

FILED DATE - JUL 29 2022

Department of Health

By: 

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: Emergency Restriction of the License of
 Youssef Habbouli, L.M.T.
 License Number: MA 53468
 Case Number: 2022-22759

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Youssef Habbouli, L.M.T., (Mr. Habbouli) to practice as a massage therapist in the State of Florida. Mr. Habbouli holds license number MA 53468. Mr. Habbouli's address of record is 408 Pinewood Drive, Davenport, Florida 33896. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Habbouli'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 (2022). Section 456.073(8), Florida Statutes (2022), authorizes the State Surgeon General to summarily restrict Mr. Habbouli's license to practice as a massage therapist in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2022).

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

3. At all times material to this Order, Mr. Habbouli practiced as a massage therapist at J Sterling's Wellness Spa in Clermont, Florida.

4. On or about June 2, 2022, Patient J.M., a 21-year-old female, presented to J Sterling's Wellness Spa for a massage by Mr. Habbouli.

5. In preparation for the massage, Patient J.M. completely disrobed, laid face-down on the massage table, and covered herself with the provided drape.

6. About half-way through the massage, Mr. Habbouli instructed Patient J.M. to turn over onto her back.

7. Mr. Habbouli adjusted Patient J.M.'s legs so that they were slightly separated and bent at the knee.

8. Mr. Habbouli undraped both of Patient J.M.'s legs at the same time, loosely gathering the drape in the space between Patient J.M.'s separated legs.

9. Mr. Habbouli did not tuck or secure the drape under either of Patient J.M.'s legs.

10. Mr. Habbouli massaged Patient J.M.'s legs.

11. While massaging Patient J.M.'s upper thighs, Mr. Habbouli touched and/or rubbed the outside of Patient J.M.'s vagina with his fingers on one or more occasion.

12. Patient J.M. felt uncomfortable and violated.

13. Mr. Habbouli then stretched Patient J.M.'s legs one at a time, with the drape still untucked and loosely gathered between her legs.

14. Mr. Habbouli pushed Patient J.M.'s leg outwards into a frog-like position, which created a gap in the drape and exposed her vagina.

15. Mr. Habbouli did not explain the draping techniques to Patient J.M. at anytime during the massage.

16. 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 places the patient in a situation that violates their safety and welfare.

17. Mr. Habbouli willfully abused his position as a massage therapist to sexually violate a patient who trusted him to act professionally and within the boundaries of the generally accepted practice of massage therapy. Mr. Habbouli's deviant actions indicate that Mr. Habbouli lacks the good judgment and good moral character necessary to safely practice massage therapy, and therefore is a significant danger to female patients.

18. Mr. Habbouli's lack of good judgment and good moral character, his disregard for the laws and regulations governing massage therapists in this state, his disregard for his patient's physical and emotional well-being, his ability to conceal his abuse of his patients due to the inherent intimacy present in massage therapy, his apparent comfort in behaving outside the bounds of massage therapy, and his failure to recognize that his actions were causing his patient distress represent a significant likelihood that Mr. Habbouli 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.

19. The Department considered various restrictions on Mr. Habbouli's license, including requiring him to practice with a chaperone. However, a restriction where a chaperone must be present is not feasible due to the intrinsically intimate nature of massage therapy, which involves the delivery of services in a one-on-one manner for an extended period of time. As a result, there are no less restrictive means, other than the terms of this Order, that will adequately protect the public from the dangers created by Mr. Habbouli'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) 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 64B7-23.005, 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 by any massage therapist in the context of massage therapy practice or in a massage therapy establishment is prohibited.

(3) A licensed massage therapist must not use the therapist-client relationship to induce or attempt to induce or engage or attempt to engage in sexual activity with any client. Such attempts or engagements constitute sexual misconduct in the practice of massage therapy.

5. Mr. Habbouli violated section 480.046(1)(p) by violating section 480.0485 and Rule 64B7-23.005 by using the massage therapist-patient relationship to engage, or attempt to engage, Patient J.M. in sexual activity outside the scope of practice or generally accepted examination and treatment by touching and/or rubbing the outside of Patient J.M.'s vagina.

6. Rule 64B7-23.011, Florida Administrative Code, provides in pertinent part:

Failure to practice massage therapy with the level of care, skill and treatment which is recognized by a reasonably prudent similar massage therapist as acceptable under similar conditions and circumstances constitute misconduct and negligence in the practice of massage therapy. Acts of misconduct or negligence include:

- (1) Failure to properly assess the patient;
- (2) Failure to explain draping techniques to the patient;
- (3) Failure to appropriately drape the patient;

- (4) Failure to obtain informed consent from the patient, the patient's parent, or the patient's guardian for massage therapy treatment;
- (5) Failure to obtain specific informed consent from the patient, the patient's parent, or the patient's guardian before undraping a patient;
- (6) Undraping a patient in a manner inconsistent with the specific informed consent given;
- (7) Administering treatment which poses a significant health risk to the patient;
- (8) Administering treatment in a negligent manner;
- (9) Administering treatment which the massage therapist is not competent by training or experience to perform;
- (10) Administering treatment which the massage therapist is not qualified by training or experience to perform;
- (11) Violating the confidentiality of information or knowledge concerning a patient;
- (12) Offering massage therapy at a sporting event, convention, or trade show without obtaining the written approval of the owner or property manager of the site of the sporting event, convention or trade show or the organizer of the sporting event, convention, or trade show.

7. Mr. Habbouli violated section 480.046(1)(p) through a violation of Rule 64B7-23.011 by engaging in misconduct and/or negligence in the practice of massage therapy in one or more of the following ways:

- a. By failing to appropriately drape Patient J.M.; and/or
- b. By failing to explain draping techniques to Patient J.M.

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. Habbouli'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.

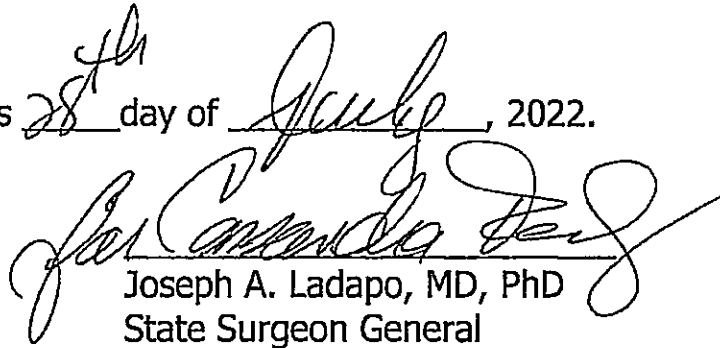
WHEREFORE, in accordance with section 120.60(6), it is **ORDERED THAT:**

1. The license of Youssef Habbouli, L.M.T., license number MA 53468, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

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2. A proceeding seeking formal discipline of the license of Mr. Habbouli 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 (2022).

DONE and ORDERED this 28th day of July, 2022.



Joseph A. 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 (2022), 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.