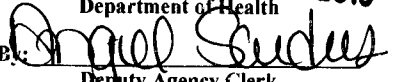


FILED DATE - MAR 15 2013
Department of HealthBy: 
Deputy Agency ClerkSTATE OF FLORIDA
BOARD OF MASSAGE THERAPYIN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF
DIANA RICHARDSON

FINAL ORDER

THIS CAUSE came before the BOARD OF MASSAGE THERAPY (hereinafter Board) pursuant to §120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code, at a duly-noticed meeting by telephone conference call on March 13, 2013, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed by DIANA RICHARDSON (hereinafter Petitioner). Having considered the petition, the arguments submitted by counsel for Petitioner, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions.

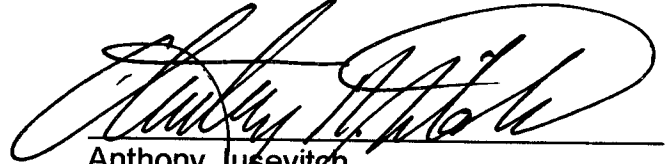
FINDINGS OF FACT

1. This petition was noticed by the Board in Vol. 39, No. 42, dated March 1, 2013 of the Florida Administrative Weekly .
2. Petitioner, DIANA RICHARDSON, is massage therapist licensed to practice massage therapy in the State of Florida, having license number MA 23183.
3. The petition seeks interpretation of Sections 480.033 and 480.046, Florida Statutes.
4. Petitioner inquires whether the techniques and procedures used to perform a facial fall within the definition of massage.
5. Petitioner does not provide enough information on the "techniques" and "procedures" she would use in performing a facial for the Board to make a

determination. Therefore, the petition is **DISMISSED**.

DONE AND ORDERED this 14 day of March, 2013.

BOARD OF MASSAGE THERAPY



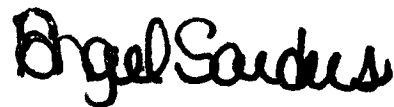
Anthony Jusevitch
Executive Director for
Karen Goff Ford, Chair

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the department and by filing a filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Petitioner DIANA RICHARDSON, 1179 Bayshore Drive North, Atlantic Beach, FL 32233, and by interoffice mail to Michele Bass, Department of Legal Affairs, PL-01 The Capitol, Tallahassee FL 32399-1050 this 15th day of March, 2013.



Deputy Agency Clerk

7012 1010 0002 2383 4640



FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE FEB 27 2013

To: Department of Health
Agency Clerk's Office
4052 Bald Cypress Way, Bin #A02,
Tallahassee, Florida 32399-1703
From: Diana Richardson, LMT MA#23183
1179 Bayshore Drive North
Atlantic Beach, FL 32233
Phone: 904-563-2977 Fax: 904-270-5717
Date: 20 February 2013

Subject: "Petition for Declaratory Statement Before the Board of Massage"

This petition regards *FS480.046 Grounds for disciplinary action by the board. - (1) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee know or has reason to know that she or he is not competent to perform.* It also regards *FS 480.033 (3) "Massage" means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.*

According to the Department of Health Website under frequently asked questions I am able to offer skin beautification and body wrapping services under my massage license. A facial is a skin beautification service, so given the published answer it is a service within my scope of practice.

http://www.doh.state.fl.us/mqa/massage/ma_faq.html at the time of this writing. (see enclosure)

Q: Can massage therapists provide body wrapping services?

A: Yes, a licensee under Chapter 480, F.S., has always been able to provide the skin beautification and body wrapping services. New legislation was passed that a person does not have to be a licensed massage therapist to perform body wraps. But it is required to take a twelve (12) hour course and then register as a body wrapper under the Board of Cosmetology. A registered person will only be able to use pre-soaked wrap material and will not be allowed to apply oils or creams directly on the body. Unlike licensed massage therapists who are able to use their bare hands when applying oils and creams on their clients.

The techniques and procedures used to perform a facial fall within the definition of massage, as stated in *FS 480.033 (3) "Massage" means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.*

I am contracted as a massage therapist to Naval Station Mayport. I want to offer this service as part of my contract. However, since the FAQ is the only publicly published specific authorization to provide skin beautification services under my massage license, and no terminology within FS 480 or Ch 64B7 FAC, specifically states "skin beautification", the

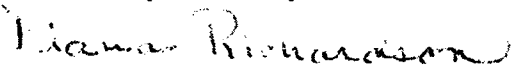
Contracting Officer's Technical Representative (COTR) is requesting that I provide a written statement from my governing board stating that performing skin beautification/facials, falls within my scope of practice and is not grounds for disciplinary action under FS480.046 (i).

I have received training for performing facials. My first training was part of the curriculum at the massage therapy school I attended in Virginia Beach, Virginia. That was followed by on the job training at Lymphodynamics, my place of employment immediately following graduation from massage school. The facial services provided there were full facial services to include the use of steamer, extractors, mild chemical peels and masques. Wanting a refresher, my most recent training comes from the Facial Specialties classes at Florida State College Jacksonville. I have completed the first class and part of the second. The third class is training in the use of makeup, which I have no interest in pursuing. I mention my training as it addresses "*competency to provide the service*".

The impact on me, if I am not granted a declaratory statement/clarification to provide to the COTR, is loss of income for services, within my scope of practice that I could be providing as the massage therapy contractor. Additionally, my AMTA insurance covers only those services found to be "within the scope of practice recognized by the governmental regulatory agency responsible for maintaining the standards of the profession of massage therapy." Since I am required to provide insurance to cover the services I provide, as part of my contract to the Navy, a confirmation is needed that skin beautification is within the scope of practice of massage therapy, so that I meet the conditions of my contract.

While I have submitted a similar request before, that request did not go to scope of practice as a massage therapist. Since it is publicly published on the Department of Health's website, on the Board of Massage page, that we can perform skin beautification services, it can fall to the Board of Massage *only*, to determine if indeed the published statement is correct; that it is within the scope of practice to provide those services under the massage therapist license.

Respectfully submitted,



Diana Richardson, LMT

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Licensure

Q: How often is the NCTMB exam given?

A: The (NCTMB) is offered and administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) through Computer Based Testing which is available six (6) days per week, excluding Sunday. To schedule an exam, call 1-800-296-0664.

Q: What should I do if I fail the examination?

A: You will need to reapply to sit for the exam by contacting NCBTMB at 1-800-296-0664 for instructions.

Q: What should I do if I fail the Colonic examination?

A: You will need to reapply with the Department of Health by submitting a new completed application, with a retake fee of \$150 dollars.

Q: Can I fax my change of address to you or may I leave my change of address on your voice mail or can you take a change of address over the telephone?

A: You may write a letter requesting the change that includes the type of address to be changed and faxing it to (850) 487-9626. You will need your current license number and the control number from the license for security reasons. Remember a change of location for a massage establishment requires the completion of an application and submission of the appropriate fees.

Q: Is a massage establishment license needed for a licensed massage therapist to perform massage therapy in an acupuncturist, chiropractor, dentist, physical therapist or pediatricist's office?

A: YES.

Q: Is insurance coverage necessary for a massage establishment?

A: Yes, the applicant must submit proof confirming property damage and bodily injury liability insurance coverage for the proposed establishment. Only the licensed massage therapist who is the owner of the establishment may use insurance from a professional association to satisfy this requirement for massage establishment licensure.

Q: When will my massage establishment be inspected? Will the inspector call first?

A: The inspector may visit the facility at anytime to conduct a routine inspection of your licensed establishment. For new business inspections, the owner of the establishment will be contacted by the inspector to set an appointment to conduct the initial inspection.

Q: How can I find a Board approved school to attend?

A: Review a list of Board approved schools (pdf - 169kb).

Q: Can massage therapists provide body wrapping services?

A: Yes, a licensee under Chapter 480, F.S., has always been able to provide the skin beautification and body wrapping services. New legislation was passed that a person does not have to be a licensed massage therapist to perform body wraps. But it is required to take a twelve (12) hour course and then register as a body wrapper under the Board of Cosmetology. A registered person will only be able to use pre-soaked wrap material and will not be allowed to apply oils or creams directly on the body. Unlike licensed massage therapists who are able to use their bare hands when applying oils and creams on their clients.

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Continuing Education Questions