

FILED DATE - OCT 05 2023

Department of Health

By: *Amy R. Conway*
Deputy Agency Clerk**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: Emergency Restriction of the License of
Daniel L. Leduc, L.M.T.
License Number: MA 54727
Case Number: 2023-31316

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Daniel L. Leduc, L.M.T., (Mr. Leduc) to practice as a massage therapist in the State of Florida. Mr. Leduc holds license number MA 54727. Mr. Leduc's address of record is 1510 NW 128th Drive, Apt. 208, Sunrise, Florida 33323. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Leduc'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 (2023). Section 456.073(8), Florida Statutes (2023), authorizes the State Surgeon General to summarily restrict Mr. Leduc's license to practice as a massage therapist in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2023).

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

3. At all times material to this Order, Mr. Leduc practiced as a massage therapist at Five Elements Wellness Center, Inc., (Five Elements) a massage establishment in Coral Springs, Florida.

4. On or about July 20, 2023, Patient L.L., a 47-year-old woman, presented to Five Elements for a scheduled acupuncture treatment and a massage with Mr. Leduc.

5. This was the second massage that Patient L.L. had with Mr. Leduc.

6. In preparation for the massage, Patient L.L. disrobed to her lower undergarments, laid face-down on the massage table, and covered herself with a sheet.

7. About 40 minutes into the massage, Patient L.L. turned over on to her back, and Mr. Leduc rubbed her vagina through her underwear.

8. Patient L.L. froze.

9. Respondent moved his fingers under Patient L.L.'s underwear and rubbed her vagina directly for approximately one minute.

10. Respondent moved his hands and touched Patient L.L.'s breasts through the sheet. Mr. Leduc pressed his penis against Patient L.L.'s hand.

11. Patient L.L. said "no" in a loud voice, and Mr. Leduc stopped.

12. Patient L.L. got dressed and walked out.

13. Patient L.L. spoke to the owner and the police later that weekend.

14. Mr. Leduc told the police that he believed he was giving Patient L.L. "what she wanted" due to her body language during the massage.

15. Mr. Leduc indicated he felt a connection with Patient L.L. due to her body movements and that he lost himself in that moment.

16. Mr. Leduc believed Patient L.L. had a "fantasy" that he was helping fulfill.

17. Mr. Leduc admitted that he placed his fingers underneath her underwear and that she told him no.

18. 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.

19. Mr. Leduc 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. Leduc's deviant actions indicate that Mr. Leduc lacks the good judgment and good moral character necessary to safely practice massage therapy, and therefore is a significant danger to female patients. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the people of the State of Florida.

20. Mr. Leduc's lack of good judgment and good moral character, his disregard for his patient's physical and emotional well-being, his apparent comfort in behaving outside the bounds of massage therapy, and his failure to recognize that his actions were causing his patient distress demonstrate a significant disregard for the laws and rules that govern massage therapists

and indicate that there is a significant likelihood that Mr. Leduc's conduct will continue.

21. The Department considered various restrictions on Mr. Leduc's license, including requiring Mr. Leduc 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. Leduc'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 section 20.43, Florida Statutes (2023), and chapters 456 and 480 as set forth above.

2. Section 456.072(1)(v), Florida Statutes (2023), authorizes discipline against a licensed massage therapist for engaging or attempting

to engage in sexual misconduct as defined and prohibited in section 456.063(1), Florida Statutes (2023).

3. Section 456.063(1) states that:

Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

4. Section 480.046(1)(p), Florida Statutes (2023), subjects a massage therapist to discipline, including restriction, for violating any provision of chapters 480 or 456 or any rules adopted pursuant thereto.

5. Section 480.0485, Florida Statutes (2023), 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.

6. 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.

7. Mr. Leduc violated section 456.072(1)(v) as defined and prohibited in section 456.063(1) and/or violated 480.046(1)(p) through a

violation of section 480.0485 and/or Rule 64B7-23.005 by using the massage therapist-patient relationship to engage, or attempt to engage, Patient L.L. in sexual activity outside the scope of practice or generally accepted examination and treatment in one or more of the following ways:

- a. By rubbing her vagina through her underwear;
- b. By rubbing her vagina directly; and/or
- c. By touching Patient L.L.'s breasts through the sheet.

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. Leduc'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.

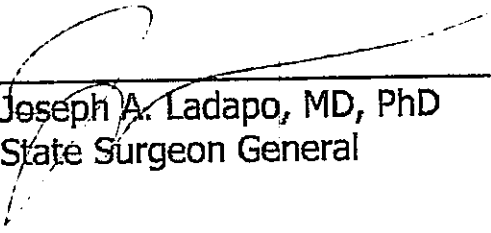
WHEREFORE, in accordance with section 120.60(6), it is **ORDERED**
THAT:

In Re: The Emergency Restriction of the License of
Daniel L. Leduc, L.M.T.
License Number: MA 54727
Case Number: 2023-31316

1. The license of Daniel L. Leduc, L.M.T., license number MA 54727, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Mr. Leduc 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 (2023).

DONE and ORDERED this 5 day of October, 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 (2023), 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.