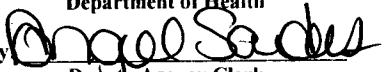


FILED DATE **MAY 06 2013**

Department of Health

By   
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 in Jacksonville, Florida on April 26, 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, 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, DIANA RICHARDSON, is licensed to practice massage therapy in the State of Florida, having license number MA 23183.
3. Petitioner inquired whether skin beautification/facials are 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 identified 17 specific actions that comprise skin beautification/facials including
  - a. application of cleanser to prepare the skin
  - b. remove stubborn trapped dirt, pore clogging debris or makeup
  - c. application of an exfoliating preparation
  - d. application of a masque
  - e. application of toner to close pores and remove product residue
6. The petition applies cosmetology terms to the practice of massage therapy.

#### **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. The actions identified in paragraph 5 above are not actions related to providing massage therapy.
4. Skin beautification is not within the scope of the definition of massage set forth in Section 480.033(3), Florida Statutes. The purpose of massage therapy is not to beautify the skin.

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

DONE AND ORDERED this 3d day of May,  
2013.

**BOARD OF MASSAGE THERAPY**

Paula Mask for  
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 6<sup>th</sup> day of May, 2013.

Brygel Sanders  
**Deputy Agency Clerk**

7012 1010 0000 2223 9554

PS  
or  
SI  
SA

**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

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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  
4052 Bald Cypress Way, Bin C06 • Tallahassee, Florida 32399-  
3256  
E-Mail: Anthony\_Jusevitch@doh.state.fl.us  
Phone: (850) 245-4162 • Fax: (850) 412-2680 •  
www.floridahealthsource.com

**www.FloridasHealth.com**  
TWITTER: HealthyFLA  
FACEBOOK: FLDepartmentofHealth  
YOUTUBE: fldoh

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Angel Sanders  
DATE APR 05 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: 29 March 2013

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

While I have submitted a similar scope of practice request on this recently, I was notified that the specifics, of the procedure in question, needed to be included. You will find them provided within this request. My apologies for not considering the specifics would be needed. As you know, it has been a 2 year long learning journey into the procedures these requests must follow.

This petition regards *FS480.046 Grounds for disciplinary action by the board. - (i) 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](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, described below, 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*

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*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).

The services for the face and back that I am wishing to provide are for the purpose of detoxing/cleansing and exfoliating the skin, and improving muscle tone through massage with the desired outcome of improvement of the skin's overall health, the same as is done with body scrubs, and body wraps. The procedure for this service is as follows:

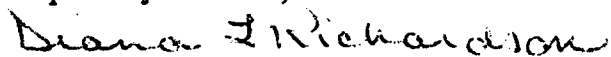
1. review intake form for contraindications *(as done for massage)*
2. determine appropriate chemical/herbal products to be used on the client's skin *(as done for massage and body wraps)*
3. provide drape as appropriate, exposing the décolletage, neck and face or back if doing a back facial *(as done for massage)*
4. provide hair towel to protect hair from product *(as offered for my massage clients)*
5. use of steam on face and décolletage or back, either by applying hot towels to the area or through use of facial steamer directed to the area *(as done for massage and body wraps)*
6. optional use of aromatherapy *(as done for massage and body wraps)*
7. application of cleanser to prepare skin for chemical or herbal masque, this applied either by hand or use of applicator, to include electric or manual brushes *(as done for body wraps)*
8. removal of cleanser using steamed towels *(as done for body wraps)*
9. when specific areas are determined to be in need of deeper cleansing, to remove any stubborn trapped dirt, pore clogging debris or makeup, apply hot towels and let sit a minute, using circular finger massage with gentle finger pressure massage area to help loosen built up debris or makeup residue. Apply hot towel again, remove any residue. *(this is an area specific massage)*
10. Follow with an exfoliating preparation applied by hand or with use of applicator, whether manual or electric *(as done for chemical or herbal preparation based body exfoliations)*
11. Using steamed towels remove exfoliant *(as done during body exfoliations and wrap preps)*
12. European facial massage routine can be performed using cream, lotion or oil *(area specific massage)*
13. Apply masque *(as done with body wraps)*
14. after required time remove with steamed towels *(as done with body wraps)*
15. Apply toner to close pores and remove any residual product residue, using electric mister or by hand with pads *(as is done with some body wraps)*
16. Apply moisturizing cream, lotion or natural oil, by hand directly or with use of applicator *(as is done during massage and body wraps)*
17. Foot massage may be done while masque sets up *(a standard massage procedure)*

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.

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

**Q: How often is the NCTMB exam given?**

A: The (NCTMB) is offered and administered by the National Commission on Massage Therapy and Bodywork (NCB - MB) 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 NCB - MB 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 podiatrist'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 - 168kb).

**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**

**Q: I have completed more hours for this biennium than was necessary. May I carry the balance over to the next renewal period?**

A: No, all hours must be earned within your renewal period and can not be carried over to the next biennium.