

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

IN RE: PETITION FOR DECLARATORY
STATEMENT OF

STEPHANIE GIL, A.P.

_____ /

FINAL ORDER ON PETITION FOR DECLARATORY STATEMENT

This matter came before the Board of Acupuncture (hereinafter the "Board") at a duly-noticed telephonic meeting on April 17, 2020 Florida for consideration of a petition for declaratory statement filed by Stephanie Gil (attached hereto as exhibit A). The petition was filed on November 20, 2019 and noticed in the Florida Administrative Register on January 6, 2020 in Volume 46/03. No comments were received on the petition. The Board reviewed and approved the language presented in this Final Order at the duly-noticed telephonic meeting on June 26, 2020.

Stephanie Gil is inquiring as to whether she, as a licensed acupuncturist, can order blood work on a patient at an initial consult via Skype or video call.

FINDINGS OF FACT

1. The facts set forth in the Petition are hereby adopted and incorporated herein by reference as the findings of fact by the Board.

CONCLUSIONS OF LAW

2. The Board of Acupuncture has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

3. The Petition filed in this cause is in substantial compliance with the provisions of §120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.

4. For purposes of determining standing in this matter, the Petitioner, a licensed acupuncturist, is a substantially affected person.

5. The Board has authority to address concerns regarding the applicability of statutory provisions, rules, or orders over which the agency has authority. Consequently, the Board makes no comment as to whether Skype or video call is compliant with the Health Insurance Portability and Accountability Act (HIPPA).

6. Rule 64B1-4.011 Diagnostic Techniques, states in part:

Diagnostic techniques which assist in acupuncture diagnosis, corroboration and monitoring of an acupuncture treatment plan or in making a determination to refer a patient to other health care providers shall include:
... use of laboratory test findings...

7. Section 456.47(2)(a) Use of telehealth to provide services, states:

A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state.

8. The Board recognizes that an Acupuncturist may rely on diagnostic tools, including blood tests, in the scope of practice.

9. The Board's response to this Petition addresses solely the question propounded by the Petitioner and only addresses issues regarding the practice of Acupuncture. The Board's conclusion is based solely on the Board's application of the specific factual circumstances outlined in the Petition and above, to the pertinent statutory and rule provisions set forth above.

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

DONE AND ORDERED this 15 day of July, 2020.

BOARD OF ACUPUNCTURE



Kama Monroe, Executive Director
For Kathy Veon, AP, DOM,
Chair

NOTICE OF APPEAL RIGHTS

Any adversely affected party is entitled to judicial review pursuant to section 120.68, Florida Statutes. Appellate 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 the filing date of the Order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to: **Stephanie Gil**, 15720 SW 102nd Ct., Miami FL 33157; and by email transmission to: Diane L. Guillemette, Assistant Attorney General, at diane.guillemette@myfloridalegal.com, on this 17th day of July, 2020.



Deputy Agency Clerk

128 3801-4700

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK *Angel Sanders*
DATE NOV 20 2019

OSTEOPATHIC UNIT

10/27/2019

NOV 12 2019

From: Stephanie Gil AP 4083

Acupuncture Physician, Acutrition 15720 SW 102nd Ct. Miami FL 33157

RECEIVED

To: Department of Health, Division of Medical Quality Assurance

Bureau of HCPR, Florida Board of Acupuncture (JCA) 4052 Bald Cypress Way, Bin. C-06
Tallahassee, FL 32399-3261

Dear Board Member,

I am requesting a declaratory statement. I had a few questions as to what my license permits. I would like to order blood work on some patients, am I able to do the initial consult via Skype or video call? I will make sure they send me their blood pressure reading and a complete intake form. Any information will be greatly appreciated.

Sincerely,



Stephanie Gil, AP4083
Acupuncture Physician
305.215.6823