

FILED DATE **SEP 21 2017**

Department of Health

By *Angela S. Soto*  
Deputy Agency ClerkSTATE OF FLORIDA  
BOARD OF MASSAGE THERAPYIN RE: THE PETITION  
FOR DECLARATORY  
STATEMENT OF  
LYNDA I. SOTO  

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**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 by telephone conference call on September 6, 2017, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed on behalf of LYNDA I. SOTO (hereinafter Petitioner). Having considered the petition, the arguments submitted by counsel for Petitioner, 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. 43, No. 143, dated July 25, 2017 of the Florida Administrative Register.
2. Petitioner, LYNDA I. SOTO, is a massage therapist licensed to practice in the State of Florida, having license number MA 50254.
3. Petitioner inquires if it within the scope of the practice of massage therapy to use a lipo laser treatment on her clients.
4. Massage therapy is defined in Section 480.033, Florida Statutes, to mean 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. In a lipo laser treatment, plastic paddles are placed on the treatment area, secured with Velcro straps.

6. The paddles emit low levels of laser energy, creating a chemical signal in fat cells.

7. The laser breaks down the stored triglycerides into free fatty acids and glycerol, releasing them through channels in the cell membranes.

8. The treatment gets rid of cellulite and fatty tissue, and changes the appearance of stretch marks.

9. The treatment is essentially an alternative to liposuction.

#### **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. Reduction of fatty tissue and altering the appears of stretch marks is not within the scope of the practice of massage therapy in Florida.

WHEREFORE, the Board hereby finds that under the specific facts of the petition, as set forth above, Petitioner may not use lipo laser treatment in the practice of massage therapy.

DONE AND ORDERED this 21 day of September, 2017.

BOARD OF MASSAGE THERAPY

  
Kama Monroe, Executive Director  
for Lydia Nixon, Chair

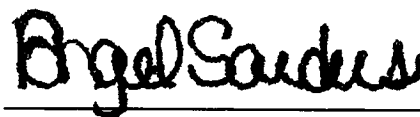
**NOTICE OF APPEAL RIGHTS**

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 LYNDA I. SOTO, 813 Oranole Road, Maitland FL 32751 and Sushrut K. Pandya, Esquire, 5401 S. Kirkman Road, Ste 310, Orlando FL 32819, and by email to Donna Oxford, Paralegal Specialist,

Donna.Oxford@myfloridalegal.com this 21 day of September, 2017.

  
Deputy Agency Clerk

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Amber Greene  
DATE JUL 19 2017

**PETITION FOR THE DECLARATORY STATEMENT  
BEFORE THE FLORIDA BOARD OF MASSAGE THERAPY**

Petitioner:

LYNDA I. SOTO  
Having her address at 813 Oranole Road,  
Maitland, FL 32751.  
Massage Therapist License Number: MA50254 (2007)  
Phone No.: 407-252-1540

Petitioner's Attorney: PANDYA LAW, P.A.

Sushrut K. Pandya, Esq.  
5401 S. Kirkman Road, Suite 310  
Orlando, FL 32819  
Phone: 407-926-0345  
Fax No.: 888-254-1078  
E-Mail: [sushrut@skplaws.com](mailto:sushrut@skplaws.com)

RECEIVED

JUL 19 2017  
DEPARTMENT OF HEALTH  
LEGAL OFFICE

Regarding

The Petitioner Lynda I. Soto, by and through her attorney, Pandya Law, P.A., submitting this petition for a Declaratory Statement before the Florida Board of Massage Therapy to clarify whether the licensee can use a Lipo Laser Treatment by using the FDA approved spa grade equipment to her patrons under her captioned license of Massage Therapist as defined under §480.033 (3) and (4) of Florida of Chapter 480 (Massage Therapy) of Title XXXII.

How the Rule Substantially affect Petitioner

As a licensed Massage Therapist, the petitioner is providing massage therapy to her clients in Florida. Now, the petitioner would like to use a *lipo laser treatment*, a low level, and non-invasive treatment, to get rid of cellulite and fatty tissue, and lessen the appearance of stretch marks of her patrons.

The Section 480.033 (3) of Chapter 480 (Massage Therapy) of Title XXXII defines massage as follows:

"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**" (*Emphasis added*).

The Section 480.033 (4) of Chapter 480 (Massage Therapy) of Title XXXII defines massage therapist follows:

“Massage therapist” means a person licensed as required by this act, who administers massage for compensation.

Further Comments

Normally, in a lipo laser treatment, few small plastic paddles are placed on the treatment area and secured with Velcro straps so they stay in place. The paddles emit low levels of laser energy, which creates a chemical signal in the fat cells, breaking down the stored triglycerides into free fatty acids and glycerol and releasing them through channels in the cell membranes, without harming the patron's skin. This process of releasing the fatty acids is a natural response the body has when the body needs to be used stored energy reserves. Thus, this treatment is not creating any unnatural reaction in the body nor does it damage or alter any surrounding structures such as skin, blood vessels, and peripheral nerves.


Thus, the petitioner is intending to manipulate human tissues with the aid of the FDA approved spa grade electrical laser device and would like to administer massage for compensation. The petitioner's proposed act would fall under the definition of Massage as stated above. However, petitioner would like to have a formal confirmation and/or guidance to that effect.

Please advise.

Respectfully,



Sushrut K. Pandya, Esq.  
Pandya Law, P.A.

  
Lynda I. Sato  
Petitioner

Dated: July 18, 2017