

STATE OF FLORIDA
BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT

HELEN M. SERPA, R.N.

FINAL ORDER

This matter came before the Board of Nursing on February 7, 2002, in Miami, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on July 27, 2001, in the Vol. 27, No. 30, in the Florida Administrative Weekly.

The petition filed by HELEN M. SERPA inquired as to whether it is within the scope of practice for a registered nurse to perform laser treatments for vascular lesions and hair removal with a Medilas D Skin Pulse Laser.

FINDINGS OF FACTS

1. The Petitioner, a registered nurse, is employed at Jupiter Plastic Surgery Center where she assists physicians in office based surgeries as well as performing laser treatments for vascular lesions and hair removal with a Medilas D Skin Pulse Laser.
2. The Petitioner performs such treatments under the supervision of a licensed physician and asserts that she has been trained in the use of lasers.

CONCLUSIONS OF LAW

3. The Board of Nursing has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes.
4. Section 464.003, Florida Statutes, outlines the scope of practice for registered nurses and reads in part as follows:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. 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.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

5. While Section 464.003 does not address laser treatment procedures, Chapter 478, Florida Statutes, specifically addresses the use of hair removal with lasers. Section 478.42(5) reads as follows:

"Electrolysis or electrology" means the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the board which have been cleared by and registered with the United States Food and Drug Administration and that are used pursuant to protocols approved by the board.

6. The laser device used by the Petitioner, the Medilas.D Skin Pulse Laser, is approved by the Board of Medicine under Rule 64B8-56.002, Florida Administrative Code.

7. Section 478.49(1), Florida Statutes, reads as follows:

No person may practice electrology or hold herself or himself out as an electrologist in this state unless the person has been issued a license by the department and holds an active license pursuant to the requirements of this chapter.

8. When using laser devices for the purpose of removing hair, the person performing such a function must be a licensed as an electrologist under Chapter 478, Florida Statutes, and must work under protocols approved by the Board of Medicine.

9. Section 478.54, Florida Statutes, exempts medical doctors, osteopathic physicians, and students from approved electrolysis training programs from the licensure requirements of Chapter 478, but fails to provide such an exemption to registered nurses licensed pursuant to Chapter 464, Florida Statutes.

10. Based on the foregoing, registered nurses may not perform hair removal procedures with a laser device unless the nurse is licensed pursuant to Chapter 478, Florida Statutes.

11. As to the issue involving the use of laser devices to treat vascular lesions, the Board determined that it could not provide a response to the petitioner due to insufficient information regarding administration of the procedure in question. Therefore, the Board of Nursing declines to issue a declaratory statement in response to vascular lesion inquiry.

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

DONE AND ORDERED this 20th day of February, 2002.

BOARD OF NURSING



Dan Coble
Executive Director

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 Helen M. Serpa, 175 Toney Penna Drive, Suite 201, Jupiter, Florida 33458 and Edward A. Tellechea, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 3239-1050, on this 5th day of March, 2002.

Mari Webb

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JPSC

JUPITER PLASTIC SURGERY CENTER

Robin A. Sykes, M.D.

July 5, 2001

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BOARD OF NURSING

Abdominoplasty
 Aesthetician Services
 Arm Lift
 Eyelid Lift
 Botox Injections
 Breast Augmentation
 Breast Reduction
 Brow Lift
 Chemical Peels
 Chin Augmentation
 Collagen Injections
 Dermabrasion
 Endermologie™
 Face Lift
 Facial Peels
 Fat Injections
 Laser Skin Resurfacing
 Lip Augmentation
 Lip-Ink™
 Liposuction
 Nose Contouring
 OBAGI Products
 Permanent Makeup
 Power Peel™
 Skin Cancer
 Scar Revisions
 Tattoo Removal
 Thigh Lift
 Vein Therapy

Ruth Stiehl, R.N., Ph.D.
 Executive Director
 Board of Nursing
 4080 Woodcock Dr.
 Suite 202
 Jacksonville, FL 32207

Re: Petition for Declaratory Statement before the Board of Nursing

Dear Ms. Stiehl:

I am a Registered Nurse, First Assistant licensed in the state of Florida. For the past eighteen years I was employed at Palm Beach Gardens Medical Center in Palm Beach Gardens, Florida, serving as a first assistant at surgery for the last ten years, since achieving that certification. My specialty was open heart surgery, where I regularly performed such complex, technical tasks as the harvesting of veins, providing hemostats by clamping blood vessels, coagulating bleeding points, dissecting and ligating vessels, and closing leg wounds. I also provided exposure with the use of appropriate instruments, retractors, suctioning, and sponging techniques at the chest site. I assisted with the placement of aortic and atrium cannulas to place the patient on cardiopulmonary bypass. I closed the chest fascia, subcutaneous tissue and skin, as directed by the surgeon. I also assisted with various vascular surgeries including abdominal aortic aneurysms, fem-pop bypass, lobectomies, etc.

I recently retired from this rather stressful modern and now am a part-time employee of Robin A. Sykes, M.D., who, as indicated on this letterhead, is a plastic surgeon. At Jupiter Plastic Surgery Center, I assist the physician in office-based surgeries, as well as the performance of laser treatments for vascular lesions and hair removal, with a Medilas D Skin Pulse laser.

It was recently brought to my attention that the Board of Medicine has ruled that only those Registered Nurses with additional certification at Nurse Practitioners or Physician's Assistants are allowed to do this sort of work. I cite the Nursing Practice Act, Definitions, #464.003. As I have been trained in the use of lasers, and work under the supervision of a physician, I believe that such treatments should fall within the scope of my ability to practice.



I do not want to jeopardize my license nor that of my physician; therefore, I would appreciate your opinion on this matter. Thanking you in advance for your prompt response to this request, I remain

Sincerely,

Helen M. Serpa

Helen M. Serpa, R.N., C.N.O.R., R.N.F.A.
Florida License #1335952

HMS/kcs