

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of  
Berhane T. Oliver, L.M.T.  
License Number: MA 61590  
Case Number: 2018-21688

**ORDER OF EMERGENCY RESTRICTION OF LICENSE**

Michele Tallent, Deputy Secretary for Operations, by and through the authority designated by the State Surgeon General, ORDERS the Emergency Restriction of the license of Berhane T. Oliver, L.M.T., (Mr. Oliver) to practice as a massage therapist in the State of Florida. Mr. Oliver holds license number MA 61590. His address of record is 205 NE 3rd Street, Apartment 210, Boynton Beach, Florida 33435. He may also be located at 247 SE 6th Avenue, Suite 3, Delray Beach, Florida 33483. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Oliver's license to practice as a massage therapist in the State of Florida.

**FINDINGS OF FACT**

1. The Department of Health (Department) is the state agency charged with regulating massage therapists in the State of Florida, pursuant to Chapters 20, 456, and 480, Florida Statutes (2018). Section 456.073(8), Florida Statutes (2018), authorizes the Department to summarily restrict Mr.

Oliver's license to practice as a massage therapist in the State of Florida, in accordance with Section 120.60(6), Florida Statutes (2018).

2. At all times material to this Order, Mr. Oliver was licensed to practice massage therapy in the State of Florida, pursuant to Chapter 480, Florida Statutes.

3. In September 2018, Mr. Oliver worked as a massage therapist at Healing Hands of Judah (HHJ), located in Boynton Beach, Florida.

4. On or about September 6, 2018, E.C., a female patient, presented to Mr. Oliver for a deep tissue massage.

5. Mr. Oliver began the massage on E.C.'s legs.

6. Mr. Oliver asked E.C. if he could work on her gluteus muscles.

7. E.C. gave Mr. Oliver permission to massage her gluteus muscles.

8. E.C. began to feel that Mr. Oliver was being "too intimate" during the massage, at times touching her rear end inappropriately, touching both of her breasts, and touching her left nipple.

9. Mr. Oliver then placed his hand underneath E.C.'s underwear, touched her vaginal area, and penetrated her vagina with his fingers.

10. E.C. immediately told Mr. Oliver he was being inappropriate.

11. Mr. Oliver stopped what he was doing, apologized to E.C., and told her he thought she wanted him to touch her that way.

12. E.C. went to the bathroom to get dressed, and when she began to leave, Mr. Oliver stopped her and asked, "are you good? are you ok?"

13. E.C. did not respond and left the premises.

14. Later that day, E.C. reported the incident to the Boynton Beach Police Department (BBPD) via telephone.

15. E.C. submitted to a sexual assault kit and provided a sworn recorded statement to BBPD detectives.

16. On or about September 11, 2018, E.C. presented to BBPD where detectives observed and recorded as E.C. contacted Mr. Oliver via telephone.

17. After E.C. sent him a text, Mr. Oliver called E.C. and spoke to her about the incident.

18. E.C. asked Mr. Oliver why he thought he could place his fingers inside her vagina.

19. Mr. Oliver apologized to E.C. multiple times during the phone call. Mr. Oliver said he was sorry for touching E.C. inappropriately and that he misunderstood and thought that she wanted him to touch her.

20. On or about September 11, 2018, Mr. Oliver was arrested at this place of employment.

21. Mr. Oliver provided BBPD detectives with a sworn statement admitting that he touched E.C. inappropriately and stated that he is a man and got turned on.

22. Mr. Oliver is charged with Sexual Battery (victim 18 years of age or older) in Palm Beach County case number 2018CF008874.

23. Clients of massage therapists are placed in isolated, vulnerable settings where they can be subject to abuse by their massage therapists. Due to the potential for abuse that is inherent under these circumstances, massage therapists must possess good judgment and good moral character in order to safely practice massage therapy and must refrain from placing their clients in situations that violate their safety and welfare.

24. Mr. Oliver willfully abused his position as a massage therapist to sexually violate a patient who trusted him to act professionally and within the boundaries of generally accepted massage therapy and treatment. Mr. Oliver's deviant actions demonstrate that he poses a significant danger to female patients. Mr. Oliver's violation of the massage therapist-patient relationship indicates that Mr. Oliver lacks the good moral character and

judgment necessary to practice massage therapy.

25. Mr. Oliver's lack of good judgment and moral character and his disregard for the laws and regulations governing massage therapists in this state represent a significant likelihood that Mr. Oliver will cause harm to clients in the future. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida. Nothing short of the immediate restriction of Mr. Oliver's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Oliver's continued, unrestricted practice of massage therapy with female patients.

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Department concludes as follows:

1. The Department has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2018), and Chapter 480, Florida Statutes (2018).

2. Section 480.046(1)(p), Florida Statutes (2018), subjects a massage therapist to discipline, including restriction, for violating any

provision of Chapters 480 or 456, Florida Statutes, or any rules adopted pursuant thereto.

3. Section 480.0485, Florida Statutes (2018), prohibits sexual misconduct in the practice of massage therapy and defines sexual misconduct, in pertinent part, as:

[V]iolation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient.

4. Rule 64B7-26.010, Florida Administrative Code, provides in pertinent part:

- (1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited...
- (3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client and;
- (4) As used in this rule, "sexual activity" means any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation...

5. Mr. Oliver violated Section 480.046(1)(p), Florida Statutes (2018), by violating Section 480.0485 Florida Statutes (2018), and Rule

64B7-26.010, Florida Administrative Code, by engaging in unlawful sexual activity, and engaging or attempting to engage in sexual misconduct by:

- a. touching E.C.'s rear end inappropriately;
- b. touching both of E.C.'s breasts;
- c. touching E.C.'s left nipple;
- d. placing his hand underneath E.C.'s underwear;
- e. touching E.C.'s vaginal area; and
- f. penetrating E.C.'s vagina with his fingers.

6. Section 120.60(6), Florida Statutes (2018), authorizes the Department to summarily restrict a massage therapist's license upon a finding that the massage therapist presents an immediate, serious danger to the public health, safety, or welfare.

7. Mr. Oliver's continued unrestricted ability to provide massage services to female clients constitutes an immediate, serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

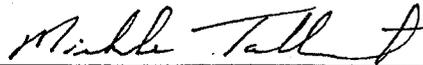
**WHEREFORE**, in accordance with Section 120.60(6), Florida Statutes (2018), it is **ORDERED THAT:**

IN RE: The Emergency Restriction of the License of  
Berhane T. Oliver, L.M.T.  
License Number: MA 61590  
Case Number: 2018-21688

1. The license of Berhane T. Oliver, L.M.T., license number MA 61590, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Berhane T. Oliver, L.M.T., to practice as a massage therapist will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2018).

**DONE and ORDERED** this 7 day of February, 2019.



Michele Tallent  
Deputy Secretary for Operations

PREPARED BY:  
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**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.