

FILED DATE - **OCT 05 2015**

Department of Health

By:

Angel Saubee
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MASSAGE THERAPY

IN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF
HEATHER BRYAN

FINAL ORDER

THIS CAUSE came before the Board of Massage Therapy (hereinafter Board) pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code, at a duly-noticed meeting by telephone conference call on September 9, 2015, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed on behalf of HEATHER BRYAN (hereinafter Petitioner). Having considered the petition and the arguments submitted by counsel for Petitioner, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. This petition was noticed by the Board in Vol. 41, No. 123, dated June 25, 2015 of the Florida Administrative Register.
2. Petitioner, HEATHER BRYAN, is a massage therapist licensed to practice in the State of Florida, having license number MA 79159.
3. Section 480.046(1)(o), Florida Statutes, provides that it is a violation of the Massage Therapy Practice Act for a licensed massage therapist to practice massage at a site, location, or place which is not duly licensed as a massage establishment.
4. Section 480.046(1)(o), Florida Statutes, makes certain exceptions that permit licensed massage therapists to provide massage services at locations that are not licensed massage establishment, specifically, a client's home or office.

5. Petitioner inquires whether a "mobile massage unit" falls within any of the exceptions to the requirement that massage services be provided in licensed massage establishments.

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.

WHEREFORE, the Board hereby finds that under the specific facts of the petition, as set forth above, a mobile massage unit does not fall within any of the exceptions to the requirement in Section 480.046(1)(o), Florida Statutes, that massage services be provided in licensed massage establishments.

DONE AND ORDERED this 5th day of October, 2015.

BOARD OF MASSAGE THERAPY

Claudia Kemp
Claudia Kemp, Executive Director
for Bridget Burke-Wammack, Chair

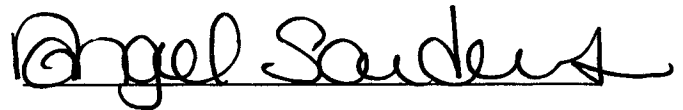
NOTICE OF APPEAL RIGHTS

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 HEATHER BRYAN, 7016 South Shore Drive, South, South Pasadena FL 33707, and by interoffice mail to Donna Oxford, Paralegal Specialist, Donna.Oxford@myfloridalegal.com this 5th day of October, 2015.



Deputy Agency Clerk

1401-84073

PETITION FOR DECLARATORY STATEMENT BEFORE THE BOARD OF MASSAGE THERAPY

Heather Bryan, PTA, LMT
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South Pasadena, Florida 33707
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MA 79159, PTA 15701

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Cortes*

DATE JUN 16 2015

Florida Board of Massage Therapy
4052 Bald Cypress Way Bin #C-06
Tallahassee Florida 32399-1703

Regarding:

Florida Statute 480.046(1)(o)

Date:

June 04, 2015

Petition:

Pursuant to Section 120.565, Florida Statutes, and Rule Chapter 28-105 F.A.C., as a Massage Therapist licensed in the State of Florida under Chapter 480 F.S. I respectfully request that the Florida Department of Health, through the Florida Board of Massage Therapy, grant my Petition for Declaratory Statement and provide their opinion as to the applicability of Chapter 480.046(1)(o) to the circumstances referenced below.

Description of how the statute affects the petitioner:

"480.046(1)(o) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show."

The opinion of the Board of Massage Therapy is requested as to the application of the above reference statute to the use of a "mobile massage unit." This mobile massage unit is a vehicle that meets the requirements of registration with the Florida Department of Highway Safety and Motor Vehicles. The mobile unit will be parked on the property owned or under control of the entity involved.

Respectfully submitted,

Heather Bryan

Heather Bryan, PTA, LMT MA # 79159