

By: Neather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

IN RE: PETITION FOR DECLARATORY STATEMENT

ORLANDO G. FLORETE, JR., M.D.

FINAL ORDER

This matter came before the Board of Medicine (hereinafter the "Board") on August 2, 2003, in Orlando, Florida, for consideration of the above-referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on June 29, 2003, in the Vol. 29, No. 26, in the Florida Administrative Weekly.

The petition filed by ORLANDO G. FLORETE, JR., M.D. inquired as to whether physician assistants employed by the Petitioner may perform injective therapy under fluoroscopic guidance under the direction and supervision of a supervising physician.

FINDINGS OF FACTS

1. The Petitioner, ORLANDO G. FLORETE, JR., M.D., is a physician licensed to practice medicine in the State of Florida.
2. The Petitioner asserts that he has an extensive and specialized pain medical management practice that employs several physicians and physician's assistants. The practice operates under the name The Institute of Pain Management, P.A.
3. In his petition, Dr. Florete inquires as to whether physician's assistants employed by his practice may perform injective therapy under fluoroscopic guidance under the direction and supervision of a supervising physician. The petition specifically excludes the administration of regional and general anesthesia.

4. However, on the record, the Petitioner further limited the scope of his inquiry by clarifying that it is his intent that his physician's assistants shall perform injective therapy under flourosopic guidance only under the direct supervision of a licensed physician and only on procedures involving the sacroiliac (SI) and facet joints.

CONCLUSIONS OF LAW

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

6. Section 458.347(4)(a), Florida Statutes, reads as follows:

The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.

7. Pursuant to Section 458.347(4)(a), the Board has promulgated Rule 64B8-30.012, Florida Administrative Code, which reads in part as follows:

(1) A supervising physician shall delegate only tasks and procedures to the physician assistant which are within the supervising physician's scope of practice. The physician assistant may work in any setting that is within the scope of practice of the supervising physician's practice. The supervising physician's scope of practice shall be defined for the purpose of this section as "those tasks and procedures which the supervising physician is qualified by training or experience to perform."

(2) The decision to permit the physician assistant to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. Furthermore, the supervising physician must be certain that the physician assistant is knowledgeable and skilled in performing the tasks and procedures assigned.

(a) The following duties are not permitted to be delegated at all, except where expressly authorized by statute:

1. Prescribing, dispensing, or compounding medicinal drugs
2. Final Diagnosis

(b) The following duties are not permitted to be performed under indirect supervision:

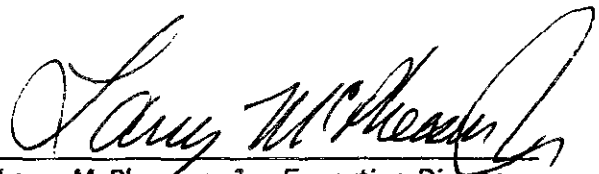
1. Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines
2. Performance of cardiac stress testing
3. Routine insertion of central venous catheters
4. Injection of intrathecal medication without prior approval of the supervising physician
5. Interpretation of laboratory tests, X-ray studies and EKG's without the supervising physician interpretation and final review
6. Administration of general, spinal, and epidural anesthetics; this may be performed under direct supervision only by physician assistants who graduated from Board-approved programs for the education of anesthesiology assistants.

8. Based on the foregoing statute and rules, the Board is of the opinion that the Petitioner may allow the physician's assistants he employs to perform injective therapy under flourosopic guidance on sacroiliac (SI) and facet joints under the direct supervision of a supervising physician as long as such procedures are within the supervising physician's scope of practice and the physician assistant is knowledgeable and skilled in performing such tasks.

9. The Board's response to this Petition answers only the question propounded by the Petitioner and only addresses issues regarding the propriety of physician's assistants performing injective therapy under flourosopic guidance on sacroiliac (SI) and facet joints under the direct supervision of a supervising physician. This declaratory statement does not address the administration of general and regional anesthesia by physician's assistants.

DONE AND ORDERED this 17 day of OCTOBER, 2003.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Raghavendra Vijayanagar, M.D., Chair

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, Respondents 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 of Health and the filing fee and one copy of a notice of appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to: Orlando G. Florete, Jr., M.D., Institute of Management, P.A., 820 Prudential Drive, Suite 111, Jacksonville, Florida 32207, D. Randall Briley, Esquire, 135 Professional Drive, Suite 101, Ponte Vedra Beach, Florida 32082; and by interoffice mail to Edward A. Tellechea, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 3239-1050; and William Large, Esquire, General Counsel, Department of Health, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, on this 20 day of October, 2003.

Shawn Sykes

BARTLETT & DEAL, P.A.

ATTORNEYS AT LAW

135 PROFESSIONAL DRIVE, SUITE 101 · PONTE VEDRA BEACH, FLORIDA 32082
TELEPHONE (904) 285-5299 · FACSIMILE (904) 285-1640 · WWW.JAXRELAW.COM

BARON L. BARTLETT
BBARTLETT@JAXRELAW.COM

D. RANDALL BRILEY
RBRILEY@JAXRELAW.COM

BLAKE F. DEAL III
BDEAL@JAXRELAW.COM

May 22, 2003

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CHIEF OF OFFICE

MEDICINE BOARD
2003 JUN -5 PM 4:04

Department of Health
Board of Medicine
4052 Bald Cypress Way
Bin #C03
Tallahassee, FL 32399-3253

RE: Petition for Declaratory Statement

Dear Sir or Madam:

Please find enclosed a petition for Declaratory Statement on behalf of my client, Institute of Pain Management, P.A. Please let me know if there is anything else I need to do or provide. I look forward to the Board's response.

Sincerely yours,

D. Randall Briley
D. Randall Briley

PETITION FOR DECLARATORY STATEMENT BEFORE THE BOARD OF MEDICINE

1. Petitioner, Orlando G. Florete, Jr., M.D. of the Institute of Pain Management, P.A., 820 Prudential Drive, Suite 111, Jacksonville, Fl 32207, (904) 306-9860, Fax (904) 306-9864 seeks a Declaratory Statement from the Board of Medicine with regard to Sections 64B8-30.008 and 64B8-30.012 Florida Administrative Code.

2. Sections 64B8-30.008 Florida Administrative Code implements Section 458.347(4)(e), Florida Statutes and Sections 64B8-30.012 Florida Administrative Code implements Section 458.347(2), (3), (4), (13) Florida Statutes.

3. Petitioner has an extensive and extremely specialized pain management medical practice in the Jacksonville, Florida area.

4. Petitioner employs several Physicians and Physician's Assistants in its practice.

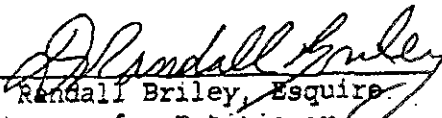
5. Petitioner desires to utilize its Physician's Assistants to do injective therapy under fluoroscopic guidance at the direction and supervision of the supervising Physician.

6. Petitioner requests guidance as to whether it is appropriate to have its Physician's Assistants do injective therapy under fluoroscopic guidance at the direction and supervision of the supervising Physician.

7. Procedures involving administration of regional and

general anesthesia are excepted from this Petition as Petitioner does not seek to have its Physician's Assistants administer regional or general anesthesia.

Signed on the 22 day of May, 2003.


D. Randall Briley, Esquire
Attorney for Petitioner
Florida Bar No.: 797316
135 Professional Drive
Suite 101
Ponte Vedra Beach, Florida 32082
(904) 285-5299
(904) 285-1640 Fax