

**STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE**

IN RE: PETITION FOR DECLARATORY STATEMENT BEFORE THE
 BOARD OF CHIROPRACTIC MEDICINE

BY: ALBERT "RICK" WARNER, DC

FINAL ORDER

THIS MATTER came before the Board of Chiropractic Medicine (hereafter "Board") on February 22, 2024, at a duly-noticed public board meeting held in Howie in the Hills, Florida for consideration of the Petition for Declaratory Statement (hereafter "Petition") filed on October 30, 2023, by Albert "Rick" Warner, DC. (hereafter "Petitioner"). The Petitioner was present and represented by J. Manuel Neyra, Esquire. The Petition was published on November 8, 2023, in Volume 49, Number 218 of the Florida Administrative Register. The Agency did not receive any comments from any interested persons.

QUESTION PRESENTED

1. Petitioner seeks a determination from the Board regarding whether chiropractic physicians who directly supervise trained employees or Chiropractic Assistants to perform a myofascial release, either mechanically or manually, would violate chapter 460, Florida Statutes.

FACTUAL FINDINGS

2. The facts considered by the Board are as alleged in the Petition, a copy of which is attached hereto and incorporated by reference, and presented at the meeting, with no further investigation by the Board.

3. Petitioner is a licensed Florida chiropractic physician, whose license is in good standing with License Number CH4389.

4. On March 6, 2006, the Board determined that "as part of the practice of chiropractic medicine as defined in Section 460.403(9)(a) and (c), Florida Statutes . . . chiropractic physicians may lawfully delegate the performance of physical therapy modalities to assistants who are not licensed, whom the chiropractic physician knows to be trained and competent to perform such physical therapy modalities under appropriate supervision." A copy of said Declaratory Statement, Final Order Number DOH-06-0480-DS, is attached hereto and incorporated herein by reference.

CONCLUSIONS OF LAW

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

6. The Petitioner is substantially affected, as required by section 120.565, Florida Statutes.


WHEREFORE, the Board clarifies that the Declaratory Statement discussed above extends to a chiropractic physician lawfully delegating the performance of myofascial release, either mechanically or manually to assistants who are not licensed, whom the chiropractic physician knows to be trained and competent to perform under appropriate supervision, and therefore would not violate Chapter 460, Florida Statutes.

The applicability of this Declaratory Statement is limited to the set of facts incorporated herein.

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

DONE AND ORDERED this 19 day of March, 2024.

BOARD OF CHIROPRACTIC MEDICINE


Dayle DeCastro Mooney (Mar 19, 2024 15:46 EDT)

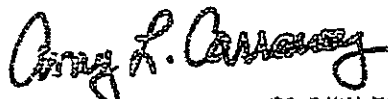
Dayle DeCastro Mooney, Executive Director
on behalf of Jason Comerford., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. 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 BUSINESS AND PROFESSIONAL REGULATION 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 APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION 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 electronic mail to: Albert "Rick" Warner c/o J. Manuel "Jesse" Neyra, Esquire, JNeyra@Neyralaw.com; and to: Timothy Frizzell, Senior Assistant Attorney General, Office of the Attorney General, timothy.frizzell@myfloridalegal.com; Tiffany Allen, Paralegal Specialist, Office of the Attorney General, Tiffany.Allen@myfloridalegal.com and Cassandra Fullove, Senior Legal Assistant, Office of the Attorney General, Cassandra.fullove@myfloridalegal.com; on March 20, 2024.



Deputy Agency Clerk