

STATE OF FLORIDA
BOARD OF MEDICINE

By: Heather Coleman
Deputy Agency Clerk

IN RE: PETITION FOR DECLARATORY
STATEMENT OF RANDY ZELDIN, ESQUIRE

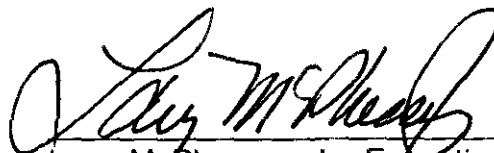
FINAL ORDER DISMISSING PETITION FOR DECLARATORY STATEMENT

THIS CAUSE came before the BOARD OF MEDICINE (hereinafter "the Board") at a duly-noticed public meeting on February 4, 2005 in Miami, Florida, for consideration of the Petition for Declaratory Statement filed by Randy Zeldin, Esquire. Upon consideration of the Petition, the Board determined that said Petition does not meet the requirements of Section 120.565, Florida Statutes, in that the Petition does not identify a person who's substantial interests are affected by the statutes and rules identified in the petition. Further, the petition does not specify the particular circumstances of a substantially affected person and does not state whether the identified practices are currently practiced by a substantially affected person or if a substantially affected person is requesting advice concerning proposed action by a substantially affected person. It is therefore,

ORDERED AND ADJUDGED that the Petition for Declaratory Statement is dismissed.

DONE AND ORDERED this 16 day of FEBRUARY, 2005.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Laurie K. Davies, M.D., Chair

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: RANDY ZELDIN, ESQUIRE 1903 S. Congress Avenue, Suite 305, Boynton Beach, Florida 33426; and by interoffice mail to Edward A. Tellechea, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 3239-1050; and Timothy M. Cerio, Esquire, General Counsel, Department of Health, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, on this 17th day of February, 2005.



Deputy Agency Clerk

List, Crystal A

From: Ed Tellechea [Ed_Tellechea@oag.state.fl.us]
Sent: Thursday, December 09, 2004 10:37 AM
To: List, Crystal A
Subject: Re: Petition for Declaratory Statement (PDS)

Correction. Just got it. Yes, for February.

Edward A. Tellechea
Senior Assistant Attorney General

<Crystal_List@doh.s
tate.fl.us>

12/09/2004 10:30 AM

To: <Ed_Tellechea@oag.state.fl.us>,
<Nancy_Murphy@oag.state.fl.us>

cc:
Subject: Petition for Declaratory

Statement (PDS)

Ed/Nancy

Have you received the PDS from Randy Zeldin, PA? Am I to schedule this for the February Board Meeting?

Crystal

MEDICINE BOARD
2004 DEC -8 PM 3:07
NY & FL Bars

Law Offices
RANDY ZELDIN, P.A.
1903 S Congress Ave, Suite 305
Boynton Beach, Florida 33426

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Amy Canaway*
DATE 12/16/04

Telephone (561) 732-8004
Facsimile (561) 732-4297

December 3, 2004

Mr. Larry McPherson
Florida Board of Medicine
4052 Bald Cypress Way
Bin CO3
Tallahassee, Florida 32399-3253

Re: Laser Hair Removal

Dear Mr. McPherson:


This **Petition for Declaratory Statement**, is made on behalf of a client, an electrologist, who is considering purchase of a laser hair removal franchise. Inquiry is made as to the following matters:

1. Per FAC 64B8-2.001 and F.S. 458.348 (3), would the Board of Medicine require **continuous, physical on-site presence by a physician or osteopathic physician within the laser facility, to effectuate compliance with the term "direct supervision"** while an electrologist performs hair removal only, with an approved laser and light-based hair removal apparatus?
2. Would FAC 64B8-2.001 and F.S. 458.348 (3) and the concept of "direct supervision" by a physician or osteopathic physician be satisfied by physical presence within the same **office building**, but not continuously within the laser facility staffed and operated by an electrologist, provided that protocol requirements were met and approved by the Board of Medicine?
3. Does the Board of Medicine consider "direct supervision" by a physician or osteopathic physician, to mandate **physical examination and screening of each hair removal candidate or patient, before and after use of a laser hair removal apparatus?** Alternatively, does "direct supervision" not encompass "screening" and post-laser physical evaluation and may this be done solely by the electrologist, without intervention by a physician?

It is requested that this matter be given prompt attention. There are many such laser facilities opening throughout Florida, which appear to have widely varying interpretations of the term "direct supervision" within the context of laser hair removal.

Thank you for your kind consideration to this request.

Very truly yours,

By: 
Randy Zeldin, Esq.
To avoid delay

RANDY ZELDIN, ESQ.

RZ:ju

cc: Edward Tellechea, Esq.