

LOUISIANA BOARD OF MASSAGE THERAPY

IN THE MATTER OF

Vivian Therapy LLC

LICENSE NO. E4881

ORDER OF SUMMARY SUSPENSION

Pursuant to La. R.S. 49:961(C), the Louisiana Board of Massage Therapy (“LBMT”) summarily suspends License number E4881 issued to Vivian Therapy LLC (“Vivian Therapy”) pending an administrative hearing scheduled for **July 21, 2023, at 9:30 am.**

This Order of Summary Suspension is effective as of **June 20, 2023.** Upon execution of this Order, Vivian Therapy must immediately cease and desist from providing massage therapy services.

I. INITIAL FINDINGS

To protect public health, safety, and welfare, emergency action is required due to the nature of the allegations against Vivian Therapy. As part of the LBMT’s review of licensed massage establishments, the LBMT regularly searches websites where businesses offering illicit services and/or illegal prostitution regularly advertise. The LBMT searches these websites to compare the names, addresses, and phone numbers of its licensed massage establishments. The phone number associated with Vivian Therapy – (225) 249-9656 – and address associated with Vivian Therapy – 5145 Main Street, Suite E, and Zachary, LA 70791– were identified on “CallGirlxGuide”, “BodyRubsMap” and “RubsGuide.” The advertisements include photographs of scantily clad Asian women described as “Makes you happy quickly. Makes a lasting impression.”, and “sexy girls bring you pleasure”.

Based on the foregoing, it is alleged that Vivian Therapy violated the following rules and regulations applicable to the LBMT:

La. R.S. 57:3558. Massage establishments.

A. Massage establishments shall be required to be licensed as follows:

(1) Each person engaging in the practice of massage therapy at a massage establishment shall be the holder of a Licensed Massage Therapist Identification Card (LMT-ID Card), which shall identify the therapist as being properly licensed and shall authorize the therapist to provide off-site massage services.

(2) All locations where one or more persons are regularly engaged in the practice of massage therapy shall register with the board as a massage establishment. Additionally, all locations where more than one person is regularly engaged in the practice of massage therapy shall pay the establishment license fee.

(3) Obtaining a massage establishment license shall be the responsibility of the entity which controls the physical location where the services are provided, which entity may be a sole proprietor, lessee, owner, partnership, corporation, cooperative, association, or other legal entity.

B. A massage establishment shall employ or contract only licensed massage therapists to perform massage therapy.

C. For purposes of this Chapter, "sexually oriented business" means a sex parlor, massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult motel, or other commercial enterprise which has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

D. A sexually oriented business shall be ineligible for registration as a massage establishment and shall not operate as a massage establishment.

La. R.S. 57:3563. Grounds for discipline.

A. The board may suspend, revoke, or refuse to issue or renew a license after notice and opportunity for hearing pursuant to the Administrative Procedure Act, upon proof of any of the following:

(6) Violating or aiding and abetting in the violation of any provisions of this Chapter or the rules and regulations promulgated hereunder.

La. R.S. 57:3564. Regulation of advertising.

- A. A person or an entity that does not hold a license as a massage therapist, physical therapist, or chiropractor, a certificate to practice athletic training, or a license as a massage establishment shall not use the words "massage", "body work", or any derivative or variation of the word "massage", including specific bodywork or massage modalities, on any sign or other form of advertising. Any advertisement by a massage therapist or a massage establishment shall contain the license number of such therapist or establishment. Building signs with promotional material shall also include the professional or establishment number.
- B. No sexually oriented business, as defined in R.S. 37:3558(C), shall use the word "massage", "body work", or any derivative or variation of the word "massage", including specific bodywork or massage modalities, on any sign or other form of advertising.
- C. In all pictorial representations for any advertisement representing massage therapy, including such representations through video, all persons representing massage therapists shall be attired and posed in a manner as to avoid appealing to the prurient interest. Persons representing clients shall be appropriately draped and posed.

LAC 46: XLIV §3101. Prohibition of Sexual Activity.

- A. All sexual activity by any person or persons in any massage establishment is absolutely prohibited.
- B. No massage establishment owner or operator shall engage in, or permit any person or persons to engage in, sexual activity in a massage establishment or to use that establishment to make arrangements to engage in sexual activity in any other place.
- C. No massage therapist shall engage in sexual activity with a current client of the therapist.
- D. No massage therapist shall engage in sexual activity with a former client of the therapist within three months after cessation of professional services.
- E. As used in this Rule and §5301 of this Part:
 - a. sexual activity—includes:

- i. coital sexual intercourse;
- ii. anal sexual intercourse;
- iii. fellatio, cunnilingus;
- iv. masturbation;
- v. passionate kissing and acts of sadomasochistic abuse;
- vi. flagellation; or
- vii. torture in the context of sexual conduct;

- b. the purposeful touching of the genitals of another person and the purposeful erotic stimulation of the anus, the male or female nipple, or the female breast, whether through draping or clothing, whether resulting in penetration or orgasm or not, and whether by instrumental manipulation, touching with the hands, or other bodily contact;
- c. Any sexual offenses proscribed by the criminal laws of Louisiana including, but not limited to, R.S. 14:83.3 and 83.4.

F. For purposes of this rule, the term client means and includes any person receiving massage therapy services provided for compensation (regardless of the source, recipient or nature of the compensation), and any person receiving massage therapy services that are not provided for compensation either because of indigence or because the massage therapy services were provided within the context of a community outreach or other public service program. A massage therapist's own spouse is excluded from the term client under this rule.

LAC 46: XLIV §5301. Unprofessional Conduct

A. The following acts shall constitute misconduct in the practice of massage therapy or incorrect practice of massage for which disciplinary penalties may be imposed:

- 4. engaging in or attempting or offering to engage a client in sexual activity, including any genital contact, as provided under §3101 of this Part;


II. DECISION AND ORDER

To maintain public health, safety, and welfare, emergency action is required due to the allegations set forth in the allegations in the complaint against Vivian Therapy. Accordingly, LBMT License number E4881 issued to Vivian Therapy LLC is **SUSPENDED**, effective immediately, pending proceedings for revocation of licensure or other action as the Louisiana Board of Massage Therapy deems fit.

Proceedings before the Louisiana Board of Massage Therapy shall be promptly instituted and determined. Accordingly, an administrative hearing before the Louisiana Board of Massage Therapy is scheduled for **July 21, 2023, at 9:30 am, at Holiday Inn Baton Rouge-South, 9990 Airline Highway, Baton Rouge, LA 70816**. The hearing panel will consist of current Board Members. The hearing will be conducted in accordance with the Administrative Procedure Act, the Louisiana Massage Therapists and Establishments Act, and the rules promulgated by the LBMT .

Vivian Therapy will be given a full opportunity to appear and be heard, with or without counsel, and is entitled to hear a statement of what accusations have been made against it, to present evidence, to cross-examine witnesses, and to have witnesses subpoenaed. Vivian Therapy may request that subpoenas be issued by the Louisiana Board of Massage Therapy and must send a request to the Louisiana Board of Massage Therapy office at least 5 days prior to the hearing, listing the names and addresses of the individuals to be subpoenaed, along with a brief summary of what the individual will testify to. The testimony will be under oath and a court reporter will record the proceedings at the hearing, and any party wishing to obtain a transcript of the hearing may do so at their expense.

Date: June 20, 2023


Memry Hodum
Complaint Investigation Officer
Louisiana Board of Massage Therapy