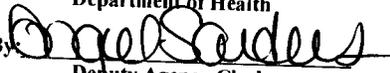


FILED DATE **MAY 06 2013**

Department of Health

By: 
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MASSAGE THERAPY

IN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF
JOHN THOMAS SWEENEY

_____ /

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 in Jacksonville, Florida on April 26, 2013, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed by JOHN THOMAS SWEENEY (hereinafter Petitioner). Having considered the petition, 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. 72, dated April 12, 2013 of the Florida Administrative Register .
2. Petitioner, JOHN THOMAS SWEENEY, is licensed to practice massage therapy in the State of Florida, having license number MA 57263.
3. Petitioner inquired whether administration of medication is within the scope of the practice of massage therapy as defined in Section 480.033(3), Florida Statutes.
4. Section 480.033(3) defines massage as 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.

5. Petitioner seeks to administer dexamethasone SOD phosphate, a steroid and a legend drug, delivered in an ionic solution through iontophoresis.

6. Iontophoresis employs a patch through which electric current delivers medication through the skin and into the surrounding tissue.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

2. The petition filed in this cause is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

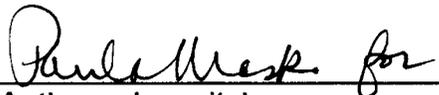
3. Administration of medication is not within the scope of massage therapy as defined in Section 480.033(3), Florida Statutes.

WHEREFORE, the Board hereby finds that under the specific facts of the petition, as set forth above, that the administration of medication is not within the scope of Section 480.033(3), Florida Statutes.

DONE AND ORDERED this 3rd day of May

, 2013.

BOARD OF MASSAGE THERAPY



Anthony Jusevitch
Executive Director for
Karen Goff Ford, Chair

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the **Healthiest State** in the Nation

OSTEO UNIT

TO: Cassandra G. Pasley, BSN, JD, Chief
Bureau of Health Care Practitioner Regulation

FROM: Anthony Jusevitch, Executive Director,
Florida Boards of Osteopathic Medicine, Massage Therapy, Acupuncture, Speech
Language Pathology & Audiology and Council on Licensed Midwifery

DATE: Friday, May 03, 2013

RE: Delegation of Authority

-- -- -- -- -- -- -- -- -- -- --
During my absence May 3, 2013, Paula Mask, Program Operations Administrator, is delegated authority for the Board office.

Thank you,

Anthony Jusevitch, Executive Director

Boards of Osteopathic Medicine, Massage Therapy,
Acupuncture, Speech Language Pathology and Audiology,
and the Council of Licensed Midwifery
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John Thomas Sweeney Jr., LMT
5622 Glen Crest Blvd
Tampa, FL 33625
Phone: (813) 785-0821 E-mail: Jtsjrlmt@aol.com

DATE: March 29, 2013

TO: Office of Attorney General
CC: Florida Board of Massage Therapy, Lee Ann Gustafson, Administrative Law Bureau
FROM: John Thomas Sweeney Jr., LMT
RE: Iontophoresis

NPI: 1477880813

LIC: MA57263

PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA BOARD
OF MASSAGE THERAPY

THIS LETTER SHALL SERVE AS FORMAL PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA BOARD OF MASSAGE THERAPY REGARDING THE USE OF ELECTROMOTIVE DRUG ADMINISTRATION (IONTOPHORESIS), BY MASSAGE THERAPISTS, PRESCRIBED AND ORDERED UNDER THE DIRECT SUPERVISION OF LICENSED PHYSICIANS (MD, DO) IN THE STATE OF FLORIDA FOR THE PURPOSE OF TREATING PAIN.

IONTOPHORESIS IS THE DELIVERY OF AN IONIC SOLUTION/ MEDICATION THROUGH THE USE OF A PATCH SIMILAR TO THAT USED IN TRANSCUTANEOUS ELECTRICAL NERVE STIMULATION OR INFERENTIAL STIMULATION.

THIS PATCH HOWEVER UTILIZES AN ELECTRIC CURRENT TO DELIVER MEDICATION SLOWLY THROUGH THE SKIN AND INTO THE SURROUNDING TISSUE.

IN THIS PARTICULAR INSTANCE, THE MEDICATION IS DEXAMETHASONE SOD PHOSPHATE 8MG/ML (2CC), FOR THE PURPOSE OF TREATING A DIAGNOSED PAIN CONDITION AS THE RESULT OF AN INJURY.

THE PURPOSE OF THIS LETTER IS NOT TO REQUEST AN OFFICIAL RULING AS TO WHETHER OR NOT IONTOPHORESIS IS WITHIN THE SCOPE OF PRACTICE OF ALL MASSAGE THERAPISTS. RATHER, THE PURPOSE OF THIS LETTER IS TO REQUEST THAT I MAY HAVE PERMISSION PERSONALLY TO PERFORM IONTOPHORESIS WITHIN MY SCOPE OF PRACTICE AS I HAVE INTENT TO START PRACTICING THIS MODALITY.

I AM CURRENTLY WORKING AS A PHYSICIAN CONSULTANT WITH A FACILITY IN THE TAMPA AREA WITH THE INTENT OF PASSING A JOINT COMMISSION ACCREDITATION INITIAL INSPECTION FOR OUTPATIENT/ AMBULATORY CARE.

IT HAS BEEN REQUESTED BY THE JOINT COMMISSION THAT I OBTAIN CONSENT FROM MY PROFESSIONAL LICENSING BOARD TO PERFORM THIS MODALITY AS IT IS NOT CLEARLY DEFINED WITHIN MY SCOPE OF PRACTICE.

THE PHYSICIAN PRESCRIBING THIS TREATMENT IS VANDERBILT ALUMNI, SPECIALIZING IN GENERAL SURGERY, WITH MORE THAN TWENTY FIVE YEARS OF PRACTICE EXPERIENCE, AND MAINTAINS AN ACTIVE LICENSE IN THE STATE OF FLORIDA AS A MEDICAL DOCTOR.

THIS PHYSICIAN HAS PERSONALLY BEEN CREDENTIALLED BY ME, WITH HIS CONSENT, THROUGH THE NATIONAL PRACTITIONER DATA BANK AND HAS HAD MANY YEARS EXPERIENCE SPECIFICALLY WORKING WITH INJURY PATIENTS.

THIS LETTER IS TO ADDRESS THE PROVISIONS FOUND IN FLORIDA STATUTE 393.506 CITING THE ADMINISTRATION OF MEDICATION.

I BELIEVE THAT UNDER THE DIRECT SUPERVISION OF A PHYSICIAN THAT IT IS WITHIN MY SCOPE OF PRACTICE TO ADMINISTER DEXAMETHASONE SOD PHOSPHATE 8MG/ML THROUGH THE USE OF A TRANSDERMAL PATCH MEANT SPECIFICALLY FOR IONTOPHORESIS AS I CURRENTLY MAINTAIN AN ACTIVE LICENSE AS A HEALTHCARE PROVIDER IN THE STATE OF FLORIDA, AM CURRENTLY WORKING AS A PHYSICIAN CONSULTANT WITH AN EXTENSIVE KNOWLEDGE OF STATE AND FEDERAL LAWS GOVERNING HEALTHCARE PRACTICE, WITH NO DISCIPLINE ON FILE, AND HAVE FIVE YEARS PRACTICE EXPERIENCE IN THE HEALTHCARE FIELD PERTAINING TO THE TREATMENT OF INJURY PATIENTS.

THIS RULE AFFECTS MY PRACTICE AS WELL AS ME PERSONALLY AS I BELIEVE THAT THE EFFECTIVENESS OF THIS MODALITY COULD GREATLY BENEFIT THE QUALITY OF CARE OFFERED TO MY PATIENTS AND REDUCE THE SUFFERING ENDURED AFTER TRAUMATIC INJURY.

I WOULD ALSO LIKE TO DOCUMENT IN THIS FORMAL PETITION FOR DECLARATORY STATEMENT THAT MANY MASSAGE THERAPISTS ARE CURRENTLY PRACTICING THIS MODALITY IN THE STATE OF FLORIDA WITHOUT PERMISSION FROM THEIR LICENSING BOARD.

THIS COULD SUBSEQUENTLY RESULT IN DISCIPLINARY ACTION AND REVOCATION OF LICENSURE FOR MANY THERAPISTS INCLUDING MYSELF.

DUE TO THE NATURE OF THIS MODALITY, THIS COULD ALSO AFFECT ME IF IN THE FUTURE IN THE EVENT THAT IT IS FOUND THAT MASSAGE THERAPISTS AS A WHOLE (OR JUST SIMPLY MYSELF) CANNOT PRACTICE THIS MODALITY.

WITHOUT PERMISSION FROM MY LICENSING BOARD TO PERFORM THIS MODALITY I FEAR PROSECUTION, CIVIL PENALTY, DISCIPLINARY ACTION, REVOCATION, SUSPENSION, OR VOLUNTARY SURRENDER OF MY LICENSE FOR PERFORMING THIS MODALITY.

AGAIN, HOWEVER, I FEEL THAT THIS MODALITY IS ENTIRELY WITHIN MY SCOPE OF PRACTICE AND THAT I AM FORMALLY TRAINED TO PRACTICE THIS MODALITY UNDER THE DIRECT SUPERVISION OF A QUALIFIED PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE OF FLORIDA.

THIS MODALITY COULD SUBSTANTIALLY IMPROVE THE CONDITION OF MY PATIENTS. AND I WOULD GREATLY APPRECIATE THE APPROVAL AND SUPPORT OF MY LICENSING BOARD TO ADDRESS THIS TOPIC IMMEDIATELY AS IT IS BECOMING A RAMPANT PRACTICE AMONG LICENSED MASSAGE THERAPISTS IN THE STATE OF FLORIDA.

RESPECTFULLY,

JOHN THOMAS SWEENEY JR., LMT
PHYSICIAN CONSULTANT
INFECTION CONTROL COMMITTEE
PHYSICIAN CREDENTIALING

