

BEFORE THE IOWA BOARD OF CHIROPRACTIC

IN THE MATTER OF)
)
JASON EBELSHEISER, D.C.,) **EMERGENCY ADJUDICATIVE**
) **ORDER**
Respondent.)

COMES NOW the Iowa Board of Chiropractic, on this 30th day of July, 2009, 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 06743 to practice as a chiropractor in the State of Iowa on October 26, 2004. The license is current through June 30, 2010.
3. Respondent is a chiropractor practicing in Oskaloosa, Iowa.
4. On July 27, 2009, in Mahaska County District Court for the State of Iowa, Respondent was charged with five counts of sexual abuse in the third degree and one count of tampering with records.
5. Count 1 is related to a 26 year-old female patient and alleges Respondent "rubbed his fingers up and down the "lips" of her vagina, rubbed her clitoris and put his finger inside her vagina" multiple times.
6. Count 2 is related to a 22 or 23 year-old female patient and alleges Respondent "put his hand inside [her] pants and underwear and rubbed her pubes or genitals with his bare hand" on multiple occasions.
7. Count 3 is related to a 20 year-old female patient and alleges Respondent "placed his hand down inside her pants to the crotch area of her jeans [and] placed two fingers on her extreme inner thigh right next to the crotch of her underwear next to [her] outer labia. He placed another finger inside her panties with the finger resting on her genitals inside her labia."
8. Count 4 relates to a 24 year-old female patient and alleges Respondent "put his gloveless hand inside her pants and her underwear and put his hand on the inside of her thigh next to her vagina ... and touched [her] pubes or genitals and pushed on the area of her genitals next to her vagina."

9. Count 5 relates to a 17 year-old female patient and alleges Respondent “moved his hand down [her] body into her underwear until his hand touched her bare pubes or genitals...rubbed [her] body between her legs and stroked her vaginal area, placing a finger on her vagina and pushing on it...he then moved to the opposite side of his patient and repeated these acts from the opposite side, again, rubbing, stroking and pushing on [her] bare pubes, genitals and vaginal area.”

10. Count 6 relates to a 20 year-old female patient and alleges that Respondent materially altered the comments and notations contained within the medical record to explain treatment provided.

11. An investigation completed by the Board on July 29, 2009, indicates Respondent was released on bail and continues to practice chiropractic.

12. Respondent has not been convicted of any of the allegations.

13. The Board concludes that its investigation is sufficient to ensure the Board is proceeding on reliable information received from the criminal complaint and its own investigation. 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 section 151.9(3) and (8), 147.55(3) and (8), 272C.10(3) and (8), and 645 IAC 45.2(3) and (28)(b).

CONCLUSIONS OF LAW

14. 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. 645 Iowa Administrative Code 45.3.

15. 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).

16. “Before issuing an emergency adjudicative order, the board shall consider ... whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information, whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing, 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, whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare, and whether the specific action contemplated by the board is necessary to avoid the immediate danger.” 645 Iowa Administrative Code 11.28(2).

17. 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.

18. The information gathered regarding Respondent's conduct while purporting to perform chiropractic, the number of patients that have come forward with allegations of inappropriate touching, and his apparent altering of records in an attempt to legitimize such treatment raise global concerns regarding his ability to safely and appropriately practice.

19. 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.

20. 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 in the anterior umbilicus to mid-thigh region, including any psoas treatment.
- b. Respondent shall have a non-family member, adult female chaperone present at all times he is providing chiropractic treatment to a female patient. The chaperone's presence shall be documented in each patient record by the chaperone. 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 prior to resuming services.
- c. 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.
- d. 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.

21. Respondent shall be notified immediately of this order pursuant to 645 Iowa Administrative Code 11.28(3).

ORDER

IT IS HEREBY ORDERED, in accordance with Iowa Code Section 17A.18A

(2009) and 645 IAC 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 October 14, 2009. 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 July 30, 2009

This emergency adjudicative order is approved by the board on July 30, 2009.