

STATE OF FLORIDA  
BOARD OF MEDICINE

IN RE: PETITION FOR DECLARATORY STATEMENT  
OF ALEXIS P. HENDERSON, M.D.

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**FINAL ORDER ON PETITION FOR DECLARATORY STATEMENT**

This matter came before the Board of Medicine (hereinafter the "Board") on September 30, 2011, in Tampa, Florida, for consideration of the above referenced Petition for Declaratory Statement (attached hereto as exhibit A). The Notice of Petition for Declaratory Statement was published on August 26, 2011, in the Vol. 37, No. 34, in the Florida Administrative Weekly.

The petition filed by Alexis P. Henderson, M.D., inquires as to whether she is precluded from dispensing to patients the drug buprenorphine under 465.0276(1)(b), Florida Statutes (2011).

**FINDINGS OF FACTS**

1. Petitioner, Alexis P. Henderson M.D., is a physician licensed pursuant to Chapter 458, Florida Statutes.
2. Petitioner provides outpatient opiate addiction treatment to patients in compliance with the Drug Addiction Treatment Act of 2000.
3. In the past, the Petitioner dispensed to patients who had been diagnosed with opiate addiction buprenorphine based medications such as Suboxone, Subutex, and other generic forms of the drug.

**CONCLUSIONS OF LAW**

4. 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.

4. The Petition filed in this cause is in substantial compliance with the provisions of 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.

5. For purposes of determining standing in this matter, the Petitioner, an allopathic physicians licensed pursuant to Chapter 458, Florida Statutes, is a substantially affected persons because failure to comply with the provisions of Section 465.0276, Florida Statutes, may result in disciplinary actions against her license to practice medicine

6. Section 465.0276(1)(b), Florida Statutes, reads in part as follows:

A practitioner registered under this section may not dispense a controlled substance listed in Schedule II or Schedule III as provided in s. 893.03.

7. Buprenorphine and any material, compound, mixture, or preparation containing buprenorphine qualifies as a Schedule V drug pursuant to Section 893.03(5)(b), Florida Statutes.

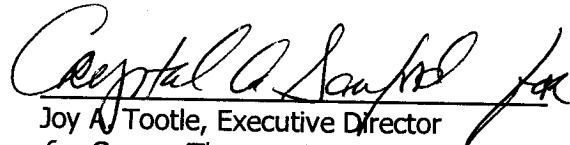
8. Based on the foregoing, the Board is of the opinion that the Petitioner is not precluded from dispensing the drug buprenorphine under 465.0276(1)(b), Florida Statutes (2011)

9. This Final Order is issued in response to the questions propounded by the Petitioner as set forth in his Petition For Declaratory Statement. The Board's conclusions is based solely on the Board's application of the factual circumstances outlined in the Petition to the pertinent statutory and rule provisions set forth above.

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

DONE AND ORDERED this 12<sup>th</sup> day of December, 2011.

**BOARD OF MEDICINE**

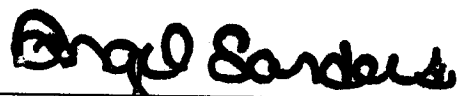
  
Joy A. Tootle, Executive Director  
for George Thomas, M.D., Chair

**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.

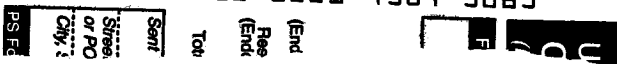
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to: Alexis P. Henderson M.D., 1123 Marbella Plaza Drive, Tampa, Florida 33619; by email transmission to Edward A. Tellechea, Senior Assistant Attorney General, Office of the Attorney General PL-01 The Capitol, Tallahassee, Florida 3239-1050, [ed.tellechea@myfloridalegal.com](mailto:ed.tellechea@myfloridalegal.com); and by interoffice mail to Nicholas Romanello, General Counsel, Department of Health, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, on this 14<sup>th</sup> day of December, 2011.



**Deputy Agency Clerk**

7009 3410 0001 4584 5065





Rick Scott  
Governor

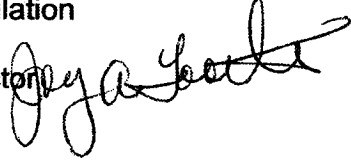
H. Frank Farmer, Jr., MD, PhD, FACP  
State Surgeon General

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**INTEROFFICE MEMORANDUM**

**DATE:** December 9, 2011

**TO:** Cassandra Pasley, BSN, J.D., Bureau Chief  
Health Care Practitioner Regulation

**FROM:** Joy A. Tootle, Executive Director  
Board of Medicine 

**SUBJECT:** Delegation of Authority

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This is to advise you that while I am out of the office on Monday December 12, 2011, Crystal Sanford is delegated to serve as acting Executive Director for the Board of Medicine. Ms. Sanford can be reached at (850) 245-4132.

JAT

**Petition for Declaratory Statement  
Before Board of Medicine**

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK: *Angela Baxton*  
DATE 8/2/11

**Date:**  
August 2, 2011

**Petitioner:**  
Alexis P. Henderson, M.D.  
1123 Marbella Plaza Drive  
Tampa, FL 33619  
Phone: (813) 443-5128  
Fax: (813) 443-5146

**Statutory Provisions:**

458.327 Penalty for violations.—

(1) Each of the following acts constitutes a felony of the 824 third degree, punishable as provided in s. 775.082, s. 775.083, 825 or s. 775.084:

(f) Dispensing a controlled substance listed in Schedule 827 II or Schedule III in violation of s. 465.0276.

465.0276 Dispensing practitioner.—

(b)1. A practitioner registered under this section may not 1601 dispense a controlled substance listed in Schedule II or, Schedule III as provided in s. 893.03

803.03 Standards and Schedules

(5) SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts: Buprenorphine.

**Effect on Practitioner**

I currently provide outpatient opiate addiction treatment to patients in compliance with the Drug Addiction Treatment Act of 2000. Buprenorphine

based medications are administered, prescribed and at one time had been dispensed to patients after it had been determined the patients met the qualifications of opiate addiction. The particular medications used in this practice are Suboxone, Subutex and some generic forms of those Buprenorphine based medications. No other medications are used in this practice.

The implementations of the new Dispensing Practitioner laws as noted above, have caused particular confusion with regard to the treatment of these patients. The confusion relates specifically to the administration and dispensing of Buprenorphine based medications listed as Schedule III controlled substances by Federal law and listed as Schedule V controlled substances by Florida state law.

I would like to continue administering and dispensing Buprenorphine based medications to these patients. Can I do so? Please provide guidance and answer my questions and doubts concerning the applicability of these statutory provisions as it relates to the administration and dispensing of Buprenorphine based medications for treatment from this office.

Sincerely,



Alexis P. Henderson, M.D.