

IN THE MATTER OF
RICHARD S. CHANG, M.D.

Respondent

License Number: D74662

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2222-0148B

* * * * *

CONSENT ORDER

On June 13, 2023, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **RICHARD S. CHANG, M.D.** (the “Respondent”), License Number D74662, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.).

Panel B charged the Respondent with violating the following provisions of the Act:

**§ 14-404. Denials, reprimands, probations, suspensions, 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 suspend or revoke a license if the licensee:

...

(3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine;

...

(11) Willfully makes or files a false report or record in the practice of medicine;

...

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

...

- (43) Except for the licensure process described under Subtitle 3A of this title, violates any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine[.]

Pursuant to Health Occ. § 14-404(a)(43), cited above, the pertinent federal law and State rules and regulations are as follows:

42 U.S.C. 1320d-6 - Wrongful disclosure of individually identifiable health information.

- (a) A person who knowingly and in violation of this part – (3) discloses individually identifiable health information to another person, ...a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1320d-9(b)(3) of this title) and the individual obtained or disclosed such information without authorization.

Health Gen. § 4-302. Confidentiality of medical records; disclosure.

- (a) A health care provider shall:
- (1) Keep the medical record of a patient or recipient confidential; and
 - (2) Disclose the medical record only:
 - (i) As provided by this subtitle; or
 - (ii) As otherwise provided by law.

COMAR 10.32.05.04 Specific Telehealth Requirements.

- (A) Before performing telehealth services, a telehealth practitioner shall develop and follow a procedure to: (3) Prevent access to data by unauthorized persons through encryption or other means[.]

Health Occ. § 1-1004. Documentation and confidentiality.

...

- (b) All laws regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions in the same manner as the laws apply to in-person health care interactions.

On August 23, 2023, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Facts, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel B finds the following:

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent a license to practice medicine in Maryland on July 20, 2012, under License Number D74662. His license is scheduled to expire on September 30, 2024. The Respondent also holds active licenses in the following states: California, Florida, Georgia, Kentucky, Michigan, New York, Ohio, Pennsylvania, and Tennessee.
2. The Respondent is board-certified in Radiology.

3. At all relevant times, the Respondent was employed as a Physician Clinical Reviewer (“PCR”)¹ for a national healthcare company (“the Company”)² from on or about October 25, 2021 to on or about March 7, 2022. At all relevant times, the Respondent performed his work from a remote telehealth location.

I. Background

4. On or about March 7, 2022, during an internal audit of the Respondent’s work by the Company, the Respondent was observed in an active Zoom meeting session with an unknown individual (“Individual 1”). Individual 1 had control of the Respondent’s keyboard and mouse through the screen sharing feature of Zoom and was navigating the Company’s internal systems which contain protected health information (“PHI”) of the Company’s members. Individual 1 is not and was never employed by the Company.

5. On or about March 8, 2022, the Company initiated a full internal investigation following the information obtained during the March 7, 2022 audit. The Company’s investigation revealed that during the course of his employment, the Respondent had utilized the screen sharing feature on multiple occasions in numerous Zoom meetings with Individual 1 as well as other unknown individuals who were not Company employees. Individual 1 and the other unknown individuals had offshore internet protocol (“IP”) addresses.³ The Company conducted an audit of the Respondent’s Zoom

¹ A PCR is a physician who reviews medical records from a member’s treating physician to decide if health care services are medically necessary and covered under the member’s healthcare plan.

² To ensure confidentiality and privacy, the names of individuals and entities involved in this case, other than the Respondent, are not disclosed in this document.

³ An internet protocol (“IP”) address is a unique numerical identifier for every device or network that connects to the internet.

meetings since the commencement of his employment and discovered that many of these Zoom meetings were 25-to-30 hours in duration.

6. The Respondent conducted approximately 3,414 member case reviews while the unknown individuals with offshore IP addresses were present in various Zoom meetings with the Respondent. One hundred twenty-two of the reviews involved Maryland residents. The Company concluded that the medical necessity determinations for these cases may have been decided by these unknown individuals who were not authorized or employed to do so.

II. Complaint

7. On or about June 3, 2022, the Board received a complaint (the “Complaint”) from a senior officer at the Company regarding the Respondent. According to the Complaint, a portion of the Respondent’s March 7, 2022 Zoom session was recorded which showed Individual 1 opening and reviewing clinical records and making notes in the case that were later stamped with the Respondent’s name. Based on its own investigation, the Company had evidence that the Respondent: (a) may have inappropriately delegated his clinical reviews to an unknown third-party outside the Company, (b) disclosed confidential patient-identifying information to the third party, and (c) may not have accurately recorded his actions in the Company’s records.

III. Board Investigation

8. The Board initiated an investigation of the Respondent after reviewing the Complaint. As part of its investigation, the Board subpoenaed various records from the

Company and conducted interviews with individuals with knowledge of this matter, including the Respondent.

IV. Respondent's Written Response to the Complaint

9. By letter dated July 1, 2022, the Board notified the Respondent that it had initiated an investigation of the matters alleged in the Complaint. The Board requested that the Respondent address the allegations in a written response.

10. By email to the Board dated July 29, 2022, the Respondent provided a response to the Complaint. The Respondent denied any wrongdoing and stated that “to prevent [himself] from becoming too bored from remote work... [he would] chat with a colleague while working from home... using [the Company's] corporate laptop.”

V. Respondent's Interview

11. On February 15, 2023, the Board conducted an interview under oath with the Respondent. During the interview, the Respondent explained that his position at the Company required him to “decide if the imaging study ordered in outpatient studies...[met] the criteria to be payable” similar to the pre-authorization process for prescription medications.

12. The Respondent admitted to “chatting with some friends” who lived in the Philippines on Zoom during his work hours for the Company. He acknowledged that it was “unprofessional that [he] was talking...or Zooming with [non-Company] employees...” and that it was “unprofessional to share the screen with [Individual 1].” The Respondent also admitted to the “breach of patient information.” He further advised that some of the individuals he would talk with had medical backgrounds but were not physicians.

13. Regarding Individual 1 who was captured in the recorded Zoom meeting with the Respondent, the Respondent stated:

- a. Individual 1 was a friend who lived in the Philippines and was studying to be a nurse.
- b. The Respondent paid Individual 1 to help him increase his productivity related to his work for the Company.
- c. The Respondent would discuss the cases he was assigned to review with Individual 1 in Zoom meetings.
- d. Individual 1 also acted as a “second pair of eyes” for the Respondent by looking through patient records for the information that was needed for the Respondent to make his clinical determinations.

14. The Respondent stated that at the end of the day, he would leave the Zoom meetings open which was the reason that the audit of his Zoom meetings listed numerous 25-to-30 hour sessions. He explained that he left it on so that Individual 1 could “come on easier without having to... reconnect[.]” The Respondent admitted that Individual 1 could still have access to his laptop if she was still present in the open Zoom session. He conceded that allowing an outside third party to access personal health information in that manner was “a potential security breach.”

CONCLUSIONS OF LAW

Based on the Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent: is guilty of unprofessional conduct in the practice of

medicine, in violation of Health Occ. § 14-404(a)(3)(ii); willfully made or filed a false report in the practice of medicine, in violation of Health Occ. § 14-404(a)(11); practiced medicine with an unauthorized person or aids an unauthorized person in the practice of medicine; in violation of Health Occ. § 14-404(a)(18); and, except for the licensure process described under Subtitle 3A of this title, violates any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine, in violation of Health Occ. § 14-404(a)(43). Concerning Health Occ. § 14-404(a)(43), the State and federal laws and regulations that the Respondent violated are as follows: 42 U.S.C. § 1320d-6(a)(3); Health-Gen. § 4-302(a)(1),(2); Health Occ. § 1-1004(b); and COMAR 10.32.05.04A.

ORDER

It is, thus, by Disciplinary Panel B of the Board, hereby:

ORDERED that the Respondent Richard S. Chang, M.D., is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **EIGHTEEN (18) MONTHS**.⁴ During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within **SIX MONTHS**, the Respondent is required to take and successfully complete courses in: (i) ethics, and (ii) medical documentation/recordkeeping. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the courses before the courses are begun;

⁴ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

(b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the courses;

(c) the courses may not be used to fulfill the continuing medical education credits required for license renewal; and

(d) the Respondent is responsible for the cost of the courses; and

2. **ORDERED** that, within **ONE (1) YEAR** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **TEN THOUSAND DOLLARS (\$10,000)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order;

ORDERED that, after the Respondent has complied with all terms and conditions or probation and after the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel, if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; 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, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that, after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

09/20/2023
Date

Signature On File

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

CONSENT

I, Richard S. Chang, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural

and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature On File

9/8/2023
Date

Richard S. Chang, M.D.
Respondent

NOTARY

STATE OF California

CITY/COUNTY OF Los Angeles

I HEREBY CERTIFY that on this 18th day of September, 2023, before me, a Notary Public of the foregoing State and City/County, did personally appear Richard S. Chang, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and notarial seal.

See attached
Notary Public

My commission expires: 10/04/2024

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

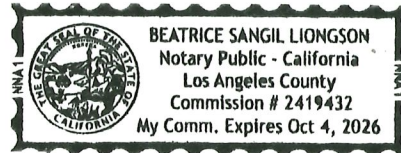
State of California
County of Los Angeles)

On September 18, 2023 before me, Beatrice Sangil Liongson, Notary Public
(insert name and title of the officer)

personally appeared Richard S. Chang,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature  (Seal)