

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of
Yahil Suarez Oliva, L.M.T.
License Number: MA 91522
Case Number: 2021-06377

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Scott A. Rivkees, M.D., State Surgeon General, ORDERS the Emergency Restriction of the license of Yahil Suarez Oliva, L.M.T., (Mr. Suarez Oliva) to practice as a massage therapist in the State of Florida. Mr. Suarez Oliva holds license number MA 91522. Mr. Suarez Oliva's address of record is 801 NW 68th Avenue, Hollywood, Florida 33024. The following Findings of Fact and Conclusions of Law support the emergency restriction of Mr. Oliva Suarez'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. Suarez Oliva'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. Suarez Oliva was licensed to practice massage therapy in the State of Florida, pursuant to chapter 480.

3. At all times material to this Order, Mr. Suarez Oliva was employed as a massage therapist at Massage Envy in Hollywood, Florida.

4. On or about November 24, 2020, Patient L.C., a 46-year-old woman, presented to Massage Envy for a one-hour massage with Mr. Suarez Oliva.

5. Patient L.C. entered the massage room, undressed to her undergarment, and laid on the massage table face down with the sheet draped over her buttocks and lower back.

6. Mr. Suarez Oliva entered the massage room and lowered the sheet, exposing the upper half of Patient L.C.'s buttocks.

7. Patient L.C. did not provide specific informed consent for the undraping of her buttocks.

8. While massaging Patient L.C.'s back, Mr. Suarez Oliva touched or grazed the sides of Patient L.C.'s breasts multiple times.

9. Mr. Suarez Oliva instructed Patient L.C. to turn over onto her back and lay face up on the massage table.

10. Patient L.C. experienced a sharp, shooting pain in her right groin area. Mr. Suarez Oliva massaged the area where Patient L.C. was experiencing pain.

11. While massaging Patient L.C.'s right groin area with one hand, Mr. Suarez Oliva moved his other hand underneath Patient L.C.'s undergarment and onto her vaginal area.

12. Mr. Suarez Oliva then digitally penetrated Patient L.C.'s vagina using one or more fingers.

13. Mr. Suarez Oliva then walked along Patient L.C.'s right side towards Patient L.C.'s head and shoulder area. While walking, Mr. Suarez Oliva rubbed his erect penis on Patient L.C.'s right upper arm and shoulder area.

14. Mr. Suarez Oliva attempted to massage Patient L.C.'s shoulder, at which point Patient L.C. stated, "don't touch me".

15. Mr. Suarez Oliva sat on a stool in the massage room and discussed Patient L.C.'s pain management.

16. Mr. Suarez Oliva left the massage room, and Patient L.C. got dressed and exited.

17. For months after the massage, Patient L.C. experienced panic attacks related to her assault.

18. 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 placing the patient in a situation that violates their safety and welfare.

19. Mr. Suarez Oliva willfully abused his position as a massage therapist to sexually violate a patient who trusted him to act professionally and within the boundaries of the generally accepted practice of massage therapy. Mr. Suarez Oliva's deviant actions indicate that Mr. Suarez Oliva lacks the good judgment and good moral character necessary to safely

practice massage therapy, and therefore is a significant danger to female patients.

20. Mr. Suarez Oliva'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 his patient's physical and emotional well-being, his failure to recognize that his actions were causing Patient L.C. distress, and his conduct in continuing the appointment as if he had not assaulted Patient L.C., represent a significant likelihood that Mr. Suarez Oliva will cause harm to female patients in the future unless his license is restricted. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida.

21. 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. Therefore, nothing short of the immediate restriction of Mr. Suarez Oliva's license to practice as a massage therapist in the State of Florida will protect the public from the dangers created by Mr. Suarez Oliva'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 sections 20.43 and 456.073(8) 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 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.

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 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 and includes sexual intercourse, fellatio, cunnilingus, masturbation, or anal intercourse. For purposes of this subsection, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation has occurred.

5. Mr. Suarez Oliva violated section 480.046(1)(p) by violating section 480.0485 and Rule 64B7-26.010 by using the massage therapist-patient relationship to engage, or attempt to engage, Patient L.C. in sexual activity outside the scope of practice or generally accepted examination and treatment by:

- a. Touching or grazing Patient L.C.'s breasts;
- b. Rubbing his erect penis on Patient L.C.'s upper arm and shoulder area; and/or
- c. Touching or penetrating Patient L.C.'s vaginal area.

6. Rule 64B7-30.001, Florida Administrative Code, provides in pertinent part:

The following acts 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:

(5) Failure to appropriately drape a client. 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.

7. Mr. Suarez Oliva violated section 480.046(1)(p) by violating Rule 64B7-30.001(5) by failing to appropriately drape Patient L.C.'s buttocks, without Patient L.C.'s specific informed consent to be undraped.

8. 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.

9. Mr. Suarez Oliva'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.

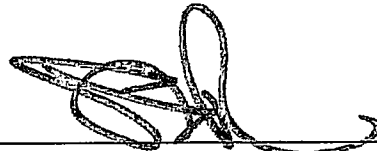
WHEREFORE, in accordance with section 120.60(6), it is **ORDERED**

THAT:

1. The license of Yahil Suarez Oliva, L.M.T., license number MA 91522, is hereby immediately restricted to prohibit him from practicing massage therapy on female patients.

2. A proceeding seeking formal discipline of the license of Yahil Oliva Suarez, L.M.T., 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 (2020).

DONE and ORDERED this 31st day of March, 2021.



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.