



Bill Ritter, Jr.
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Director

REPORT OF INVESTIGATION
DORA/CO Division of Registrations/OI Investigator

CASE NUMBER

DATE OF REPORT

December 13, 20##

DATE OF OCCURRENCE

October 9, 20##

DATE OF COMPLAINT

November 8, 20##

RESPONDENT

RESPONDENT CHIROPRACTOR
Colorado

Detective XX
Police Department

Attorney of Record:

Denver, CO

SUMMARY OF COMPLAINT

The Board received a copy of the Criminal Case Filing and Summary of Investigation from Detective XX, Police Department [PD] on 11-7-## (Attachment 1). The preliminary charges in the case were indicated to be "Unlawful Sexual Contact 18-3-404(1)(g)," a Class 4 felony. Details of the alleged offense are as follows.

On 10-10-##, victim AM, contacted the PD to report a sexual assault, and Officer Kris B. was dispatched to AM's home in City, CO. Information contained in the investigative summary provided to the Board by Detective, incorporates information from Officer Kris B.'s interview with AM, Detective's interview with AM, and AM's own written statement. Detective interviewed AM at the PD on 10-11-##.

AM had been under the care of RESPONDENT CHIROPRACTOR for a “spinal injury.” AM first went to RESPONDENT CHIROPRACTOR’s offices in August 20##, and during the “initial visit”, RESPONDENT CHIROPRACTOR examined AM, took x-rays and offered a “sales pitch.” AM was unable to pay for care, so she declined RESPONDENT CHIROPRACTOR’s offers. RESPONDENT CHIROPRACTOR later called AM at home and offered her 3 months of treatment “on a scholarship program.” AM agreed to the offer, and began 3x/week treatment. During office visits, although “friendly banter” would be exchanged between AM and RESPONDENT CHIROPRACTOR, “the topic would eventually turn sexual in nature.” RESPONDENT CHIROPRACTOR learned that AM had taken an erotic dancing class and had “nude” photographs of herself. AM had injured herself while taking the “nude” photographs. When AM went to RESPONDENT CHIROPRACTOR for treatment, she explained how the injury occurred. Several times, RESPONDENT CHIROPRACTOR asked AM to see these photos. AM declined.

RESPONDENT CHIROPRACTOR offered to give AM a “therapeutic massage,” and on either 10-7-## or 10-8-##, telephoned AM at home and offered to provide massage therapy at her home on 10-9-##. AM agreed, and RESPONDENT CHIROPRACTOR arrived at her home at 2PM on 10-9-##. RESPONDENT CHIROPRACTOR entered AM’s home, and set up his massage table in her living room. RESPONDENT CHIROPRACTOR offered AM the option of remaining clothed or nude, although advised that the “massage works better if the person is naked.” AM requested to keep “her panties on,” although RESPONDENT CHIROPRACTOR suggested that “they tend to get in the way.” RESPONDENT CHIROPRACTOR then advised that he was going to change into some shorts, while AM positioned herself on the table and covered herself with a beach towel.

RESPONDENT CHIROPRACTOR commenced the massage and informed AM that the muscles in her back were “very tight” and asked what type of massage she would like, and if she would prefer a “sensual massage.” AM told RESPONDENT CHIROPRACTOR that she had already had a “sensual massage” for lunch, and declined. RESPONDENT CHIROPRACTOR then related the story of a patient of his who had indicated that “a chiropractic adjustment alters the blood flow and sensations to the genital area...[and] there have been several documented instances where chiropractic therapy had increased the amount and intensity of orgasms.”

During the massage, RESPONDENT CHIROPRACTOR began to pull the towel off of AM's buttocks, however, she grabbed the towel and said “no.” AM instructed RESPONDENT CHIROPRACTOR that she did not wish to have her buttocks massaged. RESPONDENT CHIROPRACTOR asked if he could massage her buttocks under or over the towel, and AM said “no.” RESPONDENT CHIROPRACTOR then exerted pressure on top of AM’s buttocks to the point of pain, so AM allowed him “to massage her buttocks for a while.” When finished, RESPONDENT CHIROPRACTOR asked AM to roll over, and lifted the towel off of AM. AM “grabbed the towel back” and held it up to obstruct RESPONDENT CHIROPRACTOR’s view of her. RESPONDENT CHIROPRACTOR began massaging AM’s legs, and moved to an area that AM believed to be “too high” and AM

suspected an “accidental brush against her vulva or worse, actual (sic) a finger slipping into her vagina.” RESPONDENT CHIROPRACTOR did not have physical contact with the genital area.

Next, RESPONDENT CHIROPRACTOR relocated to a position standing above AM’s head and massaged her upper chest and neck. RESPONDENT CHIROPRACTOR inquired about a breast massage, and AM reminded him of her earlier sexual encounter, and said “it was not an option.” After further discussion, AM allowed the breast massage, because she had recently had breast reduction surgery and “wanted to get [RESPONDENT CHIROPRACTOR] professional opinion of the scars.” RESPONDENT CHIROPRACTOR told AM that her scars “looked great” and asked about healing. AM related that her breasts were still numb, and RESPONDENT CHIROPRACTOR said, “so if I bite your nipple, you wouldn’t know it?”

RESPONDENT CHIROPRACTOR finished the massage and while she was sitting on the table, asked AM if there “was any other part that needed to be worked on.” RESPONDENT CHIROPRACTOR provided a robe to AM, and she then indicated that she had a sore area on her shoulder due to bursitis. AM lowered her robe a little and RESPONDENT CHIROPRACTOR told AM that he had already seen her breasts, convincing her to lower the robe further. RESPONDENT CHIROPRACTOR then massaged the rear area of the right shoulder, while concurrently moving AM’s hair out of the way. RESPONDENT CHIROPRACTOR began kissing AM’s ear, “putting his tongue in her ear and kissing her neck.” AM moved away, and replaced her robe. AM then noticed that RESPONDENT CHIROPRACTOR was wearing “blue silk boxers,” and observed that RESPONDENT CHIROPRACTOR “was aroused...RESPONDENT CHIROPRACTOR’s penis was erect inside his boxers...he [RESPONDENT CHIROPRACTOR] made no attempt to hide his arousal.” RESPONDENT CHIROPRACTOR then “grabbed” AM’s robe by the lapel, and moved her close to him and began kissing her, “putting his tongue inside her mouth.” AM claims that although she did kiss RESPONDENT CHIROPRACTOR back, it was “only with the intent to appear compliant so as to gain control of the situation.” AM closed her robe more tightly, and explained to RESPONDENT CHIROPRACTOR that she had already had sex with someone that day and “there was no way she would sleep with two guys in one day.” AM said that if she did, she “would have to charge”. RESPONDENT CHIROPRACTOR then replied [to AM], ‘maybe you should [charge]...’

In her written statement to the PD, AM wrote that after the massage, RESPONDENT CHIROPRACTOR remained at her home for a while “making sure I didn’t want to look (at him in his underwear) or change her mind about the sensual massage.” Although RESPONDENT CHIROPRACTOR asked AM again about the sensual massage, AM again declined. AM told RESPONDENT CHIROPRACTOR that her children would be home soon, and inquired about payment. RESPONDENT CHIROPRACTOR did not charge AM for the massage.

Detective discussed AM’s regular office visits with RESPONDENT CHIROPRACTOR.

►AM is fully dressed during treatment.

▶There have never been any discussions about a personal relationship between AM and RESPONDENT CHIROPRACTOR.

▶During one office visit, AM wore a midriff shirt, exposing a pierced navel, and RESPONDENT CHIROPRACTOR asked her if she “had anything else pierced.”

In the report from Detective, he records that AM telephoned him on 10-11-## advising that RESPONDENT CHIROPRACTOR had called her and she told him that she would not be returning for care and RESPONDENT CHIROPRACTOR should not contact her. On 10-15-##, AM attempted a pretext telephone call to RESPONDENT CHIROPRACTOR, with the assistance of Detective, although RESPONDENT CHIROPRACTOR was out of the office. On 10-17-##, a second attempt was made, and AM left RESPONDENT CHIROPRACTOR a message to call her, which he did. During the phone call with AM on 10-17-##, RESPONDENT CHIROPRACTOR,

▶Was informed by AM that she had been “very uncomfortable” while he was at her home. AM asked RESPONDENT CHIROPRACTOR why he had been wearing boxer shorts, and RESPONDENT CHIROPRACTOR replied that they were “his workout shorts.”

▶AM asked if RESPONDENT CHIROPRACTOR intent had been to have sex with her. RESPONDENT CHIROPRACTOR responded that “his intent wasn’t to do that,” and that his massage was provided as a “gesture of friendship.”

▶Conversations that AM and RESPONDENT CHIROPRACTOR had during the course of the 10-9-## massage led RESPONDENT CHIROPRACTOR “to behave in a certain way that was inappropriate and that [RESPONDENT CHIROPRACTOR] wanted to apologize.”

▶AM asked RESPONDENT CHIROPRACTOR why he kissed her neck. RESPONDENT CHIROPRACTOR again explained that “based on what they were talking about led him” to behave in an “inappropriate” manner.

▶AM inquired about the propriety of the breast massage. RESPONDENT CHIROPRACTOR acknowledged that the breast massage is “not normal but that type of massage is justified and normal.”

▶AM reported feeling “violated” and “used,” and that RESPONDENT CHIROPRACTOR’s intentions had been sexual. RESPONDENT CHIROPRACTOR denied that his initial intentions were sexual, however admitted that “it ended up that way.”

▶RESPONDENT CHIROPRACTOR denied that this same situation has occurred with other patients.

Detective's Interview with RESPONDENT CHIROPRACTOR, 11-1-##

RESPONDENT CHIROPRACTOR was interviewed by Detective at the PD on 11-1-##. A summary of that interview is as follows:

- ▶ Detective informed RESPONDENT CHIROPRACTOR that a complaint had been made about “some inappropriate behavior during a house call.”
- ▶ RESPONDENT CHIROPRACTOR advised that he does not normally make house calls, and indicated that he was aware that Detective was talking about AM.
- ▶ RESPONDENT CHIROPRACTOR described how AM came to be a patient in his office, and that AM was treated via a “scholarship” program whereby the patient does not pay for the first 3 months of treatment. RESPONDENT CHIROPRACTOR offers one scholarship per month “to the community.”
- ▶ During regular treatments, AM would “offer information” of a personal nature (e.g., navel piercing, sexual relationships, “sensual” photos she took with a friend). RESPONDENT CHIROPRACTOR described how he had learned of the photos, and discussed AM’s injury, which occurred while taking the photos.
- ▶ AM had asked RESPONDENT CHIROPRACTOR about a massage and he offered to refer her to “another doctor,” but AM could not afford this. Hence, RESPONDENT CHIROPRACTOR offered “to come to her house to give [AM] a massage and look at the photographs.” AM had agreed to the massage.
- ▶ AM was nude during the massage, except for a beach towel as draping. RESPONDENT CHIROPRACTOR was “wearing a pair of swim trunks and a sleeveless shirt.”
- ▶ RESPONDENT CHIROPRACTOR acknowledged massaging AM’s buttocks after requesting permission. RESPONDENT CHIROPRACTOR further acknowledged massaging AM’s breasts, “in a circular motion”, although RESPONDENT CHIROPRACTOR claims that AM had told him she disliked doing breast self-exams and “asked him to check for lumps.”
- ▶ When RESPONDENT CHIROPRACTOR asked AM about other problem areas, she indicated her shoulder, and RESPONDENT CHIROPRACTOR confirmed that he kissed AM “on the ear or neck,” and AM turned around and returned the kiss. After 1 to 1 ½ minutes, AM pulled away.
- ▶ RESPONDENT CHIROPRACTOR was “sexually aroused” and “that was why he kissed AM.” RESPONDENT CHIROPRACTOR admitted to having an erection.
- ▶ RESPONDENT CHIROPRACTOR was asked whether it was “standard practice for him to dress in swim trunks and give massages.”

RESPONDENT CHIROPRACTOR told Detective that “he was not at [AM’s] house as a doctor or Chiropractor but as a friend, giving her a massage.”

►RESPONDENT CHIROPRACTOR admitted that his behavior was “inappropriate,” and that he had been “under the wrong impression that [AM] wanted him to behave in this manner.”

SUMMARY OF RESPONSE

On 12-12-##, RESPONDENT CHIROPRACTOR’s counsel hand-delivered his written response to this complaint (Attachment 2). RESPONDENT CHIROPRACTOR does not specifically address the issues raised by AM in the criminal charges, by opting to exercise,

“...his Fifth Amendment rights relative to the criminal prosecution which is now pending. Any statements made by [RESPONDENT CHIROPRACTOR] to the Board are not privileged, and would likely be discovered during the criminal prosecution, prejudicing defense of the criminal action.”

RESPONDENT CHIROPRACTOR has requested that the Board “immediately suspend further action on the AM matter pending resolution of the criminal action.” RESPONDENT CHIROPRACTOR contends that “there will be additional evidence available to the board for consideration following conclusion of the criminal proceeding.”

RESPONDENT CHIROPRACTOR’s counsel contends that presuming RESPONDENT CHIROPRACTOR’s criminal case proceeds, the trial will occur within six months.

INVESTIGATION

Interview of AM, November 18, 20##

AM told me that she had been suffering from significant low back pain, and her boyfriend, RM, had suggested that she get a chiropractic adjustment. AM had heretofore, never received chiropractic treatment. In late August, 20##, AM found RESPONDENT CHIROPRACTOR in the phone book (Yellow Pages), wherein, she linked to the website for ABC Chiropractic Office (RESPONDENT CHIROPRACTOR’s clinic). On the website, AM found a coupon for a free exam, and free x-rays. AM made an appointment at RESPONDENT CHIROPRACTOR’s office (late August 20##). On the date of her first appointment, RESPONDENT CHIROPRACTOR’s assistant, “Kylie,” did an examination of her, which included ROM testing, “a pelvic check and x-rays.” I asked AM if RESPONDENT CHIROPRACTOR evaluated her at all on this date, and she told me that RESPONDENT CHIROPRACTOR, introduced himself “briefly,” and “turned it over to” his assistant, Kylie. “Kylie” performed the entire exam and x-rays. AM did not undergo any treatment on this date. AM was instructed to return the following day for a review of the exam findings and an adjustment. AM did return and initially met with RESPONDENT CHIROPRACTOR in a group setting with

approximately 10 other people. RESPONDENT CHIROPRACTOR spoke for about one hour, giving a “pep talk on chiropractic—it was a sales pitch.” The group then broke up into smaller groups and RESPONDENT CHIROPRACTOR discussed individual x-ray findings, and offered each individual the option of prepaying for chiropractic services for one year, at a substantial discount (e.g., regular price of \$5,000, yet prepay price was \$3500). Care was to include 3x/week treatment, with a reevaluation at 3 months. AM stated that she was “really turned off by this.” I asked about RESPONDENT CHIROPRACTOR’s clinical/diagnostic findings. AM said that RESPONDENT CHIROPRACTOR told her that x-rays revealed that she leaned “significantly to the left—which was obvious,” and told her about her “neck curvature.” After RESPONDENT CHIROPRACTOR’s “sales pitch,” AM told him that she could not afford the treatment (Note: AM told me that for the first visit, she paid \$30 cash, which included fees for the exam and all x-rays taken, per the “coupon.”). AM then “let it go,” and left the clinic.

(Note): I was unable to obtain a copy of this coupon via the Internet.

One week later, RESPONDENT CHIROPRACTOR called AM at home from his cell phone, and “asked me why I wasn’t going to return.” AM reiterated that she could not afford his care as she was going through a costly divorce proceeding. RESPONDENT CHIROPRACTOR then told AM of a “scholarship” program where every month “they pick a patient to give a scholarship to for the first 3 months of treatment,” which is free. After 3 months, the patient is reevaluated, and “you would pay from this point forward.” This promotion appealed to AM, and she agreed to care. RESPONDENT CHIROPRACTOR said that AM could start coming in for treatment immediately, because “we’re concerned about you.” AM told me that during this discussion, RESPONDENT CHIROPRACTOR mentioned that she could also benefit from massage, and that he was a licensed massage therapist, and could provide adjustments or massages in his office, or at her home. AM “blew it off, because I didn’t know.”

AM commenced treatment at RESPONDENT CHIROPRACTOR’s office 3x/week at the end of August, 20##. All treatment was provided exclusively by RESPONDENT CHIROPRACTOR, and consisted only of chiropractic adjustments, while AM was “fully clothed,” in an open room with 3 other adjustment tables. Other patients were always present, and no “personal” discussions occurred between AM and RESPONDENT CHIROPRACTOR.

On 9/5/##, AM told me that she underwent “belly piercing.” AM saw RESPONDENT CHIROPRACTOR for treatment “the following Monday (9-9-##).” At this visit, AM reported wearing “low-rider pants so it wouldn’t rub” her belly area, which was still painful and sore. AM’s belly was exposed “several inches” above her pants. RESPONDENT CHIROPRACTOR observed this and commented to AM, “if you get anything else pierced [in the future], would you show me?” AM said “no, you’re married.” Subsequent to this treatment, “every once in a while,” RESPONDENT CHIROPRACTOR would ask AM about her belly piercing, however, AM “didn’t think much of it since I was moving around on the table for adjustments,” and it was painful, so AM thought RESPONDENT CHIROPRACTOR was “concerned.”

I asked AM to discuss the alleged sexual assault. AM told me that she had been taking an erotic dance class, “learning how to strip.” In mid-late September, 20##, AM’s female friend had also taken pictures of her dressed in several colors of men’s dress shirts as pictures for her boyfriend (RM). While the pictures were being taken, AM and her friend tied AM to a bed “and I hurt my back—it was very sore.” AM then went to RESPONDENT CHIROPRACTOR for an adjustment and RESPONDENT CHIROPRACTOR “asked me what happened” (e.g., exacerbation). AM told me that she “didn’t want to tell” RESPONDENT CHIROPRACTOR this “private thing,” but ultimately told him that she and her friend had been taking pictures, and she’d hurt her back. Although AM did not describe any details of the pictures, nor was she “naked in the pictures,” RESPONDENT CHIROPRACTOR asked to see her pictures.

Several visits later, RESPONDENT CHIROPRACTOR again asked to see AM’s pictures, and she declined. AM continued with the adjustments. During the first week of October, 20##, RESPONDENT CHIROPRACTOR commented to AM that her “low back seems tight,” and he recommended a massage in his office. On October 7, 20##, RESPONDENT CHIROPRACTOR called AM at home and asked her if she was interested in getting a massage. AM declined, stating that she could not afford it, and RESPONDENT CHIROPRACTOR told her that he “could come to my house, and said he had a [massage] table.” AM told me that the implication was that RESPONDENT CHIROPRACTOR would provide the massage for free. AM further explained that she did not think this offer of a home massage was unusual, because RESPONDENT CHIROPRACTOR had “offered it before, and said he was a masseuse.” AM noted that she simply “assumed that [RESPONDENT CHIROPRACTOR] had done it before because he had the folding table.” AM thereby agreed to the massage, which was scheduled for October 9, 20## at 2PM. AM told me that she selected this date because she knew she was having lunch with her boyfriend, RM. AM said that she had sex with RM during lunch, after which she was rushing “to get home to shower before [RESPONDENT CHIROPRACTOR] arrived.” AM reported that RESPONDENT CHIROPRACTOR was already at her home when she arrived at 1:50PM, and she sensed that “he had been there awhile,” although RESPONDENT CHIROPRACTOR denied this. AM told me that her “inner voice” told that this was a “bad idea,” and she felt “bad vibes.”

Upon entering AM’s home, RESPONDENT CHIROPRACTOR asked AM where to set up the massage table, and “offered to set it up in my bedroom.” AM declined and suggested the living room. RESPONDENT CHIROPRACTOR asked AM for a sheet, and she retrieved “very large beach towels.” RESPONDENT CHIROPRACTOR instructed AM to undress, and although AM wanted to leave her “panties” on, RESPONDENT CHIROPRACTOR suggested that she not. RESPONDENT CHIROPRACTOR then said to AM, “OK, you get into something more comfortable and so will I.” At the time, RESPONDENT CHIROPRACTOR was wearing dress slacks and a golf shirt, and went to AM’s “hall bathroom” to change clothes. AM returned wearing a bathrobe, and was nude underneath. While RESPONDENT CHIROPRACTOR was still in the bathroom, AM “jumped under the towel [on the table] quickly before [RESPONDENT CHIROPRACTOR] comes back in.” AM was fully draped with towels up to the level of her armpits. AM’s head was faced down on the massage table.

RESPONDENT CHIROPRACTOR returned and began the massage. AM informed me that their conversation consisted of “idle chit-chat.” RESPONDENT CHIROPRACTOR asked her what she had done for lunch. AM said she had met her boyfriend for lunch, and as RESPONDENT CHIROPRACTOR “probed” her for more information, she mentioned that she had sex with her boyfriend. RESPONDENT CHIROPRACTOR mentioned to AM that he was “glad I was happy” (because of her divorce), but AM sensed “sexual overtones.” RESPONDENT CHIROPRACTOR asked AM, “is it good for you?” and then asked her if she had a “certain spot I needed massaged.” AM replied “no.” RESPONDENT CHIROPRACTOR then told AM of a female patient he once had who had “pulled him” into one of his exam rooms where an anatomical chart was hanging on the wall. According to AM, RESPONDENT CHIROPRACTOR said that this patient “pointed to the genital area” and began talking about adjustments and “good orgasms.” AM told me that she believed RESPONDENT CHIROPRACTOR was “implying that women orgasm on the adjustment table.” More conversation ensued, and RESPONDENT CHIROPRACTOR again asked AM if she was “sure there’s not a particular spot that needs to be rubbed.” AM again believed that the implication was sexual.

RESPONDENT CHIROPRACTOR massaged AM’s legs and began moving up to her buttocks area. RESPONDENT CHIROPRACTOR asked AM if it was alright if her massaged her buttocks, and she said “no.” As AM was telling RESPONDENT CHIROPRACTOR “no,” he moved to an area around her buttocks, yet over her hip and hit a “sore spot.” AM contends that this “validated” RESPONDENT CHIROPRACTOR’s massaging her buttocks area and relieving the “tension” in this particular area. Ultimately, RESPONDENT CHIROPRACTOR’s hand “ended up under the towel on my butt/hip,” however, it all “happened very fast.” RESPONDENT CHIROPRACTOR said he could “feel a knot there” and indicated that it needed to “break up.” RESPONDENT CHIROPRACTOR had AM feel the area and she too, felt the “knot.”

RESPONDENT CHIROPRACTOR told AM it was “time to roll over.” AM recalled that the room was very bright with the afternoon sun. When AM rolled over, she could not immediately see RESPONDENT CHIROPRACTOR. RESPONDENT CHIROPRACTOR was holding the towel up for AM as she rotated from prone to supine, and she explained to me that she “felt like he was looking.” AM noted that RESPONDENT CHIROPRACTOR “denied” that he was looking, and draped the towel over her front. When AM’s eyes adjusted to the light, she observed RESPONDENT CHIROPRACTOR wearing a “white muscle shirt and royal blue boxer shorts.” The shorts appeared to be a flimsy material, resembling “silk.” AM told me she was “shocked,” and her “radar was on full blast.” AM contends that she was in a “vulnerable position” and felt that she had to “play compliant...[RESPONDENT CHIROPRACTOR] was massaging me and I was totally naked!”

RESPONDENT CHIROPRACTOR began massaging the front of AM’s legs and was moving “very high” up her thigh. At this point, AM was “bracing for an accidental” genital touch. Although RESPONDENT CHIROPRACTOR was “very close” to the genital area, he did not have contact with AM’s genitals. RESPONDENT CHIROPRACTOR then moved to AM’s chest area. RESPONDENT CHIROPRACTOR was positioned behind AM’s head (she was still lying supine), and she was unable

to see him. AM did note that RESPONDENT CHIROPRACTOR's "crotch was right under my head," by "coincidence" of his height, and the height of the massage table. RESPONDENT CHIROPRACTOR was leaning over AM. RESPONDENT CHIROPRACTOR asked AM if she had ever had a breast massage, and she said that she had never undergone a breast massage by a "licensed professional." AM stated that she mentioned this in a joking manner. (Note: AM informed me that she had breast reduction surgery in August 20##, and had residual scarring, and loss of feeling in her breasts). AM and RESPONDENT CHIROPRACTOR briefly discussed this, and RESPONDENT CHIROPRACTOR told AM that some massage therapists offer breast massage as part of therapy. RESPONDENT CHIROPRACTOR asked if it would be alright to perform this particular massage, and AM agreed. RESPONDENT CHIROPRACTOR massaged AM's breasts for approximately 5 minutes, one at a time. I asked AM if RESPONDENT CHIROPRACTOR massaged the nipple area, however AM noted that since she has no feeling in her breasts, she was unable to know for sure whether or not this occurred. While discussing AM's loss of breast sensation, RESPONDENT CHIROPRACTOR reportedly commented to AM that if he, "was to bite [my] nipple, [I] would not know." AM told me that this "comment stuck in my mind," because she and her boyfriend had previously discussed it.

Following the breast massage, RESPONDENT CHIROPRACTOR informed AM that "we're done." AM put her bathrobe on. AM and RESPONDENT CHIROPRACTOR then discussed her problem with bursitis (bilateral), and as she was sitting upright on the massage table, her robe dropped slightly. According to AM, she was uncomfortable with this (Note: RESPONDENT CHIROPRACTOR was positioned behind AM on the table with "one leg on and one leg off"). RESPONDENT CHIROPRACTOR then reminded AM that he "had just massaged my breasts," so she allowed the robe to drop further so that he could massage her shoulder area. RESPONDENT CHIROPRACTOR's left arm was positioned around AM's neck to "brace me," as he used his right hand to massage her right shoulder from behind. RESPONDENT CHIROPRACTOR adjusted AM's right shoulder, and after this, moved her hair to one side. RESPONDENT CHIROPRACTOR began kissing AM's neck and "stuck his tongue in my ear." AM immediately told RESPONDENT CHIROPRACTOR that she needed to "get dressed because my kids are coming home" from school. AM began tying her robe and rose from the table. RESPONDENT CHIROPRACTOR then turned around and "leaned against the table with an obvious erection in his shorts. AM told me that at that moment she was thinking, "this is not happening—I'm not interested." RESPONDENT CHIROPRACTOR "grabbed" AM by her bathrobe lapels and pulled her towards him, where he began kissing her with "his tongue." AM told me that she responded (e.g., "one long kiss") and "complied because I was very scared. I was totally vulnerable, so I appeared compliant and hoped he'd go away. After RESPONDENT CHIROPRACTOR kissed AM, she began to walk away, and she commented something to the effect of, "even if I had the inclination, I would not sleep with you because I already had sex with someone today, and that's not like me." AM then said, "and if I did, I would have to charge. RESPONDENT CHIROPRACTOR replied, "maybe you should." AM requested that RESPONDENT CHIROPRACTOR, "get dressed." RESPONDENT CHIROPRACTOR then asked to see AM's pictures. AM told me, "I should have thrown him out, but I thought if I appeared docile, he would leave...I didn't know him, if he was violent..." or not,

and she did not want to antagonize him. AM found the CD where the 10 pictures were located, and “quickly” “clicked through them” on her computer. AM restated that there was “no nudity” in the pictures. RESPONDENT CHIROPRACTOR made some minor comments such as, “really nice,” and then went downstairs with AM. She repeated to RESPONDENT CHIROPRACTOR that her “kids are coming home, so you [RESPONDENT CHIROPRACTOR] need to leave.” RESPONDENT CHIROPRACTOR said to AM, “are you sure you don’t want to look?” (at RESPONDENT CHIROPRACTOR’s erection, according to AM). AM told RESPONDENT CHIROPRACTOR “no, I’m not interested.” AM told me that she was not “looking at him as he walked down the hallway” towards the bathroom. AM recalled that RESPONDENT CHIROPRACTOR said something to her, and she turned around. RESPONDENT CHIROPRACTOR said, “see, I knew I could make you look!” AM was “looking at [RESPONDENT CHIROPRACTOR] face at the time.

RESPONDENT CHIROPRACTOR went to the bathroom to change clothes, and AM “ran up the stairs to dress” as quickly as possible. RESPONDENT CHIROPRACTOR, dressed, folded up his table, and AM “walked him to the car to make sure he was leaving.” AM told me that she was “prepared to let it go,” however, mentioned the incident to her ex-husband, GM, who told her to go next door to the neighbors home, as her neighbor was a County Sheriff. AM’s neighbor advised her to report the incident to the Police Department.

During the course of our interview, AM repeatedly commented to me how she felt the situation was “so ridiculous.” AM advised me that during the encounter she repeatedly told RESPONDENT CHIROPRACTOR that she was not interested, “I was involved with someone.”

Interview with GM, Ex-Husband of AM, November 20, 20##

GM, former husband of AM informed me that he learned of the alleged incident involving RESPONDENT CHIROPRACTOR from AM “less than a week” after the occurrence. GM recounted that “at first,” AM would not disclose what had occurred, and added that, “we’re estranged.” Several days later however, AM confided in GM and “told me everything.” I asked GM to explain to me what AM had said occurred. GM remembered that AM had said that RESPONDENT CHIROPRACTOR was massaging her back and was wearing underwear. RESPONDENT CHIROPRACTOR was visibly “aroused,” and fondled AM’s breasts and tried to kiss her. According to GM, AM was “very upset” about the incident, “which made me upset.” GM suggested that AM contact her neighbor, Brad H., who is a County Sheriff. GM encouraged AM to call the police about RESPONDENT CHIROPRACTOR. To the best of his knowledge, AM did contact law enforcement, and was pursuing the case.

GM stated that although he knew AM was receiving chiropractic care, she had never previous obtained chiropractic treatment, nor was GM aware of which chiropractor was treating AM. AM has however, had massages prior to RESPONDENT CHIROPRACTOR’s 10-9-## massage.

GM told me that he has “no reason to doubt” AM’s account, and does not believe her report was a fabrication. GM concluded that, “she [AM] has nothing to gain from a story, especially to me.”

Interview with RM, Friend of AM, November 20, 20##

RM told me that he has known AM for 2-3 years, as he is an instructor at the Academy of Martial Arts, where AM’s children take classes. RM noted that he and AM became “better friends” in March 20##.

Regarding the alleged incident, I asked RM what AM had related to him, and when she told him. RM recalled that he spoke with AM 1-2 days after the incident, and observed that she “was upset.” RM “pressed” AM to talk about the matter, and confirmed that AM had been at his home immediately prior to her massage with RESPONDENT CHIROPRACTOR on 10-9-##. AM had been “looking forward” to the massage which they believed would be “above board.” During this conversation, RM told AM that “if some impropriety” occurred, she should “tell someone,” especially if RESPONDENT CHIROPRACTOR was “abusing his position.”

AM explained to RM that RESPONDENT CHIROPRACTOR had arrived at her home and set up his massage table. AM laid down on the table, and RESPONDENT CHIROPRACTOR went to the bathroom. When RESPONDENT CHIROPRACTOR returned, he was wearing “boxers.” AM was “feeling uncomfortable.” During the course of the massage, RESPONDENT CHIROPRACTOR was observed to be “visibly aroused,” and AM “sensed a problem.” AM got up from the table and asked RESPONDENT CHIROPRACTOR to leave. During the course of the massage, it was RM’s understanding that RESPONDENT CHIROPRACTOR made “several advances,” including “grabbing [AM] by the robe” and pulling her “close.” RM was aware that RESPONDENT CHIROPRACTOR tried to kiss AM “at least once.” AM expressed concerned that she “could have been raped.”

During the conversation about this incident, RM was “trying to be supportive,” as AM was reluctant to report the incident, believing that “everyone will hate her” for reporting RESPONDENT CHIROPRACTOR. RM encouraged AM to report the matter and follow-through, once he learned the details of the incident.

RM told me that he had asked AM if she gave RESPONDENT CHIROPRACTOR “any indication that she wanted to fool around.” AM said she did not; that she did not flirt with RESPONDENT CHIROPRACTOR, nor “come on to him.” RM added that, AM had also “just been over here [for a sexual encounter] and that’s not like her.” RM claims that there was “no way” AM would have “come over here and then gone home to have sex with [RESPONDENT CHIROPRACTOR]. I know that she would not do this. She’s very honest and would have told me.”

RM informed me that he believed RESPONDENT CHIROPRACTOR “crossed the line...he came over as a doctor to give a patient a massage...[AM] told him no, and he persisted.” RM questioned “whether this was an isolated incident.”

I asked RM about AM's credibility. RM said that he had "no concerns" about AM, as she is an "honest" person." AM "did not make it up---it's not in her character." Additionally, RM believes that "by the tone of [AM's] voice" when she was discussing the incident, she was "visibly shaken...upset and mad."

Interview with OM, Friend of AM, November 22, 20##

OM initially met AM over one year ago, as both of their children take Tae Kwon Do classes together. AM and OM are good friends. I asked OM to discuss her knowledge of AM's concerns about RESPONDENT CHIROPRACTOR. AM first told OM about the alleged incident 2 days after it occurred (10-11-##). Upon learning of the incident, OM asked AM why she had not told her "this before." AM explained that RESPONDENT CHIROPRACTOR had come to her home to perform a massage. RESPONDENT CHIROPRACTOR changed into boxer shorts that were "light-weight silk" material, which AM glimpsed as she was rolling over on the table from her front side to her back. RESPONDENT CHIROPRACTOR massaged AM's "front and her breasts," and "had an erection." When AM was putting on her robe, RESPONDENT CHIROPRACTOR "pulled her towards him and kissed her" AM thought this was "off the wall," and asked RESPONDENT CHIROPRACTOR to leave.

OM told me that AM had questioned her about "what's normal and not normal" with regard to this treatment. OM herself has received chiropractic care for over 7 years, and her current chiropractor "never changes his clothes," although he administers a 20-minute massage prior to adjusting her. "The door is open...he is very professional" and she is "always fully clothed."

During AM's discussion about the incident, OM recalled that AM was "upset...shaken," and questioned what she did "to invite this," and whether she had done "something where [RESPONDENT CHIROPRACTOR] thought it was OK." OM claims that AM was adamant that she did not "lead [RESPONDENT CHIROPRACTOR] on." OM characterized AM as a "people pleaser" who "doesn't want anyone to be displeased with her." OM related that she "personally, think it's inappropriate and unusual to have a chiropractor come to my house to do a massage." OM was aware that AM had been treating with [RESPONDENT CHIROPRACTOR] as a chiropractor for several months about once a week---she was his patient." OM was also aware that AM had not had prior chiropractic care, and "definitely didn't know what was appropriate or not." However, OM believes that RESPONDENT CHIROPRACTOR "pushed" AM into this situation.

AM acknowledged to OM that she kissed RESPONDENT CHIROPRACTOR back when he began kissing her, because she was "afraid where it was going to go." AM was "confused" and in "shock---what do I do next?" OM believes that AM was responding to attempt to "maintain control" of the situation, and was extremely "uncomfortable."

With respect to credibility issues, OM stated that she does "not doubt" AM's account of this incident. AM is "almost painfully honest...[and] because she's so confused about the situation, her truthfulness" is validated. AM is "blaming herself and did not talk about it for 2 days because she was so confused." OM

also pointed out that she believes that AM is “vulnerable...she was just divorced this week,” and concluded, “who’s to say that [RESPONDENT CHIROPRACTOR] did not identify someone in a vulnerable position and capitalize on that and then do it to someone else?”

Review of Treatment Record for AM from RESPONDENT CHIROPRACTOR

RESPONDENT CHIROPRACTOR furnished the following materials to the Board on 12-12-##.

►1. Copies of the complete treatment and billing records for AM

(Attachment 3): A review of AM’s chart reveals that she first presented to RESPONDENT CHIROPRACTOR’s office on 7-31-## with complaints of “low back pain” and pain in the right leg. AM also revealed that she had suffered from bursitis in her left shoulder for one year. Contained within AM’s chart is a “coupon” entitling her to a “full comprehensive exam and nerve check for only \$30.”

Chart notes indicate that AM did not return to RESPONDENT CHIROPRACTOR’s office until 8-27-##, and that she was on a 3-month “scholarship” plan, and AM would “start paying” when her divorce was final on 11-20-##.

RESPONDENT CHIROPRACTOR provided treatment to AM on 18 occasions between 8-27-## and 10-8-##. It appears that AM basically received only spinal adjustments and traction, and there is no indication or mention of massage therapy in the notes. Further, there are no chart entries for the massage therapy that was performed by RESPONDENT CHIROPRACTOR in AM’s home on 10-9-## (nor are charges for this service reflected in the billing records).

Billing records reveal that AM paid a total of \$30 to RESPONDENT CHIROPRACTOR via a Visa charge (date is illegible). The Board should note that RESPONDENT CHIROPRACTOR’s superbill for the date of her initial “complimentary” consultation, shows that on 7-31-##, she received a “limited” new patient evaluation, and underwent AP/LAT Cervical and Lumbar radiographic studies which were included in the total fee of \$30. RESPONDENT CHIROPRACTOR’s billing ledger for AM further delineates that while the typical charges for the x-ray series received by AM was \$186, she was charged only \$30 (inclusive of the new patient exam). RESPONDENT CHIROPRACTOR did write off the complete balance on AM’s account, under the “scholarship” plan.

►2. Treatment narrative for AM from RESPONDENT CHIROPRACTOR

(Also Attachment 3): RESPONDENT CHIROPRACTOR detailed his clinical findings and treatment of AM between her date of initial presentation (7-31-##) until her last date of treatment in his office, 10-8-##.

- 3. Copies of treatment notes for all patients who accepted and participated in RESPONDENT CHIROPRACTOR's "scholarship" program during the past 12 months (Attachment 4).

Criminal Proceedings, ABC County, CO

On 12-12-##, I spoke with Ann T., intake deputy for the ABC County District Attorney's Office. Ann T. advised me that as of this date, a filing decision had not been made by the DA's office, although she felt "comfortable that the case would be filed." I will verbally update the Board as to the status of the criminal filing.

Attachments

1. Summary of investigation, received from Detective XX, PD, on 11-7-##.
2. Response from RESPONDENT CHIROPRACTOR, 12-12-##.
3. Treatment and billing records for AM from RESPONDENT CHIROPRACTOR, and treatment narrative for AM.
4. Treatment notes for all "scholarship" patients of RESPONDENT CHIROPRACTOR's, 20##.

Exhibits

None

Witnesses

Noted in file.

Distribution

State Board of Chiropractic Examiners
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Submitted by:

Colorado Division of Registrations/Office of Investigations/Investigator