

IN THE MATTER OF
TERESE H. THOMAS, M.D.
Respondent
License Number: D31202

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2219-0163A**

CONSENT ORDER

On December 27, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Terese H. Thomas, M.D.** (the “Respondent”), **License Number D31202**, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.). Panel A charged the Respondent under the following provisions of the Act:

§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.

(a) *In general.* – Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

...

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine; [and]

...

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine[.]

The pertinent provisions of the Board’s regulations in Title 10, Subtitle 32 of Md. Code Regs. provide:

Ch. 09 Delegation and Assignment of Performance of Cosmetic Medical Procedures and Use of Cosmetic Medical Devices.

.01. Scope.

A. 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 direction.

...

D. This chapter does not authorize the delegation of any duties to any person who is not licensed under Health Occupations Article, Annotated Code of Maryland.

.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(4) Cosmetic Medical Device.

(a) "Cosmetic Medical Device" means a device that alters or damages living tissue.

(b) "Cosmetic Medical Device" includes any of the following items when the item is used for cosmetic purposes:

(i) Laser;

(ii) Device emitting light or intense pulse light;

(iii) Device emitting radio frequency, electric pulses, or sound waves; and

(iv) Devices used for the injection or insertion of foreign or natural substances into the skin, fat, facial tissue, muscle, or bone.

(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:

(i) Skin treatments using lasers;

(ii) Skin treatments using intense pulsed light;

- (iii) Skin treatments using radio frequencies, microwave, or electric pulses;
- ...
- (v) Skin treatments with phototherapy; [and]
- ...
- (ix) Any treatment using a cosmetic medical device for the purpose of improving an individual's appearance.

.04. Qualifications of Individual to Whom Acts May Be Delegated and Assigned.

- A. A cosmetic medical procedure may be delegated to a physician assistant or assigned to any other health care provider licensed under Health Occupations Article, Annotated Code of Maryland, whose licensing board has determined that the procedure falls within the provider's scope of practice[.]

.09 Grounds for Discipline.

- A. Physician. A physician may be disciplined for any of the following:
 - (1) Delegating, assigning, or supervising a cosmetic medical procedure performed by an individual who is not a physician assistant or another licensed health care provider whose licensing board has determined that the procedure is within the scope of practice of the individual[.]
- B. Non-Physician. A non-physician who violates any provision of this chapter is guilty of the practice of medicine without a license and may be subject to a fine of not more than \$50,000 under [Health Occ.] § 14-606[.]

On March 11, 2020, 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.

FINDINGS OF FACT

Panel A finds:

I. BACKGROUND AND COMPLAINT

1. At all relevant times, the Respondent has been licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about August 2, 1984, under License Number D31202. Her license is active through September 30, 2021.

2. At all relevant times, the Respondent co-owned a medical spa practice (the “Practice”)¹ located in College Park, Maryland with another individual (“Individual A”).

3. Individual A has never been licensed by the Board to practice medicine or as a physician assistant, nor has he ever been licensed or certified by any other health occupation board in Maryland under the Health Occupations Article.

4. At all relevant times, the Practice offered cosmetic medical procedures including laser hair removal and other laser and radiofrequency skin services.

5. On or about March 25, 2019, the Board received a complaint from a female patient (“Patient A”) alleging that, on or about March 13, 2019, Individual A, a male, performed a laser hair removal treatment on Patient A’s pubic region without the Respondent present. Patient A said in her complaint that she had seen the Respondent in the past for laser hair removal treatments and had an appointment with the Respondent on March 13, 2019. When she arrived at the Practice, the Respondent was not there. According to Patient A, Individual A told her that he would do the procedure because he

¹ For confidentiality and privacy purposes, the names of patients, health care providers and health care facilities are not disclosed in this document but are known to the Respondent.

was certified in laser hair removal. Patient A said that she was uncomfortable because the procedure was in a “sensitive area,” and she later noticed “drastically different” results compared to when the Respondent had performed laser hair removal procedures.

II. BOARD INVESTIGATION

6. The Board opened an investigation based on Patient A’s complaint.

A. Unannounced Site Visit

7. As part of its investigation, Board staff conducted an unannounced site visit at the Practice on or about April 18, 2019.

8. Upon arrival at the Practice at about 11:20 a.m., Board staff observed Individual A exit a room wearing large sunglasses. Individual A said that he would help them soon; he then re-entered the room. Board staff observed that Individual A was the only staff member present, and a female patient was in the room with him.

9. Once Individual A and the patient left the exam room, Board staff served Individual A with subpoenas for appointment logs and an employee list.

10. While Board staff was speaking with Individual A about the subpoenas, a second patient arrived at the Practice. Individual A placed this second patient in a second room. He then escorted Board staff into the room where the first patient had been, which contained a “Gentle YAG Pro-U” machine, which uses a laser, among other things, to provide skin treatments to improve an individual’s appearance.

11. Individual A then told Board staff that he was uncomfortable with their presence and would like to wait for the Respondent to arrive before he provided any further information. Board staff went to the waiting area in the Practice, where they

overheard Individual A speaking with the second patient in a room with sounds coming from a machine inside that room.

12. After the second patient left the Practice, Board staff entered the second room and observed a “Vela Shape III” machine, which uses radiofrequency and suction to provide skin treatments to improve an individual’s appearance.

13. By about 12:00 p.m., the Respondent was still not at the Practice. Board staff left the Practice to allow Individual A time to prepare the documents requested in the Board’s subpoenas.

14. Board staff returned to the Practice at or about 1:30 p.m. The Respondent had arrived by this time. Board staff was provided with copies of the Practice’s appointment logs from January 2018 through April 2019 as well as with an employee list, which listed only the Respondent and Individual A as employees of the Practice.

B. Appointment Logs

15. As part of its investigation, Board staff reviewed the Practice’s appointment logs that were produced during the unannounced site visit. The appointment logs had the following notations, among others:

- a. Mar. 16, 2018: “[Respondent] needs off”
- b. May 11, 2018: “Honor + Oath Day,” “[Respondent] off” and “[Respondent] DEFINITELY OUT”
- c. Dec. 14, 2018: “[Respondent at] Funeral in N.J.”

16. The appointment log further showed that:

- a. On or about March 16, 2018, the Practice had approximately ten (10) appointments scheduled.

- b. On or about May 11, 2018, the Practice had approximately six (6) appointments scheduled.
- c. On or about December 14, 2018, the Practice had approximately fifteen (15) appointments scheduled.

17. For March 13, 2019, the appointment log showed that Patient A was scheduled at 11:00 a.m. for a “Braz[ilian].” A total of fourteen (14) other patients were scheduled for various cosmetic medical procedures that day. The appointment log did not include notes about the Respondent’s whereabouts that day.

18. For April 18, 2019, when Board staff conducted the unannounced visit, the appointment log showed a total of thirteen (13) patients scheduled for various cosmetic medical procedures. Consistent with Board staff’s observations (*see* ¶¶ 7-11, *supra*), the appointment log showed a patient scheduled at 11:00 a.m. for “lip, Braz[ilian], trail,” and another patient scheduled at 11:30 a.m. for “Vela III 1 area.” The appointment log did not include notes about the Respondent’s whereabouts that day.

C. Patient Records

19. As part of its investigation, the Board subpoenaed records from the Practice for all patients seen at the Practice when the Respondent was either noted or observed as being out of the office (*see* ¶¶ 5, 8-13, and 15, *supra*), specifically on March 16, May 11, and December 14, 2018, as well as March 13 and April 18, 2019.

20. Each patient record provided to the Board included a treatment log, among other things. The treatment logs listed the number of treatments the patient received, the date of each treatment, laser intensity used for the treatment, and the time of the treatment.

21. These treatment logs showed the following information for the days that the Respondent was either noted or observed as being out of the office:

- a. On or about March 16, 2018, at least four (4) patients received laser or radiofrequency skin treatment at the Practice;
- b. On or about May 11, 2018, at least five (5) patients received laser or radiofrequency skin treatment at the Practice;
- c. On or about December 14, 2018, at least seven (7) patients received laser or radiofrequency skin treatment at the Practice;
- d. On or about March 13, 2019, at least ten (10) patients received laser or radiofrequency skin treatment at the Practice; and
- e. On or about April 18, 2019, at least two (2) patients received laser or radiofrequency skin treatment at the Practice at or before 12:00 p.m.

D. Interview of Patient A

22. As part of its investigation, Board staff interviewed Patient A under oath on or about June 19, 2019.

23. Patient A stated during her interview that she received laser hair removal treatment at the Practice several times. She said that she had an established relationship with the Respondent, who had performed all her prior treatments.

24. Patient A then described the events of March 13, 2019. She was scheduled with the Respondent that day for laser hair removal in Patient A's pubic region. She arrived at the Practice "as normal" and was brought to an exam room by Individual A. Individual A left the room, during which time Patient A undressed and draped a towel over herself. Individual A then walked into the room alone. When Patient A asked where the Respondent was, Individual A told her the Respondent was not in the office and that he would perform the treatment on Patient A. Patient A then asked Individual A about his credentials, and he stated that he was certified to operate the laser. Patient A ultimately agreed to let Individual A perform the laser hair removal treatment.

25. Patient A further explained that Individual A prepared the laser and had Patient A remove the towel and move into an “awkward [and] uncomfortable position,” which was different from the position the Respondent usually had her in during the treatment. Patient A described the position as one with her feet together and knees spread apart, making her feel “completely exposed.” Patient A questioned Individual A about the position, but the Respondent said, “Don’t be shy.” Individual A then began to reach for Patient A’s vagina without wearing gloves. Patient A asked Individual A if he was going to wear gloves, to which he replied that he did not have any gloves to put on. Individual A then “opened up [Patient A’s] labia with his bare hand” and proceeded with the laser hair removal treatment. Patient A said that the Respondent wore gloves and usually did not touch her vagina during the treatment.

26. Patient A said that after the treatment was complete, Individual A did not explain any post-treatment instructions or care.

27. Patient A explained that the treatment that Individual A performed was not as effective in removing her unwanted hair compared to when the Respondent performed the laser hair removal treatment.

E. The Respondent’s Written Response

28. By letter dated June 26, 2019, the Board notified the Respondent that the Board received a complaint alleging that she was allowing an unlicensed individual to practice medicine and requested that she submit a written response.

29. On or about July 25, 2019, the Board received the Respondent’s written response. The Respondent acknowledged that Individual A “did, on occasion, use laser to perform hair removal procedures[,]” and that she “was aware of his occasional use of

laser to perform hair removal procedures[.]” She stated her belief that Individual A’s use of the laser was on “his children; some patients who arrived early or late for scheduled appointments; and some walk-in patients.”

F. Interview of Individual A

30. As part of its investigation, Board staff interviewed Individual A, under oath, on or about July 29, 2019.

31. Individual A said that he opened the Practice with the Respondent in 2014 after he obtained certification as a “Laser Safety Officer.”

32. Individual A admitted that he performed radiofrequency and laser treatment procedures on patients. He explained that he “performed procedures only in emergencies when [the Respondent was] not available.” Individual A admitted to performing laser hair removal on walk-in patients “if [the Respondent] was there and she was busy[.]”

33. Individual A estimated that he performed one to three procedures per week on patients using a radiofrequency machine in the Practice.

34. Individual A admitted to performing a laser hair removal treatment on Patient A on March 13, 2019. Individual A said that the Respondent was out of the office that day, “handling an emergency.”

35. Individual A said that on the morning of April 18, 2019, when Board staff conducted the site visit, the Respondent “was having some issues with [a family member] and they had to take [the family member] to ICU that morning, and that’s why she was late getting there[.]” He said that the patient in the room when Board staff arrived “didn’t mind me doing the procedure on her, so that’s why we did it -- I did it.”

36. Individual A said that since being notified of the Board's investigation, the Respondent "is the person that's doing all the procedures." However, when asked to clarify if he was still performing any procedures he answered, "Well, on the laser, yeah[;] I still do the radiofrequency, the Vela."

G. Interview of the Respondent

37. As part of its investigation, Board staff interviewed the Respondent, under oath, on or about July 29, 2019.

38. The Respondent said that she is the Medical Director of the Practice and is the staff member who "does intense pulsed light[,] . . . the Vela, and . . . the lasering of all areas." The Respondent said that Individual A is the Office Manager and "Laser Safety Officer," who "sets the machine up" and does other general office work including making appointments, doing laundry, and cleaning.

39. The Respondent confirmed that, for treatment purposes, the Practice has a "Gentle YAG" machine, which uses laser; a "Vela" machine, which uses radiofrequency, and an "elos Plus" machine, which uses both laser and radiofrequency.

40. The Respondent provided the following information about the days when the appointment log noted that she was not at the Practice or when she was directly observed as not being at the Practice:

- a. On March 16, 2018, she was at a family member's "white coat ceremony" and arrived at the Practice in the afternoon.
- b. On May 11, 2018, she attended a family member's "honors and oath day" and arrived at the Practice in the afternoon.
- c. On December 14, 2018, she "was scheduled to go to a funeral," and believed that most of the patients had been rescheduled.

- d. On March 13, 2019, when Patient A received treatment, the Respondent “was in the [Practice] so when that group² showed up . . . I didn’t open the door because I’m afraid of them actually. And then I heard [Individual A] come in with them and [they] obviously kind of bullied [Individual A] into, you know, whatever they wanted[.]”
- e. On the morning of April 18, 2019, when Board staff conducted the unannounced site visit, she was not in the office because she was at a hospital with a family member.

41. The Respondent said that while Individual A should not provide laser hair removal treatment, “I know that he has,” and he has “had [to] this last year and in some emergencies.” The Respondent stated that Individual A has performed laser hair removal procedures on her, and, she believed, on “some of his friends or girlfriends.”

42. The Respondent said that she has also witnessed Individual A perform laser hair removal treatments while she was present at the Practice. The Respondent explained that Individual A performed laser hair removal treatments on patients if those patients did not like the Respondent, “because they’re in a package and so it’s like, how do you honor the package?”

43. The Respondent estimated that Individual A performed laser hair removal treatments at the Practice approximately twice per week. The Respondent said that the Individual A performed laser hair removal treatments on his adult children as well as on the Respondent beginning in 2014 when the Practice opened.

44. When asked specifically about Patient A’s treatment on March 13, 2019, the Respondent admitted that she was not in the office and that she knew Individual A performed laser hair removal treatment on Patient A’s pubic region.

² “[T]hat group” appears to refer to individuals other than Patient A who the Respondent initially believed were the complainants against her and Individual A.

45. When presented with treatment records for patients, the Respondent was unable to say whether she or Individual A had provided a specific treatment based on the way the records were maintained.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent engaged in unprofessional conduct in the practice of medicine in violation of Health Occ. § 14-404(a)(3)(ii), delegated cosmetic medical procedures to an individual who is not licensed by the Health Occupations Article in violation of Md. Code Regs. 10.32.09.04A, and practiced medicine with an unauthorized person or aided an unauthorized person in the practice of medicine in violation of Health Occ. § 14-404(a)(18).

ORDER

It is thus by Disciplinary Panel A of the Board, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a **minimum of ONE (1) YEAR**.³ During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) **Within one (1) year**, the Respondent shall pay a civil fine of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000)**. 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. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and

³ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

(2) **Within six (6) months**, the Respondent is required to take and successfully complete a course in ethics, focusing on the issues in this case. The following terms apply:

- (a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;
- (b) the disciplinary panel will not accept a course taken over the internet;
- (c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
- (d) the course may not be used to fulfill the continuing medical education credits required for license renewal;
- (e) the Respondent is responsible for the cost of the course; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his or her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; 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 or her designee 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 the disciplinary panel determines 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 the disciplinary panel determines 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 reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; 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

04/03/2020
Date

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Terese H. Thomas, M.D., 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

March 20, 2020
Date

(Terese H. Thomas, M.D.

NOTARY

STATE OF Maryland

CITY / COUNTY OF Prince Georges

I HEREBY CERTIFY that on this 19th day of March 2020, before me, a Notary Public of the foregoing State and City/County, personally appeared Terese H. Thomas, M.D., 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.

Kellyeze Nwoji
Notary Public

My Commission expires: 07/14/2020



KELLY EZE NWOJI
NOTARY PUBLIC
Prince George's County
State of Maryland
My Commission Expires
July 14, 2020