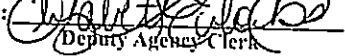


FILED DATE - MAR 04 2022

Department of Health

By:   
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MASSAGE THERAPY

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2021-18138

License No.: MA 83344

JESSE CROCKER,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

This matter appeared before the Board of Massage Therapy at a duly-noticed public meeting on January 27, 2022 in St. Augustine, Florida, for a hearing not involving disputed issues of material fact pursuant to Sections 120.569 and 120.57(2), Florida Statutes. Petitioner filed an Administrative Complaint seeking disciplinary action against Respondent's license to practice massage therapy. A copy of the Administrative Complaint is attached to and made a part of this Final Order. Respondent was properly served by personal service. Respondent failed to timely submit an election of rights or otherwise respond to the Administrative Complaint. Petitioner filed a Motion for Determination of Waiver and Entry of Final Order. Petitioner was represented by Andrew Pietrylo, Chief Legal Counsel, Department of Health. Respondent was not present at the meeting.

FINDINGS OF FACT

Since the licensee has not replied to the Administrative Complaint nor contested the factual allegations, the prosecuting attorney offered the investigative file to prove the facts as alleged. The investigative file was received into evidence and the Board finds the uncontested facts adequately support the allegations. Therefore, the Board adopts as its finding of facts the facts as set forth in the Administrative Complaint.

CONCLUSIONS OF LAW

Based upon the Findings of Fact, the Board concludes the licensee has violated Section 480.046(1)(p), by violating Section 480.0485, Florida Statutes, and/or Rules 64B7-26.010 and 64B7-30.001(5), Florida Administrative Code.

The Board is empowered by Sections 456.072(2) and 480.046(2), Florida Statutes, to impose a penalty against the licensee.

Therefore, it is ORDERED that:

The license of **JESSE CROCKER**, is hereby REVOKED.

The Respondent must pay a fine of \$2,500.00 and investigative costs of \$1,143.29 within 1 year of the date this Final Order is filed. Payment shall be made to the Board of Massage Therapy and mailed to, DOH-Compliance Management Unit, 4052 Bald Cypress Way, Bin C-76 Tallahassee, Florida 32399-3276, Attention: Massage Therapy Compliance Officer. Payment must be made by cashier's check or money order ONLY. Personal checks will not be accepted.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 3 day of March, 2022.

BOARD OF MASSAGE THERAPY



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Kama Monroe  
Executive Director  
for Christopher Brooks, Chair

NOTICE OF APPEAL RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. and Certified mail to: **JESSE CROCKER**, 2665 Middle River Drive, Ft. Lauderdale, FL 33306; and by e-mail to: **Diane Guillemette**, Assistant Attorney General, Diane.guillemette@myfloridalegal.com and **Andrew Pietrylo**, Chief Legal Counsel, Department of Health, Andrew.pietrylo@flhealth.gov; on this 4 day of March, 2022.

**Certified Article Number**  
9414 7266 9904 2178 1239 68  
**SENDER'S RECORD**

  
\_\_\_\_\_  
Deputy Agency Clerk

Jesse Crocker  
2665 Middle River Drive  
Ft. Lauderdale, FL 33306

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO. 2021-18138**

**JESSE CROCKER, L.M.T.,**

**RESPONDENT.**

\_\_\_\_\_ /

**ADMINISTRATIVE COMPLAINT**

Petitioner Department of Health (Department) files this Administrative Complaint before the Board of Massage Therapy (Board) against Respondent Jesse Crocker, L.M.T., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of massage therapy pursuant to section 20.43, Florida Statutes (2021), and chapters 456 and 480, Florida Statutes (2021).
2. At all times material to this Complaint, Respondent was licensed to practice massage therapy within the State of Florida, having been issued license number MA 83344.
3. Respondent's address of record is 2665 Middle River Drive, Fort Lauderdale, Florida, 33306.

4. At all times material to this Order, Respondent was employed as a massage therapist at Hand and Stone Massage and Facial Spa (HSS) in Davie, Florida.

5. On or about June 5, 2021, Patient M.R., a 25-year-old woman, presented to HSS for a 90-minute massage with Respondent.

6. In preparation for the massage, Patient M.R. disrobed to her lower undergarment, laid down on the massage table, and covered herself with a sheet.

7. While Patient M.R. was lying face up on the massage table, Respondent instructed her to sit up in order to massage her back.

8. When Patient M.R. laid back down, the sheet covering Patient M.R.'s breasts shifted downward, and her breasts became exposed.

9. Respondent did not reposition the sheet to cover Patient M.R.'s breasts, and her breasts remained exposed.

10. Patient M.R. did not provide specific informed consent for her breasts to be exposed.

11. Respondent began to massage Patient M.R.'s head and neck.

12. Respondent then kissed Patient M.R.'s neck.

13. Respondent removed Patient M.R.'s facial mask and kissed Patient M.R.'s mouth.

14. Respondent exposed his penis and placed Patient M.R.'s hand onto his exposed erect penis.

15. Respondent reached under the sheet and Patient M.R.'s lower undergarment and placed his hand onto her vaginal area. Respondent then rubbed, touched, or massaged Patient M.R.'s vagina.

16. Afterwards, Respondent stated, "you seem upset, I'm so sorry, I couldn't control myself," and indicated that his conduct was, "just another form of stress relief."

### **COUNT I**

17. Petitioner incorporates and re-alleges paragraphs one (1) through sixteen (16) as if fully set forth herein.

18. Section 480.046(1)(p), Florida Statutes (2020), provides that violating any provision of chapters 480 or 456 or any rules adopted pursuant thereto constitutes grounds for discipline against a massage therapist.

19. Section 480.0485, Florida Statutes (2020), prohibits sexual misconduct in the practice of massage therapy and defines sexual misconduct, in pertinent part, as a:

[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.

20. 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...
- (2) 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...

21. Respondent used the massage therapist-patient relationship to engage, or attempt to engage, Patient M.R. in sexual activity outside the scope of practice or generally accepted examination and treatment in one or more of the following ways:

- a. Kissing Patient M.R. on the neck;
- b. Kissing Patient M.R. on the mouth;
- c. Exposing his penis to Patient M.R.;
- d. Placing Patient M.R.'s hand onto his penis; and/or



e. Rubbing, touching, or massaging Patient M.R.'s vaginal area.

22. Based upon the foregoing, Respondent violated section 480.046(1)(p), by violating section 480.0485 and/or Rule 64B7-26.010, Florida Administrative Code.

### **COUNT II**

23. Petitioner incorporates and re-alleges paragraphs one (1) through sixteen (16) as if fully set forth herein.

24. Section 480.046(1)(p), Florida Statutes (2020), provides that violating any provision of chapters 480 or 456 or any rules adopted pursuant thereto constitutes grounds for discipline against a massage therapist.

25. Rule 64B7-30.001, Florida Administrative Code, provides in pertinent part:

The following acts shall constitute 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:

(5) Failure to appropriately drape a client. 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.

26. Respondent failed to appropriately drape Patient M.R.'s breasts without Patient M.R.'s specific informed consent to be undraped.

27. Based upon the foregoing, Respondent violated section 480.046(1)(p) by violating Rule 64B7-30.001(5).

**WHEREFORE**, Petitioner respectfully requests that the Board enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th day of August, 2021.

**FILED**  
 DEPARTMENT OF HEALTH  
 DEPUTY CLERK  
 CLERK: *Annika Morris*  
 DATE: AUG 20 2021

Respectfully submitted,

*Ellen LeGendre Carlos*

Ellen LeGendre Carlos, Esq.  
 Florida Bar No. 1010931  
 Assistant General Counsel  
 Prosecution Services Unit  
 4052 Bald Cypress Way, Bin C-65  
 Tallahassee, Florida 32399-3265  
 (P) 850-558-9906  
 (F) 850-245-4662  
 (E) Ellen.Carlos@flhealth.gov

PCP Date: August 20, 2021  
 PCP Members: Philips & Groover-Skipper

### **NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.**

**Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.**

### **NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.**