

**BEFORE THE IOWA BOARD OF CHIROPRACTIC**

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IN THE MATTER OF )  
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**Stuart Hoven, D.C.,** ) **EMERGENCY ADJUDICATIVE**  
License Number 06439 ) **ORDER**  
Respondent. )

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**COMES NOW** the Iowa Board of Chiropractic, on this 26th day of April, 2012, and finds it was presented with evidence which establishes that Respondent's continued practice as a chiropractor constitutes an immediate danger to the public health, safety, and welfare. A summary of the evidence obtained by the Board is as follows:

**FINDINGS OF FACT**

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 147, 151, and 272C.
2. Respondent was issued license number 06439 to practice as a chiropractor in the State of Iowa on August 24, 2001. The license is current through June 30, 2012.
3. Respondent is a chiropractor practicing in Winterset, Iowa.
4. On March 2, 2012 the Board received a complaint that Respondent grabbed a female patient's breast during an x-ray appointment on February 14, 2012.
5. On March 6, 2012 The Board received a second complaint that a patient reported to her treating physician that Respondent grabbed the patient's breast on February 14, 2012.
6. The Board has received an investigative report of the complaints. The investigation is ongoing and the Respondent continues to practice chiropractic in the State of Iowa.
7. Respondent has not been convicted of any of the allegations.
8. The current complaints are substantially similar to prior disciplinary action concerning the Respondent. On April 27, 2005, the Board found the Respondent engaged in unethical conduct in the practice of the profession and practice harmful or detrimental to the public, "when he improperly touched the breasts of two female patients and when he made improper and/or suggestive remarks to the two patients." Respondent's license to practice chiropractic was returned to its full privileges free and clear of all restrictions on July 15, 2010.
9. The Board concludes that its current ongoing investigation is sufficient to ensure the Board is proceeding on reliable information. The information, if proven at

hearing, would indicate that Respondent's conduct constitutes unethical conduct and practice harmful or detrimental to the public, in violation of Iowa Code sections 151.9(3) and (8), 147.55(3) and (8), 272C.10(3) and (8), and Iowa Administrative Code rule 645—45.2(3) and (28)(b).

## CONCLUSIONS OF LAW

10. In a contested case proceeding, if sufficient evidence is presented to prove an allegation and the Board finds the action constitutes a violation, the Board has the authority to impose disciplinary sanctions including civil penalty, additional education or training, probation, suspension, or revocation of a license. Iowa Administrative Code rule 645—45.3.

11. In an emergency adjudicative order, “[an] agency may only take such action as is necessary to prevent or avoid the immediate danger to the public, health, safety, or welfare that justifies use of emergency adjudication. Iowa Code § 17A.18A(2).

12. “Before issuing an emergency adjudicative order, the board shall consider: (a) whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information; (b) whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing, (c) whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare, (d) whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare, and (e) whether the specific action contemplated by the board is necessary to avoid the immediate danger.” Iowa Administrative Code rule 645—11.28(2).

13. The facts set forth above establish that Respondent's continued practice as a chiropractor poses an immediate danger to the public health, safety, or welfare.

14. The information gathered regarding Respondent's conduct while purporting to perform chiropractic—the patient that came forward with allegations of inappropriate touching, and the second complaint from an attending physician was in agreement with the first complaint—raises global concerns regarding his ability to safely and appropriately practice.

15. Respondent's continued practice poses a serious and immediate danger to his female patients that cannot be addressed through any means other than the imposition of interim safeguards before the Board can reach a final decision in a contested case against him.

16. The Board finds the following monitoring requirements and other interim safeguards would be sufficient to protect the public health, safety, or welfare until this

case is finally resolved or until such time the Board receives satisfactory evidence of Respondent's fitness to practice:

- a. Respondent shall not perform any soft tissue chiropractic treatment to female clients on or around the breast.
  - b. Respondent shall have a non-family member, adult female chaperone present at all times he is providing chiropractic treatment to female patients. Respondent shall not be alone at any time with a female patient including times the chaperone must leave the room for some expected or unexpected event. The chaperone's presence shall be documented in each patient record by the chaperone signing each record with the statement that she was in the room at all times the chiropractor was in the room.
  - c. Respondent shall not provide services to a female patient if the chaperone is unavailable. Respondent shall inform the Board of the chaperone's identity and contact information in writing prior to resuming services.
  - d. Respondent shall provide a copy of this Order to each employee and staff person working in his practice. Respondent shall provide a signed verification from each employee documenting receipt of the Order within ten days of the date of this order to the Board.
  - e. Respondent shall provide a copy of this Order to each female patient prior to providing chiropractic treatment. Respondent shall have each patient sign a verification of receipt and keep the verification as part of the patient's record. Copies of such receipts shall be made available to the Board upon request of the Board or agent of the Board.
17. Respondent shall be notified immediately of this order pursuant to Iowa Administrative Code rule 645—11.28(3).

### **ORDER**

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A (2011) and Iowa Administrative Code rule 645—11.28, that Respondent's license be subject to the above-stated restrictions to practice as a chiropractor pending further order of the Board.

A hearing on this Emergency Adjudicative Order shall be held on May 30, 2012. The hearing will begin at 9:00 a.m. and will be held at the Board conference room, 5th Floor, Lucas State Office Building, Des Moines, IA 50319.

This Order dated April 26, 2012