

**BEFORE THE BOARD OF CHIROPRACTIC OF THE STATE OF IOWA**

IN THE MATTER OF	)	NO. 10-23
	)	
DANIEL DUFFY, D.C.,	)	<b>NOTICE OF HEARING AND</b>
	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	

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**COMES NOW** the Iowa Board of Chiropractic (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license AO6101 on February 24, 1998. Respondent's license will next expire on June 30, 2012. Respondent's last known address is 403 First Avenue, P.O. Box 622, Perry, Iowa, 50220.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on September 29, 2010 before the Board of Chiropractic. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address:  
Board of Chiropractic, 5<sup>th</sup> Floor, Lucas State Office Building, Des Moines, Iowa, 50319. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 151, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 151, and 272C and 645 IAC chapter 45.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

Respondent is charged with unethical conduct or practice harmful or detrimental to the public, in violation of Iowa Code section 151.9(3) and (8), 147.55(3) and (8), 272C.10(3) and (8), and 645 IAC 45.2(3) and (28).

## **D. FACTUAL CIRCUMSTANCES**

1. On August 13, 2010, the Chiropractic Board received a complaint against Respondent.
2. An investigation revealed that on January 12, 2010, Respondent was treating an adult female patient.
3. During the treatment session, Respondent masturbated, touched his penis to the patient's lower back, and ejaculated on the patient's lower back.

4. The Patient went to the police station. Buccal swabs were obtained from the patient's lower back. A DNA profile was obtained from the sperm present on the swab. A buccal swab was obtained from Respondent. The DNA profile obtained from the sperm from the patient's back matched the DNA profile of Respondent.

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Julie Bussanmas, Assistant Attorney General, at 515.281.5637.

#### **F. PROBABLE CAUSE FINDING**

On this 2<sup>nd</sup> day of September, 2010, the Iowa Board of Chiropractic found probable cause to file this Notice of Hearing and Statement of Charges.