

IN THE MATTER OF

SAMMY S. KANG, M.D.

Respondent

License Number: D66788

\*

BEFORE THE

\*

MARYLAND STATE

\*

BOARD OF PHYSICIANS

\*

Case Number: 2015-0440B

\* \* \* \* \*

### CONSENT ORDER

On August 26, 2015, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") voted to charge **SAMMY S. KANG, M.D.** (the "Respondent"), License Number D66788, 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 *et seq.*

Specifically, Panel B voted to charge the Respondent with violating the following provisions of the Act and COMAR:

**Health Occ. II § 14-404. Denials, reprimands, probations, suspension, 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 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[.]

## **COMAR 10.32.09**

### **.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:
      - (ii) Device emitting light or intense pulse light[.]
  - (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:
      - (ii) Skin treatment using intense pulsed light; [and]
      - (ix) Any treatment using a cosmetic medical device for the purpose of improving an individual's appearance.

### **.09 Grounds for Discipline**

- A. Physicians. 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;

Prior to the issuance of charges, 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. 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 October 22, 2007.

2. At all times relevant hereto, the Respondent is board-certified in dermatology.

3. At all times relevant hereto, the Respondent was employed as a physician by a dermatology practice ("Practice A")<sup>1</sup> with offices throughout Maryland. Specifically, the Respondent practiced dermatology in Practice A's office in Glen Burnie, Maryland.

### **THE COMPLAINT**

4. On or about December 17, 2014, the Board received an anonymous complaint from an individual who alleged that "Intense Pulse Light treatments were performed by someone who was not a nurse, physician's assistant, nurse practitioner, or doctor under the supervision and knowledge of [the Respondent]." The anonymous complainant further alleged that laser hair removal and skin rejuvenation were also being performed by unlicensed individuals under the Respondent's supervision.

5. Based on the complaint, Panel B initiated an investigation of the Respondent.

---

<sup>1</sup> To ensure confidentiality, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document.

## BOARD INVESTIGATION

6. Board staff conducted an unannounced visit of Practice A on or about May 7, 2015, and pursuant to subpoenas, obtained the Respondent's appointment logs, ten (10) patient records selected from the appointment logs, a list of employees at Practice A and nineteen (19) personnel files selected from the employees list.

7. By letter, dated May 8, 2015, the Respondent provided the Board a written response to the complaint. In his letter, the Respondent denied having laser cosmetic medical devices in Practice A's Glen Burnie location. The Respondent admitted that Practice A's Glen Burnie location used a "Palomar ICON INTENSE PULSED LIGHT (IPL)."<sup>2</sup> The Respondent stated,

The IPL is not a laser and we were advised by the sales representatives and manufacturer that it did not fall under the regulations for Laser medical devices... Since learning of this complaint I have consulted with experienced healthcare counsel and read the Board Declaratory Ruling on Laser Hair Removal and other Board regulations on cosmetic procedures. While I still believe that the IPL is non-ablative and not a laser, I nevertheless have stopped using a medical assistant in any way on the IPL equipment (other than just seating up the procedure room and getting the patient ready for the procedure).

8. On or about June 8, 2015, Board staff interviewed the Respondent at the Board's offices. In his interview, the Respondent stated that two of his medical assistants ("Assistant A" and "Assistant B") at Practice A's Glen Burnie location performed hair removal and photo-rejuvenation procedures on patients using IPL. The Respondent stated that he would always conduct the initial evaluation and physical examination of patients. Once he determined that the IPL procedure was appropriate

---

<sup>2</sup> Intense Pulsed Light is a technology that uses a broad spectrum of light source to perform various skin treatments including hair removal, photorejuvenation, skin pigmentation and treatment of dermatologic diseases.

and with the patient's consent, either he, Assistant A or Assistant B would perform the procedure. When asked to review some of the patient medical records the Board obtained, the Respondent confirmed that Assistants A and B treated those patients using the IPL device.

9. Towards the end of the interview, the Respondent stated,

Yes. With the laser versus IPL, it really was confusing to sort through the regulations in the beginning. Because I believe, and I still believe, that IPL is not a laser, non -- it's not ablative. It's nonsurgical in nature. And because of the advice I did get, because I sought the advice of the manufacturer as well as our office managers and community physicians, et cetera, I truly believe that one, it wasn't laser, and two, because many of the procedures I used IPL for, many of the conditions I used IPL for were, I thought, medical in nature rather than cosmetic in nature, I believe I was doing the right thing... But ever since the inquiry opened up, I stopped everything, and I am performing them myself. And you know, I just want to reiterate that this was an honest oversight on my part, not something intentional.

10. Board staff interviewed Assistant A at the Board's offices on or about June 17, 2015. Assistant A stated that she is a licensed aesthetician and had been employed at Practice A's Glen Burnie location since 2012. Assistant A confirmed that she performed hair removal and photo-rejuvenation using IPL on the Respondent's patients from in or around August 2013 to August 2014. Assistant A stated after August 2014, she was promoted to a leadership position at Practice A and since then, only performed IPL procedures on occasion. According to Assistant A, she had not performed IPL procedures at Practice A since Board staff's unannounced visit in or around May 2015.

11. On or about June 17, 2015, Board staff interviewed Assistant B at the Board's offices. Assistant B stated that she had been employed as a medical assistant and performed IPL procedures on the Respondent's patients at Practice A's Glen Burnie

location since September 2014. Assistant B stated that she stopped performing IPL procedures since Board staff's unannounced visit in or around May 2015.

12. During the interviews, both Assistants A and B were shown patient medical records and both confirmed that they had performed IPL procedures on those patients. They further stated that based on information they received from the manufacturer of the device and from Practice A, they mistakenly thought that they were authorized to perform IPL procedures.

### **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, in permitting Assistants A and B, both of whom were individuals unlicensed in any health occupation, to perform IPL, a cosmetic medical procedure, violated the following provisions of the Act: practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine, in violation of Health Occ. II § 14-404(a)(18); and engaging in unprofessional conduct in the practice of medicine, in violation of Health Occ. II § 14-404(a)(3)(ii).

### **ORDER**

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

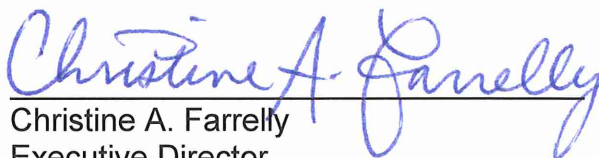
**ORDERED** that the Respondent is hereby **REPRIMANDED**; and it is further

**ORDERED** that within **SIXTY (60) DAYS** of the date of this Consent order, the Respondent shall pay a monetary fine in the amount of **FIVE THOUSAND DOLLARS**

(\$5,000.00), 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 this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

03/24/2016  
Date

  
Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

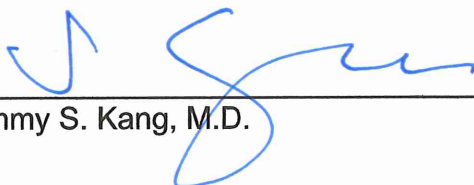
### CONSENT

I, Sammy S. Kang, 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 and no other 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 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 Disciplinary Panel A 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.

3-7-16  
Date


  
Sammy S. Kang, M.D.

**NOTARY**

STATE OF MARYLAND  
CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 7<sup>th</sup> day of march 2016,  
2015, before me, a Notary Public of the foregoing State and City/County personally appear Sammy S. Kang, 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.

  
Notary Public

My commission expires: 03-18-2018

