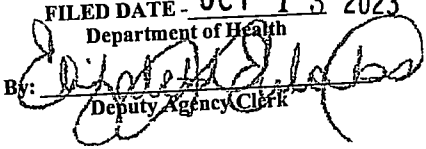


FILED DATE - OCT 13 2023

Department of Health

By: 
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: Emergency Restriction of the License of
Marc Churaman, L.M.T.
License Number: MA 96069
Case Number: 2023-24932

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Marc Churaman, L.M.T., (Mr. Churaman) to practice as a massage therapist in the State of Florida. Mr. Churaman holds license number MA 96069. Mr. Churaman's address of record is 11833 Ottawa Avenue, Orlando, Florida 32837. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Churaman'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. Churaman'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. Churaman was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. At all times material to this Order, Mr. Churaman practiced as a massage therapist at Massage Luxe.

4. On or about May 31, 2023, Patient S.L., a 34-year-old female, presented to Massage Luxe for a 60-minute massage.

5. In preparation for the massage, Patient S.L. completely disrobed, laid face-down on the massage table, and covered herself with a sheet.

6. Mr. Churaman massaged the back of Patient S.L.'s legs and gluteal muscles. While massaging Patient S.L.'s right gluteal muscle, Mr. Churaman put his hand on Patient S.L.'s right buttocks and pushed the heel of his hand into her buttocks. Patient S.L. thought she could feel Mr. Churaman grab her right buttocks, however, at that time she was unsure and did not say anything.

7. Mr. Churaman told Patient S.L. to flip onto her back and began massaging the front of Patient S.L.'s legs.

8. When Mr. Churaman massaged Patient S.L.'s right leg, he continued moving his hand upward and underneath the draping toward Patient S.L.'s labia and rubbed the inside of Patient S.L.'s labia.

9. Patient S.L. felt that Mr. Churaman was going to penetrate her vagina and told him that he "should probably take her for a drink or ask for her number before doing shit like that."

10. Mr. Churaman stopped, removed his hand, and asked if he could take Patient S.L. out for a drink.

11. Patient S.L. said no. Mr. Churaman apologized and told Patient S.L. that he had recently broken up with his girlfriend, that Patient S.L. was attractive, and that he could not control himself.

12. Patient S.L. asked Mr. Churaman to leave, and Mr. Churaman handed Patient S.L. a towel and left the room.

13. Patient S.L. dressed, went to the front desk, and asked for the manager.

14. While waiting for a manager at the front desk the receptionist asked Patient S.L. if she wanted to leave a tip. Patient S.L. did not want to leave a tip but said "whatever" and reiterated that she needed to talk to someone. The receptionist completed the transaction and included a tip.

15. Patient S.L. met with the manager and told the manager what Mr. Churaman had done.

16. After leaving Massage Luxe, Patient S.L. called the Palm Beach Gardens Police Department (PBGPD) and reported Mr. Churaman's misconduct.

17. A PBGPD officer went to Massage Luxe and spoke with the manager. The manager reported that Mr. Churaman admitted that he had accidentally touched Patient S.L.'s vagina.

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. Churaman 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. Churaman's deviant actions indicate that Mr. Churaman 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 citizens of the State of Florida.

20. Mr. Churaman'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, his attempt to conceal his behavior from his manager, 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. Churaman's conduct will continue.

21. The Department considered various restrictions on Mr. Churaman's license, including requiring Mr. Churaman 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. Churaman'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 (2022), 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 (2022).

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 (2022), 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 (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.

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. Churaman 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 S.L. in sexual activity outside the scope of practice or generally accepted

examination and treatment by placing his hands under the sheet and touching Patient S.L.'s labia.

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.

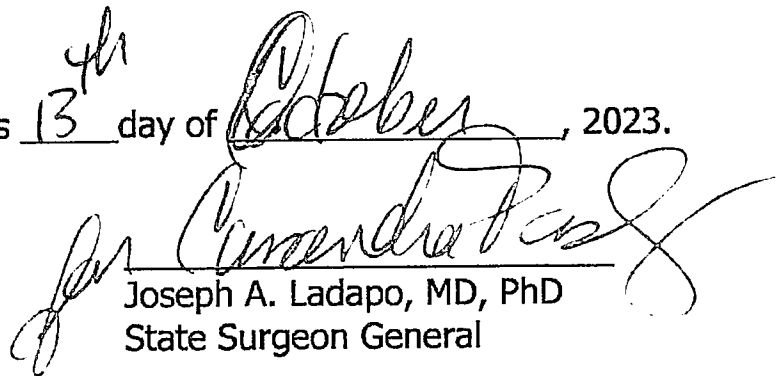
9. Mr. Churaman's continued unrestricted ability to provide massage services to female clients constitutes an immediate, serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

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

1. The license of Marc Churaman, L.M.T., license number MA 96069, 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. Churaman 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 13th 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 (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.