

**STATE OF FLORIDA
BOARD OF MASSAGE THERAPY**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2023-19294

LEONEL F. RUIZ, 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, Leonel F. Ruiz, 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 37126.

3. Respondent's mailing address of record is 9840 West Heather Lane, Miramar, Florida 33025.

4. On or about January 16, 2023, Patient S.T. presented to Massage Envy Miramar, a massage establishment located in Miramar, Florida, for a scheduled massage session with Respondent.

5. Respondent was an employee of Massage Envy Miramar during the massage session with Patient S.T. on or about January 16, 2023.

6. During the course of the massage session, Respondent inappropriately massaged and/or touched Patient S.T.'s buttock region.

7. During the course of the massage session, Respondent massaged and/or touched and/or rubbed Patient S.T.'s vagina one or more times.

8. During the course of the massage session, Respondent moved and/or removed the drape covering Patient S.T. exposing Patient S.T.'s breasts.

9. During the course of the massage session, Respondent massaged and/or touched and/or rubbed Patient S.T.'s breasts and nipples.

10. Massaging and/or touching and/or rubbing a patient's buttocks, vagina, breasts, nipples, and exposing a patient's breasts is outside the

scope of practice or the scope of generally accepted examination or treatment of a patient.

11. 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.

12. 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.

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

14. Rule 64B7-26.010(4), Florida Administrative Code, provides in part that no employee of the 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.

15. 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

16. 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 massaging and/or touching and/or rubbing Patient S.T.'s buttocks, vagina, breasts, nipples, and moving and/or removing the drape exposing Patient S.T.'s breasts on or about January 16, 2023.

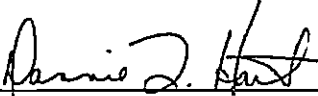
17. Based on the foregoing, Respondent has violated section 480.046(1)(p), through a violation of section 480.0485 and/or rule 64B7-26.010(2) and/or (4).

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.

SIGNED this **5th** day of **September 2024**.

Joseph A. Ladapo, MD, PhD
State Surgeon General

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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Amy L Carraway*
DATE: **SEP 05 2024**

PCP: September 4, 2024

PCP Members: Wakeman, Phillips

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.