic training*
- (1) "Practice athletic training" means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:
- (i) Prevention;
 - (ii) Clinical evaluation and assessment;
 - (iii) Immediate care; and
 - (iv) Treatment, rehabilitation, and reconditioning.

§ 14-5D-11. Supervision required; evaluation and treatment protocol.

...

¹ The statutory exceptions are not applicable.

(b) *Preliminary requirements.* Before an athletic trainer may practice athletic training, the athletic trainer shall:

- (1) Obtain a license under this subtitle[.]

§ 14-5D-17. Practice without license prohibited.

Unless authorized to practice athletic training under this subtitle, a person may not:

- (1) Practice athletic training in this State;
- (2) Attempt to practice or offer to practice athletic training in this State;
- (3) Represent to the public by title, description of services, methods, or procedures, or otherwise, that the person is authorized to practice athletic training in this State[.]

Prior to the issuance of a charging document, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusions of Law, Order and Consent.

FINDINGS OF FACT

1. At all times relevant, the Respondent was not been licensed as an athletic trainer, or by any Maryland health occupation licensing board.
2. On or about March 12, 2018, the Board received information that the Respondent was listed as an “athletic trainer” on the website of the athletic department of a high school located in Maryland.²

² A second unlicensed individual was also listed as an athletic trainer on the website. Disciplinary Panel B has separately charged that individual with unauthorized practice of athletic training.

3. In furtherance of the Board's investigation of this matter, Board staff obtained information from the county school system that the Respondent had signed an "Assignment to Extra-Curricular Pay Positions" under the terms of which he accepted the assignment of and compensation as an athletic trainer during the 2017 – 2018 school year. The corresponding job description stated that "the athletic trainer will work with coaches in the prevention of athletic injuries," and that athletic trainers "shall have an injury management program."
4. When interviewed by Board staff the Respondent acknowledged that he had: assessed athletes' injuries on the playing field; palpated injured athletes' joints; taped and iced athletes and conducted a concussion protocol on injured athletes.
5. Board staff obtained further information from individuals who had observed the Respondent during the high school's athletic events perform functions that were consistent with the scope of practice of an athletic trainer, including those that the Respondent acknowledged he had provided.

CONCLUSION OF LAW

Based on the foregoing findings of fact, the Board concludes as a matter of law that the Respondent practiced as an athletic trainer without a license, in violation of Health Occ. §§ 14-5D-07, (11)(b) and 17.

ORDER

Based on the foregoing Findings of Fact and Conclusion of Law, it is, by the Board, hereby

ORDERED that the Respondent shall immediately **cease and desist** practicing athletic training; and it is further

ORDERED that within one (1) year, the Respondent shall pay a civil fine in the amount of \$500.00 by money order or bank certified check made payable to the Maryland Board of Physicians, and mailed to P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may impose a civil monetary fine on the Respondent; and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann.,
Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

11/29/2018
Date

Christine A. Farrelly
Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Franklin H. Custer, acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive these rights and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 their behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understands the language and meaning of its terms.

Signature on File

11/27/2018
Date

Franklin H. Custer
Respondent

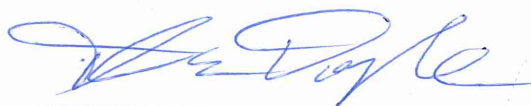
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF CARROLL

I HEREBY CERTIFY that on this 27TH day of NOVEMBER 2018, before me,
a Notary Public of the foregoing State and City/County, personally appeared Franklin H.
Custer., and made oath in due form of law that signing the foregoing Consent Order was
his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public

My Commission expires: 6-7-2020

