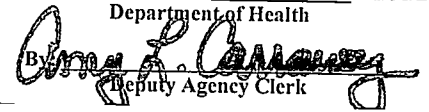


FILED DATE - OCT 21 2022

Department of Health

By 
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of
Peter Mayorga, L.M.T.
License Number MA 41754
Case Number 2022-38965

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Peter Mayorga, L.M.T., (Mr. Mayorga) to practice as a massage therapist in the State of Florida. Mr. Mayorga holds license number MA 41754. His address of record is 8225 Southwest 41st Street, Miami, Florida 33155. Alternative addresses are 19501 Biscayne Boulevard, Miami, Florida 33180 and 10460 Southwest 201st Terrace, Miami, Florida 33180. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Mayorga'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. Mayorga'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. Mayorga was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. At all times material to this Order, Mr. Mayorga practiced massage therapy at My Massage Haven, a massage establishment in Miami, Florida.

4. On or about September 12, 2022, Patient T.E., a 54-year-old female, presented to Mr. Mayorga at My Massage Haven for a massage.

5. In preparation for her massage, Patient T.E. disrobed entirely, laid down on the massage table, and covered herself with the provided drape.

6. Mr. Mayorga entered the massage room and proceeded to massage Patient T.E.

7. While Patient T.E. was on her stomach, a portion of Mr. Mayorga's finger penetrated Patient T.E.'s buttocks crevice.

8. Patient T.E. flinched and repositioned herself, and Mr. Mayorga repositioned his hands and continued to massage her lower back.

9. Patient T.E. initially thought this was accidental.
10. During the massage, Mr. Mayorga ran his whole finger down the crevice of Patient T.E.'s buttocks, rubbing against her anus and down to her vagina.
11. Patient T.E. froze.
12. The draping was no longer covering Patient T.E.'s back or buttocks. Mr. Mayorga failed to adjust the draping to recover Patient T.E.'s buttocks.
13. Mr. Mayorga penetrated Patient T.E.'s vagina with his finger.
14. Mr. Mayorga used the same finger to penetrate Patient T.E.'s anus.
15. Mr. Mayorga moved his finger between Patient T.E.'s vagina and anus repeatedly penetrating each.
16. Mr. Mayorga told Patient T.E. to roll over onto her back.
17. Mr. Mayorga briefly massaged Patient T.E.'s head, face, and shoulders.
18. Mr. Mayorga massaged Patient T.E.'s breasts.

19. Mr. Mayorga moved his hand down Patient T.E.'s body and penetrated Patient T.E.'s vagina with his fingers.

20. The draping was no longer covering Patient T.E.'s breasts, stomach, or vagina. Mr. Mayorga failed to adjust the draping so that Patient T.E.'s breasts and vaginal area were covered.

21. Mr. Mayorga put his mouth on Patient T.E.'s breast.

22. Mr. Mayorga alternated sucking on her each of her breasts, rubbing her breasts, and continuing to penetrate her anus and vagina with his fingers.

23. Mr. Mayorga repositioned himself and put his mouth on Patient T.E.'s vagina and performed oral sex.

24. Mr. Mayorga rotated between touching and rubbing Patient T.E.'s breasts and inserting his fingers into her vagina while he was performing oral sex on her.

25. While Mr. Mayorga was performing oral sex on Patient T.E. she made a noise, Mr. Mayorga covered her mouth with his hand and said "Shh."

26. Patient T.E. froze and was in shock.

27. Patient T.E. did not provide specific informed consent for Mr. Mayorga to expose her buttocks, breasts, and/or vagina.

28. Patient T.E. did not provide specific informed consent for Mr. Mayorga to massage, rub and/or touch her vagina, buttocks, and/or breasts, to insert his fingers into her vagina and/or anus, put his mouth on her breasts and/or vagina, or to perform oral sex on her.

29. Patient T.E. felt that the contact was sexual in nature, and it made her feel violated, scared, and unsafe.

30. Patient T.E. immediately reported this incident to law enforcement.

31. 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.

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

33. Mr. Mayorga's lack of good judgment and good moral character, his disregard for the laws and regulations governing massage therapists in this state, his ability to conceal his deviant behavior due to the inherent intimacy of the massage therapy setting, and his disregard for his patient's physical and emotional well-being represent a significant likelihood that Mr. Mayorga 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.

34. 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. Mayorga's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Mayorga'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 (2022), and chapter 480.

2. Section 480.046(1)(p), Florida Statutes (2022), 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 (2022), 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. Mayorga violated section 480.046(1)(p) by violating section 480.0485 and/or Rule 64B7-23.005 by:

- a. using the massage therapist-patient relationship to engage, or attempt to engage, Patient T.E. in sexual activity outside the scope of practice or generally accepted examination and treatment by:
 - i. massaging, rubbing and/or touching Patient T.E.'s buttocks, breasts, and/or vagina;
 - ii. putting his mouth on her breasts and/or vagina;
 - iii. inserting his fingers into her anus and/or vagina; and/or

- iv. performing oral sex on Patient T.E.
- b. by engaging in sexual activity; and/or
- c. by using the therapist-client relationship to induce or attempt to induce or engage or attempt to engage in sexual activity with Patient T.E.

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. Mayorga violated section 480.046(1)(p) by violating Rule 64B7-23.011 by failing to appropriately drape Patient T.E., without Patient T.E.'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. Mayorga's continued unrestricted ability to provide massage services constitutes an immediate, serious danger to the health, safety, or

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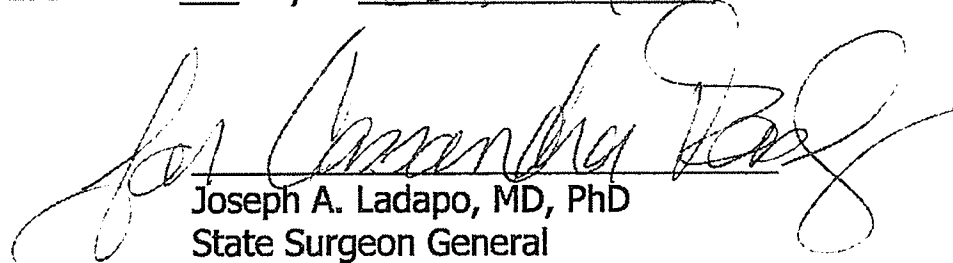
welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

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

1. The license of Peter Mayorga, L.M.T., license number MA 41754, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Peter Mayorga, 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 (2022).

DONE and ORDERED this 21st day of October, 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.