

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
Donovan Davis Washington, II, L.M.T.
License Number: MA 84005
Case Number: 2022-07134

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph Ladapo, MD, PhD, State Surgeon General, ORDERS the Emergency Restriction of the license of Donovan Davis Washington, II, L.M.T., (Mr. Washington) to practice as a massage therapist in the State of Florida. Mr. Washington holds license number MA 84005. His address of record is 200 SE 2nd Street, Apt. E123, Boca Raton, Florida 33431. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Washington'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. Washington'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. Washington was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. In November 2019, Mr. Washington was employed as a massage therapist at Hand and Stone Spa in Boca Raton, Florida.

4. On January 12, 2022, Patient C.C., a 33-year-old woman, presented to Mr. Washington at Hand and Stone Spa for a sixty-minute massage.

5. Patient C.C. began the massage on her stomach, and Mr. Washington massaged her back and legs.

6. Toward the last five-to-ten minutes of the massage, Mr. Washington asked Patient C.C. to turn onto her back.

7. Patient C.C. turned onto her back and kept the draping over her breasts, mid-section, and lower torso.

8. Mr. Washington massaged the top of Patient C.C.'s legs and moved to the top of Patient C.C.'s chest area, just below the collar bone.

9. Mr. Washington then moved his hands under the draping and began to rub Patient C.C.'s breasts and nipples.

10. Patient C.C. did not give Mr. Washington consent to touch or rub her breasts.

11. Patient C.C. told Mr. Washington to stop.

12. Mr. Washington removed his hands and asked Patient C.C. if she wanted a towel. Mr. Washington left the room.

13. Patient C.C. dressed, left the room, and exited the spa without stopping at the desk.

14. Patient C.C. reported Mr. Washington's conduct to the Boca Raton Police Department the same day.

15. On January 12, 2022, Mr. Washington was arrested and charged with one count of battery in case number 502022MM000335, in the County Court for Palm Beach, Florida. The charge is currently pending resolution.

16. 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.

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

18. Mr. Washington's lack of good judgment and moral character, his sexual misconduct, and his disregard for the laws and regulations governing massage therapists in this state represent a significant likelihood that Mr. Washington 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.

19. 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. Washington's license to practice as a massage therapist in the State of Florida will protect the public from the dangers

created by Mr. Washington's continued, unrestricted practice of massage therapy with female patients.

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) 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:

[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. Washington violated section 480.046(1)(p) by violating section 480.0485 and Rule 64B7-26.010 by engaging in unlawful sexual activity, by rubbing Patient C.C.'s breasts and nipples while performing a massage.

6. 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.

7. Mr. Washington'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.

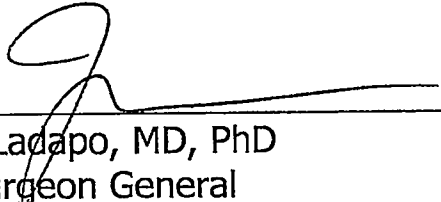
WHEREFORE, in accordance with section 120.60(6), it is **ORDERED**

THAT:

1. The license of Donovan Davis Washington, II, L.M.T., license number MA 84005, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

11. A proceeding seeking formal discipline of the license of Donovan Davis Washington, II, 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).

DONE and ORDERED this 31 day of March, 2022.



Joseph Ladapo, MD, PhD
State Surgeon General

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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.