

1989.

BOARD OF MEDICINE

Emilio D. Echevarria
EMILIO D. ECHEARRIA, M.D.
CHAIRMAN

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

IN RE: THE PETITION FOR DECLARATORY
STATEMENT OF:
BLOOD SHIELD, INC.,
Petitioner.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (hereinafter Board) pursuant to Section 120.565, Florida Statutes, and Rule Chapter 28-4, Florida Administrative Code, on October 9, 1989, in Tampa, Florida, for the purpose of considering the Petition for Declaratory Statement of Blood Shield, Inc. (hereinafter Petitioner). No person or entity sought to intervene as a party.

Having considered the petition, the argument of Petitioner, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. The Petitioner, Blood Shield, Inc., is a Florida corporation with its principal place of business being 7110 North University Drive, Tamarac, Florida, 33321. Petitioner asserts that it owns and operates lawfully and fully licensed refrigerated storage facilities used for the storage of blood and other body fluids.

2. Petitioner states that it intends to enter into the venture with physicians who are licensed in the State of Florida under Chapter 458, Florida Statutes, and that the venture depends upon physician involvement. It asserts that Petitioner cannot proceed unless such involvement by physicians does not violate the Medical Practice Act.

3. Petitioner asserts that the potential impact of the Medical Practice Act upon Petitioner's intended venture therefore gives it the requisite substantial interest to bring this petition.

4. The allegations of fact in the petition do not assert that any person licensed pursuant to Chapter 458 or subject to the provisions of 458 is a participant in Blood Shield, Inc., or is requesting a declaratory statement as to the proposal made by Blood Shield, Inc. Blood Shield requests that the Board interpret Section 458.331(1)(k), which prohibits any "trick or scheme" on the part of a physician and Section 458.331(1)(n), which deals with the exploitation of a patient for financial gain by a physician.

5. This petition was noticed by the Board in the September 30, 1988, issue of the Florida Administrative Weekly (Vol. 14, No. 19, Pg. 3731).

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Rule Chapter 28-4, Florida Administrative Code.

2. The Board finds that the Petitioner in this cause does not have a substantial interest in this proceeding because the Petitioner is a corporation that is not under the jurisdiction of the Florida Board of Medicine and is not subject to the provisions of Chapter 458, Florida Statutes.

ACCORDINGLY, the Board declines to answer the questions:



WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED .

That this Petition for Declaratory Statement is DISMISSED
on the ground that Petitioner has no requisite substantial
interest for maintaining this proceeding.

DONE AND ORDERED this 12th day of July, 1989.

BOARD OF MEDICINE


EMILIO D. ECHEVARRIA, M.D.
CHAIRMAN