

IN THE MATTER OF
ANDREW S. CHOI, D.C.
Respondent

License Number: 03473

* BEFORE THE MARYLAND STATE
* BOARD OF CHIROPRACTIC AND
* MASSAGE THERAPY EXAMINERS
* Case Number: 10-14C

* * * * *

CONSENT ORDER

On September 30, 2010, the Maryland State Board of Chiropractic and Massage Therapy Examiners (the "Board") charged **Andrew S. Choi, D.C.** (the "Respondent") (D.O.B. 1/11/1964), **License Number 03473**, with violating the Maryland Chiropractic Act, Md. Health Occ. Code Ann., ("H.O.") §§ 3-101 *et seq.* (the "Act") (2009 Repl. Vol.). Specifically, the Board charged the Respondent with violation of the following provisions of § 3-313:

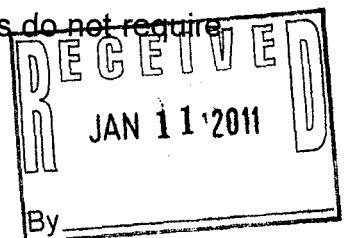
Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:

- (7) Solicits or advertises in a false or misleading manner or in any other manner not approved by the Board;
- (18) Practices chiropractic with an unauthorized person or supervises or aids an unauthorized person in the practice of chiropractic;
- (19) Violates any rule or regulation adopted by the Board; [and]
- (28) Violates any provision of this title[.]

The provisions of this title the Respondent violated under H.O. § 3-313(28) were:

§ 3-404.

A licensed chiropractor may delegate duties to an assistant to the extent permitted by the rules and regulations of the Board if the assigned duties do not require



the professional skill and judgment of a licensed chiropractor. The rules and regulations shall also establish qualifications for the position of chiropractic assistant.

§ 3-407.

A licensed chiropractor may use a trade name in connection with the practice of chiropractic provided that:

- (5) The use of a trade name is preapproved by the Board before use.

The regulations adopted by the Board that the Respondent violated are found in Code Md. Regs., tit. 10, §10.43.07 (June 9, 2003):

.02 Requirements for Achieving Supervising Chiropractor Status.

A. Only a supervising chiropractor may work with or train a chiropractic assistant or applicant.

B. Only an active, licensed chiropractor who holds physical therapy privileges and has no outstanding disciplinary orders may qualify for supervising chiropractor status.

C. An applicant for supervising chiropractor status shall:

- (1) Submit to the Board the required application and fee; and
- (2) Successfully pass the Board supervising chiropractor examination and interview.

.03 Responsibilities of the Supervising Chiropractor.

The supervising chiropractor shall:

A. Submit:

- (1) The required Board Notification of Employment form before undertaking any training of any chiropractic assistant applicant; and
- (2) All other Board-required reports and forms in a timely manner.

.04 Supervising Chiropractor Prohibited Acts.

A. The supervising chiropractor may not:

(3) Permit a chiropractic applicant or assistant to treat a patient without the presence of the supervising chiropractor in the treatment area.

B. The license of a licensee who violates this regulation shall be subject to the penalties set forth in COMAR 10.43.10.

.09 Activities That May Be Performed by Chiropractic Applicants and Assistants Under Direct Supervision of a Supervising Chiropractor.

A chiropractic applicant or assistant may perform the following activities only under the direct supervision of a supervising chiropractor who is in the treatment area:

F. Hot and cold packs;

I. Muscle stimulation

J. Electrotherapy; and

M. Ultrasound.

.12 Penalties for Violations of This Chapter.

A. Violations of these regulations may result in disciplinary action against the supervising chiropractor as set forth in Health Occupations Article, §3-313, Annotated Code of Maryland.

On November 4, 2010, a Case Resolution Conference was held before a panel of the Board. As a result of negotiations, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. At all times relevant to the charges herein, the Respondent was and is licensed to practice chiropractic with a right to practice physical therapy in the State of Maryland. The Respondent was first issued a license by the Board on February 9, 2006, under the License Number 03476. The Respondent's license expires on September 1, 2011.

2. At all times relevant to the charges herein, the Respondent did not have a chiropractic supervisor's license, nor did any of his employees have a Chiropractic Assistant (CA) registration issued by the Board.

3. At all times relevant to the charges herein, the Respondent practiced under the trade name of Lake Forrest Clinic, located at 973 Russell Avenue, Gaithersburg, Maryland 20879.

4. On or about April 1, 2010, the Board received a complaint from a licensed chiropractor in Maryland ("The Complainant"),¹ stating that the Respondent was using an unlicensed employee to provide care modalities. More specifically, the Complainant stated that during an employment interview, an applicant ("Employee A") stated that she was employed by the Respondent and that her responsibilities included greeting and receiving patients, taking patient information, office billing, and also conducting ultrasound and electrical therapies on patients. When asked whether she was registered as a CA, Employee A confirmed she was not.

5. Based on the complaint, the Board initiated an investigation.

6. On or about April 14, 2010, the Board's investigator visited the Respondent's office at 973 Russell Avenue, Gaithersburg, Maryland 20879. During this visit, the Board's investigator interviewed both the Respondent and Employee A.

7. During interview, the Respondent stated to the Board's investigator that on occasions when he was busy or ran late in the morning he would ask "Employee A" to set a patient up or take a patient off heat or electrical stimulation therapy..

¹ The names of the hospitals and other individuals identified herein are confidential. The Respondent may obtain the names of the hospitals and individuals by contacting the administrative prosecutor.

8. During Employee A's interview, she admitted that she sometimes assisted the Respondent in removing heat pads or electrical stimulation pads that were placed on his patients. Furthermore, Employee A also admitted to setting patients up on heat pads when the Respondent ran late in the morning, but denied setting patients up on electrical stimulation or ultrasound.

7. In furtherance of the investigation, the Board's investigator reviewed the Respondent's official licensing status and confirmed the Respondent was not a licensed Supervising Chiropractor.

8. The Board's investigation further revealed that the Respondent advertised his chiropractic practice using the name "Lake Forest Clinic" and maintained a website under lakeforestclinic.com, without obtaining prior Board approval.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent is in violation of H.O. §§ 3-313(7), (18), (19) and (28).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of JANUARY, 2011, by a majority of the Board considering this case:

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

ORDERED that the Respondent shall fully comply with the following terms and conditions:

1. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, Respondent shall take and pass, with requisite percentage, the Board's Supervising Chiropractic Examination; and

2. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall take and pass the Board's Jurisprudence Examination; and
3. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall register with the Board the trade name he uses in connection with his chiropractic practice, unless he has done so already; and
4. Within **ONE (1) YEAR** of the date the Board executes this Consent Order, the Respondent shall pay a fine to the State of Maryland in the amount of two thousand and five hundred (\$2,500) dollars.

AND BE IT FURTHER ORDERED that the Respondent shall comply with the Maryland Chiropractic Act and all laws, statutes and regulations pertaining thereto; and be it further

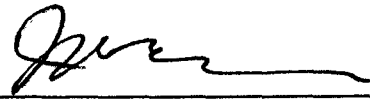
ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Office of Administrative Hearings if there is a genuine dispute as to the underlying facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including probationary terms and conditions, a reprimand, suspension, revocation and/or a monetary penalty; and be it further

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

ORDERED that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).

1-13-2010

Date



J.J. Vallone, J.D., Executive Director
For: Kay O'Hara D.C., President
Maryland State Board of Chiropractic &
Massage Therapy Examiners

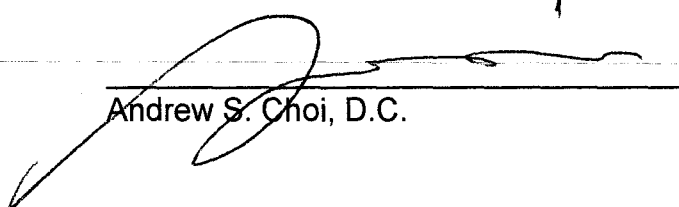
CONSENT

I, Andrew S. Choi, D.C., 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction 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 the Board that might have followed 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 this Consent Order.

01/10/2010
Date



Andrew S. Choi, D.C.

STATE OF MARYLAND
CITY/COUNTY OF Prince George's

I HEREBY CERTIFY that on this 10th day of January,
2011, before me, a Notary Public of the foregoing State and City/County personally
appear Andrew S. Choi, D.C., License Number 03473, 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.

Cecilia M. Daramole
Notary Public

My commission expires:

Cecilia M. Daramole
Prince George County
State of Maryland
My Commission Expires Feb 01, 2013

