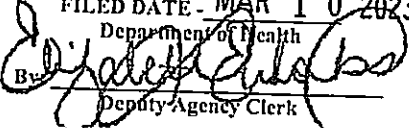


FILED DATE - MAR 10 2023

Department of Health

By 
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

In Re: The Emergency Suspension of the License of
Agostinho Loiola Rodrigues, D.C.
License Number: CH 12513
Case Numbers: 2022-39909 and 2022-39894

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Joseph A. Ladapo MD, PhD, State Surgeon General, ORDERS the emergency suspension of the license of Agostinho Loiola Rodrigues, D.C., (Dr. Rodrigues) to practice as a chiropractic physician in the State of Florida. Dr. Rodrigues holds license number CH 12513. His address of record is 2424 Depauw Avenue, Orlando, Florida 32804. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Rodrigues' license to practice as a chiropractic physician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of chiropractic medicine pursuant to chapters 20, 456, and 460, Florida Statutes (2022). Section 456.073(8), Florida Statutes (2022), authorizes the Department to summarily suspend Dr. Rodrigues' license to practice as a chiropractic physician in the State of Florida, in accordance with sections 120.60(6), and/or 456.074, Florida Statutes (2022).

2. At all times material to this Order, Dr. Rodrigues was licensed to practice as a chiropractic physician in the State of Florida, pursuant to chapter 460, having been issued license number CH 12513.

3. At all times material to this order, Dr. Rodrigues worked out of rental space in TV Fitness Pros, LLC, d/b/a The Healthy Human.

4. Dr. Rodrigues was not granted permission by The Healthy Human to use the massage space but did have permission to work with clients in the personal training area.

5. The personal training rooms at The Healthy Human are available for public use; the massage rooms are private spaces that are rented out.

6. A massage therapist rented a private room at The Healthy Human and allowed Dr. Rodrigues to use the room with clients.

7. On or about February 6, 2022, Patient J.A. met Dr. Rodrigues at The Healthy Human for a chiropractic adjustment.

8. Since The Healthy Human was closed, Dr. Rodrigues used his key to let himself and Patient J.A. in through the back door; they were the only people inside the business.

9. Dr. Rodrigues told Patient J.A. to lay down on her stomach, and he performed adjustments on her back.

10. Patient J.A. was fully clothed in a shirt and jogging pants.

11. Dr. Rodrigues put his hands underneath Patient J.A.'s shirt and bra.

He pulled on her breasts and nipples and told her that he was getting the stress out.

12. Dr. Rodrigues told Patient J.A. that they needed a private area in case someone came in and took her to a private room in the back with a massage table.

13. Patient J.A. laid down on her back on the massage table. She was fully clothed.

14. Dr. Rodrigues put his hand under Patient J.A.'s pants waistband and told J.A. he "needed a better angle". Dr. Rodrigues placed his hand on Patient J.A.'s vaginal area over her underwear.

15. Dr. Rodrigues went under Patient J.A.'s underwear and touched the inside of her labia with his fingers.

16. Patient J.A. told Dr. Rodrigues "No," and asked him to stop. She got up and left.

17. While on her way out, Dr. Rodrigues told Patient J.A. he would see her son for his appointment the next day. Patient J.A. did not take her son to that appointment.

18. Since the February 6, 2022, appointment, Dr. Rodrigues repeatedly sent text messages to Patient J.A. in which he either blamed difficult circumstances in his life for making him "do things" or acted like nothing happened and tried to have conversations about her son.

19. On or around April 24, 2022, Dr. Rodrigues approached Patient L.S., who worked with her mother at The Healthy Human, and offered an adjustment and massage.

20. Dr. Rodrigues gave both Patient L.S. and her mother chiropractic adjustments.

21. After Patient L.S.'s mother was finished with the adjustment, she left the establishment, and Dr. Rodrigues brought Patient L.S. into a private massage room in the back.

22. Patient L.S. was lying on her back on the massage table when Dr. Rodrigues pulled her shirt and bra up over her breasts, leaving Patient L.S.'s breasts exposed. Dr. Rodrigues did not ask Patient L.S. permission to remove her shirt and bra.

23. Dr. Rodrigues began to massage the area between Patient L.S.'s pelvic area and belly button and moved his hand lower onto Patient L.S.'s groin and put his hand underneath Patient L.S.'s pants and underwear.

24. Dr. Rodrigues touched the outside of Patient L.S.'s labia and told her it was part of the massage.

25. Dr. Rodrigues then licked Patient L.S. nipples and told Patient L.S. he was "stimulating her pectoral muscles."

26. In September of 2022, Patient E.R., a 42-year-old woman, contacted the massage therapist who rented the space used by Dr. Rodrigues to book a massage for her back pain.

27. The massage therapist instructed Patient E.R. to contact Dr. Rodrigues for treatment.

28. Patient E.R. contacted Dr. Rodrigues and scheduled an appointment for chiropractic treatment. Patient E.R.'s first appointment with Dr. Rodrigues was on Monday, September 26, 2022.

29. After performing an adjustment, Dr. Rodrigues told Patient E.R. that she needed to come back for more sessions.

30. Patient E.R. returned for a second visit on Tuesday, September 27, 2022. During this session Dr. Rodrigues kissed Patient E.R. on the cheek.

31. Dr. Rodrigues brought Patient E.R. into the private massage room in the back to perform a "lymph node massage" in which he required Patient E.R. to remove her shirt.

32. Patient E.R. returned for another appointment on Friday, September 30, 2022. Dr. Rodrigues filmed Patient E.R. while she was stretching. He brought E.R. into the private massage room in the back for a "lymph node massage."

33. Dr. Rodrigues assisted Patient E.R. in removing her shirt and instructed her to lay face down on the massage table. After checking Patient E.R.'s lower back, Dr. Rodrigues told Patient E.R. to turn face up.

34. Dr. Rodrigues then pulled off Patient E.R.'s sports bra.

35. Patient E.R. was shocked.

36. Patient E.R. told Dr. Rodrigues that she was not comfortable.

37. Dr. Rodrigues told Patient E.R. that she needed a lymph node drainage massage and proceeded to massage her breasts while pulling, pressing, wiggling, pinching, and squeezing Patient E.R.'s nipples. While doing so, Dr. Rodrigues stated that the tissue needed to be soft.

38. Dr. Rodrigues slid his hand under Patient E.R.'s yoga pants and underwear. Dr. Rodrigues put his hand between Patient E.R.'s legs and touched her vagina.

39. At first Patient E.R. thought it was an accident, but after the third time Dr. Rodrigues touched her vagina, he said "you need some stimulation."

40. Patient E.R. froze in fear.

41. Dr. Rodriguez began to rub Patient E.R.'s clitoris.

42. Dr. Rodrigues stopped and rolled Patient E.R.'s bra back down.

43. Patient E.R. cancelled her next appointment with Dr. Rodrigues.

44. Patient E.R. called the referring massage therapist and told her about what happened with Dr. Rodrigues. The massage therapist did not seem surprised and just said "ok." Patient E.R. cancelled her future appointments with the massage therapist.

45. On October 3, 2022, Patient E.R. told her husband and a friend what happened and reported the incident to the Orlando Police Department.

46. Dr. Rodrigues was arrested in Orange County, Florida, on four separate cases of Sexual Battery. In case 48-2022-CF-011655000-A, Dr. Rodrigues was charged with one count of sexual battery and one count of battery. In case 48-2022-CF-011878000-A, Dr. Rodrigues was charged with one count of sexual battery and one count of battery. In case 48-2022-CF-012312000-A, Dr. Rodrigues was charged with one count of sexual battery and battery. In case 48-2022-CF-013232000-A, Dr. Rodrigues was charged with one count of sexual battery by administration of a substance and one count of battery.

47. Dr. Rodrigues has posted bond and is not currently incarcerated, leaving him able to continue seeing patients.

48. Chiropractic physicians are entrusted by the public to provide treatment to patients in a manner that is safe and to protect their patients from harm. Dr. Rodrigues' actions towards his patients show that he does not have the judgment or moral character to hold a position of power or trust. Dr. Rodrigues violated the patient-physician relationship when he repeatedly engaged in sexual misconduct with multiple patients. Dr. Rodrigues' continued unrestricted practice as a chiropractic physician presents a risk of immediate, serious danger to the health, welfare, and safety of the public.

49. Multiple victims have reported sexual misconduct by Dr. Rodrigues, four of which have led to the State Attorney filing charges against Dr. Rodrigues for sexual battery. The number of reports and the blatant disregard for the standards of practice for his profession indicates that his behavior is likely to continue. His continued attempts to contact J.A. show a lack of remorse for his actions.

50. The Department considered restricting Dr. Rodrigues' license to require him to practice under the direct supervision of a licensed healthcare practitioner, or restrict Dr. Rodrigues' license to not allow him to provide care to

female patients; however, due to Dr. Rodrigues' status as the owner of his practice, there is no feasible supervision restriction that would prevent Dr. Rodrigues from continuing to treat women at his practice, as he has the ability to open and operate his practice without the knowledge of any mandated supervisor. Additionally, Dr. Rodrigues does not have a fixed location in which he provides patient care, and it is custom for Dr. Rodrigues to treat patients in their own homes. The patient's home is an inherently intimate place, making it the balance of power between patient and provider greater than if care was being given in a traditional office setting. Additionally, Dr. Rodrigues' history of providing patient care in a location in which he was not permitted to provide care makes it likely that he would continue to treat patients unsupervised without the knowledge of any authority. Thus, the most narrowly tailored restriction that can be placed on Dr. Rodrigues is a suspension of his license.

51. As a result, nothing short of the immediate suspension of Dr. Rodrigues' license to practice as a chiropractic physician will adequately protect the public.

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 (2022) and chapters 456 and 460 as set forth above.

2. Section 460.413(1)(ff), Florida Statutes (2022), authorizes discipline, including suspension, against chiropractors for violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

3. Section 460.412, Florida Statutes (2022), prohibits sexual misconduct in the practice of chiropractic medicine and provides:

The chiropractic physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of chiropractic medicine means violation of the chiropractic physician-patient relationship through which the chiropractic physician uses said 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. Sexual misconduct in the practice of chiropractic medicine is prohibited.

4. Rule 64B2-17.0021, Florida Administrative Code, provides in pertinent part that sexual misconduct between a chiropractic physician and a patient includes, but it is not limited to:

- a. The chiropractic physician/patient relationship is founded on the trust and confidence that a patient places in the chiropractic physician, and this rule is intended to prevent a chiropractic physician from taking advantage of that trust for the chiropractic physician's own pleasure, satisfaction or benefit.

- b. To protect both the chiropractor and the patient, the Board recommends the presence of a third person during a chiropractic physician's examination and treatment of a patient.
 - c. Sexual misconduct is any direct or indirect physical contact by any person or between persons which is intended or which is likely to cause to either person stimulation of a sexual nature. Sexual misconduct includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse.
 - d. A licensee who fails to inform a patient when the licensee must touch the patient's breasts or genitalia for diagnostic or therapeutic purposes, or a licensee who disregards a patient's request that the licensee not touch the patient's breasts or genitalia, is guilty of sexual misconduct.
 - e. A licensee who makes suggestive, lewd, or lascivious remarks to a patient or who performs suggestive, lewd, or lascivious acts in the presence of a patient is guilty of sexual misconduct.
 - f. A licensee who intentionally touches a patient's breasts or sexual organs for non-diagnostic or non-therapeutic purposes is guilty of sexual misconduct, regardless of whether the patient is clothed.
 - g. A licensee who makes intentional contact with or who penetrates a patient's oral, anal, or vaginal orifice with the licensee's own sexual organ is guilty of sexual misconduct.
 - h. A licensee who makes intentional contact with or who penetrates a patient's oral, anal, or vaginal orifice with any object for any purpose other than a professionally recognized diagnostic or therapeutic purpose is guilty of sexual misconduct.
5. Rule 64B2-17.0021(8), Florida Administrative Code, provides:

A patient is any person who was being examined or who was under the care or treatment of the chiropractic

physician when the incident or incidents of sexual misconduct allegedly occurred, regardless of whether the person was billed by or was paying for chiropractic services from the licensee who is accused of sexual misconduct. A person shall be considered a patient until after one year has elapsed since the last date on which the chiropractic physician examined or treated the person.

6. Dr. Rodrigues violated section 460.413(1)(ff) by violating section 460.412 and/or Rule 64B2-17.0021, by:

- a. Engaging or attempting to engage in sexual misconduct with Patient J.A., by using his position of authority to touch and/or rub Patient J.A.'s breast and labia;
- b. Engaging or attempting to engage in sexual misconduct with Patient L.S., by using his position of authority to touch and/or rub and/or lick Patient L.S.'s breasts and nipples and touch and/or rub Patient L.S.'s labia;
- c. Engaging or attempting to engage in sexual misconduct with Patient E.R., by using his position of authority to touch and/or rub, Patient E.R.'s breasts, nipples, labia and clitoris.

7. Section 456.074(5), Florida Statutes (2021), provides that the Department shall issue an emergency order suspending the license of any health care practitioner who is arrested for committing or attempting, soliciting,

or conspiring to commit a felony offense under section 794.011, Florida Statutes, relating to sexual battery.

8. Dr. Rodrigues was arrested for four felony offenses under section 794.011, relating to sexual battery.

9. Section 120.60(6) authorizes the Department to suspend a chiropractic physician's license if the Department finds that the chiropractic physician presents an immediate, serious danger to the public health, safety, or welfare.

10. Dr. Rodrigues' continued practice as a chiropractic physician constitutes an immediate serious danger to the health, safety, and welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

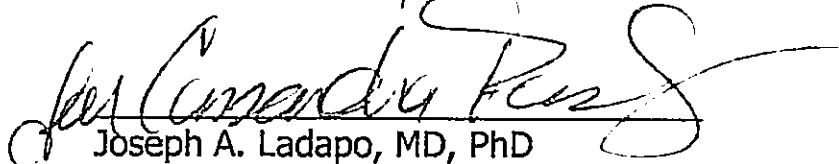
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WHEREFORE, in accordance with section 456.074(5), it is **ORDERED**

THAT:

1. The license of Agostinho Loiola Rodrigues, D.C., license number CH 12513, is hereby immediately suspended.
2. A proceeding seeking formal discipline of the license of Agostinho Loiola Rodrigues, D.C., to practice as a chiropractic physician in the State of Florida will be promptly instituted and acted upon in compliance with sections 120.569 and 120.60(6), Florida Statutes (2022).

DONE and ORDERED this 10th day of March, 2023.


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), the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, and accompanied by a filing fee prescribed by law with the District Court of Appeal, and providing a copy of that Petition to the Department of Health within thirty (30) days of the date this Order is filed.