

**STATE OF FLORIDA  
BOARD OF CHIROPRACTIC MEDICINE**

**IN RE: THE PETITION FOR DECLARATORY STATEMENT OF  
SILVIA ROSEN HALPERN, D.C.**

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**FINAL ORDER**

THIS MATTER came before the Board of Chiropractic Medicine pursuant to Section 120.565, Florida Statutes. At a duly-noticed public meeting held on August 27, 2010, in Orlando, Florida, the Board considered Silvia R. Halpern, D.C.'s (Petitioner) Petition for Declaratory Statement. Petitioner was not present. The Board was represented by Deborah Bartholow Loucks, Assistant Attorney General.

The Petition was filed with the Department of Health on July 28, 2010. The Petitioner is requesting that the Board issue a Declaratory Statement interpreting Section 460.403(9)(c)1, Florida Statutes. The questions presented to the Board were: Is a chiropractor allowed to provide nutritional services/counseling to the public for the purpose of weight loss, weight management and wellness; and May a chiropractor market and sell herbal supplements, natural foods and over-the-counter food supplements? Having considered the Petition, the presentation of Petitioner, and relevant statutes and rules, the Board issues the following:

**FINDINGS OF FACT**

1. The Petition was duly filed and noticed in the Florida Administrative Law Weekly; Volume 36/31 published on August 6, 2010.
2. The Petition is attached hereto and incorporated herein by reference.
3. Petitioner is a Florida licensed chiropractic physician.

4. Petitioner is seeking clarification on the scope of chiropractic medicine.

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to section 120.565, and Chapter 460, Florida Statutes.

2. Section 460.403(9)(a), Florida Statutes, states:

“Practice of chiropractic medicine” means a noncombative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body in which vertebral subluxations and other malpositioned articulations and structures that are interfering with the normal generation, transmission, and expression of nerve impulse between the brain, organs, and tissue cells of the body, thereby causing disease, are adjusted, manipulated, or treated, thus restoring the normal flow of nerve impulse which produces normal function and consequent health by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education. No person other than a licensed chiropractic physician may render chiropractic services, chiropractic adjustments, or chiropractic manipulations.

(b) Any chiropractic physician who has complied with the provisions of this chapter may examine, analyze, and diagnose the human living body and its diseases by the use of any physical, chemical, electrical, or thermal method; use the X ray for diagnosing; phlebotomize; and use any other general method of examination for diagnosis and analysis taught in any school of chiropractic.

(c)1. Chiropractic physicians may adjust, manipulate, or treat the human body by manual, mechanical, electrical, or natural methods; by the use of physical means or physiotherapy, including light, heat, water, or exercise; by the use of acupuncture; or by the administration of foods, food concentrates, food extracts, and items for which a prescription is not required any may apply first aid and hygiene, but chiropractic physicians are expressly prohibited from prescribing or administering to any person any legend drug except as authorized under subparagraph 2., from performing any surgery except as stated herein, or from practicing obstetrics.



(c)2. Notwithstanding the prohibition against prescribing and administering legend drugs under subparagraph 1. or s. 499.01(2)(m), pursuant to board rule chiropractic physicians may order, store, and administer, for emergency purposes only at the chiropractic physician's office or place of business, prescription medical oxygen and may also order, store, and administer the following topical anesthetics in aerosol form:

- a. Any solution consisting of 25 percent ethylchloride and 75 percent dichlorodifluoromethane.
- b. Any solution consisting of 15 percent dichlorodifluoromethane and 85 percent trichloromonofluoromethane.

However, this paragraph does not authorize a chiropractic physician to prescribe medical oxygen as defined in chapter 499.

(d) Chiropractic physicians shall have the privileges of services from the department's laboratories.

(e) The term "chiropractic medicine", "chiropractic", "doctor of chiropractic", or "chiropractor" shall be synonymous with "chiropractic physician," and each term shall be construed to mean a practitioner of chiropractic medicine as the same has been defined herein. Chiropractic physicians may analyze and diagnose the physical conditions of the human body to determine the abnormal functions of the human organism and to determine such functions as are abnormally expressed and the cause of such abnormal expression.

(f) Any chiropractic physician who has complied with the provisions of this chapter is authorized to analyze and diagnose abnormal bodily functions and to adjust the physical representative of the primary cause of disease as is herein defined and provided. As an incident to the care of the sick, chiropractic physicians may advise and instruct patients in all matters pertaining to hygiene and sanitary measures as taught and approved by recognized chiropractic schools and colleges. A chiropractic physician may not use acupuncture until certified by the Board. Certification shall be granted to chiropractic physicians who have satisfactorily completed the required coursework in acupuncture and after successful passage of an appropriate examination as administered by the department. The required coursework shall have been provided by a college or university which is recognized by an accrediting agency approved by the United States Department of Education.

3. It is the Board's opinion that providing nutritional services/counseling to the public for

the purpose of weight loss, weight management and wellness falls within the scope of the practice of chiropractic medicine.


4. It is the Board's opinion that chiropractors are permitted to market and sell herbal supplements, natural foods, and over-the-counter food supplements to their patients.

5. The Board's response to the Petition is with regard only to the questions propounded by Petitioner in her Petition and only applies to the facts set forth therein.

This Order shall become effective upon filing with the Clerk of the Department of Health.

**DONE AND ORDERED**, this 15<sup>th</sup> day of September, 2010.

**BOARD OF CHIROPRACTIC MEDICINE**

  
Bruce Deterding, Executive Director  
*on behalf of Gene Jenkins, D.C.*, CHAIR

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Florida Appellate District where the party resides. The Notice of Appeal must be filed within thirty (30) days of rendition of the order to be reviewed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to: **Silvia Halpern, D.C.**, 2594 SW Mayacoo Way, Palm City, Florida 34990; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, and **Angela Southwell**, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on September 17, 2010.



**Deputy Agency Clerk**



Department of Health  
Division of Medical Quality Assurance  
4052 Bald Cypress Way, Bin # C07  
Tallahassee, Florida 32399-3257

June 23 10:07 AM  
JUN 28 2010

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK

RE: Scope of Practice for Chiropractic Profession/Licensee

CLERK Angel Sanders  
DATE 7-28-10

To Whom It May Concern:

I am a licensed Chiropractic Physician, and I am attempting to get an answer or clarification about the scope of practice for a chiropractic professional such as myself. I have made several attempts to get these answers or clarifications by e-mail, but such attempts have failed. So, I am writing this correspondence seeking the advice of the Division.

In summary, I am seeking an answer as to whether a licensed chiropractic physician in Florida is allowed to provide nutritional services/counseling to the public for the purpose of weight loss/weight management and wellness. Additionally, I would like clarification as to whether such a licensed chiropractic physician may market and sell herbal supplements, natural foods and over-the-counter food supplements for the purposes stated above.

I have reviewed Chapter 460 of the Laws of Florida, and specifically section 460.403, but I do not find this section of the Florida Statutes clear enough, thus I am seeking clarification from the Division. I am aware section 460.403 includes the following:

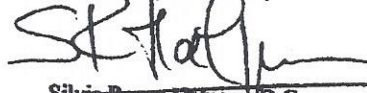
**460.403 Definitions.**—As used in this chapter, the term:

(c)1. Chiropractic physicians may adjust, manipulate, or treat the human body by manual, mechanical, electrical, or natural methods; by the use of physical means or physiotherapy, including light, heat, water, or exercise; by the use of acupuncture; or by the administration of foods, food concentrates, food extracts, and items for which a prescription is not required and may apply first aid and hygiene, but chiropractic physicians are expressly prohibited from prescribing or administering to any person any legend drug except as authorized under subparagraph 2., from performing any surgery except as stated herein, or from practicing obstetrics.

While providing some general guidance, this paragraph does not clearly define the scope of practice as it relates to nutrition and wellness/weight-loss treatments, or the questions I have presented above. I am requesting the Division provide me such clarifications or answers.

Thank you for your attention to this request and your timely response. Should you require any additional information from me, please contact me at the addresses/numbers listed below.

Respectfully submitted,



Silvia-Rosen Halpern, D.C.

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