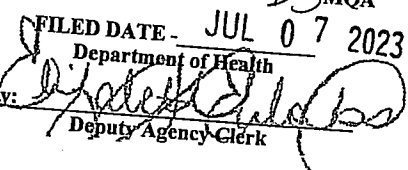


Final Order No. DOH-23-0849-DSMQA
FILED DATE - JUL 07 2023
Department of Health
By: 
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT OF:
JESSICA A. JAMES, RN

FINAL ORDER

THIS MATTER came before the Board of Nursing (Board) pursuant to Section 120.565, Florida Statutes and Rule 28-105, Florida Administrative Code, at a duly-noticed public meeting held on June 1, 2023, in Lake Buena Vista, Florida, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A), filed by Jessica A. James (Petitioner). Petitioner was not present. The Board was represented by Deborah Bartholow Loucks, Senior Assistant Attorney General.

The Petition was filed with the Department of Health on March 20, 2023. Petitioner seeks the Board's opinion as to whether it is within the scope of Petitioner's practice as a registered nurse to administer Botox Cosmetic when the administration is a task delegated and performed under the direct supervision of a physician as described in the petition.

Having considered the Petition, relevant statutes and rules, 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. The Petition was duly filed and noticed in the Florida Administrative Register; Volume 49 Number 57 published on March 23, 2023.
2. The Petition is attached hereto and incorporated herein by reference.
3. Petitioner, Jessica A. James, is a Registered Nurse licensed to practice nursing in

the State of Florida, having been issued license number RN 9478970.

4. Petitioner has observed aesthetic injections and assisting in the operating room under the supervision of a medical doctor and a nurse practitioner for the past 4 years.

5. Petitioner seeks clarification of whether it is in the scope of her practice to have task delegation of Botox Cosmetic (Botox) from the supervising physician to her, when the physician has examined the patient, written an order for the prescribed Botox medication treatment with a description of the muscles to be injected and the number of units per injection site, with the task of administering the Botox delegated to Petitioner.

CONCLUSIONS OF LAW

6. The Board has jurisdiction over this matter pursuant to section 120.565, and Chapter 464, Florida Statutes.

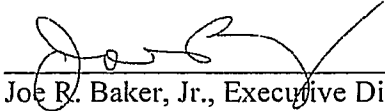
7. The petition filed in this matter is in substantial compliance with the provisions of Section 120.565, Florida Statutes and Rule 28-105, Florida Administrative Code.

8. Section 464.003(19), Florida Statutes, defines the “practice of professional nursing”, with subparagraph (b) of this definition stating that “the administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.”

9. The Board found that under the specific facts of the petition, it is within the scope of Petitioner’s specific and particular education, training, and experience and that she can be delegated the task of administering Botox under the direction of a duly licensed physician, and in the manner set forth in the petition, that the answer to her request would be “yes”.

DONE AND ORDERED this 5th day of July, 2023.

BOARD OF NURSING



Joe R. Baker, Jr., Executive Director
for Jose D. Castillo, III, PhD, MSNA, CRNA, APRN, 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 Health 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 Florida 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 was furnished by U.S. mail to **Jessica James, RN**, 543 Fontaine Street, Suite A, Pensacola, Florida 32503; and to: **Deborah B. Loucks**, Senior Assistant Attorney General, deborah.loucks@myfloridalegal.com; **Cassandra Fullove**, Senior Legal Specialist, Office of the Attorney General, Cassandra.fullove@myfloridalegal.com; and **Angela Southwell**, Paralegal Specialist, Office of the Attorney General, angela.southwell@myfloridalegal.com; on July 6, 2023.

Elizabeth Eubanks
Deputy Agency Clerk

To: Department of Health's Agency Clerk's Office

4052 Bald Cypress Way

Tallahassee, FL 32399

Jessica A. James, RN

License number RN9478970

Peter Butler

543 Fontaine St Suite A

Pensacola FL, 32503

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Amy L Carraway
DATE: MAR 20 2023

Petition for Declaratory Statement before the Florida Board of Nursing

September 26, 2022

To Whom It May Concern,

I am a Registered Nurse at Gulf Coast Plastic Surgery, a medical facility owned and operated by plastic surgeon, Dr. Peter Butler, MD, FACS. I have worked as a mentee under Dr. Peter Butler and Brittany Perez DNP, FNP-C over the past four years observing aesthetic injections and assisting in the operating room. I completed Method Aesthetics Academy Level 1 training that granted 12 CMEs in aesthetic medicine in April 2022.

I am requesting clarification for task delegation of Botox Cosmetic from Dr. Peter Butler MD, FACS, to myself, Jessica James, RN based on statute 120.565 Declaratory statement by agencies.—

- (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
- (2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.
- (3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Register and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Register. Agency disposition of petitions shall be final agency action.

I am requesting clarification for task delegation of Botox Cosmetic from Dr. Peter Butler, to myself Jessica James, RN. Dr. Peter Butler would perform an exam on each patient, write an order for the prescribed Botox Cosmetic medication treatment with a description of the muscles to be injected and the number of units per injection site, and then delegate the task of medication administration to myself, Jessica James, RN. An informed consent would be signed by the patient and co-signed by Dr. Peter Butler, MD, FACS. The written order would then be followed and performed under the direct supervision of Dr. Peter Butler. This request is based on Section 464.003(2) B. that addresses the scope of practice of RNs as follows: "The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by laws of this state to prescribe

such medications and treatments." The scope of practice of RNs to include the administration of medications (Botox Cosmetic) as prescribed by Dr. Peter Butler, MD, FACS, authorized by the laws of Florida to prescribe such medications and treatments. This task delegation was previously approved by the Board of Medicine and the Florida Department of Health for a different RN within the practice if these stated standards were met.

Please contact me with any questions in regards to this petition. Thank you for your consideration.

Sincerely,

Jessica James, RN

Jessica@gulfcoastplasticsurgery.com

