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OREGON BOARD OF
CHIROPRACTIC EXAMINERS

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of	)	Case # 2010-1005, 2012-1037
	)	
Leif Jong Sik Choi, DC,	)	SECOND AMENDED STIPULATED
	)	FINAL ORDER (Lifting Probation)
Licensee.	)	
	)	

The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Leif Jong Sik Choi, DC (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

Findings of Fact

1.

The findings of fact from the Amended Stipulated Final Order are incorporated by reference.

Conclusions of Law

7.

Violations were previously found as follows: OAR 811-015-0005(1), ORS 684.100(1)(f)(A) and (1)(i), OAR 811-015-0045 (1)(a) and (b), OAR 811-015-0010 (1) and (2), OAR 811-030-0020(7), and OAR 811-030-0020(4).

Stipulations

8.

Therefore, pursuant to ORS 684.100(9)(b), (f) and (g) the OBCE orders:

1. The parties have agreed to enter this stipulated final order. Licensee agrees to the entering of this final order. Licensee agrees that he is aware of his right to a hearing with his attorney present to contest the charges and hereby waives that right and agrees to entry of this order. The signature of this order also waives any right to appeal. The parties wish to settle and resolve the above matter without further proceedings.

2. Licensee has already paid a $3,000 civil penalty to the OBCE payable within 180 days of this order becoming final.

3. Licensee agrees he will voluntarily cease using any video fluoroscopy or DMX techniques on any patients in his chiropractic practice.

4. Licensee was given two years of probation which began August 20, 2012. At their March 21, 2014 meeting the Board reviewed Licensee's letter explaining his present circumstances. They also reviewed the Mentor's latest report which indicated Licensee has been addressing his areas of concern successfully. The Board agreed to conclude his probation effective March 31, 2014.

5. Licensee agreed to be mentored by a Board approved mentor for the original two year probation period and successfully complete the mentoring plan. Licensee has been meeting with his mentor on a regular basis. As of the date of this order, Licensee has indicated that for family reasons he may be leaving Oregon. The Board accepts that his mentoring has been successful and may be concluded if he leaves the state. However, if Licensee remains in Oregon and continues to practice, he will be required to continue to meet with the mentor, as previously agreed, until August 14, 2014, as per the provisions of the Amended Stipulated Final Order. Licensee is responsible to let the Board know what location he is in.

6. Failure to complete this stipulated final order with the terms so stated, may result in further discipline, up to and including, revocation.

IT IS SO STIPULATED AND AGREED TO:

DATED this 31 day of March, 2014.

By: Original signatures are available in OBCE office
Leif Choi, D.C.

DATED this 27th day of March, 2014.

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

By: Original signatures are available in OBCE office
Dave McTeague, Executive Director

BEFORE THE
BOARD OF CHIROPRACTIC EXAMINERS
STATE OF OREGON

In the Matter of	)	
	)	Case # 2010-1005
Leif Jong Sik Choi DC	)	
	)	
	)	**NOTICE OF PROPOSED**
Licensee.	)	**DISCIPLINARY ACTION**
	)	
	)	

The Oregon Board of Chiropractic Examiners (hereafter "Board" or "OBCE") is the state agency responsible for licensing, regulating and disciplining chiropractic physicians and certified chiropractic assistants in the State of Oregon. Leif Jong Sik Choi DC. (hereafter "Licensee"), is currently licensed by the Board to practice as a chiropractic physician in Oregon.

1.

A complaint was filed in 2010, regarding a spinal decompression treatments Patient 1 had received and at issue was injury to the patient from receiving spinal decompression and advertising claims that Licensee made to the Patient. Patient 1 indicated that she was also not given a panic button during her treatments. Patient 1 was assured by Licensee that nearly 100% of his patients received satisfactory results from treatment with the DRX9000 and no one had ever been injured on the device. He also indicated she would not need surgery. Patient 1 paid $6480 for 28 treatments. Patient 1 filed a civil suit against Licensee as well.

2.

The Board also assigned an agent to get treatments from Licensee and in May 2010, Patient 2 received a series of treatments from Licensee. Prior to seeking treatment with Licensee, Patient 2 was examined by a board appointed chiropractor who found no clinical significant findings. Licensee saw Patient 2 on May 12, 2010 and after a brief exam and x-rays, told Patient 2 he had "missing cartilage" and he was suffering from a "bad case of arthritis" for which Licensee recommended 20 visits with the DRX9000. Licensee told Patient 2 this would cost $4200 and would include 3 free visits. When asked about the success rate, Licensee told Patient 2 it was "86% to 96%."

3.

Advertisements reviewed by the Peer Review Committee on July 14, 2011 stated that "Dr. Choi will be healing your pain." It also stated that "Dr. Choi and his staff hold the solution towards permanently ending your pain." The committee found these statements to be misleading. On his intake forms, they indicated "without spinal decompression "your future would include dangerous injections, invasive surgical tampering and failed surgery or a combination of the above."

4.

The Committee and Board noted that Licensee failed to give Patient 1 any re evaluations and from August of 2008 through January of 2009 she went without reevaluation while getting spinal decompression. The Board felt that the standard of care was not followed in regards to Patient 1. The patient improved slightly in the beginning, but as it progressed she began to experience other symptoms and Licensee did not respond, but kept treating her with spinal decompression. The protocol followed by Licensee was not that of the manufacturer of the DRX9000.

The Committee and Board also felt that Patient 2 was not a good candidate for spinal decompression given his trivial complaints, lack of positive findings and no previous history of therapeutic intervention. The recommendation for 20 treatments, along with laser, eletro-stim, cryotherapy and orthopedic brace was not justified.

The Committee and Board also found that Licensee performed fluoroscopy on Spinal Decompression patients that was not medically necessary and may have exposed his patients to excessive radiation. (Patient 2) His radiographs showed no shielding performed on the patient as well.

Licensee also failed to appropriately screen patients for spinal decompression but relied on his memory and experience and the front desk to ask questions concerning contraindications.

5.

Violations are found as follows:

a. Lack of clinical justification for care as to Patient 1 and 2. Minimal quality exams given to Patient 1; the cervical compression tests did not explain the positive findings found, palpation findings and MRI interpretation results from the medical doctor. Licensee did not write up any changes to the patient, in reference to Patient 1, including new injuries to her shoulder. The usual "progressing toward goals" and "texture hypertonicity on the left and right sides" were repeated. Failure to re- evaluate from August 2008 to January 2009. Licensee's continued treatment under similar conditions and circumstances, where there is a worsening along with new conditions developing while under treatment, demonstrates a lack of justifiable rationale. With Patient 2 there were no positive findings yet Licensee recommended 20 treatments along with laser, electro-stim, cryotherapy and exercise program. This type of treatment is outside the standards recognized as reasonable, prudent and acceptable under similar circumstances. This violates ORS 684.100(1)(f)(A), and OAR 811-015-0010 (1) and (2), OAR 811-035-0005(1), OAR 811-035-0015(2) and (12).

b. Chart notes do not meet the minimum standards. Daily subjective notes by the patient were recorded but objective findings were always repeated verbatim for each visit. Progressing toward goals was checked off at each visit and occasional pain inhibiting activity was checked off, but no other assessments were recorded. This violates ORS 684.100(1)(f)(A) and OAR 811-015-0005(1).

c. Licensee made misleading and unsubstantiated verbal advertising claims to both Patient 1 and 2. Patient 1 was told that 100% of the patients had relief and were satisfied. Patients were told with use of spinal decompression, they would not need surgery. Patient 2 reported that Licensee said the success rate was "between 86 and 96%". The advertisements state the following: *"new innovative medical advances..... revolutionary technologies just recently cleared by the FDA... put you on the path to a pain-free lifestyle...Dr. Leif Choi DC and his staff hold the solution*

towards permanently ending your pain..... using only the latest and safest technologies..... spinal pain will follow you throughout your life is not treated promptly..... " This violates ORS 684.100(1)(f)(A) and (1)(i) and OAR 811-015-0045(1)(a) and (b).

d. The lack of shielding on x–rays to Patient 2 and subjecting him to excessive radiation with fluoroscopy studies was not medically necessary and violates ORS 684.100(1)(f)(A) and (B) and OAR 811-030-0030(1), (2), OAR 811-030-0020(4) and (7).

6.

The Board proposes the following:

A. To issue a civil penalty in the sum of $5,000. The fine is payable within 60 days of this order becoming final and failure to pay the fine in a timely manner may result in automatic suspension.
B. To require a two year probation.
C. Licensee must complete continuing education including 6 hours on clinical justification, 6 hours on x rays, radiology safety and shielding, and 6 hours on recordkeeping, to be completed in 6 months and in addition to continuing education requirements for licensure.
D. To require Licensee to be monitored by Affiliated Monitors for 2 years.

Licensee shall obtain an office compliance audit by Affiliated Monitors within 30 days of the order being signed. The compliance auditor designated by Affiliated Monitors shall have demonstrated training and/or experience in determining whether a health care practitioner or facility is in compliance with all applicable state and federal laws and regulations that affect the provider in preparing and implementing compliance plans or programs for such providers.

The compliance auditor shall conduct a compliance audit and assessment of Licensee's chiropractic practice for the purpose of determining whether Licensee's practice is in satisfactory compliance with all applicable state laws, rules and regulations, including but not limited to the laws, rules and regulations which pertain to the delivery of, documentation of, and/or billing and payment for health care services. The audit and assessment will remain confidential between Licensee and Affiliated Monitors.

The compliance auditor shall develop a written Compliance Plan for Licensee, based on the results of the compliance audit and assessment, which identifies the specific preventative and correction action which Licensee has taken or will take in the future to ensure continuing satisfactory compliance with all applicable federal and state laws, rules and regulations. The Compliance Plan shall be released to the Board and Licensee shall execute all necessary releases.

The Compliance Plan shall address, at a minimum the following:

a. The establishment and implementation of written policies and procedures for all aspects of Licensee's practice, including office operations and administration, patient care, response to patient complaints or concerns, clinical record-keeping, confidentiality of patient records and access to such records, and billing and coding procedures;

b. The exercise of due diligence with respect to hiring and retention of present and/or prospective employees, if any, and in the delegation of patient care functions to such personnel if applicable;

c. The assurance that all present and/or prospective employees properly carry out their responsibilities under the Compliance Program, including the reporting of possible compliance problems to the Compliance Monitor;

d. The performance of periodic internal reviews as outlined in the above;

e. The establishment and implementation of adequate procedures for investigating and facilitating appropriate corrective responses to identified compliance problems and patient complaints and concerns (See Sections 1-5 of this Order).

Licensee shall engage the services of Affiliated Monitors to serve as the Compliance Monitor to monitor Licensee's implementation of the Compliance Plan through a two year probation period, and to furnish the Board with written reports concerning Licensee's progress in implementing the Compliance Plan once every 90 days throughout the probationary period. The frequency of monitoring visits will be determined by the Compliance Monitor in consultation with Affiliated Monitors and the Board, however the Board's expectation is that monitoring will be on a monthly basis for as long as the Compliance Monitor determines this to be needed during the probationary period.

Licensee shall ensure that the Compliance Monitor conducts a complete and comprehensive administrative and clinical review of Licensee's chiropractic practice at least once every 90 days during the monitoring period, and submits to the Board a written report of the results of each such review. This administrative and clinical review shall identify any and all deficiencies in Licensee's administrative or clinical practices which, in the professional judgment of the Compliance Monitor shall provide a copy of each such report to Licensee. The Compliance Monitor shall provide a copy of each such report to Licensee. In the even that the Compliance Monitor is unable to complete this administrative and clinical review in a timely fashion due to the Compliance Monitor's own personal and professional commitments, Licensee and Compliance Monitor shall notify the Board in writing of the reasons why Compliance Monitor is unable to complete the review by that date, and the Board, for good cause shown, may extend the deadline for completion of that review and submission of the required report.

In a timely manner, Licensee shall take any and all corrective actions which are reasonably necessary to correct any and all deficiencies identified in any of the administrative and clinical reviews conducted by the Compliance Monitor.

Licensee expressly agrees that he shall be responsible for all costs and expenses associated with the Compliance Audit and Plan by Affiliated Monitors, and that the Board shall bear no responsibility or liability for the costs of those services.

The first such Compliance Report shall be due on hundred twenty days after the Compliance Plan is developed by Affiliated Monitors.

7.

Licensee shall pay costs of this disciplinary proceeding, which may include investigative costs and attorney fees pursuant to ORS 684.100(9)(g). This cost recovery may also include collection of non-sufficient funds fees, interest, hearing panel and contested case related expenses. The statutory rate of interest applies to an amount not paid when due. This amount is immediately due and payable unless the OBCE agrees to a payment plan.

NOTICE OF HEARING RIGHTS

8.

Licensee has the right, if Licensee requests, to have a formal contested case hearing before the OBCE or its administrative law judge to contest the matter set out above. At the hearing, Licensee may be represented by an attorney and subpoena and cross-examine witnesses. That

request for hearing must be made in writing to the OBCE, must be received by the OBCE within 30 days from the mailing of this notice (or if not mailed, the date of personal service), and must be accompanied by a written answer to the charges contained in this notice.

9.

The answer shall be made in writing to the OBCE and shall include an admission or denial of each factual matter alleged in this notice, and a short plain statement of each relevant affirmative defense Licensee may have. Except for good cause, factual matters alleged in this notice and not denied in the answer will be considered a waiver of such defense; new matters alleged in this answer (affirmative defenses) shall be presumed to be denied by the agency and evidence shall not be taken on any issue not raised in the notice and answer.

10.

If Licensee requests a hearing, before commencement of that hearing, Licensee will be given information on the procedures, rights of representation and other rights of the parties relating to the conduct of the hearing as required under ORS 183.413-415.

11.

If Licensee fails to request a hearing within 30 days, or fails to appear as scheduled at the hearing, the OBCE may issue a final order by default and impose the above sanctions against Licensee. Upon default order of the Board or failure to appear, the contents of the Board's file regarding the subject of this automatically become part of the evidentiary record of this disciplinary action upon default for the purpose of proving a prima facie case.

DATED November 1, 2011

BOARD OF CHIROPRACTIC EXAMINERS
State of Oregon

Original signatures are available in OBCE office

By: _____
Dave McTeague, Executive Director

VERIFICATION

State of Oregon) Leif Jong Sik Choi DC

County of Marion) Case # 2010-1005

I, Dave McTeague, being first duly sworn, state that I am the Executive Director of the Board of Chiropractic Examiners of the State of Oregon, and as such, am authorized to verify pleadings in this case: and that the foregoing Notice is true to the best of my knowledge as I verily believe.

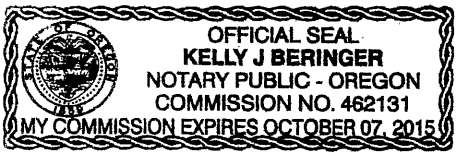
Original signatures are available in OBCE office

DAVE McTEAGUE, EXECUTIVE DIRECTOR
OREGON BOARD OF CHIROPRACTIC EXAMINERS

SUBSCRIBED AND SWORN to before me
this 2nd day of November 2011.

Original signatures are available in OBCE office

NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/7/2015



CERTIFICATE OF SERVICE

I, Dave McTeague, certify that on November 1, 2011, I served the foregoing Notice of Proposed Disciplinary Action upon Leif Choi DC, the party hereto, by mailing, certified mail, postage prepaid, a true, exact and full copy thereof to:

Leif Jong Sik Choi DC
HealthSource of Beaverton
6163 SW Murray Blvd.
Beaverton, OR 97008

By regular mail to:

Frank Moscato AAL
1001 SW Fifth Ave, 16th Floor
Portland, Oregon 97204-1116

Dave McTeague
Executive Director
Oregon Board of Chiropractic Examiners