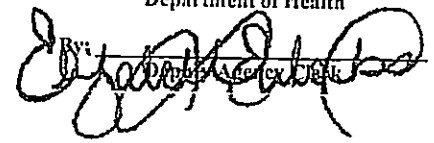


**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

BY: 
Joseph A. Ladapo, MD, PhD
State Surgeon General

In Re: Emergency Restriction of the License of
Oliver Pope Simmons, M.D.
License No.: ME 138195
Case Number: 2022-17421

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Joseph A. Ladapo, MD, PhD, State Surgeon General, ORDERS the emergency restriction of the license of Oliver Pope Simmons, M.D., (Dr. Simmons) to practice as a medical doctor in the State of Florida. Dr. Simmons holds license number ME 138195. Dr. Simmons' address of record is 6821 N.W. 104 Court, Medley, Florida 33178. The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Simmons' license to practice as a medical doctor in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of medicine pursuant to chapters 20, 456, and 458, Florida Statutes (2022). Section 456.073(8), Florida Statutes (2022), authorizes the State Surgeon General to summarily restrict Dr. Simmons' license to practice as a medical doctor in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2022).

2. At all times material to this Order, Dr. Simmons held a license to

practice as a medical doctor in the State of Florida, pursuant to chapter 458, and was board certified by the American Board of Plastic Surgery.

3. Dr. Simmons is registered to perform cosmetic surgeries at New Life Plastic Surgery (New Life) an office surgery registrant, OSR 971.

4. One of the procedures that Dr. Simmons performed at New Life was liposuction and gluteal fat grafting,¹ popularly known as a “Brazilian Butt Lift” or “BBL.” This is a cosmetic procedure wherein supernatant fat is removed from a patient’s body, treated, and then inserted into the patient’s buttocks.

5. In 2017, the Aesthetic Surgery Education and Research Foundation (ASERF) observed a growing trend involving patient deaths during, or immediately following, gluteal fat grafting procedures due to fat emboli.²

6. This concerning trend of significantly increased mortality rates led ASERF to form the Gluteal Fat Grafting Task Force (Task Force), comprised of board-certified plastic surgeons, to investigate risks associated with gluteal fat grafting procedures.

7. The Task Force identified several factors that increased the likelihood of patient mortality and recommended that physicians avoid injecting fat into the

¹ Also referred to as gluteal fat transfer.

² An embolus is a blood clot, air bubble, piece of fatty deposit, or other object which has been carried in the bloodstream to lodge in a vessel and cause an embolism.

deep muscle, using cannulae³ smaller than four millimeters, and pointing the injection cannula downwards.⁴

8. As a result of the recommendations made by ASERF and the increased risk for patient mortality associated with gluteal fat grafting procedures, on June 27, 2019, the Florida Board of Medicine issued Emergency Rule 64B8ER19-1 and prohibited physicians from injecting fat into the intramuscular or submuscular region of the buttocks during a gluteal fat grafting procedure.

9. On March 2, 2020, the Board formally adopted the Emergency Rule. See Rule 64B8-9.009(2)(f), Fla. Admin. Code.

10. The Department of Health notified all medical doctors of the new rule, in addition to the change being widely publicized in the media.

11. On April 19, 2022, Patient T.W., a 47-year-old woman, presented to Dr. Simmons at New Life for a consultation.

12. Patient T.W. lived in Indiana. Patient T.W. had traveled to Florida the day before for a consultation with P.G., M.D., a surgeon at another facility. During

³ A cannula is a thin tube inserted into a vein or body cavity to administer medicine, drain off fluid, or insert a surgical instrument.

⁴ See Mofid MM, Teitelbaum S, Suissa D, et al. Report on Mortality from Gluteal Fat Grafting: Recommendations from the ASERF Task Force. *Aesthet Surg J.* 2017;37(7):796-806. doi:10.1093/asj/sjx004; Robert M Whitfield, MD, FACS, Luis M Rios, Jr, MD, Barry E DiBernardo, MD, FACS, Making Fat Transfer to Buttocks Safer, *Aesthetic Surgery Journal*, Volume 37, Issue 10, November-December 2017, Pages 1199–1200, <https://doi.org/10.1093/asj/sjx185>

the April 18, 2022, consultation, Patient T.W. requested Dr. P.G. perform a breast reduction and liposuction of her arms. Dr. P.G. determined that Patient T.W. was not a good candidate for elective office surgery and declined to perform the surgery because Patient T.W. had a BMI of 38.1 and a history of hypertension.

13. During the April 19, 2022, consultation with Dr. Simmons, Dr. Simmons agreed to perform a BBL.

14. Patient T.W. returned to New Life on April 20, 2022, for the surgery.

15. In the course of the gluteal fat transfer procedure portion of the BBL, Dr. Simmons inserted the cannula into and through Patient T.W.'s gluteal fascia one or more times, depositing fat into her gluteal muscles.

16. Patient T.W. was successfully woken up from anesthesia and discharged.

17. C.B., the owner of a recovery house⁵ in North Miami Beach, Florida, picked up Patient T.W. from New Life at around 2:10 p.m.

18. When Patient T.W. got into the transport vehicle, she told C.B. that she was feeling dizzy. Patient T.W. got into the back of the van and tried lying down and then sitting on her knees. Patient T.W. started to feel dizzy again.

⁵ Recovery houses are non-licensed, unregulated businesses that provide recovery care for patients who had recently undergone surgical procedures, typically cosmetic surgery.

19. C.B. pulled over on the highway and found Patient T.W. unconscious in the van. C.B. took Patient T.W. to Palmetto General Hospital (PGH).

20. PGH emergency services attempted to revive Patient T.W. but were unable to. Patient T.W. died on April 20, 2022.

21. A medical examiner conducted an autopsy of Patient T.W.'s body.

22. The medical examiner observed multiple fatty particles within and beneath Patient T.W.'s gluteus maximus muscles and within the vessels in her lungs.

23. The medical examiner determined that Patient T.W.'s death was caused by pulmonary embolism.

24. In the course of their practice, physicians are responsible for performing medical procedures in a manner that is correct and safe. Surgery, especially surgeries performed under anesthesia, are inherently high risk, and surgeons are responsible for utilizing techniques that are correct and safe. Over the past three years, the increased risk of mortality associated with particular gluteal fat grafting techniques has been well-documented and researched. Dr. Simmons' decision to perform a surgery with known risks of increased mortality using an inherently dangerous and illegal fat grafting technique indicates that Dr. Simmons is not capable of performing surgeries in a manner that is correct and

safe. The autopsy reveals a number of channels through Patient T.W.'s gluteal muscle, which indicates that Dr. Simmons' conduct was not the result of an accident or mere errant pass. In the present context where the dangers of intergluteal injections are well publicized, both through professional societies and the media, the number of injections can only be a result of Dr. Simmons' intentional disregard of the Board's rule prohibiting intramuscular fat injection; the result of dangerously poor technique, skill, or knowledge of his patient's anatomy; or an exhibition of a level of carelessness and disregard for his patient's safety when performing this procedure. Each of these scenarios result in a continuing danger to the public. Therefore, Dr. Simmons' continued unrestricted practice as a medical doctor presents an immediate, serious danger to the health, welfare, and safety of the public.

25. Because Dr. Simmons failed to comply with the Board of Medicine's well-known rule prohibiting physicians from injecting fat into patients' muscles, there is a significant likelihood that Dr. Simmons' utilization of improper and dangerous techniques will continue. Therefore, Dr. Simmons' continued performance of gluteal fat grafting procedures presents an immediate, serious, danger to the health, welfare, and safety of the public.

26. The Department considered various restrictions on Dr. Simmons'

license, including restricting Dr. Simmons from performing gluteal fat grafting without direct supervision. The Department determined that this restriction is insufficient because a patient would still be at significant risk of injury as Dr. Simmons would be the physician performing the procedures and there is no guarantee that a direct supervisor could adequately prevent injury to a patient during the surgical procedure. Additionally, the Department limited the restriction only to the procedures that Dr. Simmons performed so poorly that they resulted in significant patient harm. Accordingly, prohibiting Dr. Simmons from performing gluteal fat grafting procedures is the least-restrictive option that will adequately protect the public. As a result, there are no less restrictive means, other than the terms of this Order, that will adequately protect the public from Dr. Simmons' continued unrestricted practice as a medical doctor.

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 458 as set forth above.

2. Section 458.331(1)(t), Florida Statutes (2021), authorizes discipline, including restriction, for committing medical malpractice as defined in section 456.50, Florida Statutes (2021).

3. Section 456.50 defines medical malpractice to mean the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

4. Rule 64B8-9.009(2)(f), Florida Administrative Code, defines the standard of care for gluteal fat grafting and states, “[w]hen performing gluteal fat grafting procedures, fat may only be injected into the subcutaneous space and must never cross the gluteal fascia. Intramuscular or submuscular fat injections are prohibited.”

5. Dr. Simmons violated section 458.331(1)(t) as defined by Rule 64B8-9.009(2)(f) by performing intramuscular and submuscular fat injections during Patient T.W.’s gluteal fat transfer and fat grafting procedure.

6. Section 120.60(6) authorizes the State Surgeon General to summarily restrict a medical doctor’s license upon a finding that the medical doctor presents an immediate, serious danger to the public health, safety, or welfare.

7. Dr. Simmons’ continued unrestricted practice as a medical doctor constitutes an immediate, serious danger to the health, safety, or welfare of the

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citizens of the State of Florida, and this summary procedure is fair under the
circumstances to adequately protect the public.

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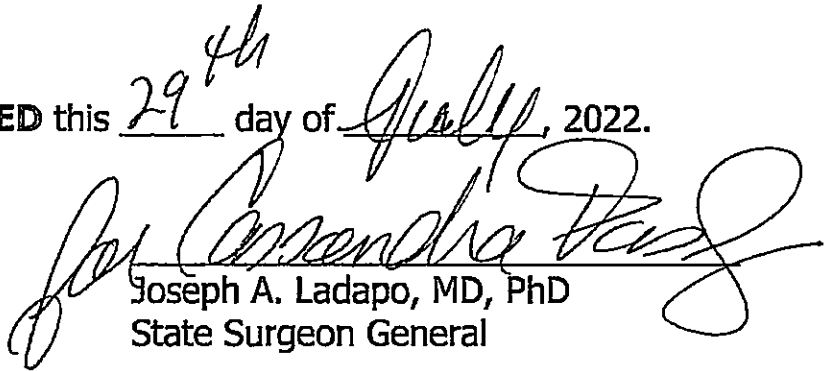
WHEREFORE, in accordance with section 120.60(6), it is **ORDERED**

THAT:

1. The license of Oliver Pope Simmons, M.D., to practice as a medical doctor, license number ME 138195, is immediately restricted to prohibit him from performing gluteal fat grafting procedures.

2. A proceeding seeking formal discipline of the license of Oliver Pope Simmons, M.D., to practice as a medical doctor in the State of Florida will be promptly instituted and acted upon in compliance with sections 120.569 and 120.60(6), Florida Statutes (2022).

DONE and ORDERED this 29th day of July, 2022.


Joseph A. Ladapo, MD, PhD
State Surgeon General

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, Florida Statutes (2022), 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.