

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of
 Joshua A. Lowman, Sr., L.M.T.
 License Number: MA 89731
 Case Numbers: 2020-01694; 2020-02542

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Scott A. Rivkees, M.D., State Surgeon General, ORDERS the Emergency Restriction of the license of Joshua A. Lowman, Sr., L.M.T., (Mr. Lowman) to practice as a massage therapist in the State of Florida. Mr. Lowman holds license number MA 89731. His address of record is 1821 Northeast 18th Avenue, Cape Coral, Florida 33909. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Lowman'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 (2020). Section 456.073(8), Florida Statutes (2020), authorizes the State Surgeon General to summarily restrict Mr. Lowman's license to practice as a massage therapist in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2020).

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

3. In January 2020, Mr. Lowman was employed as a massage therapist at Hand and Stone Massage (HSM) in Fort Myers, Florida.

4. On or about January 4, 2020, Patient N.P. presented with Patient S.B. to Respondent at HSM for a massage.

5. Patient N.P. disrobed except for underwear and laid face-down under a sheet.

6. While massaging Patient N.P.'s upper back, Mr. Lowman rubbed the side of Patient N.P.'s breasts with his fingers.

7. While Patient N.P. was on her back, Mr. Lowman's body brushed against Patient N.P.'s hands several times. Patient N.P. felt Mr. Lowman's erect penis through his pants during this contact.

8. Patient N.P. moved onto her back and could visibly see Mr. Lowman's erect penis through his pants.

9. Mr. Lowman began massaging Patient N.P.'s legs. While massaging her legs, Mr. Lowman touched Patient N.P.'s vaginal area with his fingers several times.

10. Mr. Loman asked Patient N.P. if she wanted him to go further. Patient N.P. did not respond, and Mr. Lowman moved to massage Patient N.P.'s head.

11. Mr. Lowman inquired how Patient N.P. was enjoying her massage. Patient N.P. responded that it was fine. Mr. Lowman then stated Patient N.P. was making it hard for him to be good.

12. Mr. Lowman then massaged Patient N.P.'s chest and would intermittently go under the sheet and touch Patient N.P.'s nipples.

13. After leaving the room, Patient N.P. paid for the massage and waited for the group she came with to finish their massages.

14. On or about January 4, 2020, Patient S.B., presented to Respondent at HSM for a massage.

15. Patient S.B. disrobed except for underwear and laid face-down under a sheet.

16. While massaging Patient S.B., Mr. Lowman's body brushed against Patient S.B.'s hands several times. Patient S.B. felt Mr. Lowman's erect penis through his pants during this contact.

17. While Mr. Lowman was massaging Patient S.B.'s legs, Patient S.B. felt a part of his body on her clitoris.

18. Mr. Lowman then asked Patient S.B. to turn over and started massaging Patient S.B.'s chest and would intermittently go under the sheet and touch Patient S.B.'s breast.

19. After leaving the room, Patient S.B. paid for the massage and went to Patient N.P. to ask if she had felt uncomfortable with Mr. Lowman.

20. Both Patient N.P. and S.B. reported the incident to law enforcement.

21. Clients of massage therapists are placed 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 safely practice massage therapy. Massage therapists must refrain from placing their clients in situations that violate their safety and welfare.

22. Mr. Lowman willfully abused his position as a massage therapist to sexually violate patients who trusted him to act professionally and within the boundaries of generally accepted massage therapy and treatment. Mr. Lowman's deviant actions demonstrate that he poses a significant danger to female patients. Mr. Lowman's violation of the massage therapist-patient relationship indicates that Mr. Lowman lacks the good moral character and

judgment necessary to practice massage therapy.

23. Mr. Lowman sexually abused two female patients on the same date. The temporal proximity of these assaults evidences Mr. Lowman's lack of good judgment and moral character and his disregard for the laws and regulations governing massage therapists in this State, all of which provide evidence that there is a significant likelihood that Mr. Lowman will cause harm to clients in the future. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida. Nothing short of the immediate restriction of Mr. Lowman's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Lowman's continued, unrestricted practice of massage therapy with female patients.

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 sections 20.43 and 456.073(8), Florida Statutes (2020), and chapter 480.

2. Section 480.046(1)(p), Florida Statutes (2020), subjects a massage therapist to discipline, including restriction, for violating any provision of chapters 480 or 456 or any rules adopted pursuant thereto.

3. Section 480.0485, Florida Statutes (2020), prohibits sexual misconduct in the practice of massage therapy and defines sexual misconduct, in pertinent part, as:

[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.

4. Rule 64B7-26.010, Florida Administrative Code, provides in pertinent part:

- (1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited...
- (3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client and;
- (4) As used in this rule, "sexual activity" means any direct or indirect physical contact by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation...

5. Mr. Lowman violated section 480.046(1)(p) by violating section 480.0485 and Rule 64B7-26.010 by engaging in unlawful sexual activity, and

engaging or attempting to engage in sexual misconduct by touching, or rubbing, Patient N.P.'s bare breasts and vaginal area with his hands and touching Patient S.B.'s clitoris with any portion of his body as well as massaging her bare breasts.

6. 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.

7. Mr. Lowman'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 Joshua A. Lowman, Sr., L.M.T., license number MA 89731, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Joshua A. Lowman, Sr., L.M.T., to practice as a massage therapist will be promptly

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instituted and acted upon in compliance with sections 120.569 and
120.60(6).

DONE and ORDERED this 28th day of July, 2020.



Scott A. Rivkees, M.D.
State Surgeon General

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, Florida Statutes (2020), 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.