

FILED

Department of Professional Regulation
BEFORE THE BOARD OF MEDICAL EXAMINERS
CLERK

IN RE: Petition for Declaratory
Statement of:

CLERK [Signature]
DATE 4-1-82
DS 81-03

STANLEY P. WEGRYN, M.D.
21028

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Sanibel Island 33957

XCI: Hobbs
Sigler
P. L. L. L.

FINAL ORDER OF
THE BOARD OF MEDICAL EXAMINERS

This cause came on for consideration by the Board of Medical Examiners at a public meeting in Tampa, Florida, on February 7, 1982. Stanley P. Wegryn, M.D., (hereinafter referred to as Petitioner) filed a Petition for Declaratory Statement pursuant to Section 120.565, Florida Statutes, and Rules 28-4.01 and 28-4.05, Model Rules of Procedure, requesting a declaratory statement from the Board of Medical Examiners. The Petition for Declaratory Statement contains numerous questions relating to Section 458.347, Florida Statutes, and Rule Chapter 21M-17, Florida Administrative Code. Petitioner had previously waived the requirements of Section 120.59, Florida Statutes, and Rule Chapter 28-4, Florida Administrative Code, as to the time for rendition of this Order.

Notice of receipt of Petition for Declaratory Statement was duly published in the Florida Administrative Weekly, Vol. 7, No. 25, on June 19, 1981. No request for an administrative hearing was received. A transcript of the proceeding is available, if required.

FINDINGS OF FACT

1. Petitioner is a Florida licensed physician who does not currently employ or have a physician's assistant certified to him.
2. Petitioner is not a proper party with requisite interests to request a declaratory statement.
3. Petitioner's Petition for Declaratory Statement is in substantial compliance with Section 120.565, Florida Statutes, and Rules 28-4.01 and 28-4.05, Model Rules of Procedure.

000578

4. The provisions of statutes and rules as to which Dr. Wegryn is in doubt have a substantial potential impact on Dr. Wegryn's interests in that, if found to have violated those provisions, he might be subjected to disciplinary action by the Board and the Department of Professional Regulation, ultimately resulting in reprimand, monetary penalty and/or suspension or revocation of his professional license. For this reason, Dr. Wegryn seeks a declaratory statement from the Board resolving his doubts about the meaning and applicability of provisions of statutes and rules.

5. Specifically, Petitioner asks the following:

(A) Whether Dr. Wegryn, who assumes responsibility and legal liability for the services rendered by his physician's assistant, is a "Supervising Physician" within the meaning of Florida Administrative Code Rule 21 M-17.01(3).

(B) Whether all "Responsible Physicians" within the meaning of Florida Administrative Code Rule 21 M-17.01(4), as to any particular physician's assistant, are required to be designated on the Board form entitled "Application for Certification of Physician's Assistant" to be completed by the physician.

(C) If question (B) is answered in the negative, whether a Responsible Physician as to any particular physician's assistant may be designated by the Supervising Physician on an ad-hoc or as-needed basis, so long as the Board is notified of such designation.

(D) Whether a properly designated Responsible Physician acts as a "Supervising Physician", within the meaning of Florida Administrative Code Rule 21 M-17.01(3), in the absence of the Supervising Physician.

(E) Whether a physician's assistant may lawfully perform all of the activities and functions described in the "Application for Certification of Physician's Assistant", submitted by the Supervising Physician as to the particular physician's assistant, and upon which application the Board has issued to the Supervising Physician a certificate of approval to supervise the physician's assistant, when the physician's assistant is acting under proper supervision within the meaning of Section 458.347(2)(f), Florida Statutes (1979), and Florida Administrative Code Rule 21 M-17.01(7).

(F) Whether "supervision" of a certified physician's assistant, within the meaning of Section 458.347(2)(f), Florida Statutes (1979), and Florida Administrative Code Rule 21 M-17.01(7), could lawfully be accomplished by the Supervising Physician if said Supervising Physician were in a location which would enable him to be physically present with the physician's assistant within at least thirty (30) minutes and be available to the physician's assistant when needed for consultation either in person or by means of communication devices.

(G) Whether "supervision" of a certified physician's assistant, within the meaning of Section 458.347(2)(f), Florida Statutes (1979), and Florida Administrative Code Rule 21 M-17.01(7), could lawfully be accomplished by a "Responsible Physician", defined at Florida Administrative Code Rule 21 M-17.01(4), designated as to the particular physician's assistant.

(H) Whether "supervision" of a certified physician's assistant, within the meaning of Section 458.347(2)(f), Florida Statutes (1979), and Florida Administrative

000580

Code Rule 21 M-17.01(7), could lawfully be accomplished by a Florida licensed physician not designated as Supervising Physician or Responsible Physician as to the particular physician's assistant.

(I) Whether "supervision" of a physician's assistant, as defined in Section 458.347(2)(f), Florida Statutes (1979), and Florida Administrative Code Rule 21 M-17.01(7), could lawfully be accomplished by the Supervising or Responsible Physician if said Supervising or Responsible Physician was available when needed for consultation and advice, by means of communication devices, to a Florida licensed physician physically present with the physician's assistant, but which licensed physician had not been previously designated as a Supervising or Responsible Physician.

(J) Whether the provisions of Section 458.347(3)(a) through (d), Florida Statutes (1979), are in the disjunctive or conjunctive.

(K) Whether the term, "physician to whom he is assigned", in Section 458.347(3)(a), (b), (c) and (d), Florida Statutes (1979), has the same meaning as "Supervising Physician", defined at Florida Administrative Code Rule 21 M-17.01(3).

(L) Whether the term, "physician to whom he is assigned", in Section 458.347(3)(a), (b), (c) and (d), Florida Statutes (1979), has the same meaning as "Responsible Physician", defined at Florida Administrative Code Rule 21 M-17.01(3).

(M) Whether a properly supervised certified physician's assistant could lawfully perform the following activities and functions with patients of the Supervising

000581

Physician, if the activities and functions were previously set forth in the "Application for Physician's Assistant" (hereinafter, the "Application"), submitted by the Supervising Physician and approved by the Board for the year during which the activities and functions were performed:

- (1) Perform initial patient interviews; record medical history and physical evaluations.
- (2) Perform and record follow-up physical evaluations.
- (3) Order appropriate laboratory studies for patients pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (4) Order and perform basic laboratory, roentgenographic and diagnostic procedures (including phlebotomies, joint aspirations, electrocardiograms, chest and extremity x-rays, and basic chemistry, hemotological and bacteriological studies):
 - (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (5) Review and record laboratory findings.
- (6) Perform routine physical evaluations for insurance, employment and educational purposes.
- (7) Perform and record initial interpretation of routine x-rays.
- (8) Consult with patients regarding medical, social, and psychological aspects of their diseases and discuss prognosis and therapy.
- (9) Administer injections to patients (IV and IM):
 - (a) as ordered by Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (10) Initiate appropriate treatment modalities with patients:
 - (a) as ordered by Supervising or Responsible Physician;

000582

(b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.

Examples of treatment modalities include:

- (c) suturing skin lacerations;
- (d) immobilization of simple fractures;
- (e) performing simple and uncomplicated orthopedic procedures;
- (f) incision, drainage, cleansing and debrision of wounds and burns;
- (g) removal of foreign bodies from skin (e.g.: fish hooks, catfish barbs, stingray barbs and shell fragments);
- (h) performing ear irrigations;
- (i) removal of foreign bodies from the eye;
- (j) administering and dispensing topical medications to patients.

(11) Administer "medicinal drugs", within the meaning of Section 465.003(7), Florida Statutes (1979), excluding "controlled substances" within the meaning of Section 893.02(3), Florida Statutes (1979), to patients:

- (a) as ordered by the Supervising or Responsible Physician;
- (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.

(12) Dispense medicinal drugs, excluding controlled substances, to patients:

- (a) as ordered by the Supervising or Responsible Physician;
- (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.

(13) Prepare written prescriptions for medicinal drugs, excluding controlled substances, on prescription forms to be signed by the Supervising or Responsible Physician.

(14) Order for patients, by means of telephone, medicinal drugs, excluding controlled substances:

- (a) as ordered by the Supervising or Responsible Physician;
- (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.

000583

- (15) Renew prescriptions for medicinal drugs, excluding controlled substances, by means of telephone:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (16) Prepare written prescriptions for "Schedule V" substances, within the meaning of Section 893.03(5), Florida Statutes (1979), on prescription forms to be signed by the Supervising or Responsible Physician.
- (17) Order for patients, by means of telephone, Schedule V substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (18) Administer Schedule V substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (19) Dispense properly packaged and labelled Schedule V substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (20) Renew prescriptions for Schedule V substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (21) Prepare written prescriptions for "Schedule IV" substances, within the meaning of Section 893.03(4), Florida Statutes (1979), on prescription forms to be signed by the Supervising or Responsible Physician.

000584

- (22) Order for patients, by means of telephone, Schedule IV substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (23) Administer Schedule IV substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (24) Dispense properly packaged and labelled Schedule IV substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (25) Renew precriptions for Schedule IV substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (26) Prepare written prescriptions for "Schedule III" substances, within the meaning of Section 893.03(3), Florida Statutes (1979), on prescription forms to be signed by the Supervising or Responsible Physician.
- (27) Order for patients, by means of telephone, Schedule III substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (28) Administer Schedule III substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.

000585

- (29) Dispense properly packaged and labelled Schedule III substances to patients:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (30) Renew prescriptions for Schedule III substances:
- (a) as ordered by the Supervising or Responsible Physician;
 - (b) pursuant to standing orders or protocol established by the Supervising or Responsible Physician.
- (31) Prepare preliminary diagnosis of patient conditions and report same to Supervising or Responsible Physician.
- (32) Prepare preliminary diagnosis of patients according to standing orders or protocol established by the Supervising or Responsible Physician.
- (33) Perform therapeutic procedures with patients according to standing orders or protocol established by the Supervising or Responsible Physician.

Respectfully Submitted,

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000586