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Final Order No. DOH-02-1292-DS.MQA
FILED DATE - 8/26/02
Department of Health
By: Vicki R. Kenon
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

IN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF

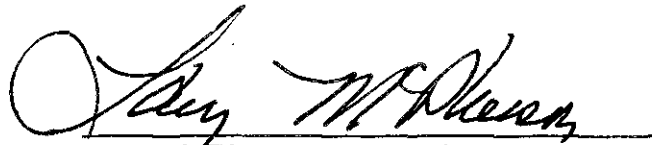
TAMMIE L. HILTON, RN

FINAL ORDER

THIS CAUSE came before the Board of Medicine (hereinafter "the Board") pursuant to §120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code, at a duly-noticed public meeting in Orlando, Florida on August 3, 2002, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed by Tammie L. Hilton, RN (hereinafter Petitioners). Having considered the petition, and being otherwise fully advised in the premises, the Board hereby dismisses the petition for failure of Petitioner to establish that she is a substantially affected person, and failure to state with particularity Petitioner's set of circumstances.

DONE AND ORDERED this 22 day of August, 2002.

BOARD OF MEDICINE


Larry McPherson, Executive Director
for Zachariah P. Zachariah, MD, Chair

NOTICE TO PARTIES

Pursuant to Section 120.569, Florida Statutes, the parties 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 one copy of a notice of appeal and the filing fee 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 Final Order has been furnished by U.S. Mail to Petitioner, Tammie L. Hilton, RN, 6267 Sandcrest Circle, Orlando FL 32819, this 26 day of August, 2002.

Kimberly Webb

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OFFICE OF THE ATTORNEY GENERAL

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

Reply to:
Office of the Attorney General
Administrative Law Section
PL - 01, The Capitol
Tallahassee, Florida 32399-1050
(850)414-3300; SunCom 994-3300

June 27, 2002

Tammie L. Hilton, R.N.
6267 Sandcrest Circle
Orlando, Florida 32819

Re: Petition for Declaratory Statement to Board of Medicine

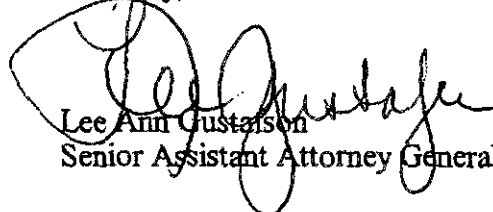
Dear Ms. Hilton:

I serve as counsel to the Board of Medicine. I have reviewed your Petition for Declaratory Statement and prepared a notice for the Florida Administrative Weekly.

Section 120.565, Florida Statutes, provides that a petition for declaratory statement must be submitted by a "substantially affected person." I am not aware of any case in which the Board of Medicine has determined that a person licensed under another practice act constitutes a "substantially affected person" for purposes of Chapter 458. The Board will have to make this determination prior to deciding whether to answer your petition.

You do not make clear the circumstances in your case. Have you been asked to perform vein harvesting? Have you actually performed vein harvesting under the supervision of a physician? The Board is not permitted to issue statements of generally applicability in answering petitions for declaratory statement. Also, the Board does not issue orders on petitions that seek an opinion on someone else's behavior. You should be prepared to clarify how the statute you cite affect you.

Sincerely,


Lee Ann Gustafson
Senior Assistant Attorney General

cc: Pamela King, Program Administrator
Nancy Murphy, Research Assistant

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MEDICINE BOARD

Petition for Declaratory Statement before Board of Medicine

Petitioner: Tammie L. Hilton RN

6267 Sandcrest Circle
Orlando, FL 32819
Phone: (407)493-4704
Fax: (407)647-4220
License Number: 2752372

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK *Vicki R. Kenon*

DATE 6/14/02

As a Registered Nurse in the State of Florida, I am requesting an interpretation by the Board of Medicine on Chapter 458 and even more specifically 458.303(2), Florida Statutes regarding services rendered under direct supervision of a licensed physician.

- (1) On May 29, 2002, a Judge of the 18th Judicial Circuit Court of Florida made a ruling that "Vein harvesting does involve the practice of medicine." And "...vein harvesting, is a procedure which involves an incision, a controlling of bleeding by hemostats, the use of electrosurgical pencils and the removal of veins from the body." *Please find enclosed an Excerpt of Proceedings.*
- (2) While the Judge made most of his ruling based on Chapter 458 which is Practice of Medicine, he states that "while section 464.207 encourages hospitals in general to use Registered Nurse First Assistants generally speaking, not for this particular procedure.....458.303 does not distinguish between RNs and RNFAs." *Please find enclosed Chapter 458, Florida Statutes.*
- (3) In a Final Order issued by the Board of Nursing, the petitioner requested an interpretation by the Board of Chapter 464, Florida Statutes. The Board advised that The Association of Operation Room Nurses (AORN) statement adopted by the Board in 1984 does not permit RNs to make incisions. *Please find enclosed Final Order by Board of Nursing and AORN Official Statement on RN First Assistants.*
- (4) In a Report of the Board of Trustees of the American Medical Association regarding surgical assistants other than licensed physicians, "the role of assistant-at-surgery generally includes the following tasks: maintaining adequate exposure in the operating field, cutting suture materials, clamping and ligating bleeding vessels, and, in selected instances, actually performing parts of a procedure." The report goes on to read, "individuals, other than licensed physicians, performing this role, generally include RNFAs, APNs, CNSs, and NPs who have additional training in surgical first assistance." *Please find enclosed Report of Board of Trustees of AMA.*

