

STATE OF FLORIDA
BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT OF:
MARIA SCHAFFER, RN

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 February 8, 2024, in Altamonte Springs, Florida, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A), filed by Maria Schaffer (Petitioner). Petitioner was not present. The Board was represented by Deborah Bartholow Loucks, Senior Assistant Attorney General.

The Petition was filed with the Department of Health on November 27, 2023. Petitioner seeks the Board's opinion as to whether it is within the scope of Petitioner's practice as a registered nurse to administer Botox under the following circumstances: pursuant to a written order issued by a delegating physician who has examined the patient that will include a description of the muscles to be injected and the number of units per injection site, with the injections being administered under the direct supervision of a physician.

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 49 Number 231 published on November 30, 2023.

2. The Petition is attached hereto and incorporated herein by reference.

3. Petitioner, Maria Schafer, is a Registered Nurse licensed to practice nursing in the State of Florida, having been issued license number RN 9630581.

4. Petitioner seeks clarification of whether it is in the scope of her practice to administer Botox under the following circumstances: pursuant to a written order issued by a delegating physician who has examined the patient that will include a description of the muscles to be injected and the number of units per injection site, with the injections being administered under the direct supervision of a physician.

CONCLUSIONS OF LAW

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

6. 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.

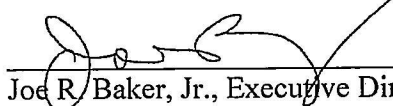
7. Section 464.003(19), Florida Statutes, defines the “practice of professional nursing”, with subparagraph (b) of this definition stating that “the administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.”

8. The Board found that under the specific facts of the petition and the presentation of her experience and supervision parameters to the Board, it is within the scope of Petitioner’s specific and particular education, training, and experience and that she can be delegated the task of administering Botox and dermal fillers under the direction of a physician licensed pursuant to Chapter 458 or 459, Florida Statutes, and the physician is physically present during the administration, and in the manner set forth in the petition, that the answer to her request would

be “yes”.

DONE AND ORDERED this 26th day of February, 2024.

BOARD OF NURSING



Joe R. Baker, Jr., Executive Director
for Deborah Becker, DNP, RN, CNE, 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 to **Maria Schafer, RN**, by sending same via electronic mail to her counsel of record, **Parker Eastin**, Parker@NicholsonEastin.com; and to: **Deborah B. Loucks**, Senior Assistant Attorney General, deborah.loucks@myfloridalegal.com; **Cassandra Fullove**, Senior Legal Specialist, Office of the Attorney General, Cassandra.fullove@myfloridalegal.com; and **Angela Southwell**, Paralegal Specialist, Office of the Attorney General, angela.southwell@myfloridalegal.com; on February 27, 2024.



Deputy Agency Clerk

**FLORIDA DEPARTMENT OF HEALTH
BOARD OF NURSING**

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Petition for Declaratory Statement
Before the Board of Nursing

In re: Maria Schafer, RN

_____/

Petitioner, Maria Schafer, RN, by and through undersigned counsel and pursuant to §120.565, *Fla. Stat.*, and Rule 28-105.002, F.A.C., seeks the Florida Board of Nursing's ("BON") opinion as to whether administering Botox Cosmetic is within the scope of her practice as a registered nurse ("RN") under the circumstances described herein.

1. Petitioner, Maria Schafer is a RN licensed by the BON pursuant to Florida Statutes Chapter 464, license number RN9630581. Ms. Schafer has been licensed in Florida since May 24, 2023, and she has accepted employment at Better Me Medical Spa, LLC in Boca Raton, Florida. For purposes of this Petition, Petitioner's address, telephone number, and facsimile number are that of undersigned counsel.

2. Ms. Schafer is also licensed as a registered nurse in the state of Pennsylvania where she previously worked for over 20-years primarily administering cosmetic injections in plastic surgery centers. More specifically, Ms. Schafer worked in various medical practices since 2001 administering dermal fillers and Botox Cosmetic, and she most recently served as the Director of Injectables at Cross Medical Group located in Pennsylvania. Ms. Schafer has also been an aesthetic nurse injector with Allergan Medical Institute – the developer of Botox Cosmetic – since January 2016, where she is also a Faculty Member. A copy of Ms. Schafer's curriculum vitae is attached as Exhibit 1. Said differently, Ms. Schafer has for several years taught other licensed healthcare professionals (including nurses and physicians) how to properly administer Botox injections.

3. Petitioner is substantially affected by the scope of practice provisions for a Florida licensed registered nurse set forth in §464.003(19), *Fla. Stat.* More specifically, as part of her employment at Better Me Medical Spa, LLC, Petitioner seeks to administer Botox Cosmetic pursuant to a written order issued by a delegating physician who has examined the patient that will include a description of the muscles to be injected and the number of units per injection site; and the injections will be administered under the direct supervision of the delegating physician. If the administration of Botox Cosmetic under these circumstances is prohibited by the Florida Nurse Practice Act, the scope of Ms. Schafer's employment will need to be amended.

4. Ms. Schafer seeks the BON's determination as to whether it is within her scope of practice as a RN at Better Me Medical Spa, LLC to administer Botox Cosmetic under the following circumstances: pursuant to a written order issued by a delegating physician who has examined the patient that will include a description of the muscles to be injected and the number of units per injection site; and the injections will be administered under the direct supervision of the delegating physician.

**INSTRUCTIVE FLORIDA BOARD OF NURSING DECLARATORY
STATEMENT ON RN ADMINISTRATION OF BOTOX COSMETIC**

5. The practice of professional nursing, as defined by §464.003(19), *Fla. Stat.*, means, in relevant part:

“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: (b) 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.”

6. The BON recently addressed whether a RN may administer Botox Cosmetic in its July 7, 2023, Final Order regarding *In Re: Petition for Declaratory Statement of Jessica A. James, RN.*

In that matter, the BON “found that under the specific facts of the petition, it is within the scope of Petitioner’s specific and particular education, training, and experience and that she can be delegated the task of administering Botox under the direction of a duly licensed physician, and in the manner set forth in the petition.”

7. Relevant to its decision, the Petitioner had observed aesthetic injections and assisted in the operating room under the supervision of a medical doctor and a nurse practitioner for the previous four (4) years. Additionally, the Petitioner intended only to have task delegation of Botox from the supervising physician to her, when the physician had examined the patient, written an order for the prescribed Botox medication treatment with a description of the muscles to be injected and the number of units per injection site.

8. Here, Ms. Schafer, whose qualifications, training, and experience exceed those of the petitioner in the above example, likewise seeks to administer Botox Cosmetic as a task delegated by a supervising physician who has examined the patient. Ms. Schafer would also administer the Botox Cosmetic pursuant to a written order for the prescribed Botox Cosmetic medication treatment that contains a description of the muscles to be injected and the number of units per injection site.

ARGUMENT

9. This Petition sets forth each of the elements under §120.565, *Fla. Stat.*, and 28-105.002, F.A.C., by stating with particularity that Ms. Schafer is a RN, practicing in the State of Florida, and needs the BON to state whether administration of Botox Cosmetic is within her scope of practice as a RN under §464.003(19)(b), *Fla. Stat.*, under the circumstances described herein.

10. The administration of Botox Cosmetic, a medication, is within the scope of practice of an RN which is defined as “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." *Id.*

11. As indicated herein, Ms. Schafer would administer Botox Cosmetic only pursuant to an order from and under the direct supervision of a duly licensed practitioner authorized by the laws of the State of Florida to prescribe Botox Cosmetic, as required by the Florida Nurse's Practice Act.

12. Ms. Schafer has responsibly administered Botox Cosmetic for over 20 years in Pennsylvania and been an aesthetic nurse injector with Allergan Medical Institute, the developer of Botox Cosmetic since 2016. She has the requisite training and experience necessary to responsibly administer Botox Cosmetic in Florida as authorized by a duly licensed practitioner.

13. The BON has determined that under specific circumstances, including those described herein, it is within the scope of practice of a RN, like Ms. Schafer, to administer Botox Cosmetic. Ms. Schafer's training and experience makes her uniquely qualified to administer Botox Cosmetic, a task that is clearly within a RN's scope of practice as defined in §464.003(19)(b), *Fla. Stat.* Therefore, the BON should find that the tasks described in paragraph 4 are within Ms. Schafer's scope of practice as a RN.

WHEREFORE, Ms. Schafer respectfully requests that the BON issue a declaratory statement opinion that her administration of Botox Cosmetic to patients under the circumstances set forth in paragraph 4 is within her scope of practice as a RN.

Respectfully submitted this 22nd day of November, 2023.

Nicholson & Eastin, LLP



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed via facsimile (850-413-8743) with the Florida Department of Health, Agency Clerk, Office at 4052 Bald Cypress Way, Bin #A02, Tallahassee, Florida 32399-1703, this 22nd of November, 2023



Parker D. Eastin, P.A.