THIS MATTER came before the Board of Medical Examiners, pursuant to Section 160.563, Florida Statutes, and Rule Chapter 64B-4, Florida Administrative Code, on October 4, 1993, in Tallahassee, Florida, for consideration of the Petition for Declaratory Statement filed by Sofia Escudar. Upon consideration of the Petition, and specifically upon consideration of the factual allegations set forth in the letters of April 9, 1993, and July 5, 1993, and based on the assumption of the truthfulness of the assertions in the letters, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. Petitioner Sofia Escudar is a physical therapist aide at Cedars Sinai Medical Center in Miami, Florida, and has served in that position continuously since 1986.

2. For purposes of the Petition for Declaratory Statement, Petitioner specifically asserts that she was assisting the physical therapist as an aide prior to the 1975 amendments to the Physical Therapy Act and has continued to perform those duties.

3. Petitioner requests an interpretation of Section 488.137(2), Florida Statutes, in order for the Board to determine whether she may continue to perform her duties as a physical therapist aide pursuant to the Physical Therapy Act.
The Board of Chiropractic Examiners, in connection with the
matter submitted to Section 458.111, Florida Statutes, and Rule
Chapter 58-4, Florida Administrative Code,
2. The Board concludes that Petitioner has the requisite
substantial interest to bring this Petition and that the letters
being treated as a Petition are in substantial compliance with
Rule Chapter 58-4, Florida Administrative Code.
3. The Physical Therapy Practice Act is set forth as
Chapter 468, Florida Statutes. Section 468.171, Florida
Statutes, sets forth certain exemptions and "grandfather clauses"
which apply to the licensure and regulation of persons who may
otherwise be governed by the Physical Therapy Practice Act.
4. Subsection (2) of Section 468.171, Florida Statutes,
provides as follows:

Any person employed by or assisting a physical
therapist as an aide shall be considered eligible
to continue to perform the duties, providing he
was so employed prior to the 1973 amendment to
this Chapter. He shall not be eligible to be
licensed as a physical therapist assistant or to
call himself an assistant until he meets the
requirements of this Chapter.

That statutory provision, by its very terms, applies in a
situation such as this where an individual has been employed as
an aide prior to amendments to Chapter 458 and has continued to
practice in that capacity. Pursuant to the statutory language,
such a person may continue to perform the duties of an aide to a
physical therapist, which duties if practiced by a person not
subject to the so-called grandfather clause would constitute
practice as a physical therapist or as a physical therapist's
assistant.

4. In so stating the above, the Board would point out,
pursuant to Section 468.171(2), that a person who is eligible to
continue to perform the duties as a physical therapist aide is
not eligible to be licensed as a physical therapist's assistant.
unlawful for a person to hold himself or herself out as a physical therapist assistant unless he or she is licensed pursuant to Chapter 486, Florida Statutes. See 1.03
Section 486.035, Florida Statutes.

5. There is insubstantial evidence to support the Board's findings and conclusions.

WHEREFORE, pursuant to the provision of Section 486.171(2), Florida Statutes, Petitioner Sofia Escobar is authorized to continue to perform the duties of a physical therapist aide without obtaining licensure as a physical therapist's assistant.

DONE AND ORDERED this ___ day of __________ 1986.

[Signature]

BOARD OF MEDICAL EXAMINERS

[Title]

Chairman