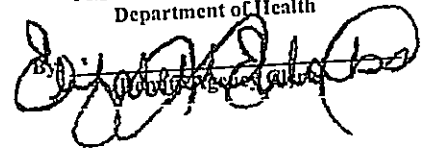


By: 

STATE OF FLORIDA  
BOARD OF NURSING

IN RE: THE PETITION FOR DECLARATORY STATEMENT OF:  
ANGELA DVOROZNAK, BSN, RN, CASC

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**CORRECTED FINAL ORDER**

THIS MATTER came before the Florida Board of Nursing (Board) pursuant to Section 120.565, Florida Statutes. At a duly-noticed public meeting held on June 2, 2022, in Lake Buena Vista, Florida, the Board considered a Petition for Declaratory Statement filed by Angela Dvoroznak (Petitioner). The Petition was filed with the Department of Health Clerk on May 3, 2022; a copy of which is attached hereto. The Petition was duly filed and noticed in the Florida Administrative Register in Volume 48, Number 88, on May 5, 2022. On May 26, 2022, a Motion to Intervene was filed on behalf of the Florida Medical Association, Inc, Florida Osteopathic Medical Association, Inc., and Florida Society of Plastic Surgeons, Inc. in opposition to the filed Petition for Declaratory Statement.

This Order is corrected to list the proper client of Mr. Nuland. The original Final Order filed in this matter on June 21, 2022, listed an incorrect client.

Petitioner was not present at the hearing. The Board was represented by Deborah Bartholow Loucks, Senior Assistant Attorney General. Christopher L. Nuland, Attorney at Law, appeared on behalf of the intervenors.

The Board granted the Petition to Intervene and heard comments and discussion from the intervenors.

Having considered the Petition, relevant statutes and rules, the arguments and statements provided by the intervenors, 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 48 Number 88, published on May 5, 2022.
2. The Petition is attached hereto and incorporated herein by reference.
3. Petitioner, Angela Dvoroznak, is a Florida licensed Registered Nurse, having been issued license number RN 9308354.
4. Petitioner works in and manages the operating room of a busy plastic surgeon's office.
5. Petitioner seeks clarification of whether it is within the scope of her practice as a registered nurse to perform seroma evacuations.
6. Petitioner has received seroma evacuation training on her job and performs the evacuations as authorized and supervised by her employing surgeon.

**CONCLUSIONS OF LAW**

7. The Board has jurisdiction over this matter pursuant to section 120.565, and Chapter 464, Florida Statutes.
8. 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.
9. The Board found that the Florida Medical Association, Inc., Florida Society of Plastic Surgeons, Inc., and the Florida Osteopathic Medical Association, Inc. have standing to intervene in this matter. The Motion to Intervene is attached hereto.
10. Petitioner erroneously lists Section 464.003.18(b), Florida Statutes, as the statute that outlines the scope of practice of a registered nurse. The correct citation is Section 464.003(19), Florida Statutes.

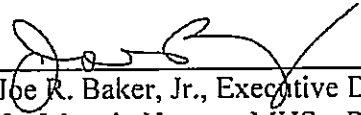
11. Section 464.003(19), Florida Statutes, defines the “practice of professional nursing.” The scope of practice includes providing treatments as prescribed or authorized by a duly licensed practitioner. This section also provides that the registered nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and nursing experience.

12. The intervenors cited Section 458.303, Florida Statutes, the Florida Medical Practice Act, which states that a registered nurse is allowed to render services under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. To the extent that Petitioner and her supervising physician are complying with this statute, the Board found that she is allowed to perform seroma evacuations.

13. This declaratory statement applies only to Petitioner; not to any other nursing staff at the facility.

14. **DONE AND ORDERED** this 11<sup>th</sup> day of July, 2022, *nunc pro tunc*.

BOARD OF NURSING

  
\_\_\_\_\_  
Joe R. Baker, Jr., Executive Director  
for Maggie Hansen, MHSc, RN, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified and U.S. Mail to: **Angela Dvoroznak**, 1229 Blarney Street, Minneola, Florida 34715; and by electronic mail to: counsel of record for the intervenors, **Christopher Nuland**, [nulandlaw@aol.com](mailto:nulandlaw@aol.com); **Deborah Loucks**, Senior Assistant Attorney General, [Deborah.Loucks@myfloridalegal.com](mailto:Deborah.Loucks@myfloridalegal.com); **Angela Southwell**, Paralegal Specialist, Office of the Attorney General, [angela.southwell@myfloridalegal.com](mailto:angela.southwell@myfloridalegal.com); and **Cassandra Fullove**, Senior Legal Assistant, Office of the Attorney General, [Cassandra.fullove@myfloridalegal.com](mailto:Cassandra.fullove@myfloridalegal.com); on July 11, 2022.

**Certified Article Number**

9414 7266 9904 2178 1271 02

**SENDER'S RECORD**

*Elizabeth Eubanks*  
Deputy Agency Clerk

Angela Dvoroznak  
1229 Blarney Street  
Minneola, FL 34715

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK

April 29, 2022

CLERK: *Elizabeth Eubank*  
DATE: MAY 03 2022

Angela Dvoroznak  
1229 Blarney Street  
Minneola, FL 34715  
(407) 415-7302  
FAX: (407) 386-6188

RE: Petition for Declaratory Statement before the FBON

Pertaining to the following FL State Statute:

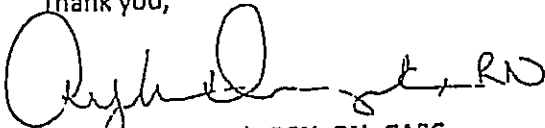
464.003.18 (b)

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.

Is it within an RN Scope of Practice to evacuate and drain a post-surgical seroma. I am a post BSN trained Registered Nurse, however seroma evacuation training is limited to the training provided on the job, supervised and authorized by my employing surgeon, Dr. Harun Zekirovski, OS12990.

I work in and manage an OR of a busy plastic surgery office and the surgeon has ordered for the RN staff to perform seroma evacuations, but I need confirmation that this is within my scope of practice as an RN.

Thank you,



Angela Dvoroznak, BSN, RN, CASC  
RN9308354

**28-105.002 The Petition.**

A petition seeking a declaratory statement shall be filed with the clerk of the agency that has the authority to interpret the statute, rule, or order at issue and shall provide the following information:

- (1) The caption shall read: Petition for Declaratory Statement Before (Name of Agency).
- (2) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner.
- (3) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner's attorney or qualified representative if any.
- (4) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought.
- (5) A description of how the statutes, rules, or orders may substantially affect the petitioner in the petitioner's particular set of circumstances.
- (6) The signature of the petitioner or of the petitioner's attorney or qualified representative.
- (7) The date.

*Rulemaking Authority 1-1-202, 120.54(5)(b)6. FS. Law Implemented 120.565 FS. History--New 4-1-97, Amended 3-18-98, 1-15-07, 2-5-13.*

FILED  
 DEPARTMENT OF HEALTH  
 DEPUTY CLERK  
 CLERK: *Elizabeth Eubanks*  
 DATE: MAY 23 2022

May 23, 2022

Florida Board of Nursing  
 Attention: Executive Director  
 4052 Bald Cypress Way, Bin C-02  
 Tallahassee, FL 32399-3258  
 MQA.Nursing@flhealth.gov

**FLORIDA MEDICAL ASSOCIATION, INC., FLORIDA SOCIETY OF PLASTIC SURGEONS, INC., AND FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION, INC. MOTION TO INTERVENE IN FLORIDA BOARD OF NURSING'S CONSIDERATION OF THE PETITION FOR DECLARATORY STATEMENT IN OPPOSITION TO PETITIONER ANGELA DVOROZNAK, R.N.**

The Florida Society of Plastic Surgeons, Inc. ("FSPS"), the Florida Medical Association, Inc. ("FMA"), and the Florida Osteopathic Medical Association, Inc. ("FOMA"), each by and through its undersigned counsel, hereby respectfully petition the Florida Board of Nursing to allow each of the Petitioners to intervene in the Board of Nursing's discussion of the above Petition in opposition to the Petitioner, pursuant to Rule 28.106.205, Florida Administrative Code. In support of the proposed Intervenor's motion, each of the proposed Intervenor's hereby states:

1. The Florida Medical Association, Inc. is a Florida-based trade organization comprised of over 25,000 Florida physicians, many of whom specialize in plastic surgery or other surgical procedures for which seromas are a known complication requiring medical intervention. Moreover, to the extent that other medical professionals may be involved in the treatment of such seromas, members of the FMA must provide an appropriate level of supervision (see, e.g., 458.303(2)). As a result, members of the FMA, as surgeons and potential supervisors, would be affected by the Board of

Nursing's decision in this case. The FMA routinely participates in advocacy efforts on behalf of its members in matters concerning the rights and obligations of physicians, including their supervision responsibilities.

2. FMA's address, phone number and facsimile number are as follows:  
1430 Piedmont Drive East, Tallahassee, FL 32308  
(850) 224-6496  
Facsimile: (850) 224-6667  
Email: [legal@flmedical.org](mailto:legal@flmedical.org)
3. Petitioner FMA's counsel's name, address, phone number, facsimile number, and email are Mary Thomas, Esq., 1430 Piedmont Drive East, Tallahassee, Florida 32308. (850) 224-6496. Facsimile (850) 224-6667.  
Email: [MThomas@flmedical.org](mailto:MThomas@flmedical.org)
4. The Florida Society of Plastic Surgeons, Inc. ("FSPS") is a Florida-based trade organization comprised of approximately 200 Florida physicians, each of whom is board certified in Plastic Surgery. As such, FSPS members routinely perform surgical procedures for which seromas are a known complication, requiring medical intervention. Moreover, to the extent that other medical professionals may be involved in the treatment of such seromas, members of the FSPS must provide an appropriate level of supervision (see, e.g., 458.303(2)). As a result, members of the FSPS, as surgeons and potential supervisors, would be affected by the Board of Nursing's decision in this case. The FSPS routinely participates in



advocacy efforts on behalf of its members in matters concerning the rights and obligations of physicians, including their supervision responsibilities.

5. The FSPS routinely participates in advocacy efforts on behalf of its members in matters concerning the rights and obligations of physicians, including issues regarding the services that may be delegated to a Registered Nurse, such as those services cited in the Petition.
  6. FSPS's address, phone number and facsimile number are as follows:  
  
6300 Sagewood Drive, H255  
  
Park City, UT 84098  
  
(435) 602-1326  
  
Email: [srussell@hdplanit.com](mailto:srussell@hdplanit.com)
  7. Petitioner FSPS's counsel's name, address, phone number, facsimile number, and email are Christopher L. Nuland, Esq., 4427 Herschel Street, Jacksonville, FL 32210. (904) 355-1555. Facsimile (904) 355-1585.  
  
Email: [nulandlaw@aol.com](mailto:nulandlaw@aol.com).
  8. The Florida Osteopathic Medical Association (FOMA) is a Florida-based professional trade organization comprised of nearly 7,500 Florida osteopathic physicians, many of whom specialize in plastic surgery or other surgical procedures for which seromas are a known complication requiring medical intervention. Moreover, to the extent that other medical professionals may be involved in the treatment of such seromas, members of the FMA must provide an appropriate level of supervision
-

(see, e.g., 458.303(2)). As a result, members of FOMA, as surgeons and potential supervisors, would be affected by the Board of Nursing's decision in this case. FOMA routinely participates in advocacy efforts on behalf of its members in matters concerning the rights and obligations of physicians, including supervision issues.

9. FOMA's address, phone number and facsimile number are as follows:  
2544 Blairstone Pines Drive, Tallahassee, FL 32301  
(850) 878-7363  
Facsimile: (850) 942-7538  
Email: [admin@foma.org](mailto:admin@foma.org)
10. Petitioner FOMA's legal counsel's name, address, phone number, facsimile number, and email are Jason D. Winn, Esq., of Winn Law, 2709 Killarney Way, Suite 4, Tallahassee FL 32309. (850) 519-5876. Facsimile (850) 222-1562. Email: [jwinn@jwinnlaw.com](mailto:jwinn@jwinnlaw.com).
11. A substantial number of the members of each of the Petitioners routinely perform surgical procedures for which seromas are a known complication and are responsible for the treatment of such seromas. Moreover, a substantial number of the members of each of the parties to this Motion supervise registered nurses who assist in the treatment of such seromas. Therefore, a substantial number of the members of each of the proposed Intervenors would be substantially affected by the Board's decision in this matter, as they have a unique and vested interest in the outcome of the subject Petition. As a result, the substantial interests of

each of the proposed Intervenor will be affected by the proceeding, and each of the proposed Intervenor therefore has standing to participate in these proceedings. *See Florida Home Builders Association v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982).

12. The Petitioner is licensed as a "Registered Nurse," pursuant to Florida Statute Chapter 464.
13. Florida Statute 458.303(2) protects registered nurses from an accusation of practicing medicine without a license, so long as certain supervisory protections are in place, to wit:

**458.303 Provisions not applicable to other practitioners; exceptions, etc.—**

(2) Nothing in s. 458.301, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, s. 458.347, or this section shall be construed to prohibit any service rendered by a registered nurse or a licensed practical nurse, *if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed*. (emphasis added). Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

14. It is unclear from the Petition whether Dr. Zekirovski is providing direct (i.e., onsite) supervision, or whether he provides specific direction for evacuation of seromas and/or provides final approval for such procedures. As a result, the Board of Nursing is without the means to

ascertain whether the Petitioner and Dr. Zekirovski would be in compliance with F.S. 458.303(2).

15. It should also be noted that the aspiration of a seroma is a surgical procedure, having been assigned the surgical CPT Code 10140 by the American Medical Association. The development of the seroma is a known complication of many surgical procedures, and it requires an evaluation and diagnosis as to whether the underlying wound is healing adequately and, as such, requires a medical (as opposed to "nursing") diagnosis.
16. Moreover, the proposed conduct may result in Dr. Zekirovski being in violation of Rule 64B8-9.007(3) and (4), which read:
  - (3) Management of postsurgical care is the responsibility of the operating surgeon.
  - (4) The operating surgeon can delegate discretionary postoperative activities to equivalently trained licensed doctors of medicine or osteopathy or to physicians practicing within Board approved postgraduate training programs. Delegation to any health care practitioner is permitted only if the other practitioner is supervised by the operating surgeon or an equivalently trained licensed doctor of medicine or osteopathy or a physician practicing within a Board approved postgraduate training program.
17. Based upon the above, the parties to this Motion are of the opinion that the evacuation of a seroma is a medical procedure requiring medical diagnosis, that it is part of post-surgical care that cannot legally be delegated to a registered nurse, and that the procedures contemplated in the Petition should therefore be prohibited.

18. The authority of an agency to issue a declaratory statement is limited by Section 120.565, F.S., to a determination "as to the applicability of a statutory provision...to the petitioner's particular set of circumstances." *Lennar Homes, Inc. v. Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes*, 888 So. 2d 50, 53 (Fla. 1<sup>st</sup> DCA 2004).
19. In the instant case, the Board is being asked to ascertain whether it is "within an RN Scope of Practice to evacuate and drain a post-surgical seroma." In essence, the Petitioner is requesting the Board to adopt a statutory interpretation that would be applicable to each and every registered nurse in Florida to allow them to perform such procedures.
20. When an agency is called upon to issue a declaratory statement "which would require a response of such a general and consistent nature as to meet the definition of a rule, the agency should either decline to issue the statement or comply with the provisions of Section 120.54 governing rulemaking." *Agency for Health Care Administration v. Wingo*, 697 So.2d 1231, 1233 (Fla. 1<sup>st</sup> DCA 1997). Because the question presented by the Petition is overly broad, granting the Petition would constitute an unlawful non-rule policy and should therefore be dismissed.

WHEREFORE, the FMA, FSPS, and FOMA, each respectfully requests that, pursuant to Section 120.565, Florida Statutes, it be allowed to intervene in the subject proceeding in opposition to the Petitioner and that the Board of Nursing either issue a

Declaratory Order prohibiting the conduct proposed by the Petitioner or dismiss the  
Petition for Declaratory Statement.

Respectfully submitted this 23rd day of May, 2022.

Christopher L. Nuland

Christopher L. Nuland, Esq.

FLORIDA BAR NO: 890332

LAW OFFICES OF CHRISTOPHER L. NULAND, P.A.

Counsel for Petitioner Florida Society of Plastic Surgeons, Inc.

4427 Herschel Street

Jacksonville, FL 32210

(904) 355-1555

Facsimile: (904) 355-1585

[nulandlaw@aol.com](mailto:nulandlaw@aol.com)

Certificate of Service

I hereby certify that a copy of the foregoing was served upon the Petitioner by U.S. mail to Angela Dvoroznak, RN, at 1229 Blarney Street, Minneola, FL 34715; by U.S. mail to Deborah Loucks, Office of Attorney General, The Capitol, PL-01, Tallahassee 32399 and via email to [deborah.loucks@myfloridalegal.com](mailto:deborah.loucks@myfloridalegal.com); to the Florida Department of Health, Agency Clerk, via U.S. Mail to 4052 Bald Cypress Way, Bin A-02, Tallahassee, FL 32399; and to the Board of Nursing by U.S. Mail at 4052 Bald Cypress Way, Bin C-02, Tallahassee, FL 32399-3258, and email at [Joe.Baker@flhealth.gov](mailto:Joe.Baker@flhealth.gov) on this 23rd day of May, 2022.

Christopher L. Nuland

Christopher L. Nuland