

STATE OF FLORIDA
BOARD OF NURSINGIN RE: PETITION FOR DECLARATORY STATEMENT OF:
TISH HAIGHT, APRN

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 August 5, 2021, in Fort Lauderdale, Florida, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A), filed by Tish Haight, APRN (Petitioner). Petitioner was present. The Board was represented by Deborah Bartholow Loucks, Senior Assistant Attorney General.

The Petition was filed with the Department of Health on June 23, 2021. Petitioner seeks the Board's opinion as to whether the continuous intravenous infusion of non-anesthetic ketamine at Sarasota Memorial Hospital (SMH) is within her scope of practice as an advanced practice registered nurse under the circumstances described in her 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 47 Number 124 published on June 28, 2021.
2. The Petition is attached hereto and incorporated herein by reference.
3. Petitioner, Tish Haight, is an Advanced Practice Registered Nurse licensed to

practice nursing in the State of Florida, having been issued license number APRN 9165333.

4. Petitioner is practicing as an APRN at SMH under the supervision of Board Certified Critical Care Physicians and has served in her current position since April 2011.

5. Petitioner states that Advanced Practice Registered Nurses are working with supervising physicians at SMH and only a Board Certified Pain Management Physician, Trauma Surgeon or Critical Care Intensivist are able to order non-anesthetic doses of Ketamine for pain control.

6. Petitioner asks whether an APRN is responsible and accountable for making decisions based on her educational preparation and experience in nursing.

7. Petitioner inquires if it is within her scope of practice as an APRN at SMH to:

a. administer medication pursuant to an order of a duly authorized practitioner; and

b. to administer continuous infusions of low dose Ketamine for acute pain expected to be of longer duration with the infusions being ordered by a Board Certified Pain Management Physician, Trauma Surgeon, or Critical Care Intensivist.

CONCLUSIONS OF LAW

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

9. 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.

10. Section 464.003(2), Florida Statutes, defines “advanced or specialized nursing practice”, in part as

the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse. Within the

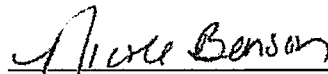
context of advanced or specialized nursing practice, the advanced practice nurse may also perform acts of medical diagnosis and treatment of alterations of the health status. The advanced practice registered nurse may also perform acts of medical diagnosis and treatment, prescription and operation as authorized within the framework of an established supervisory protocol.

11. 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 to administer medication pursuant to an order of a duly authorized practitioner and that an APRN is responsible and accountable for making decisions that are based upon her educational preparation and nursing experience.

12. Relevant to the administration of the ketamine, the Board found that as long as the administration dose example listed in the petition was an example of a per hour dose, the Board found that the administration of continuous infusions of low dose ketamine ordered by the one the physicians listed in the petition, is within Petitioner's scope.

DONE AND ORDERED this 24th day of August, 2021.

BOARD OF NURSING



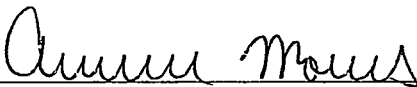
Joe R. Baker, Jr., Executive Director
for Deborah McKeen, CD-LPN, BS, Chair

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 **Tish Haight, APRN**, 6003 93rd Street Circle East, Bradenton, Florida 34202 and to her counsel of record, **Carol Kalish, Esq.**, 1700 S. Tamiami Trail, 2nd Floor, Admin Offices, Sarasota, Florida 34239-3509; and by electronic mail to: **Deborah B. Loucks**, Senior Assistant Attorney General, deborah.loucks@myfloridalegal.com, and **Angela Southwell**, Paralegal Specialist, Office of the Attorney General, angela.southwell@myfloridalegal.com, on August 24, 2021.



Deputy Agency Clerk



TO: Jennifer Wenhold, Acting Director
Division of MQA

FROM: Joe Baker, Jr., Executive Director
FBON

DATE: August 3, 2021

RE: Delegation of Authority

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The following managers are delegated authority for the Board office:

8/4-8/6	Sandi Williams	Regulatory Supervisor
8/9-25	Nicole Benson	Program Ops Administrator

Thank you.

JBjr/ms

FILED
 DEPARTMENT OF HEALTH
 DEPUTY CLERK
 CLERK: *Amanda Morales*
 DATE: JUN 23 2021
 RECEIVED

FLORIDA DEPARTMENT OF HEALTH
 BOARD OF NURSING

MAR 09 2021

BOARD OF NURSING

Petition for Declaratory Statement
 Before the Board of Nursing

In re:
 Tish Haight, APRN

Petitioner, Tish Haight, APRN, by and through the undersigned attorney and pursuant to Florida statues 120.565 and Florida Administrative Code Rule 28-105 seeks the Florida Board of Nursing's ("Board") to determine whether the intravenous administration of low dose Ketamine for the purpose of pain control in the acute care hospital setting is within the scope of the Advanced Practice Registered Nurse.

1. Petitioner is an Acute Care Certified Advanced Practice Registered Nurse licensed by the Florida Board of Nursing pursuant to Florida Statutes Chapter 464 and holding license number RN
2. For purposes of this Petition, Petitioner's address and phone number are in the care of the undersigned counsel at the address and telephone number listed below.
3. Petitioner is practicing as Advanced Practice Registered Nurse at Sarasota Memorial Hospital under the supervision of Board Certified Critical Care Physicians.
4. Practitioner has served in her current role since April 2011.
5. The petitioner is seeking the Board's determination as to whether it is within her scope of practice, to administer:
 - a. Continuous IV infusion of non-anesthetic Ketamine (i.e. 0.1-0.2 mg/kg) for acute pain expected to be of a longer duration
6. At Sarasota Memorial Hospital, only a Board Certified Pain Management Physician, Trauma Surgeon, or a Critical Care Intensivist will be able to order non-anesthetic doses of Ketamine for pain control.
7. In high doses, Ketamine produces anesthesia and analgesia without respiratory depression. In low doses, Ketamine produces only analgesia again without respiratory depression. Evidence supports the use of

Ketamine for acute pain as a stand-alone treatment or in conjunction with opiate therapy.

8. Low dose Ketamine has profound analgesic properties that make it an excellent choice for pain control. A driving force for its use in acute pain management is to reduce opioid consumption. Opioids are commonly used for the treatment of acute pain in hospitalized patients. In low doses, Ketamine has shown to have opioid sparing effects; making it a useful agent in many situations. It is especially helpful when seeking to avoid the respiratory depression associated with the use of opioids. The Society of Hospital Medicine, in April 2018, advises opiates be prescribed at the lowest possible dose for the shortest duration possible. Ketamine has been clearly shown to reduce opioid consumption. Ketamine, unlike opioids, does not cause respiratory depression. The following hospitalized patients would benefit from low dose Ketamine infusions.
 - a. Those patients undergoing surgeries whereby the expected post-op Pain will be severe (thoracic, open abdominal, limb and spine Procedures).
 - b. Opioid tolerant/dependent surgical patients or those with an acute exacerbation of a chronic pain condition who require hospitalization.
 - c. Those patients who are at risk for opioid induced respiratory depression (Obstructive sleep apnea patients) and are in need of effective pain control.
9. The most commonly reported side effects from Ketamine are nausea, vomiting, vivid dreams and hallucinations. Patients with the following contraindications will not be administered Ketamine for the treatment of acute pain. These patients are as follows:
 - Severe cardiovascular disease or poorly controlled hypertension
 - Elevated intracranial pressure
 - Elevated intraocular pressure
 - Hepatic dysfunction
 - Psychosis
10. The administration of Ketamine by APRNs and RNs has been addressed by Boards of Nursing in other states where licensees have sought regulatory guidance.

- The New York and Oregon Boards of Nursing have specifically addressed the issue of ketamine administration by RNs and have issued policy statements which state it is within the scope of practice for registered nurses to administer low dose ketamine as long as specific criteria are met.
- The Texas Board of Nursing implied in its FAQ that administration of low dose Ketamine may be within the nursing scope of practice. They also advised appropriate nurse training should occur.
- The State of Washington's Nursing Care Quality Assurance Commission in an Advisory Opinion dated 3-13-15 found that low-dose ketamine provides effective analgesia for the treatment of post-operative, neuropathic, and chronic pain, especially for patients with an existing opioid tolerance. The Washington board cited studies that find the use of Ketamine for pain relief yields many positive outcomes. Medical-surgical patients utilized less opioids and experienced less nausea and vomiting. In addition, the Washington Board cited studies whereby use of Ketamine resulted in better knee mobilization after total knee arthroplasty.
- The Wyoming Opinion outlines a ketamine infusion for pain relief be initiated by RNs with additional education, skills and demonstrated competence.
- The Nebraska Board of Nursing issued an Advisory Opinion on low dose Ketamine in April 2016. The opinion approved appropriately trained RNs could administer and monitor low-dose Ketamine infusions.
- Arizona, Alaska and Nevada have also issued opinions that RNs may administer low-dose ketamine for analgesia in select situations.

11. The scope of practice of an Advanced Practice registered nurse is defined in Florida Statutes §464.003(2,3) as follows:

(2) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of post basic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse. Within the context of advanced or specialized nursing practice, the advanced practice registered nurse may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced practice registered nurse may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

(3) "Advanced practice registered nurse" means any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses.

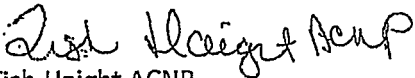
12. Advanced Practice Registered Nurses working with supervising physicians at SMH and with documented evidence of training specific to low-dose Ketamine would administer low-dose ketamine as ordered by a duly licensed and authorized practitioner.

ARGUMENT

13. The Board of Nursing has discretion to determine if a particular set of facts, with respect to a specific licensee, results in actions that are within the scope of practice of the Advanced Practice Registered Nurse
14. The registered Advanced Practice Registered Nurse may administer medication pursuant to an order of a duly authorized practitioner.
15. The Advanced Practice Registered Nurse is responsible and accountable for making decisions that are based upon the nurse's educational preparation and experience in nursing.
16. Advanced Practice Registered Nurses practicing with supervising physicians at SMH will administer continuous infusions of low dose Ketamine for acute pain expected to be of longer duration (i.e. sickle cell crisis). The infusions will be ordered by a Board Certified Pain Management Physician, Trauma Surgeon, or Critical Care Intensivist.
17. Multiple Boards of Nursing, including this board, have determined the administration of low-dose ketamine for analgesia is within the nursing scope of practice.

WHEREFORE, Petitioner respectfully requests that: The Board issue a declaratory statement opining that administration of low dose ketamine to patients at SMH for the circumstances described is within the scope of practice of an Advanced Practice Registered Nurse

Respectfully submitted,


Tish Haight ACNP
Pulmonary Critical Care