

**STATE OF FLORIDA
BOARD OF MASSAGE THERAPY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2023-10606

ALRICK RONALD BARBAZA, L.M.T.,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Massage Therapy (Board) against Respondent, Alrick Ronald Barbaza, L.M.T., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of massage therapy pursuant to section 20.43, Florida Statutes; chapter 456, Florida Statutes; and chapter 480, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed massage therapist in the State of Florida, having been issued license number MA 74394.

3. Respondent's mailing address of record is 2224 Tealwood Circle, Tavares, Florida 32778.

4. On or about January 23, 2023, Patient J.S., a 47-year-old female, presented to the Ritz-Carlton Spa, a massage establishment in Orlando, Florida, for massage services.

5. During the course of the massage, Respondent massaged Patient J.S.'s shoulders, back, and arms while Patient J.S. laid on her back.

6. During the course of the massage, the draping sheet slipped down and exposed Patient J.S.'s breasts.

7. During the course of the massage, Respondent brushed up against Patient J.S.'s vaginal area and her breast with one hand, while the other hand was underneath her buttocks.

8. During the course of the massage, Respondent inserted his finger inside Patient J.S.'s vagina.

9. During the course of the massage, Patient J.S. asked Respondent if he did that with all of his clients, and Respondent stated, "only the ones who ask for it."

10. Following the massage, Patient J.S. asked Respondent again if he did that with all of his clients, and again, Respondent stated, “only the ones who ask for it.”

11. Removing a patient’s drape without informed consent, brushing hands over a patient’s breasts and vaginal area, and/or inserting a finger into a patient’s vagina are outside the scope of practice or the scope of generally accepted examination or treatment of a patient.

12. Section 480.046(1)(p), Florida Statutes (2022), provides that violating any provision of this chapter or chapter 456, or any rules adopted thereto constitutes grounds for discipline.

13. Section 480.0485, Florida Statutes (2022), prohibits sexual misconduct in the practice of massage and specifically provides that:

The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation 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. Sexual misconduct in the practice of massage therapy is prohibited.

14. Rule 64B7-26.010(2), Florida Administrative Code, provides that sexual activity in any massage establishment is absolutely prohibited.

15. Rule 64B7-26.010(4), Florida Administrative Code, provides in part that no employee of a massage therapy establishment shall engage in or permit any person or persons to engage in sexual activity in the massage therapy establishment or use the establishment to make arrangements to engage in sexual activity in an other place.

16. Rule 64B7-26.010(1), Florida Administrative Code, provides in pertinent part that "sexual activity" means:

[A]ny 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 . . . including, but not limited to the intentional removal of any drape without written specific informed consent of the patient.

17. Respondent engaged in sexual misconduct in the practice of massage therapy; engaged or attempted to engage in sexual activity with a client; and/or engaged in sexual activity in a massage establishment, by intentionally removing Patient J.S.'s drape and exposing Patient J.S.'s breast, by brushing his hands over Patient J.S.'s breasts and vaginal area, and by inserting his finger into Patient J.S.'s vagina on or about January 23, 2023.

18. Based on the foregoing, Respondent violated section 480.046(1)(p) through a violation of section 480.0485 and/or rule 64B7-26.010(2) and/or (4).

WHEREFORE, Petitioner respectfully requests that the Board of Massage Therapy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

[Signature page follows.]

SIGNED this 1st day of February 2024.

Joseph A. Ladapo, MD, PhD
State Surgeon General

Victoria Bates

Victoria Bates
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 1048710
(850) 901-6741
(850) 245-4684 fax
Victoria.Bates@flhealth.gov

**FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK**

CLERK: *Elizabeth Eubanks*

DATE: February 01, 2024

PCP: January 31, 2024

PCP Members: Wakeman, Philips

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.