

IN THE MATTER OF
TRACY AUSTIN, M.D.¹
Respondent
Unlicensed

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2014-0773

* * * * *

CONSENT ORDER

On February 3, 2015, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged **TRACY AUSTIN**, (the "Respondent"), unlicensed, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. - II ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, Disciplinary Panel B charged the Respondent with violating the following provision of the Act under Health Occ.:

§ 14-602 Misrepresentation as practitioner of medicine.

(b) *Certain representations prohibited.* – Except as otherwise provided in this article, a person may not use the words or terms "Dr.", "doctor", "physician", "D.O." or "M.D." with the intent to represent that the person practices medicine, unless the person is:

- (1) Licensed to practice medicine under this title;
- (2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;
- (3) A physician employed by the federal government while performing duties incident to that employment;
- (4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

¹ The Respondent uses the alias of "Dr. Phoenix" and "Dr. Phoenix Austin" on her personal website, social media pages and publications.

- (5) An individual in a postgraduate medical program that is approved by the Board.

On May 27, 2015, a settlement conference was held before Disciplinary Panel B of the Board serving as the Disciplinary Committee for Case Resolution. As a resolution of this matter, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Disciplinary Panel B of the Board makes the following Findings of Fact:

BACKGROUND

1. The Respondent is not, and has never been, licensed to practice medicine in the State of Maryland or any other jurisdiction.
2. The Respondent owns and operates a limited liability company named "Dr. Phoenix, LLC," for purposes of promoting her health expertise. Dr. Phoenix, LLC is located in Maryland and was organized on or about August 24, 2012, under the laws of Maryland.
3. On or about April 3, 2014, the Board received a written anonymous complaint from an individual who stated that the Respondent represented herself as a sports medicine physician on her website, social media pages and books. The individual questioned whether the Respondent was licensed to practice medicine in any state within the United States. Attached to the complaint were printouts from the Respondent's website entitled "DR. PHOENYX."
4. Based on the complaint, the Board initiated an investigation of the Respondent. Board investigation found evidence that the Respondent used the words "Sports Medicine Physician" in connection with her name on her personal website,

social media pages and publications with the intent to represent that she practices medicine, despite her not being licensed to practice medicine in Maryland or any other jurisdiction.

BOARD INVESTIGATION

Personal Website - www.drphoenix.com

5. After receiving the complaint, a Board investigator visited the Respondent's personal website at www.drphoenix.com and found that the Respondent referred to herself as a physician, sports medicine physician and "doc" on her website. The Respondent also posted pictures of herself on the website, and in a page entitled "Meet Dr. Phoenix," it states, "Welcome! You've officially entered my hub for all things fitness! I'm the head doc in charge, Dr. Phoenix, and I'm a Sports Medicine Physician, Bestselling author, certified trainer, and fitness model."

6. The page further states, "I loved sports being outdoors, and I loved hitting the gym. But now I barely had the energy to work out and taking care of myself seemed to take a distant backseat to all my other responsibilities. *Not quite the lifestyle I pictured for myself as a young and budding doc who went into the health profession because she actually believed in the importance of taking care of oneself and staying in shape.*" (Emphasis in original).

7. Later in the page, the Respondent states, "Physicians (and other health professionals) should not just be the 'messengers' of good health. We should be talking the talk, and walking the walk. We should be an inspiration to others. What can I say, that's just my personal opinion and professional philosophy. And that's what motivates me to do what I do. Because I want to be fit and healthy myself. Because I truly believe

in the Hippocratic Oath I took as a physician. And because I want to inspire others."
(Emphasis in original).

Respondent's Written Response and Interview

8. The Board notified the Respondent of the complaint and received a written response from her, dated July 1, 2014. In the written response, the Respondent apologized for erroneously listing herself as a "Sports Medicine Physician" on her website, attributing it as an error by her social media manager. The Respondent further admitted to referring to herself publicly as a "physician" but insisted that she had a right to do so, since she had earned a medical degree from Meharry Medical College. The Respondent advised that she had already changed her website to reflect that she was a "Certified Sports Medicine Specialist," not a "Sports Medicine Physician."

9. The Respondent also appeared for a Board interview on or about July 24, 2014. During the interview, the Respondent reiterated that she was entitled to refer to herself as a "physician" but agreed that she was not a "Sports Medicine Physician."

Respondent's Books

10. In the course of its investigation, the Respondent provided the Board two books which she authored and published entitled *If You Love It, It Will Grow* ("First Book") And *That's Why You're Fat* ("Second Book"). The Respondent published both books under the name "Dr. Phoenix Austin." The Respondent published her First Book in 2012 and published her Second Book in 2013.

11. In the introduction to the First Book, the Respondent stated, "Yes, I am a physician who knows a lot about health and hair, but I want to emphasize that I'm just a woman who wants to feel good and look good."

12. In the Second Book under the chapter "What's Up, Doc," the Respondent stated,

The knowledge I've gained from being both a medical doctor and fitness expert means that I come with two distinct, yet very interrelated skill sets. As a physician, I have a medical background and in-depth knowledge about topics like anatomy, biology and biochemistry. As a fitness trainer, I have in-depth knowledge about topics like exercise physiology, nutrition, and even psychology. This book represents the merging of my two skill sets and professional expertise. I must say that it's pretty cool to walk the line between doctor and trainer, because I see fitness from many angles and perspectives that the average doctor and even the average trainer may not see.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's use of the words "sports medicine physician" on her personal website constitutes a violation of Health Occ. § 14-602(b).

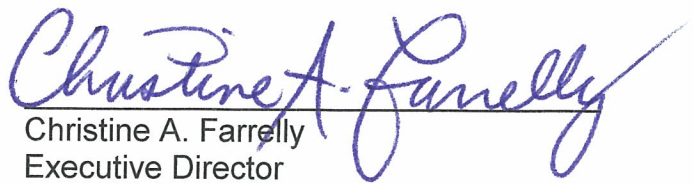
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the quorum of the Board considering this case:

ORDERED that the Respondent will revise her written disclaimers on her website and on any future publications to state that she is not licensed to practice medicine; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

6/19/2015
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

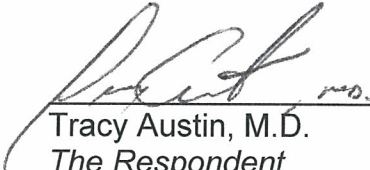
CONSENT

I, Tracy Austin, acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by Disciplinary Panel B of 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary Panel B 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 a disciplinary panel of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

6/15/2015
Date



Tracy Austin, M.D.
The Respondent

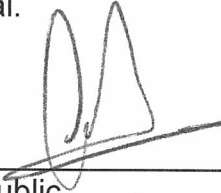
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 15th day of JUNE, 2015,
before me, a Notary Public of the foregoing State and City/County personally appear
Tracy Austin, and made oath in due form of law that signing the foregoing Consent
Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.



Manish Thanki
Notary Public State of Maryland
Commission Expires 4/30/18

Notary Public

My commission expires: 04/30/2018