

FILED DATE - JAN 07 2022

Department of Health

By: Bridget Coates  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT OF:  
**DIANE SCHEB, RN, MSN, AP-PMN**

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**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 December 2, 2021, in Tampa, Florida, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A), filed by Diane Scheb (Petitioner). Petitioner was neither present nor represented by counsel. The Board was represented by Deborah Bartholow Loucks, Senior Assistant Attorney General.

The Petition was filed with the Department of Health on September 20, 2021. Petitioner seeks the Board's opinion as to whether the administration of low dose ketamine to patients at Sarasota Memorial Hospital (SMH) is within her scope of practice as a 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 191 published on October 1, 2021.
2. The Petition is attached hereto and incorporated herein by reference.
3. Petitioner, Diane Scheb, is a Registered Nurse licensed to practice nursing in the

State of Florida, having been issued license number RN 1367952.

4. Petitioner is the Advanced Practice Program Coordinator for the Acute Pain Program at SMH. She has served in this role since 1996.

5. SMH is a full service health system and holds a fourth Magnet Designation. The Acute Pain Services is an interdisciplinary team of ANCC Board certified Acute Pain nurses and pharmacists. The team is made up of 5 nurses and 20 pharmacists, including a dedicated pharmacist who specializes in the treatment of acute pain, who work under the direction of a Board Certified Pain Management Physician.

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 a RN at SMH with a qualified physician order to:

administer continuous IV infusion of non-anesthetic Ketamine (0.1-0.2 mg/kg) for acute pain expected to be of longer duration. The infusion will be delivered to the patient in a locked pain pump infusion device and Petitioner would hang the infusion bag and change the infusion rate up or down pursuant to a new qualified physician order.

#### **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(19), Florida Statutes, defines “practice of professional nursing”, as:

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:

(a) 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.

(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.

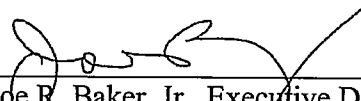
(c) the supervision and teaching of other personnel in the theory and performance of any of the acts described above.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

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 the continuous IV infusion of non-anesthetic Ketamine for acute pain expected to be of longer duration in the dosage and under the circumstances listed in the petition.

**DONE AND ORDERED** this 6<sup>th</sup> day of January, 2022.

BOARD OF NURSING

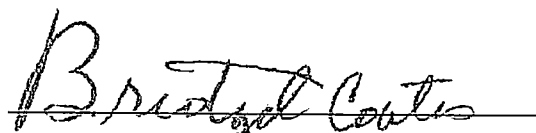
  
\_\_\_\_\_  
Joe R. Baker, Jr., Executive Director  
for Deborah McKeen, CD-LPN, BS, Chair

**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 to **Diane Scheb, RN**, by sending same to her counsel of record, **Carol Kalish, Esq.**, 1700 S. Tamiami Trail, 2<sup>nd</sup> Floor, Admin Offices, Sarasota, Florida 34239-3509; and by electronic mail to: **Deborah B. Loucks**, Senior Assistant Attorney General, [deborah.loucks@myfloridalegal.com](mailto:deborah.loucks@myfloridalegal.com), **Cassandra Fullove**, Senior Legal Specialist, Office of the Attorney General, [Cassandra.fullove@myfloridalegal.com](mailto:Cassandra.fullove@myfloridalegal.com); and **Angela Southwell**, Paralegal Specialist, Office of the Attorney General, [angela.southwell@myfloridalegal.com](mailto:angela.southwell@myfloridalegal.com), on 7, January, 2022.

  
Deputy Agency Clerk

FILED  
 DEPARTMENT OF HEALTH  
 DEPUTY CLERK  
 CLERK: *Bridget Coates*  
 DATE: SEP 21 2021

**Acute Pain Program/Service**  
 AT  
 Sarasota Memorial Health Care System  
 Sarasota, Florida

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RECEIVED

SEP 20 2021

FLORIDA BOARD OF NURSING

September 13 2021

Executive Director  
 Florida Department of Health  
 Board of Nursing  
 4052 Bald Cypress  
 Bin C-02  
 Tallahassee, Florida 32399 - 1719

Enclosed please find a Petition for Declaratory Statement review by the Florida Board of Nursing in regards to a scope of practice question.

This petition was originally submitted in October 2020. However, a return receipt of the certified letter accompanying the petition was never received by the petitioner. Therefore, we are respectfully re-submitting our petition at this time.

The time, thought and attention that you will give this matter is greatly appreciated.

The petition is being submitted on behalf of

Diane Scheb RN, MSN, AP-PMN  
[Diane-scheb@smh.com](mailto:Diane-scheb@smh.com)  
 941-917-1762

Please direct any return correspondence regarding this matter to  
 Carol Ann Kalish Chief Legal Officer  
 Sarasota Memorial Hospital  
 1700 South Tamami Trail  
 Sarasota, Florida 34239  
[CarolAnn-Kalish-@smh.com](mailto:CarolAnn-Kalish-@smh.com)  
 941-917-4881

Respectfully Submitted

*Diane Scheb*

**FLORIDA DEPARTMENT OF HEALTH  
BOARD OF NURSING**

Petition for Declaratory Statement  
Before the Board of Nursing

In re: Diane M. Scheb, RN

\_\_\_\_\_ /  
Petitioner, Diane M. Scheb, RN, by and through the undersigned attorney and pursuant to Florida statutes 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 her scope of practice as a registered nurse.

1. Petitioner is a registered nurse licensed by the Florida Board of Nursing pursuant to Florida Statutes Chapter 464 and holding license number RN 1367962.
2. Petitioner is currently employed by Sarasota Memorial Hospital ("SMH") where she has practiced since 1984. 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 the Advanced Practice Program Coordinator for the Acute Pain Program at Sarasota Memorial Hospital. She has a Master's Degree in Nursing. She is American Nursing Credentialing Certified ("ANCC") Board Certified in Pain Management (certification number 2006001931). The American Society of Pain Management Nurses recognizes Petitioner as an Advanced Practice Pain Management Nurse. She serves as Master Faculty for the ANCC Pain Management Certification Prep course.
4. Practitioner has served in her current role since 1996. She plans, directs and manages the clinical activities of the Acute Pain Service. She ensures that policies and direction of the service reflect current national standards. In conjunction with the Director of Pharmacy, she provides specialty care directly or indirectly to hospitalized patients.
5. Sarasota Memorial Health Care System ("SMHCS"), an 839-bed regional medical center, is among the largest public health systems in Florida. With over 6,400 staff, it is Sarasota County's largest employer. The hospital's

Medical Staff includes more than 1,400 credentialed providers who represent 60 specialists

6. SMHCS is a full service health system, with specialized expertise in cardiac, vascular, cancer, orthopedic and neuroscience services. It has a network of outpatient centers and urgent care centers, laboratories, diagnostic imaging, physician practices, skilled and nursing rehabilitation facilities among its many programs. SMH is the only hospital in Sarasota County providing obstetrical, pediatric, Level III neonatal intensive care and psychiatric services for patients of all ages as well as a Level II Trauma Center.
7. In 2018 SMH received a fourth (4<sup>th</sup>) Magnet Designation. This is highest and most prestigious credential for recognizing nursing excellence and quality of patient care. Hospitals with the Magnet Designation experience better quality outcomes and lower patient morbidity/mortality. Currently, only 0.5% of hospitals nationwide have earned Magnet designation four (4) consecutive times.
8. At SMH, nurse/patient ratios are no more than one nurse to five patients on dayshift. Nurse/patient ratios on night shift are no more than one nurse to six patients. In addition, the primary nurse has access to multiple resources such as a Wound Care Team, Vascular Access Team, Behavioral Intervention Team and Respiratory team.
9. Another such team is the Acute Pain Service. The Acute Pain Service is an interdisciplinary team of ANCC Board Certified Acute Pain nurses and pharmacists. This team is dedicated to providing safe and optimal pain management to hospitalized patients. By definition, acute pain is short lived and expected to subside as healing takes place. Under the direction of a Board Certified Pain Management Physician, there are 5 nurses and 20 pharmacists, including a dedicated pharmacist who specializes in the management of acute pain. The team is operational seven days each week from 0900-2100.
10. The petitioner is seeking the Board's determination as to whether it is within her scope of practice, with a qualified physician order, 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 (for example patients in a sickle cell crisis). This infusion will be delivered to the patient in a locked pain pump infusion device. Petitioner would hang the infusion bag and change the infusion rate up or down pursuant to a new qualified physician order.

11. At Sarasota Memorial Hospital, only a Board Certified Pain Management Physician or a Critical Care Intensivist will be able to order non-anesthetic doses of Ketamine for pain control.
12. 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.
13. 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.
14. 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



15. The administration of Ketamine by registered nurses ("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.

16. The scope of practice of a registered nurse is defined in Florida Statutes §464.003(20) as follows:

"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:

- (a) 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.

- (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.
- (c) The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing."

17. Ms. Scheb would administer low-dose Ketamine as ordered by a duly licensed and authorized practitioner. Ms. Scheb has been involved in the preliminary development of policies and procedures to be reviewed and approved by a multidisciplinary team. This team would be comprised of Pharmacy, the Emergency Care/Trauma teams, Nurse Leadership, Acute Pain Service and Medical Staff via the Pharmacy and Therapeutics Committee. Subsequent to this, Ketamine would only be administered to patients under these approved conditions.

#### ARGUMENT

18. 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 registered nurse.

19. The registered nurse may administer medication pursuant to an order of a duly authorized practitioner. In the facts presented, Ms. Scheb would administer Ketamine pursuant to the order of a duly authorized practitioner.

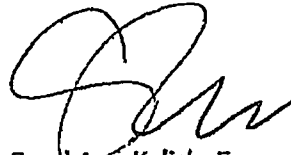
20. The registered nurse is responsible and accountable for making decisions that are based upon the nurse's educational preparation and experience in nursing. Petitioner has worked in acute pain management for nearly 25 years. She has safely cared for patients who are suffering from multiple causes of pain in the hospital setting. These patients may have experienced trauma, pain from a medical condition, cancer or postoperative pain. Should the board approve this petition, Petitioner's nursing experience and educational preparation will support her ability to administer Ketamine in these limited situations.

21. Petitioner 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 or Critical Care Intensivist.

22. 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 her administration of low dose Ketamine to patients at SMH for the circumstances described is within her scope of practice as a registered nurse.

Respectfully submitted,



Carol Ann Kalish, Esq.  
Vice President & Chief Legal Officer  
Sarasota Memorial Health Care System  
1700 South Tamiami Trail  
Sarasota, Florida 34239  
(941) 917-4881  
Florida Bar #992755



October 14, 2020

Department of Health  
Board of Nursing  
4052 Bald Cypress Way Bin C-02  
Tallahassee, FL 32399-3252

Dear Board of Nursing members,

It is my pleasure to write this letter of support for this petition. I have been a Board Certified Pain Management Physician for the past 24 years in Sarasota Florida. I serve as the Acute Pain Medical Director for Sarasota Memorial Healthcare System. If this petition is approved, I will be prescribing and overseeing the care rendered to patients who are receiving intravenous low dose Ketamine. I will ensure that policies related to nurse administration of low dose continuous infusions of Ketamine reflect national standards.

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 opiate consumption. Opiates are commonly used for the treatment of acute pain in hospitalized patients. As you well know, across the nation we are trying to reduce prescriptions for opiate therapy.

The Acute Pain Service at Sarasota Memorial Hospital is known for its emphasis on the delivery of safe attentive analgesic care. I have no doubt that if the Board approves this petition, they will continue to do so.

Sincerely and respectfully submitted,

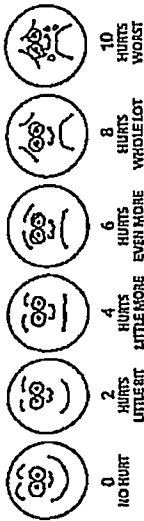
A handwritten signature in black ink, appearing to read "Donald Erb". The signature is stylized and written over a horizontal line.

Dr. Donald Erb

*Frequently asked questions*

**Q:** How is pain evaluated at SMH?

**A:** We use the Wong-Baker pain scale but, we also rely on nursing assessment skills and patient functionality.



**B**  **Eye**

- No expression
- Occasional grimace, tearing, frowning, squinted
- Frequent grimace, tearing, frowning, wrinkled forehead

**B**  **Activity**

- Lying quietly, normal position
- Seeking attention for movement - slow, cautious movement
- Restless, excessive activity and/or unproductive restlessness

**B**  **Counting**

- Lying quietly, no position of hands over areas of body
- Spacing areas of body, tense
- Rapid, soft

**B**  **Vital Signs**

**B**  **Respiratory**

**Q:** What are we doing to reduce opiate exposure in our patients?

**A:** The APS utilizes adjunct medications as well as non-pharmacological therapies whenever possible. We are active participants in the SMH Pain Management Stewardship Program and we work closely with the Behavioral Health Intervention Team (BHIT) and the Integrative Care Program.

**Q:** How does SMH manage pain in a patient with active substance abuse or opiate dependence?

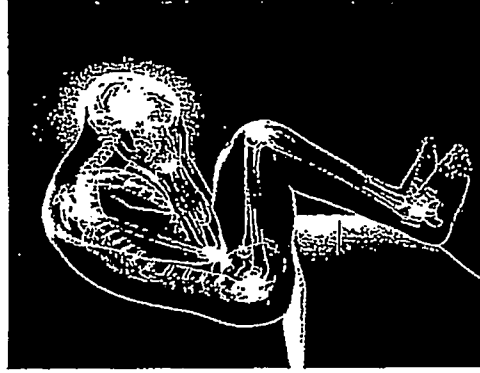
**A:** The SMH CARE program offers these patient's extra resources throughout their hospitalization including behavioral counseling, psychiatry services, nutritional consultation, NA meetings and of course, individualized pain management.

*Acute Pain Service Strategic Plan*

- Continued implementation of Joint Commission standards for hospital pain management
- Proactive patient education regarding general pain management and the establishment of functional goals
- Participation in the *Pain Management Stewardship Program* with a focus on physician education and prescribing within the hospital
- Incorporation of integrative and complementary pain management modalities

*The Acute Pain Service*

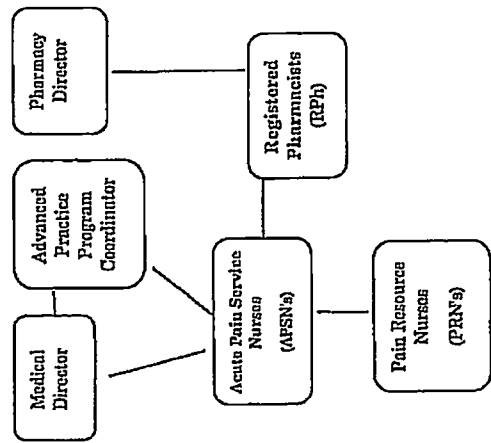
at Sarasota Memorial Hospital



### What is the Acute Pain Service?

- The APS is a multidisciplinary team dedicated to the provision of optimal and attentive acute pain management for the patient within the hospital system.
- This is accomplished through the use of established protocols, education and support of staff. Multimodal therapy as well as non-pharmacological modalities are also utilized.
- Interventions and protocols are evidence-based and uphold the standards of both the Joint Commission and American Society for Pain Management Nursing (ASPMN)

### Who does the Acute Pain Service consist of?



### How do I consult the Acute Pain Service?

To place a consult to the APS:

1. go to order entry in SCM and type "pain management".
2. select the *Pain Management Consult*



Manual Entry	▼	Searching for ...
pain management		
Order		Cost
Pain Management Consult - Nurse/Pharmacy - (Consult Acute Pain Service for Evaluation).		

8. Select *who is requesting the consult* (nurse or physician), *who we should collaborate with* (ordering prescriber or APS Medical Director) and *reason(s) for consult* from drop down menus.



Who is requesting the consult?	Pain Team to collaborate with
<input type="checkbox"/> Nurse	<input type="checkbox"/> Physician
Select physician for the evaluation	
<input type="checkbox"/> Pain Medication with administration of functional goals	
<input type="checkbox"/> Patient is requesting controlled use of IV opioids to control pain (longer than 24hrs) exhibiting other medications by mouth	
<input type="checkbox"/> Patient reporting high pain score despite the administration of functional goals	
<input type="checkbox"/> Patient experiencing side effect from current pain regimen	
<input type="checkbox"/> Exclude patient for PCA initiation/changes	
<input type="checkbox"/> Patient requesting acute pain team evaluation	

\* Please note there is a 24hr turn around time for new consults

### How do I contact the APSN's?

- Place consult in SCM
- Voalte "Acute Pain R.N."
- Speak with the unit Pharmacist
- Call and leave message on Hotline x8599 (reviewed daily at 0930)

### Hours of Operation:

Monday - Sunday 0900 to 2100\*

\*Hours may vary on holidays

### Where do I find pain related policies?

All SMEH policies can be located on the PULSE page... these policies in particular address medication administration and pain management:

- Medication Administration (MED-01)
- Pain Management (00.PAT.44)
- IV PCA (126-187)
- Epidural Analgesia (126-169)