

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

IN RE:       Emergency Restriction of the License of  
              Wilmer Osorio Lopez, L.M.T.  
              License Number: MA 101806  
              Case Number: 2023-52010

**ORDER OF EMERGENCY RESTRICTION OF LICENSE**

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Wilmer Osorio Lopez, L.M.T., (Mr. Osorio Lopez) to practice as a massage therapist in the State of Florida. Mr. Osorio Lopez holds license number MA 101806. Mr. Osorio Lopez's address of record is 1056 Hampton Circle, Naples, Florida 34105. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Osorio Lopez'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. Osorio Lopez'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. Osorio Lopez was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. At all times material to this Order, Mr. Osorio Lopez practiced as a massage therapist at Spavia Day Spa.

4. On or about December 3, 2023, Mr. Osorio Lopez provided massage therapy services to Patient A.H., a 24-year-old male patient, at Spavia Day Spa.

5. In preparation for the massage, Patient A.H. disrobed to his underwear, laid face-down on the massage table, and covered himself with two sheets.

6. During the massage, Mr. Osorio Lopez kept pushing his fingers under Patient A.H.'s underwear.

7. Patient A.H. inquired if they should be on, and Mr. Osorio Lopez indicated it was a massage, and removed the sheets and pulled Patient A.H.'s underwear off and exposed him fully from behind.

8. Patient A.H. was very surprised by that, but Mr. Osorio Lopez put the sheets back on.

9. The massage continued, and Mr. Osorio Lopez asked Patient A.H. to turn over under the sheets.

10. Toward the end of the massage, Mr. Osorio Lopez asked Patient A.H. if he wanted the top sheet taken off.

11. Patient A.H. consented but was surprised when Mr. Osorio Lopez also moved the bottom sheet down to his shins, exposing his genitals.

12. Mr. Osorio Lopez then grabbed Patient A.H.'s genitals and began stroking.

13. Patient A.H. was in shock, but after a few seconds, he asked Mr. Osorio Lopez to stop.

14. Mr. Osorio Lopez did not stop, and Patient A.H. indicated with his hands, "not here", around his groin area.

15. Mr. Osorio Lopez finally replaced the sheet, and indicated, "I just did that because you looked horny."

16. Patient A.H. felt trapped, but he finished the massage.

17. Mr. Osorio Lopez apologized and asked Patient A.H. not to say anything.

18. Mr. Osorio Lopez obtained Patient A.H.'s contact information from a source other than Patient A.H.

19. Mr. Osorio Lopez texted Patient A.H. that he had made a mistake.

20. Patient A.H. had to block communication from Mr. Osorio Lopez shortly thereafter due to Mr. Osorio Lopez's repeated attempts to contact him.

21. 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.

22. Mr. Osorio Lopez willfully abused his position as a massage therapist to sexually violate a patient who trusted them to act professionally and within the boundaries of the generally accepted practice of massage therapy. Mr. Osorio Lopez's deviant actions indicate that Mr. Osorio Lopez

lacks the good judgment and good moral character necessary to safely practice massage therapy, and therefore is a significant danger to male patients.

23. Mr. Osorio Lopez's lack of good judgment and good moral character, his disregard for the laws and regulations governing massage therapists in this state, his disregard for their patient's physical and emotional well-being and his apparent comfort in behaving outside the bounds of massage therapy represent a significant likelihood that Mr. Osorio Lopez will cause harm to male patients in the future unless Mr. Osorio Lopez's license is restricted. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the people of the State of Florida.

24. The Department considered various restrictions on Mr. Osorio Lopez's license, including requiring Mr. Osorio Lopez 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. Osorio Lopez'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 physician 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. Osorio Lopez 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 A.H. in sexual activity outside the scope of practice or generally accepted examination and treatment in one or more of the following ways:

- a. By grabbing Patient A.H.'s genitals;
- b. By stroking Patient A.H.'s genitals; and/or
- c. By intentionally removing draping without written specific informed consent of the patient.



8. 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.

9. Mr. Osorio Lopez violated section 480.046(1)(p) through a violation of Rule 64B7-23.011 by engaging in misconduct and/or negligence in the practice of massage therapy in one or more of the following ways:

- a. By failing to drape Patient A.H. appropriately;
- b. By failing to obtain proper consent before undraping Patient A.H.; and/or
- c. By undraping Patient A.H. in a manner inconsistent with the consent given.

10. 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.

11. Mr. Osorio Lopez's continued unrestricted ability to provide massage services to male 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 Wilmer Osorio Lopez, L.M.T., license number MA 101806, is hereby immediately restricted to prohibit him from practicing massage therapy on male patients.

2. A proceeding seeking formal discipline of the license of Mr. Osorio Lopez 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 23<sup>rd</sup> day of February, 2024.

  
Joseph A. Ladapo, MD, PhD  
State Surgeon General

PREPARED BY:  
Michael E. Morris, Esq.  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar No. 0081493  
(850) 558-9868  
(850) 245-4684 (fax)  
Michael.Morris@flhealth.gov

**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.