

FILED DATE - JAN 12 2022

Department of Health

By: Bridget Coates

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: Emergency Restriction of the License of
Christian Mieles, L.M.T.
License Number: MA 88698
Case Number: 2021-33814

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Christian Mieles, L.M.T., (Mr. Mieles) to practice as a licensed massage therapist in the State of Florida. Mr. Mieles holds license number MA 88698. Mr. Mieles' address of record is 608 Sealoffs Drive, Apartment 208, Boynton Beach, Florida 33426. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Mieles' 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 the practice of massage therapy pursuant to chapters 20, 456, and 480, Florida Statutes (2021). Section 456.073(8), Florida Statutes (2021), authorizes the State Surgeon General to summarily restrict Mr. Mieles' license to practice as a massage therapist in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2021).

2. At all times material to this Order, Mr. Mieles was licensed as a massage therapist in the State of Florida, having been issued license number MA 88698, pursuant to chapter 480.

3. At all times material to this Order, Mr. Mieles was employed as a massage therapist at Hand & Stone Massage and Facial Spa in Boynton Beach, Florida.

4. On or about October 5, 2021, Mr. Mieles provided a massage to A.S., a woman.

5. Mr. Mieles asked A.S. what areas she wanted him to work on and what areas to avoid during the massage.

6. A.S. told Mr. Mieles that she wanted him to massage her back and shoulders only.

7. A.S. told Mr. Mieles that she did not want him to massage her glutes, buttocks, or legs.

8. In preparation for the massage, A.S. disrobed and left her underwear on, laid face down on the massage table, and draped herself with a towel.

9. The lights in the massage room were on.

10. Mr. Mieles, while wearing gloves, began massaging A.S.'s back, shoulders, and hands.

11. Mr. Mieles used massage oil during the massage.
12. Mr. Mieles then removed the draping which revealed A.S.'s bikini-styled black underwear.
13. Mr. Mieles massaged A.S.'s buttocks.
14. Mr. Mieles then massaged A.S.'s thighs and focused on her inner thighs.
15. While massaging A.S.'s thighs, Mr. Mieles stated to A.S. "this shit feels good don't it, and you told me not to touch you there."
16. At one point during the massage, A.S. felt the massage table cushion sink down, felt the massage table move, and heard the massage table squeak, as if Mr. Mieles climbed up onto the massage table.
17. During the massage, Mr. Mieles grabbed A.S.'s ankles and opened her legs very wide which revealed A.S.'s inner, upper thighs and bikini-styled black underwear.
18. Mr. Mieles told A.S. to turn around and A.S. flipped over, opened her eyes, and was now lying on her back on the massage table.
19. A.S. draped herself with a towel.
20. At this point, the lights in the massage room were very dim.
21. Mr. Mieles continued massaging upward A.S.'s legs.

22. Mr. Mieles then removed the draping and revealed A.S.'s bikini-styled black underwear.

23. Mr. Mieles placed his hand and/or finger(s) underneath A.S.'s underwear, moved A.S.'s underwear to the side, touched her vagina, and opened up the lip of her vagina.

24. A.S. immediately told Mr. Mieles "no."

25. Mr. Mieles told A.S., "I'm sorry, I'm sorry," and put his hands up.

26. A.S. observed that Mr. Mieles was wearing only one glove.

27. Mr. Mieles told A.S., "I'm sorry about that. I got the wrong idea from you."

28. Mr. Mieles finished A.S.'s massage in a quick and panicked fashion.

29. After the massage, A.S. went to the restroom. In the restroom, A.S. observed that her bikini-styled black underwear was pulled to the side.

30. A.S. did not give Mr. Mieles permission to touch her vagina, underwear, buttocks, upper and inner thighs, and legs; to spread her legs open; or to remove her draping and reveal her bikini-styled black underwear.

31. Touching A.S.'s vagina, underwear, buttocks, and/or legs, spreading her legs open, removing her draping, and/or revealing her bikini-styled black underwear area is outside the scope of massage therapy and constitutes sexual

misconduct.

32. 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.

33. Mr. Mieles willfully abused his position as a massage therapist to sexually violate a woman who trusted him to act professionally and within the boundaries of generally accepted massage therapy and treatment. Mr. Mieles' violation of the massage therapist-patient relationship indicates that Mr. Mieles lacks the good moral character and judgment necessary to safely practice massage therapy.

34. Mr. Mieles' lack of good judgment and moral character, his disregard for the laws and regulations governing massage therapists in this state, his obvious knowledge that he acted outside the bounds of his profession, and his sexual assault of a female client in the course of massage therapy represent a significant likelihood that Mr. Mieles will cause harm to female clients in the future. This likelihood constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida.

35. The nature of massage therapy involves the delivery of services in a one-on-one manner for an extended period of time. Because of the inherent intimacy of this setting, a restriction where a chaperone must be present for massages is not feasible. The Department considered various restrictions on Mr. Mieles' license, including requiring Mr. Mieles to practice under direct supervision. However, the Department determined that even a direct supervisor would be insufficient to prevent future sexual activity or sexual misconduct, as direct supervision does not require a supervisor to be physically present with Mr. Mieles at all times. Direct supervision alone cannot ensure that Mr. Mieles' sexual activity or sexual misconduct would not continue.

36. Therefore, nothing short of the immediate restriction of Mr. Mieles' license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Mieles' continued, unrestricted practice of massage therapy with female patients. Mr. Mieles' continued unrestricted practice as a licensed massage therapist with female patients presents an immediate, serious danger to the health, welfare, and safety of the public.

CONCLUSIONS OF LAW

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

1. The State Surgeon General has jurisdiction over this matter pursuant to sections 20.43 and 456.073(8) and chapter 480, as set forth above.

2. Section 480.046(1)(p), Florida Statutes (2021), authorizes discipline, including restriction, for violating any provision of chapters 480 or 456, or any rules adopted pursuant thereto.

3. Section 480.0485, Florida Statutes (2021), prohibits sexual misconduct in the practice of massage therapy and defines sexual misconduct, in pertinent part, as a:

Violation 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 (2021), provides in pertinent part:

(1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited.

(2) No massage establishment owner shall engage in or permit any person or persons to engage in sexual activity in such owner's massage establishment or use such establishment to make arrangements to engage in sexual activity in any other place.

(3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client or to make arrangements to engage in sexual

activity with any client.

(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. Mieles violated section 480.046(1)(p), by violating section 480.0485 and Rule 64B7-26.010, by engaging in sexual activity and committing sexual misconduct:

- a. by placing his hand and/or finger(s) underneath A.S.'s underwear;
- b. by moving A.S.'s underwear to the side with his hand and/or finger(s);
- c. by touching A.S.'s vagina with his hand and/or finger(s);
- d. by opening up the lip of A.S.'s vagina with his hand and/or finger(s);
- e. by rubbing A.S.'s buttocks;
- f. by rubbing A.S.'s inner thighs;
- g. by spreading A.S.'s legs; and
- h. by telling A.S. "this shit feels good don't it, and you told me not to touch you there."

6. Section 480.046(1)(i), Florida Statutes (2021), authorizes discipline, including restriction, for gross or repeated malpractice or the failure to practice massage therapy with that level of care, skill, and treatment which is recognized

by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

7. Rule 64B7-30.001(5), Florida Administrative Code (2021), provides that failure to appropriately drape a client constitutes the failure to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances.

8. Rule 64B7-30.001(5) provides that appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients, unless the client gives specific informed consent to be undraped.

9. Mr. Mieles violated section 480.046(1)(i) by failing to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances by failing to appropriately drape A.S. by removing the towel/drape and exposing her buttocks and/or vagina.

10. Section 120.60(6) 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.

In Re: Emergency Restriction of the License of
Christian Mieles, L.M.T.
License Number: MA 88698
Case Number: 2021-33814

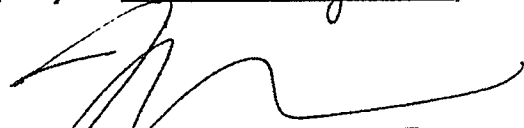
11. Mr. Mieles' continued unrestricted ability to provide massage services to female clients constitutes an immediate, serious danger to the health, safety, or welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with section 120.60(6), it is **ORDERED THAT:**

1. The license of Christian Mieles, L.M.T., license number MA 88698, is immediately restricted to prohibit him from practicing massage therapy on female clients.

2. A proceeding seeking formal discipline of the license of Christian Mieles, L.M.T., to practice as a massage therapist in the State of Florida will be promptly instituted and acted upon in compliance with sections 120.569 and 120.60(6), Florida Statutes (2021).

DONE and ORDERED this 11 day of January, 2022.



Joseph A. Ladapo, MD, PhD
State Surgeon General

In Re: Emergency Restriction of the License of
Christian Mieles, L.M.T.
License Number: MA 88698
Case Number: 2021-33814

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, Florida Statutes (2021), the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, and accompanied by a filing fee prescribed by law with the District Court of Appeal, and providing a copy of that Petition to the Department of Health within thirty (30) days of the date this Order is filed.

In Re: Emergency Restriction of the License of
Christian Mieles, L.M.T.
License Number: MA 88698
Case Number: 2021-33814

PREPARED BY:

Collie Nolen

Assistant General Counsel

Florida Bar No. 106540

DOH Prosecution Services Unit

4052 Bald Cypress Way

Tallahassee, FL 32399-3265

(T) (850) 558-9891

(F) (850) 245-4662

(E) Collie.Nolen@flhealth.gov