

**IN THE MATTER OF**

\*

**BEFORE THE**

**HAN NGUYEN**

\*

**MARYLAND STATE**

**Respondent**

\*

**BOARD OF PHYSICIANS**

**Unlicensed**

\*

**Case Number: 2221-0034A**

\* \* \* \* \*

**CONSENT ORDER**

On January 27, 2021, the Maryland State Board of Physicians (the "Board") charged **HAN NGUYEN** (the "Respondent"), an unlicensed individual, under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("HEALTH OCC.") §§ 14-101 *et seq.* (2009 Rep. Vol. & 2019 Supp.).

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[.]

**§ 14-601. 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[.]

On April 14, 2021, 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, Order, and Consent.

## FINDINGS OF FACT

Panel A finds the following:

### **I. BACKGROUND**

1. At all relevant times, the Respondent has never been licensed to practice medicine in the State of Maryland 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").<sup>1</sup> The Office is owned by Physician 1.

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

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

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<sup>1</sup> For confidentiality and privacy purposes, the names of patients, health care providers, health care facilities, and other institutions are not disclosed in this Order.

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, observing a former Office employee perform treatments, and by shadowing Physician 1 when CoolSculpting® was administered to patients.

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.<sup>2</sup> 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.

**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.

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<sup>2</sup> 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.

**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 Findings of Fact, Panel A concludes as a matter of law that the Respondent's conduct, in whole or in part, constitutes the practice of medicine without a license, in violation of Health Occ. § 14-601.

**ORDER**

It is thus by a majority of a quorum of Disciplinary Panel A of the Board hereby:

**ORDERED** that the Respondent shall continue to **CEASE AND DESIST** from practicing medicine, thus the Respondent shall not perform CoolSculpting® without a license and shall not consult with patients regarding CoolSculpting®; and it is further

**ORDERED** within **30 DAYS** from the effective date of this Consent Order, the Respondent shall pay a civil fine of **ONE HUNDRED DOLLARS (\$100.00)**. The Payment shall be 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

## *Signature on File*

05/25/2021  
Date

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

**CONSENT**

I, Han Nguyen, 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 this right 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 my 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 understand the language and meaning of its terms.

***Signature on File***

5/15/21  
Date

Han Nguyen



**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Howard

I HEREBY CERTIFY that on this 15 day of MAY 2021,

2021, before me, a Notary Public of the State and County aforesaid, personally appeared Han Nguyen, 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.

Robert M. Warner

Notary Public

My Commission Expires: \_\_\_\_\_

