

IN THE MATTER OF	*	BEFORE THE
HAN NGUYEN	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
Unlicensed	*	Case Number: 2221-0034A

* * * * *

CEASE AND DESIST ORDER

Pursuant to the authority granted to Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) under Md. Code Ann., Health Occ. (“Health Occ.”) § 14-206(e)(1) (2014 Repl. Vol. & 2019 Supp.), Panel A hereby orders **HAN NGUYEN** (the “Respondent”), an unlicensed individual, to immediately **CEASE AND DESIST** from all activities constituting the practice of medicine in the State of Maryland, as defined in Health Occ. § 14-101(o).

The pertinent provisions of the Maryland Medical Practice Act (the “Act”), Health Occ. §§ 14-101 *et seq.*, under which Panel A issues this Order provide the following:

§ 14-101. Definitions.

- (o) *Practice medicine.* – (1) “Practice medicine” means to engage, with or without compensation, in medical:
 - (i) Diagnosis;
 - (ii) Healing;
 - (iii) Treatment;
 - (iv) Surgery.
- (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[.]

§ 14-206. Judicial Powers.

...

- (e) *Cease and desist orders; injunctions.* – A disciplinary panel may issue a cease and desist order or obtain injunctive relief against an individual for:
- (1) Practicing a profession regulated under this title or Title 15 of this article without a license; or

§ 14-601. Practicing without 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.

Md. Code Regs. 10.32.09 – Delegation and Assignment of Performance of Cosmetic Medical Procedures and Use of Cosmetic Medical Devices

.01 Scope

- A. This chapter governs the performance, delegation, assignment, and supervision of cosmetic medical procedures, and the use of cosmetic medical devices by a physician or under a physician's directions.
- ...
- D. This chapter does not authorize the delegation of any duties to a person who is not licensed under the Health Occupations Article, Annotated Code of Maryland.

.02 Definitions.

...

- B. Terms Defined.
- (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:

- ...
- (viii) Treatments intended to remove or cause destruction of fat[.]

INVESTIGATIVE FINDINGS¹

Based on the investigatory information received by, made known to, and available to Panel A, there is reason to believe that the following facts are true:

I. BACKGROUND

1. At all relevant times, the Respondent has never been licensed to practice medicine in the State of Maryland. She is not certified as a medical assistant by the Maryland Board of Nursing and has never been licensed or certified by any health occupations licensing board in Maryland.

2. Since January 2019, the Respondent has been employed at a medical office specializing in medical and aesthetic dermatology in Columbia, Maryland (the "Office").² The Office is owned by Physician 1.³

3. The Respondent is employed as an unlicensed "medical assistant" at the Office.

¹ The statements regarding the Board's investigative findings are intended to provide the Respondent with reasonable notice of the Board's action. 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 this matter.

² For confidentiality and privacy purposes, the names of patients, health care providers, health care facilities, and other institutions are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals, facilities, or institutions by contacting the assigned administrative prosecutor.

³ Panel A has charged Physician 1 with violating the Maryland Medical Practice Act for reasons including those stated herein.

4. In or around December 2019, the Board received a complaint regarding the Office. The Board investigated the complaint and determined that the allegations in the complaint were not substantiated.

5. The Board's investigation revealed, however, that the Respondent independently performs consultations with patients who are interested in CoolSculpting® treatments.

6. The Board's investigation further revealed that the Respondent performs CoolSculpting® treatments on patients whom she determines are appropriate candidates.

7. CoolSculpting® is approved by the U.S. Food and Drug Administration for the treatment and eradication of visible fat deposits. The CoolSculpting® method to remove fat is cryolipolysis, the destruction of fat cells by exposing fat deposits to freezing temperatures.

II. THE BOARD'S INVESTIGATION

A. The Respondent's Interview

8. In furtherance of its investigation, on October 19, 2020, Board staff interviewed the Respondent under oath.

9. The Respondent stated that she has been performing CoolSculpting® treatments on patients since mid-January 2019.

10. The Respondent received training regarding how to perform CoolSculpting® treatments by watching videos on the Coolsculpting® website and observing a former Office employee perform treatments.

11. The Respondent stated that she independently consulted with patients who were interested in Coolsculpting®. During a patient consultation, the Respondent

explains the history of CoolSculpting®, the procedure, and possible adverse effects. The Respondent determines how many “cycles” of CoolSculpting® a patient would need to obtain the desired result by measuring the visible fat deposits the patient wishes to reduce with a plastic template. The Respondent also determines which CoolSculpting® applicator she will use during the treatment.

12. The Respondent completes the patient consultation form, including the patient’s name, the parts of the body to be treated – notated with circles on a diagram – and the treatment plan, which totals the number of cycles that will be used.

13. During a CoolSculpting® treatment session, the Respondent prepares the part of the patient’s body to be treated by wiping it with a cleansing wipe and then applying a gel pad to the skin. The Respondent starts the CoolSculpting® machine, inserts a software card into the machine, and straps the suction applicator to the patient’s body part to be treated.⁴ The Respondent provides the patient with a pager in the event the patient feels any discomfort during the treatment session.

14. After the treatment, Physician 1 meets with the patient to discuss possible side effects.

15. The Respondent does not document the CoolSculpting® treatment session in the patient’s medical record except for noting the reason for the visit. Physician 1 documents the treatment session.

⁴ The length of the treatment session is determined by the number of the cycles the patient will be administered, which is contained on the software card.

B. Physician 1's Interview

16. Physician 1 confirmed that the Respondent performed CoolSculpting® treatments in the Office.

17. Physician 1 explained that CoolSculpting® uses a process called selective thermolysis that freezes fat cells without harming other cells, nerves, or blood vessels. The fat cells are destroyed in a controlled “cell vac” process called apoptosis and are subsequently excreted by the body.

18. Physician 1 identified the CoolSculpting® device as a cosmetic medical device, which she distinguished from other medical devices that are used to treat dermatological conditions.

C. The Office's CoolSculpting® Records

19. The Board subpoenaed from the Office CoolSculpting® appointment logs from January 1, 2019 to August 14, 2020. The records revealed that the Respondent performed CoolSculpting® treatment on approximately eighty (80) patients.

20. The Board subpoenaed from the Office ten (10) records of patients who had received CoolSculpting® treatment. The records revealed that the Respondent documented her consultations with patients but did not document that she performed the CoolSculpting® treatments.

CONCLUSIONS OF LAW

Based on the foregoing Investigative Findings, Panel A concludes as a matter of law that the Respondent practiced medicine in the State of Maryland without a license from the Board in violation of Health Occ. § 14-601. Because the Respondent practiced

medicine in Maryland without a license from the Board, a disciplinary panel may issue a cease and desist order. Health Occ. § 14-206(e)(1).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is by Panel A hereby:

ORDERED that pursuant to the authority under the Maryland Medical Practice Act, Health Occ. § 14-206(e)(1), the Respondent, Han Nguyen, shall **IMMEDIATELY CEASE AND DESIST** from the practice of medicine, thus the Respondent shall not perform CoolSculpting® treatment on any person and shall not consult with patients regarding CoolSculpting®; and it is further

ORDERED that if the Respondent violates this Cease and Desist Order, the Board may, pursuant to Md. Code Regs. 10.32.02.11E(4)(a), impose a fine as provided in Code Md. Regs. 10.32.02.09C; and it is further

ORDERED that this order is **EFFECTIVE IMMEDIATELY** pursuant to Md. Code Regs. 10.32.02.11E(1)(b), and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* and Md. Code Regs. 10.32.02.11E(1)(a).

01/15/2021
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF OPPORTUNITY FOR A HEARING

The Respondent may challenge the factual or legal basis of this initial order by filing a written opposition, which may include a request for a hearing, within 30 days of its issuance. The written opposition shall be made to:

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215

A copy shall also be mailed to:

Victoria H. Pepper
Assistant Attorney General
Maryland Office of the Attorney General
Health Occupations Prosecution and Litigation Division
300 West Preston Street, Suite 201
Baltimore, Maryland 21201

If the Respondent files a written opposition and a request for a hearing, the Board shall consider that opposition and provide a hearing if requested. If the Respondent does not file a timely written opposition, the Respondent will lose the right to challenge this Initial Order to Cease and Desist and this Order will remain in effect.