

IN THE MATTER OF * **BEFORE THE MARYLAND**
CHRISTOPHER YATES * **STATE BOARD OF**
Respondent * **PHYSICIANS**
Unlicensed * **Case Number: 2015-0034**

CONSENT ORDER

On or about July 17, 2014, Disciplinary Panel A of the Maryland State Board of Physicians (the “Board”), initiated an investigation of Christopher Yates (the “Respondent”), under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) § 14-101 et seq.

Based on its investigation, Disciplinary Panel A has grounds to charge the Respondent under the following provision of the Act:

Health Occ. § 14-601:

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.

Health Occ. § 14-606 provides in pertinent part:

...

(4) Except as provided in paragraph (5) of this subsection,¹ a person who violates § 14-601 . . . of this subtitle is:

...

(ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

¹ Paragraph (5) does not apply to the Respondent.

Health Occ. § 14-101 defines the practice of medicine in pertinent part as follows:

(o) Practice medicine. -- (1) "Practice medicine" means to engage, with or without compensation, in medical:

(i) Diagnosis;

...

(iii) Treatment; or

(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...

Md. Code Regs. 10.32.09 provides in pertinent part:

.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 pulsed light;

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

...

(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;

...

.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.

...

Prior to Disciplinary Panel A issuing charges, the Respondent agreed to enter into this public Consent Order with Disciplinary Panel A's approval, consisting of Findings of Fact, Conclusions of Law and Order.

I. FINDINGS OF FACT

Disciplinary Panel A finds the following:

GENERAL FINDINGS

1. At all times relevant, the Respondent has not been licensed or certified by the Maryland Board of Physicians or the Maryland Board of Nursing in any capacity.
2. At all times relevant, the Respondent was employed at Facility A,² a tattoo removal center located in Elkridge, Maryland.
3. At all times relevant, Dr. Y, a board-certified obstetrician/gynecologist, was the owner/medical director of Facility A.
4. On or about July 15, 2014, Facility A opened to the public for tattoo removal procedures.
5. Dr. Y employed two individuals at Facility A: 1) the Respondent as a “laser technician;” and 2) an office manager, Ms. T, who was a licensed esthetician.
6. On or about July 17, 2014, the Board received a complaint from a medical practice alleging that Facility A was possibly in violation of the Board’s cosmetic procedure regulations by allowing an unlicensed individual to perform laser-based procedures.
7. Shortly after receiving the July 17, 2014 complaint, the Board initiated an investigation.
8. On or about September 17, 2014, Board staff made an unannounced site visit to Facility A. The Respondent, Dr. Y and Ms. T were present. The Board’s staff provided the Respondent with a letter notifying him of the complaint and the investigation. In

² In order to maintain confidentiality, facility, physician, coworker or patient names will not be used in these Charges.

furtherance of its investigation, the Board's staff interviewed Ms. T and subpoenaed appointment logs as well as 10 patient records.

9. On or about October 7, 2014, Dr. Y filed with the Board a written response to the allegations, on behalf of herself and the Respondent. Dr. Y acknowledged that her intent was that the Respondent would see individuals at Facility A for the purpose of tattoo removal. Dr. Y stated that the Respondent had only seen 10 patients since Facility A had opened and of those 10, Dr. Y had been present in Facility A during five of the visits; two had been for consultation.

10. On or about October 29, 2014, Board's staff interviewed the Respondent and Dr. Y under oath with regard to the allegations, which are set forth more fully below.

SEPTEMBER 17 ON-SITE VISIT

Interview of Ms. T

11. During the Board staff's interview with Ms. T, she stated that she was an esthetician who had been employed in June 2014 as an office manager of Facility A. She stated that besides herself, the Respondent and Dr. Y were the only persons who worked at Facility A.

12. Ms. T stated that the Respondent and Dr. Y both performed laser procedures for the purpose of tattoo removal.

13. Ms. T stated that sometimes the Respondent would perform the laser procedures for tattoo removal without Dr. Y being present at Facility A.

14. According to Ms. T, the Respondent and Dr. Y stated they intended to send Ms. T to be trained to conduct the laser procedures.

Interview of Dr. Y

16. Dr. Y stated during her interview that the Respondent had conducted approximately 15 to 20 laser procedures at Facility A.

17. Dr. Y stated that during the time the Respondent conducted the laser procedures she was present at Facility A.³

Interview of the Respondent

18. The Respondent acknowledged during his interview that he had performed approximately 15 to 20 laser procedures for the purpose of tattoo removal.

19. The Respondent stated that Dr. Y was present in Facility A when he conducted the procedures and that she reviewed the patient's history prior to him performing the tattoo removal.

PATIENT RELATED ALLEGATIONS

21. The following is a sampling of patients whom the Respondent evaluated or conducted laser procedures for tattoo removal between July 15, 2014 and September 16, 2014:

PATIENT A

22. On August 15, 2014, Patient A, a female in her 30s, presented to Facility A for the complete removal of a tattoo located on her right leg. She had had the tattoo for 11 years, and it had multiple layers.

³ This is inconsistent with her written statement which indicated that she was only present for 5 of 10 patients seen by Respondent. Additionally, Ms. T stated during her interview that Dr. Y was not always present while the Respondent was seeing patients for the purpose of conducting the laser procedures.

23. Patient A signed an informed consent form for tattoo removal that was unwitnessed, and completed a medical history form.

24. The Respondent evaluated Patient A for the tattoo removal using the Kirby Desai scale, a scale used to assist in the assessment of the number of tattoo removal treatments that would be required.

25. The Respondent documented, "will consider scheduling."

PATIENT B

26. On September 16, 2014, Patient B, a male in his 40s, presented to Facility A for the complete removal of a tattoo on his right hip that he had had for 7 years.

27. Patient B had attempted to remove the tattoo using abrasion (sandpaper).

28. Patient B completed a medical history form.

29. The Respondent evaluated Patient B for the tattoo removal using the Kirby Desai scale, and estimated that Patient B would require 8-12 treatments at \$89.00 for a package of three or more, or \$99.00 per treatment .

30. On September 16, 2014, the Respondent conducted Patient B's initial laser treatment.

PATIENT C

31. On September 9, 2014, Patient C was a female in her 20s when she presented to Facility A for the complete removal of a tattoo located on her knuckle that she had had for 2 years.

32. Patient C completed a medical history form.

33. The Respondent evaluated Patient C for the tattoo removal using the Kirby Desai scale, and estimated that Patient C would require 7-10 treatments.

34. The Respondent documented that Patient C “will consider treatment.”

PATIENT D

35. On September 5, 2014, Patient D, a female in her 20s presented to Facility A for the removal of a tattoo on her left forearm that had been present for two years.

36. The Respondent evaluated Patient D for the tattoo removal using the Kirby Desai scale and estimated that she would require 10 to 14 laser treatments at \$65 to \$80 per treatment.

37. On September 5, 2014, the Respondent conducted the first laser treatment on Patient D’s forearm.

PATIENT E

38. On August 7, 2014, Patient E, a female in her 30s, presented to Facility A for the complete removal of a tattoo located on her upper right arm that she had had for 12-14 years.

39. On the following dates the Respondent conducted two laser procedures on Patient E’s upper right arm for the purpose of tattoo removal: June 27, 2014 and July 8, 2014.⁴

⁴ These dates are inconsistent with the date Dr. Y reported Facility A had opened: July 15, 2014.

PATIENT F

40. On August 23, 2014, Patient F, a female in her 30s, presented to Facility A for the complete removal of tattoos located on her neck, wrist and side of her torso. She had had the tattoos for over 10 years.

41. On August 23, 2014, the Respondent conducted Patient F's initial laser treatment for the removal of the tattoo on the right side of Patient F's neck.

PATIENT G

42. On August 1, 2014, Patient G, a female in her 20s, presented to Facility A for the complete removal of a tattoo located on her left wrist. She had had the tattoo for two years.

43. The Respondent evaluated Patient G for the tattoo removal using the Kirby Desai scale and estimated that Patient G would require 10-12 treatments.

44. On the following dates, the Respondent conducted two laser treatments to Patient G's left wrist: August 1, 2014 and September 2, 2014

PATIENT H

45. On August 15, 2014, Patient H, a female in her 20s presented to the Facility A for the complete removal of a tattoo located on her neck that she had had for seven years.

46. The Respondent evaluated Patient H for the tattoo removal using the Kirby Desai scale and estimated that Patient H would require nine treatments.

47. On August 15, 2014, the Respondent conducted the initial laser treatment to Patient H's neck area.

PATIENT I

48. On August 26, 2014, Patient I, a male in his 20s presented to Facility A for the complete removal of a tattoo located on his left lower pelvic area, he had had for two years.

49. The Respondent evaluated Patient I for the tattoo removal using the Kirby Desai scale and estimated that Patient I would require 11 treatments.

50. Patient I rescheduled the appointment for his initial laser treatment for another date (not documented in record).

PATIENT J

51. Patient J, a female in her 20s, presented to Facility A for the complete removal of a tattoo located on her neck that she had had for one year.

52. The Respondent evaluated Patient J for the tattoo removal using the Kirby Desai scale and estimated that Patient J would require nine treatments at \$79.00 for the initial treatment and \$99.00 for subsequent treatments.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A concludes as a matter of law that the Respondent's actions as outlined above constitute a violation of Health Occ. § 14-601, and the Board's regulations under Code Regs. Md. 10.32.09.04A.

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that within **THIRTY (30) DAYS** of the date of this Consent Order, the Respondent shall pay a monetary fine in the total amount of **ONE THOUSAND DOLLARS (\$1,000.00)**. The payment or payments shall be by certified or bank guaranteed check(s) made payable to the Maryland State Board of Physicians. The check(s) should be mailed to: Maryland State Board of Physicians, P.O. Box 37217, Baltimore, Maryland, 21297; and it is further

ORDERED that the Respondent's failure to pay the \$1,000.00 in full within **THIRTY (30) DAYS** of the date of this Consent Order shall be considered a violation of this Consent Order; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2014).

02/03/2015

Date

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

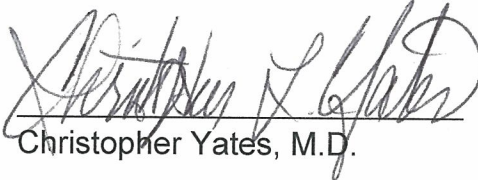
CONSENT

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

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

JAN 22, 2015
Date


Christopher Yates, M.D.

Reviewed and Approved by:

Marc K. Cohen
Marc K. Cohen, Esquire

STATE OF MARYLAND

CITY/COUNTY OF: *Hempstead*

I **HEREBY CERTIFY** that on this 22 day of Jan, 2015, before me, a Notary Public of the State and County aforesaid, personally appeared Christopher Yates 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:

