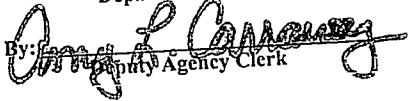


**STATE OF FLORIDA
DEPARTMENT OF HEALTH**By: 
Deputy Agency Clerk

In Re: Emergency Restriction of the License of
Joseph Succar, L.M.T.
License Number: MA 90004
Case Number: 2020- 38829

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Scott A. Rivkees, M.D., State Surgeon General, ORDERS the emergency restriction of the license of Joseph Succar, L.M.T., (Mr. Succar) to practice as a licensed massage therapist in the State of Florida. Mr. Succar holds license number MA 90004. Mr. Succar's address of record is 9870 South West 159 Street Miami, Florida 33157. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Succar'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 the practice of massage therapy pursuant to chapters 20, 456, and 480, Florida Statutes (2020). Section 456.073(8), Florida Statutes (2020), authorizes the Department to summarily restrict Mr. Succar'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. Succar was licensed as a

massage therapist in the State of Florida, having been issued license number MA 90004, pursuant to chapter 480.

3. Mr. Succar was employed as a massage therapist at Vitality Massage Studio (Vitality) in Miami, Florida.

4. In late 2020, Vitality terminated Mr. Succar's employment due to speaking unprofessionally to Vitality patients.

5. On November 11, 2020, E.N. was working in the Miami-area on a business trip.

6. E.N. searched for massage establishments and contacted several in the Miami area, seeking a massage. The massage establishments were either closed or closing, but an employee at one establishment referred E.N. to Mr. Succar.

7. E.N. did not know Mr. Succar and had not previously received massage therapy services from him.

8. Mr. Succar told the owners of Vitality that he sought to provide a massage to a friend on November 11, 2020, and he asked to use the facility after hours despite his termination.

9. Vitality staff allowed Mr. Succar to use the facility based on his representation that he was going to provide massage services to his friend.

10. Mr. Succar told E.N. that they could use the Vitality facilities after-hours, but he did not tell her that he had previously been terminated from the establishment.

11. At approximately 8:30 p.m., on November 11, 2020, E.N. presented to Vitality to receive a massage.

12. When E.N. arrived at Vitality, she observed that she was the only patient inside the massage establishment.

13. Before the massage began, E.N. undressed and laid face-down on a massage table.

14. Mr. Succar provided E.N. with a bath towel to drape herself with, but the towel was too small to drape over her entire body. Mr. Succar did not provide Patient E.N. with sheets or any other standard draping materials.

15. During E.N.'s massage, Mr. Succar discussed his sexual encounters with other women.

16. E.N. found Mr. Succar's conversation to be odd and attempted to redirect the conversation.

17. Midway through the massage, E.N. rolled over and laid on her back.

18. While laying on her back, E.N.'s torso was uncovered from the waist up, including her breasts.

19. Mr. Succar told E.N., "I'm going to use the back of my hand so that I don't graze your breast."

20. Mr. Succar then touched E.N.'s breasts, grazing her nipples, which were exposed.

21. During the massage, Mr. Succar asked E.N. to enter into a yoga-style stretch position that caused E.N.'s vagina to become uncovered by the bath towel.

22. Mr. Succar told E.N. that he would not look at her vagina during the stretch.

23. Mr. Succar stared at E.N.'s vagina and breasts while she was in the stretch position.

24. At no time during the massage did E.N. give Mr. Succar specific informed consent to have her breasts and/or vagina undraped.

25. E.N. became extremely uncomfortable with Mr. Succar's behavior and ended the massage.

26. After E.N. ended the massage she sought out an ATM machine¹ because Mr. Succar would only accept cash for services rendered, despite previously telling her that he would accept credit card payments.

¹ ATM machines are commonly understood to be financial-transaction machines that dispense cash from a bank account holder's financial account(s).

27. E.N. was concerned that Mr. Succar may turn violent if he did not receive cash.

28. Mr. Succar would not let E.N. go to an ATM machine alone and followed E.N. while she sought out an ATM machine.

29. After receiving cash from E.N., Mr. Succar further insisted on following E.N. home.

30. E.N. responded, "no," but Mr. Succar urged E.N. to at least let him follow her for several blocks.

31. E.N. finally yelled at Mr. Succar and felt scared because of his behavior.

32. E.N. contacted the owners of Vitality the following day to report Mr. Succar's behavior.

33. The owners explained that Mr. Succar had been fired in the weeks leading up to E.N.'s massage due to complaints about his behavior. They went on to state that Mr. Succar originally requested use of Vitality in order to massage a friend.

34. Patients 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.

35. Mr. Succar willfully abused his position as a massage therapist to sexually violate a woman who trusted him to act professionally and within the boundaries of generally accepted massage therapy and treatment. Mr. Succar's violation of the massage therapist-patient relationship indicates that Mr. Succar lacks the good moral character and judgment necessary to practice massage therapy.

36. Mr. Succar's lack of good judgment and moral character, his disregard for the laws and regulations governing massage therapists in this state, his sexual behavior towards a female patient in the course of massage therapy, and his use of a licensed massage establishment under false pretenses in order to commit sexual misconduct represent a significant likelihood that Mr. Succar will cause harm to female patients in the future. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida.

37. The nature of massage therapy involves the delivery of services in a one-on-one manner for an extended period of time. Because of the inherent intimacy of this setting, a restriction where a chaperone must be present for

massages is not feasible. Additionally, Mr. Succar has displayed a willingness to lie and cannot be trusted to not do so again in order to avoid a chaperone restriction. Therefore, nothing short of the immediate restriction of Mr. Succar's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Succar's continued, unrestricted practice of massage therapy with female patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Department concludes as follows:

1. The Department has jurisdiction over this matter pursuant to sections 20.43 and 456.073(8) and chapter 480, as set forth above.

2. Section 480.046(1)(p), Florida Statutes (2020), authorizes 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 a:

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.

4. Rule 64B7-26.010, Florida Administrative Code (2020), provides in pertinent part:

(1) Sexual activity by any person or persons in any massage establishment is absolutely prohibited.

(2) No massage establishment owner shall engage in or permit any person or persons to engage in sexual activity in such owner's massage establishment or use such establishment to make arrangements to engage in sexual activity in any other place.

(3) No licensed massage therapist shall use the therapist-client relationship to engage in sexual activity with any client or to make arrangements to engage in sexual activity with any client.

(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. Succar violated section 480.046(1)(p), by violating section 480.0485 and Rule 64B7-26.010, by engaging in sexual activity and committing sexual misconduct by:

- a. Discussing his sexual history with E.N.;
- b. Touching E.N.'s breasts and nipples;
- c. Exposing E.N.'s breasts and vaginal area.

6. Section 480.046(1)(i), Florida Statutes (2020), subjects a licensee to discipline for failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

7. Rule 64B7-30.001(5), Florida Administrative Code, provides that failure to appropriately drape a client shall constitute the failure to practice massage therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar massage therapist as being acceptable under similar conditions and circumstances.

8. Rule 64B7-30.001(5), provides that "appropriate draping of a client shall include draping of the buttocks and genitalia of all clients, and breasts of female clients, unless the client gives specific informed consent to be undraped."

9. Respondent violated section 480.016(1)(i) and Rule 64B7-30.001(5) by failing to appropriately drape E.N.'s breasts and genitalia without E.N.'s specific informed consent.

10. Section 120.60(6) authorizes the Department 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.

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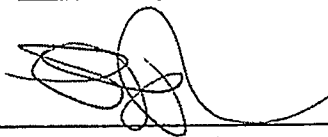
11. Mr. Succar's continued unrestricted ability to provide massage services to female patients constitutes an immediate, serious danger to the health, safety, or welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

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

1. The license of Joseph Succar, L.M.T., license number MA 90004, is immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Joseph Succar, L.M.T., to practice as a massage therapist in the State of Florida will be promptly instituted and acted upon in compliance with sections 120.569 and 120.60(6).

DONE and ORDERED this 18th day of June, 2021.



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

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PREPARED BY:

Ryan Sandy
Assistant General Counsel
Florida Bar No. 117940
DOH Prosecution Services Unit
4052 Bald Cypress Way
Tallahassee, FL 32399-3265
Telephone (850) 558-9862
Fax (850) 245-4662
Ryan.Sandy@flhealth.gov

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, and accompanied by a filing fee prescribed by law with the District Court of Appeal, and providing a copy of that Petition to the Department of Health within thirty (30) days of the date this Order is filed.