

BEFORE THE IOWA BOARD OF CHIROPRACTIC

IN THE MATTER OF:)	CASE NO. 15-0213
)	DIA NO. 15ICB006
ANDREW KEARSE, D.C.)	
License No. 007454)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
RESPONDENT)	DECISION AND ORDER

On December 9, 2015, the Iowa Board of Chiropractic (Board) issued a Notice of Hearing and Statement of Charges and an Emergency Adjudicative Order (Emergency Order) to Andrew Kearse, D.C. (Respondent), pursuant to Iowa Code section 17A.18A and 645 IAC 11.28. The Statement of Charges and Emergency Order were issued after multiple female patients complained that Respondent had touched them inappropriately during their appointments and after the Board received additional information indicating that Respondent had sexual contact with other female patients, both at the time of their appointments and after hours.

Respondent was charged with the following counts:

Count I: Unethical conduct or practice harmful or detrimental to the public, in violation of Iowa Code sections 147.55(3) and 645 Iowa Administrative Code 45.2(3); and

Count II: Unethical conduct by having improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, in violation of Iowa Code section 147.55(9) and 645 IAC 45.2(28)(b).

The Emergency Order prohibited Respondent from treating or providing services to female patients pending final resolution of the charges. Respondent was also required to provide a copy of the Emergency Order to each employee and staff person working in his practice and to provide the Board with a signed verification from each employee documenting receipt of the Emergency Order within ten days of its issuance.

The Statement of Charges and Emergency Order established an initial hearing date of January 13, 2016, which was later continued at Respondent's request. The hearing was held on May 12, 2016 at 9:00 a.m. in room G15 at the Iowa State Capitol in Des Moines, Iowa. The state of Iowa was represented by Assistant Attorneys General Meghan Gavin, Jordan Esbrook, and Rebecca Barloon. Respondent was represented by attorney Curtis Dial. The following Board members presided at the hearing: Rex Jones, D.C., Chairperson; Aaron Martin, D.C.; Randall Stange, D.C.; Nancy Kahle, D.C.; Jason Wall, D.C.; and Stephanie Netolicky, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing and was instructed to prepare the Board's Decision, in conformance with their deliberations, for review by the Board.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges; Emergency Adjudicative Order; Respondent Motion to Reschedule Hearing, State Resistance, Respondent Withdrawal of Request to Reschedule; Respondent Motion to Continue, State Motion to Strike, State Resistance to Motion for Continuance and Request for Immediate Hearing; Order Granting Motion for Continuance; Rescheduling Order; State Request for Prehearing Conference; Order Following Prehearing Conference; State Motion to Compel and Motion for Prehearing Conference; Respondent Response to Motion to Compel, Objections to State Exhibits, and Supplemental Response to Motion to Compel; Rulings on Respondent's Objections to State Exhibits; and State Motion for Telephone Testimony.

The record also includes the in-person testimony of the following witnesses: Patient#4, David Guehring, D.C., Respondent, and Adam Robinson; the videotaped testimony of Patient #1 and Patient #6; the telephone testimony of Patient #5 and Patient #7; and State Exhibits 1-32. Respondent's oral objection to telephone testimony was overruled at the beginning of the hearing.

FINDINGS OF FACT

1. Respondent graduated from Logan College of Chiropractic in Chesterfield, Missouri in April 2011. On August 12, 2011, Respondent was issued license number 007454 to practice chiropractic in the state of Iowa. (Respondent testimony; State Exhibit 4)

2. In October 2011, Respondent opened Kearse Chiropractic & Sports Rehab at 1610 Morgan Street in Keokuk, Iowa. Respondent sometimes employed a receptionist, but there were many times when he was the only person working at the clinic. Respondent's clinic had an entry door off a common hallway, a reception area, a treatment room, a massage room, and a third room adjacent to the treatment room. Respondent had a bed in this third room and he often spent the night there after he separated from his wife in the winter of 2014. (Respondent testimony; State Exhibits 4-6)

3. Since March of 2014, seven of Respondent's female patients have contacted the Keokuk Police Department to report inappropriate touching by Respondent and/or inappropriate verbal comments by Respondent during their chiropractic appointments. All of these patients have been interviewed by law enforcement officers, and five of them provided testimony at the hearing before the Board. The reports of these seven women concerning Respondent's actions are very similar. There is no evidence that any of the women knew each other prior to going to the police. (State Exhibits 8-29, 31; Testimony of Patients ##1, 4, 5, 6, 7)

4. On March 7, 2014, Patient #6 was the first of Respondent's patients to contact the police. Patient #6 had been referred to Respondent by a co-worker early in 2014. She had appointments with Respondent several times a week for the first month, and she estimated that she had 15-20 appointments in all. At some of her appointments, there was a male receptionist working in the office. Most of the appointments lasted approximately 10 minutes, and Respondent would adjust the patient's hips and neck while she was fully clothed. On her second to the last visit, Patient #6 was asked to undress for her chiropractic treatment, and she was given a gown to wear.

At the time of her last appointment on March 5, 2014, Respondent was the only person working in the clinic. Respondent told Patient #6 that she needed to take off her sweatshirt, t-shirt and tank top, but he did not initially offer her a gown. After Patient #6 was already undressed, Respondent asked her if she wanted a gown, and the patient told him that it "was a little late for that."

Patient #6 sat at the end of the treatment table. Respondent sat behind the patient, straddling the table between his legs. Respondent unhooked the patient's bra, and she crossed her arms in front of her to hold her bra up over her

breasts. During the adjustment, Respondent put his hand up under the patient's bra and cupped her bare breast. Respondent had never touched the front of her body before. The patient reports that she was shocked and embarrassed.

Respondent then told Patient #6 let's get "off the doctor patient level" and on to "friend to friend." The patient reports that she gave Respondent a "dirty look" and he told her that he "better not because you probably won't come back." Respondent finished what he was doing and told the patient that she could get dressed. When Patient #6 was making another appointment, Respondent told her that her fiancé "is a lucky man." Patient #6 did not go to her next appointment, and she had someone call Respondent for her and report that she was ill. Respondent sent the patient a Facebook request, but she did not accept it. Two days after her last appointment, Patient #6 made her report to the Keokuk Police Department, but she told the officer that she did not want to file criminal charges. The officer told the patient that she could file a complaint against Respondent's license on the Department of Health website. (Testimony of Patient #6; State Exhibits 20, 31)

5. Patient #1 was the second female patient of Respondent's to make a report to the Keokuk Police Department. Patient #1 went to Respondent in June 2015 seeking treatment for migraine headaches and neck pain. Patient #1 had just two chiropractic appointments with Respondent. At both appointments, Respondent and the patient were alone in the clinic.

During the first appointment, Respondent adjusted Patient #1 while she was lying on a treatment table fully dressed. Respondent then told the patient that he was going to give her a massage to loosen her muscles, and he asked her to change into a hospital gown. After changing into the gown, Patient #1 sat at the edge of the treatment table while Respondent sat behind her straddling the table. After massaging the patient's neck, upper back, and lower back, Respondent reached around the patient and twisted her back and "kind of grazed" the bottom of her breasts. At the time, Patient #1 assumed that Respondent's touching of her breast was accidental.

Patient #1 had her second (and last) appointment with Respondent on June 11, 2015. Respondent performed the same types of adjustments on the treatment table and then told the patient that he wanted to give her a massage, but he didn't have any gowns. Respondent told the patient that he had just gotten divorced and his wife usually took care of everything. Patient #1 told

Respondent that it wasn't a big deal and that she would use her shirt instead. Patient #1 had her shirt tucked under her arms and covering her breasts. Respondent had the patient sit on the end of the treatment table, and he sat behind her, straddling the table. The patient moved to the edge of the table. After starting the massage, Respondent put his hands under the patient's buttocks and pulled her towards him. The patient thought this was odd and she "scoted forward" a little bit and once again Respondent pulled her in towards him. At this point Patient #1 could feel the inside of Respondent's thighs, and she could feel that he had an erection.

Patient #1 testified that she started to "kind of freak out" wondering what she should do. Respondent was considerably larger than the patient and she did not know him. She decided that it was better to "play it cool" like everything was okay. Respondent unhooked the patient's bra without asking permission and this time when he twisted her back he grabbed each of her breasts. Respondent then asked her to follow him into another examination room, and she complied.

There was a massage table in the other room, and Respondent told the patient that he was going to give her a "more full massage." He asked the patient to remove her pants and to lie down on the table, and he gave her a heavy blanket to cover herself. Patient #1 waited until Respondent left the room and then she undressed and laid face down on the table with the blanket pulled up under her armpits. The patient testified that she didn't know what to do so she "just went with it" and hoped that he wouldn't get aggressive or hurt her.

Respondent had the patient move on to her back, and he massaged her pectoral muscles and then started to massage a little lower on her body. Respondent told the patient that he needed to be honest with her and that he thought she was "hot." The patient said "thank you." Respondent then had the patient move back on to her stomach, and he put his hands in her underwear while continuing to massage her. The patient reports that she "jolted a little bit," and Respondent pulled his hands back out. Respondent then turned the patient on her side with her arms behind her, and she could feel Respondent pushing his erection into the palm of her hand. Respondent made more inappropriate comments to the patient, telling her that she was "hot" and "If you were mine I wouldn't let you leave my bed for a week."

Patient #1 told Respondent that she had to leave "right now." Respondent told her ok but then had her sit up on the edge of the table. He stood between her

legs and massaged her neck. The patient testified that she closed her eyes because she did not want to look at Respondent, and he was so close to her that she could feel his nose touching her nose and his stubble touching her cheek. After about a minute, the patient told Respondent that she really had to go, and Respondent told her "just don't tell anyone about this, because I could get in some trouble." The patient agreed because she was afraid of what he would do. She told Respondent not to worry about it and she would just forget it happened. Respondent told the patient that he couldn't help himself because he found her so attractive, but she couldn't tell anyone because he would get into trouble.

Patient #1 dressed quickly and started to leave, but Respondent stopped her and asked her to make another appointment. He told her that he wanted to see her three times a week. The patient made the appointments, but she never intended to keep them. As Patient #1 started to leave, Respondent ran from the reception area and grabbed the exit door handle, and it appeared to the patient that he unlocked the door. Once again, Respondent told the patient "please don't tell anybody about this."

Patient #1 immediately called her husband and told him what happened. He told her to go to the police department and file a report. Patient #1 was interviewed by law enforcement on June 11, 2015 and again on July 20, 2015. The second interview was recorded. (Videotaped testimony of Patient #1; State Exhibits 8-10, 23)

6. On August 13, 2015, Patient #3 went to the Keokuk Police Department to make a report about the chiropractic appointment that she had with Respondent on August 11, 2015. This was the first appointment that the patient had ever had with a chiropractor, and Respondent was alone in the clinic when she arrived. Respondent had Patient #3 lay down on the treatment table while he adjusted her. The patient was wearing leggings and a knit tank top, and she was surprised when Respondent pulled her shirt up during the adjustment without asking her first. During the adjustment, Respondent asked the patient if she had ever had a breast augmentation.

Respondent then told Patient #3 that she needed to take everything off on top and get into a gown. Respondent had the patient sit at the end of the exam table and he straddled the table behind her and rubbed her back for a long time using lotion. Respondent told the patient that he was divorced. Patient #3 was really nervous and she held her arms down close to her sides so Respondent could not

bring his hands forward. Respondent kept telling her that she needed to relax her muscles and that she would need to come back three times a week.

Patient #3 returned for her second appointment because she was having trouble functioning due to a really bad headache and a sore neck. She told Respondent that she only had time for a quick adjustment because she had to get back to work. Afterward, the patient called Respondent at 11:50 a.m. to cancel her appointment for the following day. Respondent called the patient at 12:03 and again at 1:33 p.m. asking her to reschedule her appointment. The patient did not reschedule and went to the police instead. Her interview was videotaped. (State Exhibits 14, 15, 24)

Respondent admits that he asked Patient #3 if she had a breast augmentation but states that he had a legitimate chiropractic purpose for this question. He also admits calling the patient when she missed her appointment but denies that he ever touched this patient inappropriately. (Testimony of Respondent)

7. On August 18, 2015, Respondent was interviewed by Agent Ryan Herman of the Iowa Division of Criminal Investigation (DCI) and by Detective Steve Dray of the Keokuk Police Department. Respondent was interviewed at his chiropractic clinic where he was living at the time. Agent Herman told Respondent that law enforcement had received complaints of inappropriate touching and inappropriate sexual contact from several of Respondent's patients.

During this interview, Respondent admitted that he touched the breasts of Patient #1 "in a sexual way" and not for a chiropractic purpose. Respondent told the officers that he had recently gone through a divorce and was depressed. Respondent further stated that he "just got carried away" and that he "succumbed to the temptation." Respondent told the officers that he always asked his patients if they are comfortable and that he felt that Patient #1 wanted the physical attention. (State Exhibits 6, 22)

Later that day, Respondent was arrested and criminally charged with simple misdemeanor assault of Patient #1.¹ (Testimony of Respondent; State Exhibits 6, 7)

8. Additional patients came forward with complaints against Respondent

¹ Respondent was later acquitted of the criminal charge following a jury trial. (Respondent testimony)

after the criminal charges were filed against him.

a) Patient #2 initially contacted the Keokuk Police Department on August 20, 2015, and she was later interviewed on August 25, 2015. This patient reported that she went to Respondent 3 or 4 times after she fell down the stairs and tore a muscle in her side. During her initial visits, the patient was given a gown to wear. On her final visit, Respondent told her to take her shirt off and he would bring her a gown. Respondent came back in and told her all of the gowns were dirty and that his receptionist was not in so he did not know where the gowns were. Respondent told the patient she could just put her shirt over her chest and he would work on her back muscles.

Respondent had Patient #2 sit on the table and he sat behind her straddling the table. The patient felt like Respondent was trying to work his way under her bra to touch her breasts and she kept squeezing her arms down so he could not get to them. Respondent stood up and started massaging the patient with lotion, and she observed that he had an erection. Someone walked in the door of the clinic and when Respondent left the treatment room to help that person, Patient #2 quickly dressed and left the clinic. When the patient did not return for her follow up appointment, Respondent contacted her on Facebook. (State Exhibits 11-13, 27)

b) Patient #5 initially contacted the Keokuk Police Department on August 20, 2015, and she was interviewed on August 25, 2015. Patient #5 had been a long term patient of Respondent and had 25-30 appointments with him between November 2013 and March 2015. The patient's appointments were usually after 5:00 p.m. and often there was no one else in the clinic. Respondent's chiropractic treatments had been very effective in relieving her chronic back pain.

The patient reported that she first became uncomfortable when Respondent straddled her knee and his penis rubbed against her leg while he was stretching out her arm and leg. The patient thought that maybe Respondent did not realize what he was doing, so she decided to give him the benefit of the doubt and did not say anything to him about the physical contact.

Patient #5 reported that at her next appointment, Respondent was treating her shoulder and he asked her to remove her tank top so he could work out the knots in her muscles. At the following appointment, Respondent asked if he could

unhook the patient's bra. The patient reluctantly agreed but held her bra over her breasts. Respondent straddled the patient from behind and put his hand on her breast. Respondent asked the patient to take her bra off, and he told her that he was not shy. The patient responded that she was shy. Respondent was sitting close behind the patient and she "freaked out" when she could feel that he had an erection. The patient reports that Respondent started massaging her bare breasts. A few seconds later Respondent jumped up and his face was red and flushed. This was the patient's last appointment with Respondent. (State Exhibits 18, 19, 26; Testimony of Patient #5)

c) On August 21, 2015, Patient #4 contacted the Keokuk Police Department and was interviewed. Patient #4 also testified at hearing. Patient #4 had four appointments with Respondent in July 2013. At the first appointment, Respondent had the patient remove her bra and shirt, and he gave her a massage while he was sitting close behind her, straddling the table. The patient was very nervous because Respondent's hand was very close to her breast, although he never touched it. At the second appointment, the patient told Respondent that she had been uncomfortable during the first appointment, and Respondent apologized to her and told her to let him know if she was ever uncomfortable. The patient reports that when she told Respondent that she was going to be a drug counselor, he told her that he was a sex addict.² After the patient missed her third scheduled appointment, Respondent called her and offered to do a house call, which she found "very weird." Patient #4 came forward after hearing on the news that someone else had filed a complaint against Respondent and that they were asking if anyone else had a similar experience. (State Exhibits 16, 17; Testimony of Patient #4)

d) On August 21, 2015, Patient #7 contacted the Keokuk Police Department and was interviewed. Patient #7 reported that she had just two appointments with Respondent approximately one year earlier for a problem that she was having with her neck and that she never returned to him after the second appointment. Respondent was the only person working in the clinic at the time of her second appointment. Patient #7 reported that Respondent had her sit at the end of table, and he sat close behind her straddling the table. Patient #7 reported that Respondent's hands went up under her shirt and bra and touched her breast. Respondent also stood in front of her massaging her shoulders, and his crotch area was uncomfortably close to her face. The patient

² Respondent denies that he ever made this statement. (Respondent testimony).

scheduled a return appointment but she never went back. Respondent called her at least 2-3 times and left her two voice mails. The patient never received a bill for her appointments. (State Exhibits 21, 25; Testimony of Patient #7)

9. On September 9, 2015, the Board asked the Iowa Department of Inspections and Appeals (DIA) to investigate the allegation that Respondent had assaulted a female patient during a chiropractic visit. The case was assigned to DIA Investigator Troy Wolff. Wolff contacted Detective Steven Dray to ask about the Keokuk Police Department's investigation.

On September 15, 2015, Investigator Wolff interviewed Respondent at his chiropractic clinic. Respondent told Wolff that he believed there had been a mutual attraction between himself and Patient #1. Respondent told Wolff that he had massaged the patient's legs, inner thighs, buttocks, and breasts. He told Wolff that he assumed that the patient was ok with his advances because she did not tell him to stop. Respondent admitted that what he did was unethical and inappropriate.

Respondent further told Wolff that he was in a "bad place" at that time and had been drinking a lot and sleeping with a lot of women. Respondent told Wolff that he had engaged in consensual sex acts with other patients in his office, both during chiropractic appointments and after office hours. When asked if patients other than Patient #1 had been uncomfortable with his actions, Respondent admitted that he had "pushed the boundary" with other female patients in the past. Respondent told Wolff that he regretted what he did and knew it wasn't right. Respondent admitted that if he had not gotten caught he would probably be engaging in the same activities. (State Exhibit 4)

10. At hearing, Respondent admitted inappropriately touching the breast and buttocks of Patient #1 without a chiropractic purpose. Respondent also admitted making inappropriate sexual comments to Patient #1. Respondent testified that it was his belief, based on the personal conversation that he had with Patient #1, that she was consenting to the intimate contact.

Respondent also admitted that he "acted unprofessionally" towards Patient #6 by telling her that he found her attractive and that he wanted to "get off the professional level" with her. Respondent admitted that he was attracted to the patient and wanted a personal relationship with her, but he denied that he touched this patient's breast. Respondent testified that he could tell "by her

body language" that Patient #6 was "not ok" with his statements to her so he just told her that her fiancé was a lucky man. Respondent admits that he sent the patient a message asking to be Facebook friends.

Respondent also admitted telling Investigator Wolff that he had consensual sexual contact with multiple chiropractic patients. At hearing, Respondent estimated that he had sexual contact with "maybe 5" patients and that this occurred in the room adjacent to his treatment room where he had a bed.

Respondent denied that he touched Patient ##2, 3, 4, 5, or 7 inappropriately or that he made any inappropriate sexual comments to these patients. Respondent admitted that he did not always explain to the patients where he would be placing his hands during their treatment and testified that it was possible that he accidentally touched the breasts of patients. Respondent admitted that he did not always have clean gowns available for his female patients. (Testimony of Respondent)

11. At the time of the hearing, Respondent had closed his chiropractic office, and he was unemployed. Respondent testified that he closed his office at the end of March or the beginning of April 2016 because he could not keep the business open without being able to treat female patients.

Respondent testified that he had a lot of personal issues after his divorce proceedings started in the winter of 2014 and this contributed to his poor decision making. Respondent reports that he sought treatment from a counselor in Burlington, Iowa, whose name he could not recall. Respondent stated that he only had one counseling appointment because he could not afford the counselor's fee. Respondent reports that he has had some free counseling through a church. (Testimony of Respondent)

12. David Guehring, D.C. is a licensed chiropractor who has been the Director of the Rehabilitation Department at the Palmer College of Chiropractic Department for 20 years. In this position, Dr. Guehring provides treatment to patients and supervises the work of chiropractic students. Dr. Guehring provides mentoring to students on maintaining professional boundaries with patients and obtaining consent for treatment. Dr. Guehring reviewed the statements made by Respondent's female patients to law enforcement and he reviewed Respondent's treatment records for these patients. Dr. Guehring did not see anything in the patients' records that would have warranted touching the

patients' breasts. Dr. Guehring did not see an entry in any of the patients' records documenting that Respondent had treated these patients with massage. Dr. Guehring knew of no legitimate chiropractic purpose for massaging the breasts of a female patient. Dr. Guehring further testified that it is important for the chiropractor to fully explain the proposed treatment to the patient and to obtain the patient's consent before touching any area of the patient's body. (Testimony of David Guehring, D.C.)

13. Adam Robinson is the Executive Director of the Rape Victim Advocacy Program of the University of Iowa, and he is a licensed professional counselor in the state of Illinois. Robinson has counseled rape victims and victims of unwanted touching by health care professionals. Robinson testified that victims of sexual trauma have a wide range of responses. Although some victims may fight back or flee, others may not get up and leave and may even voluntarily see the perpetrator again, especially if the person is a trusted health care professional or family member. Robinson further testified that sexual assault is about power and control and usually involves a perpetrator who is known to the victim. Most perpetrators will offend again, although remediation and healing is possible through treatment. (Testimony of Adam Robinson)

CONCLUSIONS OF LAW

Iowa Code section 147.55 (2013, 2015) provides, in relevant part:

147.55 Grounds.

A licensee's license to practice a profession shall be revoked or suspended, or the licensee otherwise disciplined by the board for that profession, when the licensee is guilty of any of the following acts or offenses:

...

3.engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

...

9. Other acts or offenses as specified by board rule.

Pursuant to its authority under Iowa Code chapter 272C, the Board has promulgated the following relevant rules:

645-45.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 45.3 (147,272C) when the board determines that the licensee is guilty of the following acts or offenses:

...

45.2(3)...or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

...

45.2(28) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

...

b. Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client, or coworker.

The preponderance of the evidence established that Respondent engaged in unethical conduct or practice harmful or detrimental to the public, in violation of Iowa Code section 147.55(3), (9) and 645 IAC 45.2(3) and 45.2(28)(b), when he repeatedly engaged in improper sexual contact with patients and when he repeatedly made suggestive, lewd, lascivious or improper remarks or advances to patients.

Respondent admits that he made improper remarks and advances to two patients (Patient #1 and Patient #6) and also admits that he had improper sexual contact with one of these patients (Patient #1). Respondent also admits that he engaged in what he described as "consensual" sex acts with at least five other patients, both during chiropractic appointments and after office hours.

Five additional female patients have come forward and made allegations of improper sexual touching and improper remarks. These allegations had striking similarities and were also similar to the allegations made by Patient #1, which Respondent has admitted were true. There is no evidence that the seven patients knew each other or that they had any reason to lie about what happened to them during their chiropractic treatment. All of the patients were interviewed by law enforcement, and these interviews were all recorded. Five of the patients provided very credible testimony at the hearing before the Board.

Although Respondent denies improperly touching Patient #6 and also denies any impropriety with Patient ##2, 3, 4, 5, and 7, the Board found the consistent and detailed reports of these patients to be far more credible than Respondent's denials. Respondent does have a substantial motivation to lie about his actions towards these patients.

Respondent committed egregious violations of his ethical obligations as a chiropractor when he had sexual contact with multiple female patients, both during appointments and after clinic hours, and when he made sexual or other improper remarks to some of his female patients. Respondent's conduct was unethical and was harmful to his patients, regardless of whether any of the patients consented to sexual contact. The patients trusted Respondent to provide them with appropriate chiropractic treatment, and he egregiously violated that trust. It was Respondent's responsibility to maintain appropriate professional boundaries with his patients at all times. Instead, Respondent repeatedly used his chiropractic clinic and his female patients for his own sexual gratification. Respondent's actions and his testimony at hearing demonstrated that he has no concept of appropriate professional boundaries and no understanding of his ethical obligations as a chiropractor.

In order to adequately protect the public, Respondent's license as a chiropractor must be revoked. It is unclear to the Board whether it would ever be in the public interest to allow Respondent to return to the practice of chiropractic. It is clear, however, that any successful rehabilitation would require lengthy treatment over a period of many years.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Iowa license number 007454, issued to Respondent Andrew Kears, D.C., is hereby REVOKED for a minimum period of ten (10) years. Any reinstatement request will be subject to the provisions of 645 IAC 11.31, which places the burden of proof on the applicant to establish that the basis for the revocation no longer exists and that it is in the public interest for his license to be reinstated.

IT IS FURTHER ORDERED that prior to filing any request for reinstatement, Respondent shall be required to:

- 1) Complete a Board-Approved Professional Boundaries Evaluation and fully comply with any recommendations for treatment recommended as a result of the evaluation; and
- 2) Successfully complete and pass the essay examination offered through Ethics and Boundaries Assessment Services, LLC (EBAS).

IT IS FURTHER ORDERED that pursuant to Iowa Code section 272C.6(6)(a), Respondent Andrew Kearse, D.C. shall pay \$75.00 for the disciplinary fee associated with the disciplinary hearing, \$440.00 for the court reporter fees, and \$4,405.93 for the witness fees and expenses. The total fees of \$4,920.93 shall be paid within ninety (90) days of receipt of this decision.

Dated this 13th day of July, 2016.



Rex Jones, D.C., Chairperson
Iowa Board of Chiropractic

cc: Meghan Gavin and Jordan Esbrook, Assistant Attorneys General,
Department of Justice, Hoover Building (LOCAL)

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MAIL)