STATE OF OHIO
THE STATE MEDICAL BOARD
77 South High Street
17th Floor
Columbus, Ohio 43266-0315

(614)466-3934

January 11, 1991

James B. Chong, M.D.
104 Cargile Road
Ocilla, Georgia 31774

Dear Doctor Chong:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on January 9, 1991, including Motions amending the Conclusions of Law of the Hearing Examiner, and approving and confirming the Hearing Examiner's Report and Recommendation, as modified, as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 327 483
RETURN RECEIPT REQUESTED

Mailed 1/16/91

STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on January 9, 1991, including Motions approving and confirming the Findings of Fact and amending the Conclusions of Law of the Hearing Examiner, and approving and confirming the Report and Recommendation, as modified, as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of James B. Chong, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)

Henry G. Cramblett, M.D.
Secretary

1/16/91
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

JAMES B. CHONG, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 9th day of January, 1991.

Upon the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the above date.

It is hereby ORDERED that the certificate of James B. Chong, M.D., to practice medicine and surgery in the State of Ohio shall be and is hereby REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)

Henry G. Cramblett, M.D.
Secretary

1/16/91
Date

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OF OHIO

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REPORT AND RECOMMENDATION
IN THE MATTER OF JAMES B. CHONG, M.D.

The Matter of James B. Chong, M.D., came on for hearing before me, Kevin P. Byers, Esq., Hearing Examiner for the State Medical Board of Ohio, on October 15, 1990.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

A. By letter of July 11, 1990 (State's Exhibit #1), the State Medical Board notified James B. Chong, M.D., that it proposed to take disciplinary action against his Ohio certificate to practice medicine and surgery. The Board alleged that, on or about August 10, 1987, Dr. Chong entered a plea of nolo contendere to the offense of simple battery and was sentenced in State of Georgia v. Chong, Mitchell County State Court Case No. 86-CR-405. The Board alleged that this conviction constituted "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude," as that clause is used in section 4731.22(B)(13), Ohio Revised Code.

The Board also alleged that, on or about May 12, 1989, Dr. Chong entered into a consent order with the Composite State Board of Medical Examiners for the State of Georgia ("Georgia Board"). This agreement with the Georgia authorities was alleged to constitute "the limitation, revocation, or suspension by another state of a license or certificate issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that would also have been a violation of this chapter, except for non-payment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5), (B)(6), (B)(8), (B)(13), and (B)(18), Ohio Revised Code.

B. By letter received by the State Medical Board on August 3, 1990 (State's Exhibit #2), Dr. Chong requested a hearing in this Matter.

II. Appearances

A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Douglas C. Boatright, Assistant Attorney General

B. Dr. Chong represented himself at hearing.

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III. Testimony Heard

A. Presented by the State: James B. Chong, M.D., as on cross-examination

B. Presented by the Respondent: James B. Chong, M.D.

IV. Exhibits Examined

In addition to those noted previously, the following exhibits were identified by the State and admitted into evidence in this Matter:

A. State's Exhibit #3: August 7, 1990 letter to Dr. Chong from the State Medical Board advising him that a hearing was set for August 13, 1990, but was postponed until further notice pursuant to Section 119.09, Ohio Revised Code.

B. State's Exhibit #4: August 17, 1990 letter to Dr. Chong from the State Medical Board scheduling his hearing for September 17, 1990.

C. State's Exhibit #4A: Motion for continuance submitted by Dr. Chong's attorney and mailed to the State Medical Board on September 7, 1990. No receipt date is evident on this exhibit.

D. State's Exhibit #4B: September 12, 1990 Entry of the Attorney Hearing Examiner granting the Respondent's continuance request, and rescheduling the hearing for October 15, 1990.

E. State's Exhibit #5: Six-page packet of certified documents from the Mitchell County State Court in Georgia, Case No. 86-CR-405, including: state warrant charging J. B. Chong with simple battery in violation of Georgia Criminal Code 16-5-23; July 21, 1986 affidavit of Sin Cha Chong in support of the warrant; copy of Dr. Chong's nolo contendere plea; accusation against Dr. Chong by the solicitor for the State Court of Mitchell County; property bond filed by Dr. Chong and notice of arraignment; and judgment entry filed on August 10, 1987 in the Matter of the State of Georgia v. Chong, accepting Dr. Chong's plea of "nolo" to the offense of simple battery, and sentencing him to pay a $500.00 fine and restitution to be determined.

F. State's Exhibit #6: A 21-page packet of certified copies of documents from the Georgia Medical Board, including: notice by the Executive Director of the Georgia Board that disciplinary action had been taken against James Bonghae Chong, M.D. as of May 12, 1989;

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Notice of Hearing setting forth, among other things, matters asserted in the matter of James Bonghae Chong, M.D., Docket No. 88-51; ten-page consent order signed by Dr. Chong and filed in the office of the Joint Secretary of State Examining Boards on May 12, 1989 under Docket No. 88-51.

G. State's Exhibit #7: Seven-page exhibit which includes: a certification; Dr. Chong's February 29, 1988 five-page answer to the Georgia cite letter; and a copy of the cover letter provided with the answer.

H. State's Exhibit #8: Section 26-1304 of the Criminal Code of Georgia entitled "Simple Battery" as effective July 1, 1987.

FINDINGS OF FACT

1. James B. Chong, M.D., a licensee of the State Medical Board of Ohio, currently practices in the State of Georgia.

   This fact is established by the testimony of Dr. Chong (Tr. at 16-17).

2. On or about September 2, 1986, Dr. Chong was charged with having intentionally made physical contact of an insulting or provoking nature with the person of another, an offense of simple battery under Georgia law. On August 10, 1987, Dr. Chong pled no contest to the criminal charge of Simple Battery, a misdemeanor in violation of Section 16-5-23 of the Criminal Code of Georgia. Dr. Chong was sentenced to pay a $500 fine and undetermined restitution in Case No. 86-CR-405 in the Mitchell County State Court.

   These facts are established by the testimony of Dr. Chong (Tr. at 18-20, 33-36) and State's Exhibits #5 and #8.

3. On February 16, 1988, the Georgia Board issued a Notice of Hearing to Dr. Chong which asserted nine matters of alleged conduct which, if proven, could result in disciplinary sanction. This notice alleged that Dr. Chong: had "inappropriate sexual contact" with three patients; was convicted of simple battery; "physically attacked" a prospective employee; refused to allow an attendant to accompany him during examination of female patients; knowingly filed a fraudulent application for licensure with the Georgia Board; failed to properly sterilize medical equipment; and instructed his staff to file false Medicaid claims.

   These facts are established by State's Exhibit #6.

4. On February 29, 1988, Dr. Chong provided the Georgia Board with his answer to those charges. In his written answer, Dr. Chong admitted that he had pled nolo contendere to simple assault on August 10, 1987, but denied that such plea constituted evidence of any wrongful act. He also admitted that his application for licensure in Georgia had been "inaccurate," but denied any intent to mislead or defraud that Board. Dr. Chong denied all other allegations within the Georgia Board's notice of hearing.

   These facts are established by the testimony of Dr. Chong (Tr. at 20) and State's Exhibit #7.

5. On May 11, 1989, Dr. Chong signed a Consent Order with the Georgia Board in that matter, which was approved by that Board on May 12, 1989. This order included no significant admissions, stipulations, or findings of fact. However, Dr. Chong admitted at hearing that he had entered into the consent order based upon the Notice of Hearing issued by the Georgia Board.

   These facts are established by the testimony of Dr. Chong (Tr. at 20-24) and State's Exhibit #6.

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6. The Consent Order signed by Dr. Chong placed him on probation in Georgia for thirty months. Conditions of this probation included: mental/ physical examination of Dr. Chong; his enrollment in the Medicaid pre-payment review plan; and his compliance with other probationary restrictions. Dr. Chong also agreed to an indefinite restriction that he will examine female patients only in the presence of a witness and that he would pay a $2,000 fine. Additionally, the Consent Order was declared to "serve as a public reprimand to the Respondent for his conduct."

   These facts are established by State's Exhibit #6.

7. Dr. Chong's testimony before the State Medical Board of Ohio in this Matter focused primarily upon his explanation of the criminal process he went through in the State of Georgia and his understanding of the legal impact of a plea of no contest. His testimony was somewhat disjointed with regard to the events of July 7, 1986, which had resulted in a female employee's filing a criminal complaint against him, claiming that he had hit her "about the head, face, arms and fingers, with his fist and a (sic) index card box." Dr. Chong did not deny hitting this woman, but stated that he had not been angry at her. Rather, his testimony suggested he had been trying to defend himself. According to Dr. Chong, the woman in question had come to his office intoxicated, and they had become involved in an argument over car keys. He had tried to get away from her, but she had

followed him from room to room, pulling on his coat, hitting him, and throwing books and papers on the floor. At some point, she had bitten his hand so hard that he still had a scar from it. All this occurred during office hours. Although Dr. Chong claimed that this woman was an alcoholic with a criminal record and a history of drunken brawls, he later testified that she had been employed by him for about two years prior to this incident. Dr. Chong stated that he had not realized that he could have called the police to have her removed until his attorney had so informed him after the fact. He admitted that he had also not ordered her to leave the office at the time.

Dr. Chong admitted that he had pled no contest to the criminal charge, but stated that it was his understanding that such plea in Georgia did not constitute a conviction. He was uncertain whether or not that plea had been part of the basis for his Consent Order with the Georgia Board; he had simply signed the order upon the advice of his attorney.

When asked why he had agreed to the Georgia Board's requirement that he have a third party present when he examined female patients, Dr. Chong responded that female patients had a conspiracy and that the requirement had resulted from a "conspiracy of cases." It had nothing to do with the simple battery charge, but rather involved an OB/GYN patient whom, he claimed, kept urging him to check for bleeding around her clitoris.

These facts are established by the testimony of Dr. Chong (Tr. as a whole) and State's Exhibit #5.

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CONCLUSIONS OF LAW

1. Dr. Chong was convicted of a misdemeanor in August, 1987 in the State of Georgia. Pursuant to his plea of nolo contendere, he was found guilty of simple battery with which he had been charged, by virtue of a complaint accusing him of physically striking Sin Cha Chong about the head, face, arms and fingers. Dr. Chong apparently used both his fist and an index card box in delivering the blows upon this employee. While Dr. Chong claimed at hearing that Ms. Chong was intoxicated and harrassing him, he admitted that he had not asked other office employees to intercede, had not called the police for help, nor attempted any alternative dispute resolution techniques before he struck Ms. Chong. The location of this altercation in a medical office in plain view of patients is a shocking indictment of Dr. Chong's professional decorum and is indicative of moral turpitude. Although a tavern owner or other similar business proprietor may occasionally become embroiled in such an altercation, it is incomprehensible that a physician would physically batter a

female employee while patients were present in his office, regardless of the provocation. Dr. Chong had reasonable and effective alternatives at his disposal but chose to react in an impulsive, atavistic fashion. Dr. Chong's conduct in this incident, and the resultant misdemeanor, constitute "a judicial finding of guilt of a misdemeanor involving moral turpitude" as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

2. Section 4731.22(B)(22) of the Ohio Revised Code authorizes the Board to discipline an Ohio licensee whose license has been limited or placed on probation by another state's licensing authority, if the sanctions were imposed for acts that would also violate Chapter 4731, Ohio Revised Code. The Board alleged that Dr. Chong was sanctioned by the Georgia Board for acts which would also constitute violations of five specific provisions of applicable Ohio law.

First, the Board alleged that Dr. Chong was disciplined in Georgia for acts which would constitute "publishing a false, fraudulent, deceptive or misleading statement" as used in Section 4731.22 (B)(5), Ohio Revised Code. The Georgia Board had cited Dr. Chong for knowingly filing a fraudulent application to practice medicine in that state. The Ohio allegation is clearly supported by Dr. Chong's written admission in his answer to the Georgia Board, stating that his application for Georgia licensure contained "inaccuracies." The "inaccuracy" at issue was Dr. Chongs's false and deceptive response to an inquiry on his initial application for medical licensure in the State of Georgia. Thus, the correlative Ohio violation regarding publication of a false, fraudulent, deceptive, or misleading statement has been proven by reliable, probative and substantial evidence.

The second allegation under (B)(22) is that Dr. Chong received Georgia Board discipline for acts which would constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances," regardless of the presence or absence of patient injury, as delineated by Section 4731.22(B)(6), Ohio Revised Code, while the fourth allegation relates to Georgia discipline due to a conviction involving moral turpitude, violative of Section 4731.22(B)(13), Ohio Revised Code. The conduct of Dr. Chong toward Sin Cha Chong in his office during July, 1986 applies to both allegations. It resulted in his conviction and was a departure from minimal standards of care of similar practitioners under similar circumstances. The Ohio law does not provide that the controlling standard is one of <u>patient care</u>, but simply mandates compliance with the "standard of care" of similar practitioners. Dr. Chong's involvement in a physical altercation with an employee in the presence of patients and other office employees was a departure from minimal standards to which other physicians are held. This conduct also forms the basis for the

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Georgia discipline due to the conviction which resulted therefrom. This conviction, under the specific circumstances described herein, constitutes a misdemeanor involving moral turpitude in violation of Section 4731.22(B)(13), Ohio Revised Code. As such, the Georgia discipline for this conviction falls within the ambit of the proscription of Section 4731.22(B)(22), Ohio Revised Code. Despite Dr. Chong's proclaimed uncertainty about whether or not his particular conduct formed the basis for the Georgia Consent Order, the Georgia allegations, Dr. Chong's answer, and the resulting terms of the Consent Order substantially indicate that it did. The Ohio Board has shown by reliable, probative and substantial evidence that the behavior and conviction at issue would constitute violations under both Section 4731.22(B)(6) and (B)(13).

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The third allegation under (B)(22) involves the obtaining of or attempting to obtain anything of value by fraudulent misrepresentation in the course of practice as prohibited by Section 4731.22(B)(8). The Georgia Notice of Hearing letter clearly encompasses this Ohio provision when it charges Dr. Chong with instructing his office personnel to file false Medicaid claims. However, the Georgia Consent Order, artfully drafted by Dr. Chong's counsel, does not address this allegation with specificity. Although the terms of the probation imposed by the Consent Order indicate that measures were taken to prevent such acts, there was no evidence at the Ohio hearing relative to Dr. Chong's obtaining items of value through fradulent misrepresentation. Thus, this allegation is not supported by reliable, probative and substantial evidence.

The final (B)(22) allegation is Georgia's purported discipline for conduct which would constitute "violation of any provision of a code of ethics of. . .the American Medical Association" as outlined in Section 4731.22(B)(18). At this point, Dr. Chong has been determined to have: committed a crime involving moral turpitude; published a false statement; and been disciplined by another state for both of these acts and for failing to comply with minimal standards. Such conduct is proscribed by the Revised Principles of Medical Ethics as published by the American Medical Association. Thus, the limitation and probation of Dr. Chong's Georgia medical license was also imposed for acts which would violate Section 4731.22(B)(18).

In summary, Dr. Chong's discipline by the State of Georgia has been shown to constitute the imposition of probation and the limitation of his license by another state due to acts constituting the conviction of a crime involving moral turpitude, failure to conform with minimal standards, and publishing a false statement, in violation of Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(13), (B)(18), (B)(6), and (B)(5), Ohio Revised Code.

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PROPOSED ORDER

It is hereby ORDERED that the certificate of James B. Chong, M.D., to practice medicine and surgery in Ohio shall be and is hereby REVOKED. This order shall become effectively immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

Kevin P. Byers
Kevin P. Byers
Attorney Hearing Examiner

STATE MEDICAL BOARD OF OHIO
77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF JANUARY 9, 1991

REPORTS AND RECOMMENDATIONS

Mr. Albert advised that the findings and orders appearing on the Board's agenda are those in the matters of Anthony Pannozzo, M.D.; Bartis Mazeika, D.O.; James B. Chong, M.D.; and Myroslav M. Bych, M.D.

Mr. Albert asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Anthony Pannozzo, M.D.; Bartis Mazeika, D.O.; James B. Chong, M.D.; and Myroslav M. Bych, M.D. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Kaplansky	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye
	Mr. Albert	- aye

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

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All Assistant Attorneys General, all Enforcement Coordinators, and Mr. Schmidt left the meeting at this time.

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REPORT AND RECOMMENDATION IN THE MATTER OF JAMES B. CHONG, M.D.

Mr. Albert stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and order in the above matter. No objections were voiced by Board Members present.

DR. AGRESTA MOVED TO APPROVE AND CONFIRM MR. BYERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JAMES B. CHONG, M.D. DR. GRETTER SECONDED THE MOTION.

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Mr. Albert asked if there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.

DR. GRETTER MOVED THAT CONCLUSION OF LAW #1 IN THE MATTER OF JAMES B. CHONG, M.D., BE MODIFIED BY DELETING THE WORDS "ALTHOUGH A TAVERN OWNER OR OTHER SIMILAR BUSINESS PROPRIETOR MAY OCCASIONALLY BECOME EMBROILED IN SUCH AN ALTERCATION," AT THE BOTTOM OF PAGE 5 AND BY DELETING THE WORD "FEMALE" AT THE TOP OF PAGE 6 OF THE REPORT AND RECOMMENDATION.

Dr. Gretter stated that he agrees that physicians should not batter their employees, but he doesn't want the Board to imply that others can batter employees.

MR. JOST SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Kaplansky	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

MR. JOST MOVED TO APPROVE AND CONFIRM MR. BYERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER AS AMENDED IN THE MATTER OF JAMES B. CHONG, M.D. DR. O'DAY SECONDED THE MOTION.

Dr. Hom stated that in this case, a physician hit someone else and pled "nolo contendere" and was found guilty of battery. The Board is now voting to revoke his license. She asked how this case differs from Dr. Pannozzo's case.

Dr. O'Day stated that Dr. Chong was placed on probation in Georgia.

Mr. Jost stated that Dr. Chong faced very serious charges in Georgia. The Ohio Board's proposed action is on the basis of both the conviction and the Georgia Board's Order.

Dr. O'Day stated that Dr. Chong was guilty of five distinct violations of Ohio law while in Georgia. Those five violations are what make this case different from the previous case.

HOOVER 23-8

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A roll call vote was taken on Mr. Jost's motion:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Kaplansky	- aye
	Dr. Hom	- aye
	Ms. Rolfes	- aye
	Dr. Agresta	- aye

The motion carried.

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STATE OF OHIO
THE STATE MEDICAL BOARD
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS OH 43215

July 11, 1990

James B. Chong, M.D.
26217 Cambridge Lane, #101
Warrensville Heights, Ohio 44128

Dear Doctor Chong:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

(1) On or about August 10, 1987, you entered a plea of nolo contendere to the offense of simple battery and were sentenced to pay a fine of $500.00 in the matter of the State of Georgia vs. James B. Chong, Mitchell County State Court, Case Number 86-CR-405.

Such acts, conduct, and/or omissions as alleged in the above paragraph (1), individually and/or collectively, constitute "a plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude", as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

(2) On or about May 12, 1989, you entered into a Consent Order with the Composite State Board of Medical Examiners of the State of Georgia (a copy of which is attached hereto and fully incorporated by reference herein).

Such acts, conduct, and/or omissions, as alleged in paragraph (1) above, individually and/or collectively, constitute "the limitation, revocation or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, or the imposition of probation by that authority, for an action that would also have been a violation of this chapter, except for nonpayment of fees", as that clause is used in Section 4731.22(B)(22), Ohio Revised Code, to wit: Sections 4731.22(B)(5), (B)(6), (B)(8), (B)(13), and (B)(18), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Henry G. Cramblett, M.D.

Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Encls.

CERTIFIED MAIL #P 746 510 302
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FILED IN OFFICE
Joint Secretary
State Examining Boards

MAY 12 1989

DOCKET NUMBER
88-51

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
STATE OF GEORGIA

IN THE MATTER OF:	DOCKET NO. 88-51
JAMES BONGHAE CHONG, M.D., a/k/a BONG HAE CHONG, License No. 26081,	AG No. 93481-87
Respondent.	

CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and James Bonghae Chong, M.D., Respondent, the following disposition of this matter is entered pursuant to the provisions of the Georgia Administrative Procedure Act codified as O.C.G.A. § 50-13-13(a)(4).

FINDINGS OF FACT

1.

The Respondent is licensed to practice medicine in the State of Georgia, and was so licensed at all times relevant to the matters stated herein.

2.

The Respondent waives any further findings of fact with respect to the above matter. However, the Respondent shall be allowed to submit a supplemental statement for the investigative file in explanation and mitigation of the matters stated herein for consideration by the Board prior to its review of

BRIMBERRY, KAPLAN, CAMPBELL & DONALDSON, P.C.
408 N. JACKSON STREET
POST OFFICE BOX 1085
VALDOSTA, GEORGIA 31603
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this Consent Order.

CONCLUSIONS OF LAW

The Respondent's conduct constitutes sufficient grounds for disciplinary action under O.C.G.A. Chs. 1 and 34, T.43, as amended. The Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and the Respondent hereby agrees, to the following terms of discipline:

1.

Until further order of the Board, the Respondent's license shall be limited and restricted, so that the Respondent shall not be permitted to perform a physical examination on a female patient without the presence of a third person. Any question pertaining to the interpretation of the restriction contained herein shall be directed to the Board in writing, c/o the Medical Coordinator. If the Respondent shall engage in the practice of medicine as prohibited herein, his license shall be subject to revocation, upon substantiation thereof. Removal of the restrictions outlined herein shall be in the sole discretion of the Board.

BRIMBERRY, KAPLAN, CAMPBELL & DONALDSON, P.C.
408 NORTH JACKSON STREET
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TIFTON, GEORGIA 31793
(912) 386-0537

2.

In addition to and in conjunction with any other sanction contained herein, this Consent Order and dissemination thereof shall serve as a public reprimand to the Respondent for his conduct.

3.

In addition to and in conjunction with any other sanction contained herein, Respondent shall pay a fine of $2,000.00, payable by certified check to the Board, no later than sixty (60) days from the effective date of this Consent Order.

4.

Commencing on the date the Respondent returns to the practice of medicine in Georgia or the effective date of this Consent Order, whichever occurs later, the Respondent's license shall be placed on probation for a period of thirty (30) months. The Respondent agrees to notify the Board within ten (10) days of his return to Georgia of the date he returned and the location in which he is practicing. The following terms and conditions of probation shall apply:

(a) The Respondent shall submit to the Board for its approval a program of continuing education acceptable to the Board, consisting of fifty (50) hours per year, or a total of

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8 NORTH JACKSON STREET
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one hundred and twenty-five (125) hours, which the Respondent shall complete during the probationary period and provide documentation thereof to the Board.

(b) Within sixty (60) days of the commencement of the probationary period, the Respondent shall submit to a mental/physical evaluation by a physician(s) designated by the Board. If such evaluation discloses that the Respondent requires treatment or aftercare in order to continue the practice of medicine with reasonable skill and safety to patients, the Respondent will undergo such treatment or aftercare as recommended by said evaluation, or by further amendment to this Consent Order.

(c) Upon re-enrolling as a provider in the Georgia Medicaid program, the Respondent shall be put on a Medicaid pre-payment review plan for at least one year. At the conclusion of one year on the pre-payment review plan, the Respondent shall be reevaluated by the Medicaid program and a report shall be made to the Board. In the event Medicaid recommends that the Respondent remain on a pre-payment review plan, the Respondent agrees to comply with Medicaid's recommendations. The Respondent further agrees to notify Myra Woodbury, Coordinator of the Surveillance and Utilization Review Unit, or her successor, at the Department of Medical

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Assistance, Floyd Building, West Tower, 2 Martin Luther King, Jr. Drive, S.E., Atlanta, Georgia 30334, telephone number (404) 656-4155, within three business days of being notified that he has been re-enrolled as a Medicaid provider.

(d) Respondent shall maintain accurate medical records relating to all surgical and diagnostic procedures, including appropriate histories, physicals and test results, which justify the need for such procedures.

(e) Respondent shall in all respects comply with Board Rule 360-2-.09, relating to diagnosis, treatment and record-keeping.

(f) The Medical Coordinator or another representative of the Board shall periodically review and inspect, at any reasonable time designated by the representative, the Respondent's office, hospital or nursing home records and any required logs, as deemed necessary. The Respondent shall have the right to be present during such inspection of records, and the rights of privacy and confidentiality of patients shall be maintained. The Respondent shall be available, upon reasonable notice, for personal interviews with the Medical Coordinator or other representative of the Board. Failure of the Respondent to be reasonably available for inspection of his records or for personal interviews with a Board

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representative shall be considered a violation of the Consent Order.

(g) The Respondent shall supply a copy of this Consent Order, once approved and docketed, within ten (10) days from receipt by Respondent, to each hospital or other institution in Georgia where he maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice or for whom Respondent is employed as a physician in the State of Georgia. Respondent shall also be required to disclose the existence of and provide a copy of this Consent Order in connection with any future application for institutional appointment, associated practice or employment as a physician in the State of Georgia while this Consent Order is in effect;

(h) In the event the Respondent should leave the State of Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, the Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia will not apply to the reduction of the Respondent's probationary period, unless otherwise authorized by the Board under such conditions as the Board deems acceptable. The Respondent shall advise the Board of any

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change in his practice status and address of record.

(i) The Respondent shall abide by all State and Federal laws regulating the practice of medicine or relating to drugs, the Rules and Regulations of the Composite State Board of Medical Examiners, and the terms of this Consent Order and probation. If the Respondent shall fail to abide by such laws, rules or terms, or if it should appear from monitoring reports submitted to the Board that the Respondent is otherwise unable to practice medicine with reasonable skill and safety to patients, the Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Respondent hereby agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of the Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that he shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

J.B.C

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(j) Within sixty (60) days from the scheduled date of termination or probation, Respondent may petition for termination of probation by certifying under oath before a notary public that the Respondent has complied with all conditions of probation. The Composite State Board of Medical Examiners shall be authorized to review and evaluate the practice of the Respondent prior to lifting the probation. At such time, the Board shall be authorized to restore all rights and privileges incident to the license of the Respondent, unless it extends, maintains, or imposes such restrictions or conditions as the Board deems appropriate, based upon the information presented to it pursuant to this Consent Order or otherwise available to the Board. The Board shall notify Respondent of its intent to extend, maintain or impose such restrictions or conditions beyond the designated probationary period, and the Respondent may respond to such notification in writing or request an appearance before the Board or its representative as in a non-contested case. This Consent Order shall remain in effect pending a final determination by the Board and notification that the probationary period has terminated.

5.

This Consent Order, if accepted by the Composite State

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Board of Medical Examiners, shall in no way be construed as condoning the Respondent's conduct, and shall not be construed as a waiver of any of the lawful rights possessed by the Board.

6.

Respondent, James Bonghae Chong, M.D., acknowledges that he is represented by counsel in this matter, that he has read this Consent Order and has discussed it with counsel. Respondent understands that he has the right to a hearing in this matter, and Respondent freely, knowingly and voluntarily waives such right by entering into this Consent Order. Respondent understands that this Consent Order will not become effective until approved by the Composite State Board of Medical Examiners and docketed by the Joint Secretary. Respondent further understands and agrees that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved and docketed, shall constitute a public record which may be disseminated as a disciplinary action of the Board. If this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the ability of the Board to adjudicate this matter.

J.B.C

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Respondent consents to the terms of discipline contained herein.

Approved, this 11th day of May, 1989.

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

By: Thomas J. Busey, Jr. M.D.
THOMAS J. BUSEY, JR., M.D.
President

(BOARD SEAL)

ATTEST: William G. Miller, Jr.
WILLIAM G. MILLER, JR.
Joint Secretary
State Examining Boards

Consented to:

JAMES BONGHAE CHONG, M.D.
Respondent

GEORGE P. DONALDSON, III
Attorney for Respondent

D. Daniel Kleckley
D. DANIEL KLECKLEY
Attorney for Respondent

Witness of Respondent's Signature:

Sworn to and subscribed before me this 10th day of April, 1989.

Lou Stueck
NOTARY PUBLIC
Notary Public, Dougherty County, Georgia
My Commission Expires June 29, 1991

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