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Final Order No. DOI-06-0480-DS-MQA
FILED DATE - 3 R 06
Department of Health
By: Thomas Melton
Deputy Agency Clerk

**STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE**

IN RE

FRED QUINTANA, D.C.
PETITION FOR DECLARATORY STATEMENT

FINAL ORDER
DECLARATORY STATEMENT

On January 10, 2006, Petitioner filed a Petition for Declaratory Statement with the Board of Chiropractic Medicine, pursuant to Section 120.565, Florida Statutes, and Chapter 28-105 of the Florida Administrative Code. The Petitioner inquired whether a licensed chiropractic physician can delegate the use of physical modalities, such as hot packs, electrical muscle stimulators, ultrasound therapy devices, and mechanical massage to an unlicensed, but trained assistant, under Section 460.403(9)(a) and (c), Florida Statutes.

THIS MATTER came before the Board for final action at a duly-noticed public meeting on February 10, 2006, in Jacksonville, Florida. Petitioner was not present, but was represented by counsel, Robert Trilling, Esq. Paul Lambert, Esq. made an appearance on behalf of the Florida Chiropractic Association, upon a motion to intervene. The motion to intervene was GRANTED

Findings of Fact

1. Petitioner is a licensed chiropractic physician in Florida.
2. Petitioner intends to employ unlicensed but trained assistants to administer physical modalities, to include the use of hot packs, electrical muscle stimulators,

ultrasound therapy devices, and mechanical massage, as delegated by the Petitioner under his direct supervision.

Conclusions of Law

1. 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

2. The Board recognizes that pursuant to State Farm Mutual Automobile Insurance Company vs. Universal Medical Center of South Florida, Inc. 881 So.2d 557 (Fla 3rd DCA 2004), the Court was posed with the question as to whether unlicensed medical assistants could administer physical therapy modalities, including the application of hot packs, electrical muscle stimulations, ultrasound therapy treatments and mechanical massages, under the supervision of a licensed physician. Id. at 559 The Court recognized that the use of such physical modalities fell within the common practice of chiropractic physicians, osteopathic physicians, allopathic physicians, podiatric physicians, and massage therapists; and was incidental to the practice, which, pursuant to Section 486.161(1), Florida Statutes, creates an exemption from the requirement of licensure as a physical therapist. Id. at 560


3. Further the Court found that whether such use of physical therapy modalities could be delegated to unlicensed medical assistants by the respective physician as part of their practice was a determination properly left to the respective licensing board, which includes, among the other respective licensing boards, the Board of Chiropractic Medicine. Id.

4. As such, the Board has determined that as part of the practice of chiropractic medicine as defined in Section 460.403(9)(a) and (c), Florida Statutes, and upon authority of State Farm Mutual Automobile Insurance Company vs. Universal Medical Center of South Florida, Inc. 881 So.2d 557 (Fla 3rd DCA 2004), 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

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

DONE AND ORDERED this 6th day of March, 2006

BOARD OF CHIROPRACTIC MEDICINE


Joe Baker, Jr.
Executive Director *on behalf of*
Salvatore LaRusso, D.C. CHAIR