

IN THE MATTER OF  
JAMES CHAPPELL, M.D.

Respondent

License Number: D53487

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BEFORE THE MARYLAND

STATE BOARD OF

PHYSICIANS

Case Number: 2015-0571(B)

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### CONSENT ORDER

On or about January 21, 2015, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board"), opened an investigation of **JAMES CHAPPELL, M.D.** (the "Respondent"), under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 14-101 *et seq.* (2014 Repl. Vol.)

Based on its investigation, Disciplinary Panel B has grounds to charge the Respondent under the following provisions of H.O. § 14-404(a):

(3) Is guilty of:

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

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

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

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

...

(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. ("COMAR") 10.32.09 provides in pertinent part:

**.02 Definitions.**

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

B. Terms Defined.

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(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;
  - (iv) Microdermabrasion device; and
  - (v) 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;
- (iv) Deep skin peels;
- (v) Skin treatments with phototherapy;
- (vi) Microdermabrasion;
- (vii) Subcutaneous, intradermal, or intramuscular injections of medical products;
- (viii) Treatments intended to remove or cause destruction of fat;
- (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[.]

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## FINDINGS OF FACT

The Board finds:

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. He was initially licensed in Maryland on June 9, 1998. His license is presently active and is scheduled to expire on September 30, 2016.
2. The Respondent is board certified in plastic surgery and maintains privileges at Hospital A.<sup>1</sup>
3. At all times relevant, the Respondent owned and operated Practice A, a general plastic surgery practice in Severna Park, Maryland. The Respondent is the only physician working at Practice A.
4. At all times relevant, the Respondent employed two estheticians, Ms. LL and Ms. KL, both of whom are licensed by the Maryland Board of Cosmetology. Neither are licensed or certified by the Maryland Board of Physicians or the Maryland Board of Nursing.<sup>2</sup> Their licenses are current and scheduled to expire in March 2016.
5. On or about January 21, 2015, the Board received a anonymous complaint alleging that unlicensed individuals were performing cosmetic medical procedures at a practice owned by the Respondent.<sup>3</sup>
6. Thereafter, the Board initiated an investigation.
7. On June 9, 2015, the Board's staff interviewed the Respondent, who stated that the Ms. KL and Ms. LL do light chemical peels and microdermabrasion. The

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<sup>1</sup> The names of facilities and patients are confidential.

<sup>2</sup> The Board opened investigations involving Ms. LL (Case #2015-0611) and Ms. KL (Case #2015-0612).

<sup>3</sup> The complaint was made against a separate entity, Practice B, which is located in the Respondent's office and offers laser procedures. Practice B is owned by a registered nurse. The Respondent oversees the laser procedures performed at Practice B, but does not have an ownership interest in Practice B. The complaint was forwarded to the Board of Nursing for further investigation.



Respondent also stated that prior to the Board's investigation, Ms. KL did CoolSculpting.<sup>4</sup>

8. The Respondent stated that Ms. KL and Ms. LL each have separate appointment logs and that patients schedule procedures directly with Ms. KL or Ms. LL.

9. On June 9, 2015, the Board's staff interviewed Ms. KL, who has been employed at Practice A since approximately 2004. Ms. KL stated that she conducts skin analysis, performs micro-exfoliation and mild chemical peels, answers general skin care questions and maps out at-home skin care protocols. She further stated that prior to the Board's investigation she had performed approximately 700-800 CoolSculpting procedures, as well as microdermabrasion.

10. On June 9, 2015, the Board's staff interviewed Ms. LL, who has been employed at Practice A since 2014. Ms. LL does various light chemical peels, microdermabrasion and permanent make-up application.

11. In furtherance of the Board's investigation, the Board subpoenaed patient records from patients selected from Ms. LL and Ms. KL's appointment logs between November 3, 2014 and April 10, 2015.

12. The medical records revealed the following:

- a. Ms. KL performed microdermabrasion on Patient PL.
- b. Ms. KL performed CoolSculpting on Patient WA.
- c. Ms. KL performed microdermabrasion on Patient JY.
- d. Ms. KL performed microdermabrasion on Patient TV.
- e. Ms. KL performed microdermabrasion on Patient JH.

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<sup>4</sup> CoolSculpting is a cosmetic medical procedure that involves the cooling of adipose tissue to induce the breakdown of fat cells.

- f. Ms. KL performed microdermabrasion on Patient AG.
  - g. Ms. KL performed microdermabrasion on Patient LA.
  - h. Ms. KL performed CoolSculpting on Patient PD. Ms. LL performed microdermabrasion on Patient PD.
  - i. Ms. KL and Ms. LL performed microdermabrasion on Patient TC.<sup>5</sup>
  - j. Ms. LL performed microdermabrasion on Patient AH.
  - k. Ms. LL performed microdermabrasion on Patient LD.
  - l. Ms. LL performed microdermabrasion on Patient VB.
  - m. Ms. LL performed microdermabrasion on Patient JW.
  - n. Ms. LL performed microdermabrasion on Patient EB.
  - o. Ms. LL performed microdermabrasion on Patient LH.
  - p. Ms. LL performed microdermabrasion on Patient SC.
13. At the Respondent's Board interview on June 9, 2015, the Respondent testified that he was unaware that licensed estheticians were not permitted to perform microdermabrasion and CoolSculpting in Maryland, in his office practice, under his direct supervision. After receiving notice of the Board's investigation, the Respondent no longer permitted the licensed estheticians in his office to perform microdermabrasion and CoolSculpting.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent violated H.O. §§ 14-404(a)(3)(ii) and

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<sup>5</sup> Patient TC had a coupon for \$25 off the cost of "Skin Medica Illuminize Peel with Microdermabrasion." The coupon included a description of the chemical peel and specified that Ms. KL would perform the treatment.

(18) and COMAR 10.32.09.0A(1) by allowing unlicensed individuals to perform microdermabrasion and CoolSculpting in his office practice.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by Disciplinary Panel B, hereby:

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

**ORDERED** that no later than **SIXTY (60) DAYS** from the date of this Consent Order, the Respondent shall pay a monetary fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)**. This payment shall be made by certified or bank guaranteed check(s) made payable to the Maryland 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 shall comply with all laws governing the practice of medicine under the Maryland Medical Practice Act and all rules and regulations; and it is further

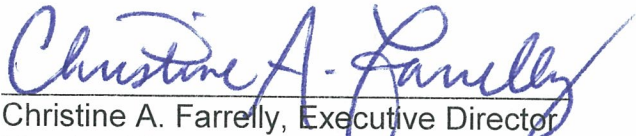
**ORDERED** that if the Respondent fails to comply with any of the terms and conditions of this Consent Order, a disciplinary panel of the Board, in its discretion, after notice and opportunity for a show cause hearing before a disciplinary panel of the Board or an evidentiary hearing at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, may impose additional sanctions authorized under the Medical Practice Act, including a reprimand, suspension, an additional period of probation, revocation and/or a monetary fine; 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. Ann. General Provisions §§ 4-101 *et seq.* (2014).

01/04/2016  
Date

  
Christine A. Farrelly, Executive Director  
Maryland Board of Physicians

### **CONSENT**


I, James E. Chappell, M.D, 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 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.

12/1/15  
Date

  
James E. Chappell, M.D.

Read and approved by:

  
Jennifer E. Phillips, Esq.

**NOTARY**

**STATE OF MARYLAND**

**CITY/COUNTY OF** Anne Arundel :

I HEREBY CERTIFY that on this 1 day of December, 2015 before me, a Notary Public of the foregoing State personally appeared **James E. Chappell, M.D.**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

My Commission Expires: 04/23/19

  
Notary Public

