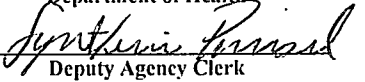


FILED DATE **MAR 31 2022**

Department of Health

By: 
Deputy Agency Clerk**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of
Daniel Dante Lopez, L.M.T.
License Number MA 78587
Case Number 2022-08711

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the Emergency Restriction of the license of Daniel Dante Lopez, L.M.T., (Mr. Lopez) to practice as a massage therapist in the State of Florida. Mr. Lopez holds license number MA 78587. His address of record is 3061 Sandpiper Cay Circle, Apartment J305, Naples, Florida 34112. An alternate address is 5926 Premier Way, Unit 106, Naples, Florida 34109. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Lopez'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 (2021). Section 456.073(8), Florida Statutes (2021), authorizes the State Surgeon General to summarily

restrict Mr. Lopez's 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. Lopez was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. At all times material to this Order, Mr. Lopez practiced massage therapy at Naples Massage and Neuromuscular (NMN), a massage establishment in Naples, Florida.

4. Patient B.L., a 24-year-old woman, presented to Mr. Lopez at NMN for a massage on February 19, 2022.

5. In preparation for her massage, B.L. disrobed entirely, laid face down on the massage table, and covered herself with the provided drape.

6. Mr. Lopez entered the massage room and proceeded to massage B.L.

7. During the massage, the draping slipped off of B.L. and exposed her genitalia.

8. Mr. Lopez failed to return the draping to cover B.L.'s exposed genitalia.

9. Toward the end of the massage, Mr. Lopez massaged B.L.'s upper thigh and his hand rubbed against B.L.'s outer labia.

10. Mr. Lopez placed his hand on top of B.L.'s pelvis and rubbed her clitoris with his fingers.

11. B.L. was in shock.

12. B.L. informed Mr. Lopez that she was not there for "this type of massage."

13. Mr. Lopez replaced the draping over B.L.'s genitals and said "oh, I'm sorry. I didn't mean to make you feel uncomfortable."

14. B.L. did not provide specific informed consent for Mr. Lopez to expose her genitalia or to touch her labia and clitoris.

15. B.L. felt that the contact was sexual in nature, and it made her feel violated, scared, and unsafe.

16. B.L. reported this incident to law enforcement.

17. The massage therapist-patient relationship is founded on mutual trust. The practice of massage therapy places patients 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 practice massage therapy professionally and within the boundaries of the generally accepted examination or treatment of

a patient. Massage therapists must also refrain from engaging in conduct that harms the patient or placing the patient in a situation that violates their safety and welfare.

18. Mr. Lopez 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. Lopez's deviant actions demonstrate that he poses a significant danger to female patients. Mr. Lopez's violation of the massage therapist-patient relationship indicates that Mr. Lopez lacks the good judgment and good moral character necessary to safely practice massage therapy, and therefore is a significant danger to female patients.

19. Mr. Lopez's lack of good judgment and good moral character, his disregard for the laws and regulations governing massage therapists in this state, and his disregard for his patient's physical and emotional well-being represent a significant likelihood that Mr. Lopez will cause harm to female patients in the future unless his license is restricted. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida.

20. 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. Therefore, nothing short of the immediate restriction of Mr. Lopez's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Lopez's continued, unrestricted practice of massage therapy.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to sections 20.43 and 456.073(8), Florida Statutes (2021), and chapter 480.

2. Section 480.046(1)(p), Florida Statutes (2021), subjects a massage therapist to 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:

[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" means any direct or indirect contact by any person, or between persons, with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, or which is likely to cause such humiliation, harassment, degradation, arousal or sexual gratification:
 - a. With or without the consent of either person or persons;
 - b. With or without verbal or non-verbal communication that the sexual activity is undesired;
 - c. With or without the use of any device or object;
 - d. With or without the occurrence of penetration, orgasm or ejaculation;
 - e. Including, but not limited to intentional contact with the genitalia, groin, femoral triangle, anus, buttocks, gluteal cleft, breast or nipples, mouth, or tongue; and
 - f. Including, but not limited to the intentional removal of any drape without written specific informed consent of the patient.
- (2) Sexual activity in any massage establishment is absolutely prohibited.

- (3) ...
- (4) No establishment owner or employee of the massage therapy establishment shall engage in or permit any person or persons to engage in sexual activity in the massage therapy establishment or use the establishment to make arrangements to engage in sexual activity in an other place.

5. Mr. Lopez violated section 480.046(1)(p) by violating section 480.0485 and/or Rule 64B7-26.010(1) by:

- a. using the massage therapist-patient relationship to engage, or attempt to engage, B.L. in sexual activity outside the scope of practice or generally accepted examination and treatment by touching or massaging B.L.'s labia and clitoris;
- b. by engaging in sexual activity in a massage establishment;
and/or
- c. by engaging in sexual activity as a massage establishment owner or an employee of a massage establishment.

6. 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:

- (4) ...
- (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.

7. Mr. Lopez violated section 480.046(1)(p) by violating Rule 64B7-30.001(5) by failing to appropriately drape B.L.'s genitalia, without B.L.'s specific informed consent to be undraped.

8. Section 120.60(6) authorizes the State Surgeon General 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.

9. Mr. Lopez's continued unrestricted ability to provide massage services 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 and signature block on the following page.]


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

THAT:

1. The license of Daniel Dante Lopez, L.M.T., license number MA 78587, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Daniel Dante Lopez, 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 (2021).

DONE and ORDERED this 31 day of March, 2022.



Joseph A. Ladapo, MD, PhD
State Surgeon General

PREPARED BY:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, Florida Statutes (2021), 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.