

IN THE MATTER OF	*	BEFORE THE
ORIN M. ZWICK, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D64201	*	Case Number: 2015-0744A

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On January 4, 2016, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **ORIN M. ZWICK, M.D.** (the "Respondent"), License Number D64201, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.) and Md. Code Regs. ("COMAR") 10.32.09.01 *et seq.*

Specifically, Panel A charged the Respondent with violating the following provisions of the Act under Health Occ. II § 14-404:

- (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 suspended 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 under COMAR 10.32.09 provide:

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 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;

(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 treatment using lasers;
 - (ii) Skin treatment using intense pulsed light;
 - (iii) Skin treatment using radio frequencies, microwave, or electric pulses;
 - ...
 - (vi) Microdermabrasion;
 - (vii) Subcutaneous, intradermal, or intramuscular injections of medical products;
 - (viii) Treatments intended to remove or cause destruction of fat; 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;

On February 10, 2016, the Respondent appeared before Panel A. As a result of negotiations occurring before Panel A, the Respondent agreed to enter into the following Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

Panel A makes the following Findings of Fact:

BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about March 8, 2006 under License Number D64201. The Respondent's license is active and current through September 30, 2017.

2. The Respondent is board-certified in ophthalmology and at all times relevant hereto, was a partner in a medical practice located in Annapolis, Maryland (the "Practice").

3. At all times relevant hereto, the Practice hired an aesthetician (the "Aesthetician") to perform cosmetic medical procedures at the Practice. The Aesthetician began working at the Practice on or about February 1, 2015.

THE COMPLAINT

4. Panel A initiated an investigation of the Practice in 2015 after reviewing an advertisement that promoted various offers and services there, including a "botox event" and laser skin treatments. The advertisement stated that "all skin care procedures" were performed by a "medical aesthetician."

BOARD INVESTIGATION

5. By letter dated July 17, 2015, the Board requested that the Respondent and the Aesthetician provide written explanations with regard to the various procedures they performed at the Practice.

6. By letter dated July 23, 2015, the Respondent provided a written response to the Board. The Respondent stated that the Practice was a "subspecialty ophthalmology practice that provided services pertaining to the eyes and structures around the eyes," and that it also offered "cosmetic skin care and microdermabrasion treatments" to patients as a complement to the plastic surgery, lasik and vision improvements performed in the office. The Respondent stated that the Aesthetician is an employee of the Practice and among other services, performs "light chemical peels, microdermabrasion treatments and Dermafrac™ treatments for patients under physician supervision." The Respondent stated that as a result of the Board's inquiry, the Practice "ceased the use of microderm and Dermafrac™ in our practice, now that these potential violations have been brought to our attention."

7. By letter dated July 23, 2015, the Aesthetician provided a written response to the Board. The Aesthetician stated that she was an employee of the Practice and admitted performing "microdermabrasion and Dermafrac™" services to patients while working there. The Aesthetician stated that as a result of the Board's inquiry, she would "no longer perform cosmetic medical procedures or utilize cosmetic medical devices" and "apologize[d] to the Board for any misunderstanding on . . . [her] . . . part and any inconvenience this has caused."

8. In the course of its investigation, Board staff interviewed the Respondent on August 23, 2015, at the Board's offices. During the interview, the Respondent acknowledged that the Practice hired the Aesthetician to perform superficial chemical peels, microdermabrasion and DermafracTM, which the Respondent described as a medical device that uses "micro needles" to infuse various products into the epidermis for purposes of hydration and pigmentary tone.

9. On or about August 24, 2015, Board staff interviewed the Aesthetician at the Board's offices. The Aesthetician stated that she was hired by the Practice and began working as an aesthetician there on or about February 1, 2015. The Aesthetician stated that from on or about February 1, 2015, until on or about July 15, 2015, she estimated that she performed about 25 microdermabrasion treatments on patients at the Practice. She also stated that she performed DermafracTM treatments, which involved using "micro needles" that "create tiny punctures in the skin" for the infusion of a serum.

10. In the course of its investigation, the Board obtained ten (10) patient records from the Practice. During the Aesthetician's interview, Board staff showed her two of these patient records involving patients for which she provided cosmetic medical procedures. The Aesthetician confirmed that with respect to these patients, she performed cosmetic medical procedures including microdermabrasion and DermafracTM treatments.

11. The Board also obtained appointment logs and examined patient records for patients whom the Aesthetician treated at the Practice from in or around February 1, 2015, until in or around July 15, 2015. These records confirmed that the Aesthetician

provided cosmetic medical procedures including microdermabrasion and Dermafrac™ treatments to patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated the following: Health Occ. II § 14-404(a)(18), Practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine; and COMAR 10.32.09.09A(1).

ORDER

It is, on the affirmative vote of a majority of the quorum of Panel A, hereby:

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

ORDERED that the charge under Health Occ. II § 14-404(a)(3), Is guilty of: (ii) Unprofessional conduct in the practice of medicine, is **DISMISSED**; and it is further

ORDERED that within **SIXTY (60) DAYS** of the date Panel A executes this Consent Order, the Respondent shall pay a monetary fine in the amount of **ONE THOUSAND DOLLARS (\$1,000.00)** by bank certified check or money order, made payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that if the Respondent violates the condition of the Consent Order, by failing to pay the fine according to the terms set forth herein, the Board or Board disciplinary panel, after notice and an opportunity for a hearing before an Administrative Law Judge of the Office of Administrative Hearings if there is a genuine dispute as to a material fact or a show cause hearing before the Board or Board disciplinary panel if there is no genuine dispute as to a material fact, may reprimand the Respondent, place

the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's medical license; and it is further

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

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

03/01/2016
Date

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

CONSENT

I, Orin M. Zwick, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact, Conclusions of Law and Order.

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 as provided by law. I acknowledge the legal authority and the jurisdiction of Panel A to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of Disciplinary Panel B that might have followed any such hearing.

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

2/24/16
Date

Orin M. Zwick
Orin M. Zwick, M.D.
Respondent

Read and approved:

Anthony J. Breschi
Anthony J. Breschi, Esquire
Counsel for Dr. Zwick

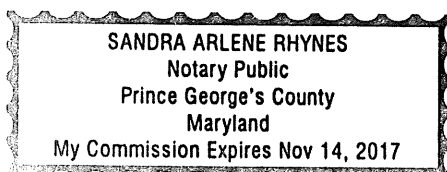
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Prince Georges

I HEREBY CERTIFY that on this 24th day of February, 2016, before me, a Notary Public of the foregoing State and City/County personally appear Orin M. Zwick, 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 notary seal.



Sandra Rhynes
Notary Public

My commission expires: 11-14-17