

**STATE OF FLORIDA  
BOARD OF PSYCHOLOGY**

**IN RE:           PETITION FOR DECLARATORY  
STATEMENT OF**

**DEAN R. CAULEY, Ph.D.**

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**FINAL ORDER**  
**REGARDING PETITION FOR DECLARATORY STATEMENT**

This matter appeared before the Florida Board of Psychology (Board) pursuant to Sections 120.565, Florida Statutes, and Chapter 120-105, Florida Administrative Code, at a duly-noticed public meeting on January 21, 2011, in Orlando, Florida, for consideration of a Petition for Declaratory Statement, which is attached as Exhibit "A." The Notice of Petition for Declaratory Statement was published on September 24, 2010, in Vol. 36, No. 38, of the Florida Administrative Weekly. The matter was previously heard at the Board's meeting on October 22, 2010, and it was tabled to the January 21, 2011 meeting of the Board.

The Petitioner, Dean R. Cauley, Ph.D., was neither present nor represented by counsel. Having considered the Petition and the relevant statutes, the Board issues the following:

**STATEMENT OF RELEVANT FACTS**

1. On July 13, 2010, the Petitioner, Dean R. Cauley, Ph.D., filed a Petition for Declaratory Statement before the Florida Board of Psychology. The Petitioner seeks the Board's interpretation of Sections 490.012 and 490.014, Florida Statutes, and whether the Petitioner's work falls under the area of an exemption.
2. The Petitioner is licensed pursuant to Chapter 491, Florida Statutes.
3. The Petition is attached as Exhibit "A" and is incorporated by reference.

4. The Petition provides that this matter is being sought because of the perceived conflict between the statutory provisions of the Board of Psychology and the statutory provisions of the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling.
5. The Petitioner states that he is a doctoral level mental health counselor and sets forth his qualifications and background in the attached Petition. He states that he has been employed in the capacity of administering personality testing, intelligence testing, and sexual offender specific testing for over eight years in Florida and 13 years altogether. He also states that these tests are brought together into a narrative evaluation which he has been writing for over 13 years. He contends that it should be the case that the psychological testing can be described as “psychological testing” and that the written evaluation that incorporates these psychological testing outcomes can be described as a “psychological assessment.” He also contends that given his background, education training and experience, he should be able to use the terms “psychodiagnostic,” “psychological testing” and “psychological assessment” in presenting diagnostic conclusions based upon such testing and assessment of a psychological nature as allowed under his license. He contends that his work falls under an exemption and that he may use such terms.
6. On November 10, 2010, the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling filed an order regarding a substantially similar petition filed by the Petitioner, which is attached as Exhibit “B” and incorporated into this Final Order. (Final Order No. DOH-10-2494-DS-MQA, filed November 10, 2010).

## CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Chapter 490, Florida Statutes. The Board has the authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
2. The Board finds that the Petitioner has standing regarding this Petition.
3. Section 490.012(1)(c), Florida Statutes, provides that

No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, “psychology,” “psychological,” or “psychodiagnostic,” or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter. (emphasis added)

4. Section 490.014, Florida Statutes, entitled “Exemptions,” provides in subsection (1)(b) that

No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title or description protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012. (emphasis added)

5. Further, the Order of the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling provides that “[i]t is the Board’s opinion that pursuant to the scope of his mental health counseling licensure, Dr. Cauley, if he is properly trained and not prohibited by any other law, may provide testing, treatment and a diagnosis of a psychological nature.”
6. The Board declines to issue a Petition for Declaratory Statement of Sections 490.012(1)(c) and 490.014(1)(b), Florida Statutes, because the statutes are clear as

written. Even if the Board thought it should clarify the meaning of the statutes, and it does not, such interpretation would have broad applicability and would be more appropriate for rulemaking.

Based on the foregoing, the Board hereby **DENIES** the Petition for Declaratory Statement filed by Dean R. Cauley, Ph.D., requesting interpretation of Sections 490.012 and 490.014, Florida Statutes, and whether the Petitioner's work falls under the area of an exemption.

This Order shall become effective upon filing with the Clerk of the Department of Health.

**DONE AND ORDERED** this 9 day of March, 2011.

**BOARD OF PSYCHOLOGY**



Allen Hall, Executive Director  
for Rafael Rivas-Vazquez, Psy.D., 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 120.569, 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 has been furnished by U.S. Mail to **Dean R. Cauley, Ph.D.**, 3270 Yukon Drive, Port Charlotte, FL 33948; and by interoffice mail to **Donna C. McNulty**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; this 14<sup>th</sup> day of March, 2011.

*Santha Soto*  
**Deputy Agency Clerk**

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Angel Sanders  
DATE 7.13.10

Dean R. Cauley Ph.D., M.L.S.  
3270 Yukon Drive  
Port Charlotte, FL. 33948-6130

(941) 661-8895  
Fax: (941) 627-6867

DCauley@Comcast.net

7/7/2010

## PETITION FOR DECLARATORY STATEMENT.

Petition for Declaratory Statement before the Florida Board of Psychology.

Petitioner:

Dean R. Cauley Ph.D., MBA  
3270 Yukon Drive  
Port Charlotte, FL. 33948-6130  
Phone: (941) 661-8895  
Fax: (941) 627-6867  
Email: DCauley@Comcast.net

The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought is the conflict between the rules of the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling and the rules of the Board of Psychology as related to the petitioner's practice:

### CHAPTER 490 PSYCHOLOGICAL SERVICES

#### 490.012 Violations; penalties; injunction.--

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

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NOA/MEDICAL THERAPIES/  
PSYCHOLOGY

Exhibit "A"

In relation to:

**CHAPTER 491  
CLINICAL, COUNSELING, AND PSYCHOTHERAPY SERVICES**

(9) The "practice of mental health counseling" ..... The practice of mental health counseling includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders (whether cognitive, affective, or behavioral), behavioral disorders, interpersonal relationships, sexual dysfunction, alcoholism, and substance abuse.

**THE CONFLICT BETWEEN THESE TWO CHAPTERS  
AS RELATED TO PETITIONER**

Petitioner holds a Ph.D. in mental health counseling from a CACREP accredited doctoral program. Petitioner has taken and completed graduate level coursework in "psychological evaluations" at a Masters and a Doctoral level. The petitioner's relevant licensing area indicates that the profession of mental health counseling "includes methods of a **psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders**".

This suggests that the best descriptor of such testing and assessments would be "psychological" in nature.

Additionally, the petitioner has worked in correctional facilities as well as civil commitment settings where his responsibility was to administer and interpret psychological testing. The petitioner has written peer reviewed research articles and published a doctoral dissertation which included the use of psychological testing devices and explored diagnostic issues (see attached Vita).

Therefore, given the background, education, training and experience as outlined the petitioner should, in good faith, be able to present his written work as being a "psychological assessment" based upon "psychological testing".

**HOW THIS CONFLICT  
SUBSTANTIALLY EFFECTS PETITIONER**

As an expert witness in the field of sexually violent predator risk assessment the petitioner has testified over 125 times in 19 of 20 judicial districts in Florida. It has never been the situation that the petitioner was not accepted as an expert, qualified to discuss testing, assessment and psychological diagnosis of sexually violent predators under the civil commitment statute.

However, opposing counsel has presented the inability of the petitioner to perform "psychological testing" or "psychological assessments" as a limitation of the mental health license, implying to the trier of fact that doctoral level psychologists are inherently

more qualified than doctoral level mental health counselors based upon this licensing difference. This has afforded the opposing counsel an opportunity to publicly discredit the testimony of the petitioner based upon the semantic distinction in the licensing rules between a “mental health assessment” and a “psychological assessment”. A distinction that is seemingly absurd yet is used as an attack on the professional credibility, education and training of the petitioner and thereby causing substantial harm to his practice.

### **WHAT THIS PETITION DOES NOT SEEK TO CLARIFY**

On each occasion that the petitioner has sought clarification through either of the two Professional Regulation Boards the answer has been that the mental health counselor must “be very clear in your advertising and interactions with the public that you are licensed as a mental health counselor not a psychologist.” This response has come on each occasion that the petitioner has inquired and on each licensing complaint filed against the petitioner in regards to the above issues. However, that is not what is in need of clarification. It has always been the situation that the petitioner has made it abundantly clear to the judge and/or jury what he is licensed in, where he went to school and what he studied at those schools. This is a usual part of expert qualification for the courts.

Also, it is understood that a professional – in any profession – must necessarily practice only in those areas for which he/she is trained, qualified and licensed. Therefore, that is not a part of the current request for clarification.

### **REQUEST FOR DECLARATORY STATEMENT**

I am a doctoral level mental health counselor. I am a full clinical member of the American Psychological Association (APA) as well a member of APA’s Division 39; Section I (Psychologist-Psychoanalyst Practitioners) and a member of Division 41 (American Psychology-Law Society). In my doctoral program I took coursework from an accredited university specific to “psychological evaluation” as well as “psychological testing”.

I am fully licensed to diagnose and academically qualified to purchase, administer and interpret psychological testing and to present the testing results in a written assessment. I have been employed in the capacity of administering personality testing, intelligence testing, and sexual offender specific testing for over eight years in Florida, and 13 years altogether. These tests are then brought together into a narrative evaluation which I have been writing for over 13 years. Therefore it should be the case that the psychological testing can be described as “psychological testing”, and that the written evaluation that incorporates these psychological testing outcomes can be described as a “psychological assessment”. I feel that my background, education training and experience should afford me the right to use the term “psychodiagnostic” and – more importantly - “psychological testing” and “psychological assessment” in presenting diagnostic conclusions based upon such testing and assessment of a psychological nature as allowed under my license.



My own licensing area indicates that the profession of mental health counseling “includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders”. This suggests that the best descriptor of such evaluations and assessments would be “psychological” in nature.

However, under the Rules for Psychologists it is stated that:

No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as **psychological**, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

However that same law also states:

No provision of this chapter shall be construed to **limit the practice** of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a **title or description protected by this chapter**. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

My conclusion is that my work falls under the area of exemption, and that I may use the words "psychological," or "psychodiagnostic," "psychological testing" and "psychological assessment" to best describe any such test or written assessment within my area of expertise (sexually violent predators). However, substantial harm has occurred to my professional credibility as a result of others being able to interpret these same rules differently.

#### **SUMMARY OF PETITION AND PETITION FOR REMEDY AS SPECIFICALLY RELATED TO PETITIONER**

The purpose of this petition is to bring clarity to this specific issue in my own situation, not in the case of all mental health counselors. The reason for this petition is that this conflict between the two statutes has given cause for me to be attacked and professionally discredited in the courtroom setting.

The remedy is a Declaratory Statement indicating that under these circumstances, in this case, specific to the psychological assessment of sexually violent predators by this petitioner the use of the term “psychological testing” and “psychological assessment” is not a violation of the rules or statutes of either profession nor, as related to the petitioner

**in this specific area of practice nor is he committing “a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.”**

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**Dean R. Cauley PhD., MBA**

**Dean R. Cauley Ph.D., MBA**  
**3270 Yukon Drive**  
**Port Charlotte, FL. 33948-6130**

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**(941) 661-8895**  
**DCauley@Comcast.net**

**Fax: (941) 627-6867**

**Employment History**

**Private Practice (2003 — 2010)**

- Court Testimony specific to Actuarial Risk Assessment, Community Placement and Community Risk, Community Supervision and Community Management of Sexually Violent Predators/High Risk Offenders. Recognized as an Expert Witness on such subjects in 19 of 20 Florida Judicial Districts.
- Contracted Vendor through the Justice Administration Commission to conduct Sexually Violent Predator evaluations and risk assessments in the State of Florida.
- Registered Vendor in the State of Missouri to conduct Sexually Violent Predator Psychological Evaluations.
- Registered Vendor in the State of Washington to conduct Sexually Violent Predator Psychological Evaluations.
- Registered Vendor in the State of Texas to conduct Sexual Offender Risk Assessment and Treatment.
- Registered Vendor with the Federal Public Defender to conduct Sexual Offender Risk Assessment and to provide Expert Witness Testimony
- Contract Holder with Department of Children and Families providing Forensic Evaluations and Expert Witness Services regarding both the adult and juvenile sex offender populations (2006—2010).
- Contract Holder with Department of Children and Families to provide workshops on "*Sexual Predator Identification, Interviewing Strategies and Risk Assessment.*" Training is conducted in Lee, Collier and Charlotte counties.

**Florida Civil Commitment Center for Sexually Violent Predators (2001- 2003)**

- Clinical Team Leader - Supervising 2 Masters Level and 2 Bachelors Level Clinical Team Members; overseeing 50 residents in a maximum security forensic facility housing 400 residents.
- Clinical Therapist — Providing Sexual Offender Treatment in both group and individual sessions.
- Testing and Assessment Coordinator - Utilized Sex Offender Specific Testing, Personality and Intelligence Testing and other Psychometric tools to Evaluate Sexually Violent Predators in the Florida Civil Commitment Program.
- Responsible for Intake Assessments as well as Annual Reviews of Progress.
- Responsible for File Maintenance, Scheduling and Supervision of Counseling, Supervision and Scheduling of Services, and Development of Treatment Plans.
- Responsible for the Training and Supervision of the Facility Safety Staff assigned to the treatment housing unit.
- Hostage Negotiation Team Leader.

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### **New Beginnings Counseling (1997-2001)**

#### **Owner/Clinical Director**

- Developed Outpatient Sexual Offender Program.
- Provided Sexual Offender Counseling in group, family and individual sessions.
- Awarded Five Department of Corrections Contracts for treatment of sexual offenders in Probation and Parole populations.
- Wrote all Proposals and negotiated all Contracts with governmental agencies.
- Provided Expert Testimony in Court and in Probation and Parole Violation Hearings.
- Developed Policy and Procedures for Outpatient Mental Health Licensing.
- Responsible for all Outpatient State Licensing Annual Audits, achieving "Gold Seal".

### **Options Counseling (1991-1997)**

#### **Clinical Supervisor: Pontiac, Roseville and Mt. Clemens.**

- Facilitated Sexual Offender Treatment Program, conducting group and individual sessions.
- Supervised three locations, one in a secured setting.
- Supervised Clinical Staff
- Supervised CARF Standards, Audits and Compliance.
- Responsible for ongoing Quality Assurance Program.
- Developed, Wrote and Presented initial proposal for Sexual Offender Treatment Program with the Michigan Department of Corrections (Awarded 1992).
- Supervised the Testing and Assessment aspect of the program.

### **Highland Waterford Center (1988-1991) Clinical Supervisor**

- Developed and Facilitated Sex Offender Specific Treatment Program.
- Provided Adult and Juvenile group, family and individual counseling for criminal justice referrals.
- Supervised Clinical Staff.
- Developed, Implemented and Facilitated Cocaine Specific Treatment Program.
- Supervised Department of Corrections outpatient treatment program.
- Supervised Department of Corrections inmate treatment program.

### **Educational History**

#### **Wayne State University; Detroit, MI (2001)**

Ph.D. Clinical Mental Health Counseling and Counselor Supervision; Dept of Theoretical & Behavioral Foundations of Human Behavior. (CACREP Accredited)

Cognate Area: Criminal Justice

Dissertation *Facilitating Moral Development in Convicted Sexual Offenders* Published 4/12/02  
(copyright: TX-5-521-8 70)

#### **Florida Gulf Coast University (2010)**

M.B.A. Masters of Science in Business Administration; Ludgert College of Business.

(AACSB Accredited)

Graduated with Honors; "*Business Actuarial Decision Science*"

Area of Elective Study: Health Care Administration.

**Oakland University; Rochester, MI (1993)**

M.A. Mental Health Counseling (CACREP Accredited).

Minor: Substance Abuse Counseling

Thesis: Application of Gorski's Relapse Prevention Model in the Correctional Setting

**University of Michigan; Ann Arbor, MI. (1987)**

B.A. Psychology

**Publications**

- Ethical Section titled Forensic Activities found in American Mental Health Counselor (AMHC) revised professional ethical code published 2010.
- Antisocial Personality Disorder: The Diagnostic Question in Civil Commitment The Journal of Psychiatry & Law"; Spring, 2008
- Risk Assessment of Civilly Committed Sexually Violent Predators: Static vs. Dynamic Orientations. (Published 3/2007 — Cover Article; Spring Edition). "Journal for the American College of Forensic Examiners."

**Pending Publications**

- Sexual Offender Risk Assessment for Mental Health Counselors  
John Wiley & Sons, Inc. Hoboken, NJ.
- The State as the Object: When the Plaintiff Becomes the Therapist  
International Journal of Psychoanalysis, Culture and Society

**Memberships and Associations**

- Nationally Board Certified Forensic Evaluator - Diplomate Status (NBFE)
- American Psychological Association (APA)
  - Division 39 – Section V: Psychologist-Psychoanalyst Clinicians
  - Division 41 – American Psychology – Law Society
- Associate of the Society of Actuaries (ASA)
  - VEE: Economics, Finance, Statistics.
  - FAP 1-5
  - Exam P.
- American Counseling Association (ACA)
- American Mental Health Counselors Association (AMHCA)
- National Board of Forensic Evaluators Advisory Board Member
- National Board of Forensic Evaluators Policies & Procedures Committee
- AMHCA Ethics Committee (2009)
- Nationally Board Certified Counselor.
- National Association of Forensic Counselors.
- Wayne State University Board Member for CACREP Audit (2000 – 2001).
- Member of the Society for Human Resource Management.
- Member of the Graduate Business Association.

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### **Seminars and Training Received**

- 2009 - 2010 Post-Doctoral Training in Psychoanalytic Psychology through Tampa Southwest Psychoanalytic Society – Ongoing.
- 2008 ATSA Conference in Atlanta, GA. Entire Adult Track Training.
- 2008 Sexual Offender Adult Risk Assessment with Dennis Doren
- 2007 National Board of Certified Forensic Evaluators Comprehensive Examination Preparation Module.
- Child Custody Evaluations 2006
- Conducting and Writing Forensic Evaluations 2005.
- Conducting and Writing Custody Evaluations 2004.
- Psychological Treatment of Personality Disorders 2004.
- Psychological Assessment Review 2004.
- CARF Accreditation Seminar 2002.
- 2002 Sexually Violent Predator Conference.
- Treating the Adolescent Sexual Offender with Robert Freeman-Longo 2002.
- CACREP Audit Training 2000.
- PCL-R Seminar and Training with Robert Hare through MDOC; 2000.
- Interviewing and Treating Sexual Offenders with Richard Laws 1999.
- Identification of Risk Factors with William Pithers 1999.

### **Seminars and Training Provided**

#### **Department of Children and Families (2009 – 2010)**

##### ***Sexual Predator Identification, Interviewing Strategies and Risk Assessment.***

- In-service training/workshops for the Department of Children and Families Child Protective Investigators, Case Managers and Staff as well as Children's Network of SWFL (Adoption Specialist, Quality Management, Placement Staff, Foster Care Licensing)

#### **Wayne State University (1997 — 2001)**

- Graduate Courses in the Doctoral and Masters Level Counseling and Psychology Programs.
  - DSM-IV Diagnosis of Axis II Personality Disorders (Two Semesters)
  - Treatment of Special Populations ; Sexual Offenders (Three Semesters)
  - Treatment Planning for Mental Health Counseling and Psychology Departments (Two Semesters).
- Supervised Doctoral and Masters Level Counselors in Individual and Group Counseling in Clinical Laboratory Setting.

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Final Order No. DOH-10-2494 <sup>DS</sup>-MQA  
FILED DATE - 11-10-10  
Department of Health

By: Angel Olander  
Deputy Agency Clerk

**STATE OF FLORIDA  
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND FAMILY THERAPY AND  
MENTAL HEALTH COUNSELING**

**IN RE:            PETITION FOR DECLARATORY STATEMENT OF  
                     DEAN R. CAULEY, Ph. D., MBA**

---

**FINAL ORDER**

THIS MATTER came before the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, pursuant to Section 120.565, Florida Statutes. At a duly-noticed public meeting held on October 14, 2010, in Jacksonville, Florida, the Board considered Dr. Cauley's Petition for Declaratory Statement. The Petition was filed with the Department of Health on July 13, 2010. Petitioner is requesting that the Board issue a Declaratory Statement interpreting Petitioner's perceived conflict between Section 490.012, Florida Statutes, and Chapter 491, Florida Statutes and the rules promulgated pursuant thereto.

Petitioner was neither present nor represented by counsel at the meeting. Having considered the Petition and the relevant statutes and rules, the Board issues the following:

**FINDINGS OF FACT**

1. The Petition was duly filed and noticed in the Florida Administrative Law Weekly; Volume 36/33 published on August 20, 2010.
2. The Petition is attached hereto and incorporated herein by reference.
3. Chapter 490, Florida Statutes, is the Psychology Practice Act. The Florida Board of Psychology is responsible for enforcing the provisions of Chapter 490, Florida Statutes.

Exhibit "B"

## CONCLUSIONS OF LAW

1. The Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling has the authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

2. Section 120.565, Florida Statutes, reads in part as follows:

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances

3. Rule 28-105.001, Florida Administrative Code, mandates that a petition for declaratory statement, "describe the potential impact of statutes, rules, or orders upon the petitioner's interest."

4. Section 490.012(1), Florida Statutes, provides in part:

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

5. It is the Board's opinion that it does not have the jurisdiction to interpret the provisions of Chapter 490, Florida Statutes, including specifying who falls under the exemptions from licensure under Chapter 490, Florida Statutes.

6. It is the Board's opinion that pursuant to the scope of his mental health counseling



licensure, Dr. Cauley, if he is properly trained and not prohibited by any other law, may provide testing, treatment and a diagnosis of a psychological nature.

7. Based on the foregoing, the Board hereby **DENIES** Dr. Cauley's petition for declaratory statement.

This Order shall become effective upon filing with the Clerk of the Department of Health.

**DONE AND ORDERED**, this 9<sup>th</sup> day of November, 2010.

**BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND  
FAMILY THERAPY AND MENTAL HEALTH COUNSELING**



Sue Foster, Executive Director  
*on behalf of Mary Macomber, J.D., 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 by U.S. Mail to: **Dean R. Cauley, Ph.D., MBA**, 3270 Yukon Drive, Port Charlotte, Florida 33948-6130; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, and **Angela Southwell**, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on Nov. 10, 2010.

*Angela Southwell*

**Deputy Agency Clerk**

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**Dean R. Cauley Ph.D., MBA**  
**3270 Yukon Drive**  
**Port Charlotte, FL. 33948-6130**

**FILED**  
**DEPARTMENT OF HEALTH**  
**DEPUTY CLERK**  
**CLERK Angel Sanders**  
**DATE 7-13-10**

**(941) 661-8895**  
**Fax: (941) 627-6867**

**DCauley@Comcast.net**

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7/7/2010

### **PETITION FOR DECLARATORY STATEMENT.**

Petition for Declaratory Statement before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

**Petitioner:**  
**Dean R. Cauley Ph.D., MBA**  
**3270 Yukon Drive**  
**Port Charlotte, FL. 33948-6130**  
**Phone: (941) 661-8895**  
**Fax: (941) 627-6867**  
**Email: DCauley@Comcast.net**

The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory statement is sought is the conflict between the rules of the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling and the rules of the Board of Psychology as related to the petitioner's practice:

#### **CHAPTER 490** **PSYCHOLOGICAL SERVICES**

##### **490.012 Violations; penalties; injunction.--**

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

In relation to:

**CHAPTER 491  
CLINICAL, COUNSELING, AND PSYCHOTHERAPY SERVICES**

(9) The "practice of mental health counseling" ..... The practice of mental health counseling includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders (whether cognitive, affective, or behavioral), behavioral disorders, interpersonal relationships, sexual dysfunction, alcoholism, and substance abuse.

**THE CONFLICT BETWEEN THESE TWO CHAPTERS  
AS RELATED TO PETITIONER**

Petitioner holds a Ph.D. in mental health counseling from a CACREP accredited doctoral program. Petitioner has taken and completed graduate level coursework in "psychological evaluations" at a Masters and a Doctoral level. The petitioner's relevant licensing area indicates that the profession of mental health counseling "includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders".

This suggests that the best descriptor of such testing and assessments would be "psychological" in nature.

Additionally, the petitioner has worked in correctional facilities as well as civil commitment settings where his responsibility was to administer and interpret psychological testing. The petitioner has written peer reviewed research articles and published a doctoral dissertation which included the use of psychological testing devices and explored diagnostic issues (see attached Vita).

Therefore, given the background, education, training and experience as outlined the petitioner should, in good faith, be able to present his written work as being a "psychological assessment" based upon "psychological testing".

**HOW THIS CONFLICT  
SUBSTANTIALLY EFFECTS PETITIONER**

As an expert witness in the field of sexually violent predator risk assessment the petitioner has testified over 125 times in 19 of 20 judicial districts in Florida. It has never been the situation that the petitioner was not accepted as an expert, qualified to discuss testing, assessment and psychological diagnosis of sexually violent predators under the civil commitment statute.

However, opposing counsel has presented the inability of the petitioner to perform "psychological testing" or "psychological assessments" as a limitation of the mental health license, implying to the trier of fact that doctoral level psychologists are

more qualified than doctoral level mental health counselors based upon this licensing difference. This has afforded the opposing counsel an opportunity to publicly discredit the testimony of the petitioner based upon the semantic distinction in the licensing rules between a "mental health assessment" and a "psychological assessment". A distinction that is seemingly absurd yet is used as an attack on the professional credibility, education and training of the petitioner and thereby causing substantial harm to his practice.

### **WHAT THIS PETITION DOES NOT SEEK TO CLARIFY**

On each occasion that the petitioner has sought clarification through either of the two Professional Regulation Boards the answer has been that the mental health counselor must "be very clear in your advertising and interactions with the public that you are licensed as a mental health counselor not a psychologist." This response has come on each occasion that the petitioner has inquired and on each licensing complaint filed against the petitioner in regards to the above issues. However, that is not what is in need of clarification. It has always been the situation that the petitioner has made it abundantly clear to the judge and/or jury what he is licensed in, where he went to school and what he studied at those schools. This is a usual part of expert qualification for the courts.

Also, it is understood that a professional – in any profession – must necessarily practice only in those areas for which he/she is trained, qualified and licensed. Therefore, that is not a part of the current request for clarification.

### **REQUEST FOR DECLARATORY STATEMENT**

I am a doctoral level mental health counselor. I am a full clinical member of the American Psychological Association (APA) as well a member of APA's Division 39; Section I (Psychologist-Psychoanalyst Practitioners) and a member of Division 41 (American Psychology-Law Society). In my doctoral program I took coursework from an accredited university specific to "psychological evaluation" as well as "psychological testing".

I am fully licensed to diagnose and academically qualified to purchase, administer and interpret psychological testing and to present the testing results in a written assessment. I have been employed in the capacity of administering personality testing, intelligence testing, and sexual offender specific testing for over eight years in Florida, and 13 years altogether. These tests are then brought together into a narrative evaluation which I have been writing for over 13 years. Therefore it should be the case that the psychological testing can be described as "psychological testing", and that the written evaluation that incorporates these psychological testing outcomes can be described as a "psychological assessment". I feel that my background, education training and experience should afford me the right to use the term "psychodiagnostic" and – more importantly - "psychological testing" and "psychological assessment" in presenting diagnostic conclusions based upon such testing and assessment of a psychological nature as allowed under my license.

My own licensing area indicates that the profession of mental health counseling “includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders”. This suggests that the best descriptor of such evaluations and assessments would be “psychological” in nature.

However, under the Rules for Psychologists it is stated that:

No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

However that same law also states:

No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title or description protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

My conclusion is that my work falls under the area of exemption, and that I may use the words "psychological," or "psychodiagnostic," "psychological testing" and "psychological assessment" to best describe any such test or written assessment within my area of expertise (sexually violent predators). However, substantial harm has occurred to my professional credibility as a result of others being able to interpret these same rules differently.

#### **SUMMARY OF PETITION AND PETITION FOR REMEDY AS SPECIFICALLY RELATED TO PETITIONER**

The purpose of this petition is to bring clarity to this specific issue in my own situation, not in the case of all mental health counselors. The reason for this petition is that this conflict between the two statutes has given cause for me to be attacked and professionally discredited in the courtroom setting.

The remedy is a Declaratory Statement indicating that under these circumstances, in this case, specific to the psychological assessment of sexually violent predators by this petitioner the use of the term "psychological testing" and "psychological assessment" is not a violation of the rules or statutes of either profession nor, as related to the petitioner

**in this specific area of practice nor is he committing "a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083."**

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**Dean R. Cauley PhD., MBA**

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**Employment History**

**Private Practice (2003 — 2010)**

- Court Testimony specific to Actuarial Risk Assessment, Community Placement and Community Risk, Community Supervision and Community Management of Sexually Violent Predators/High Risk Offenders. Recognized as an Expert Witness on such subjects in 19 of 20 Florida Judicial Districts.
- Contracted Vendor through the Justice Administration Commission to conduct Sexually Violent Predator evaluations and risk assessments in the State of Florida.
- Registered Vendor in the State of Missouri to conduct Sexually Violent Predator Psychological Evaluations.
- Registered Vendor in the State of Washington to conduct Sexually Violent Predator Psychological Evaluations.
- Registered Vendor in the State of Texas to conduct Sexual Offender Risk Assessment and Treatment.
- Registered Vendor with the Federal Public Defender to conduct Sexual Offender Risk Assessment and to provide Expert Witness Testimony
- Contract Holder with Department of Children and Families providing Forensic Evaluations and Expert Witness Services regarding both the adult and juvenile sex offender populations (2006—2010).
- Contract Holder with Department of Children and Families to provide workshops on "*Sexual Predator Identification, Interviewing Strategies and Risk Assessment.*" Training is conducted in Lee, Collier and Charlotte counties.

**Florida Civil Commitment Center for Sexually Violent Predators (2001- 2003)**

- Clinical Team Leader - Supervising 2 Masters Level and 2 Bachelors Level Clinical Team Members; overseeing 50 residents in a maximum security forensic facility housing 400 residents.
- Clinical Therapist — Providing Sexual Offender Treatment in both group and individual sessions.
- Testing and Assessment Coordinator - Utilized Sex Offender Specific Testing, Personality and Intelligence Testing and other Psychometric tools to Evaluate Sexually Violent Predators in the Florida Civil Commitment Program.
- Responsible for Intake Assessments as well as Annual Reviews of Progress.
- Responsible for File Maintenance, Scheduling and Supervision of Counseling, Supervision and Scheduling of Services, and Development of Treatment Plans.
- Responsible for the Training and Supervision of the Facility Safety Staff assigned to the treatment housing unit.
- Hostage Negotiation Team Leader.



### **New Beginnings Counseling (1997-2001)**

#### **Owner/Clinical Director**

- Developed Outpatient Sexual Offender Program.
- Provided Sexual Offender Counseling in group, family and individual sessions.
- Awarded Five Department of Corrections Contracts for treatment of sexual offenders in Probation and Parole populations.
- Wrote all Proposals and negotiated all Contracts with governmental agencies.
- Provided Expert Testimony in Court and in Probation and Parole Violation Hearings.
- Developed Policy and Procedures for Outpatient Mental Health Licensing.
- Responsible for all Outpatient State Licensing Annual Audits, achieving "Gold Seal".

### **Options Counseling (1991-1997)**

#### **Clinical Supervisor: Pontiac, Roseville and Mt. Clemens.**

- Facilitated Sexual Offender Treatment Program, conducting group and individual sessions.
- Supervised three locations, one in a secured setting.
- Supervised Clinical Staff
- Supervised CARF Standards, Audits and Compliance.
- Responsible for ongoing Quality Assurance Program.
- Developed, Wrote and Presented initial proposal for Sexual Offender Treatment Program with the Michigan Department of Corrections (Awarded 1992).
- Supervised the Testing and Assessment aspect of the program.

### **Highland Waterford Center (1988-1991) Clinical Supervisor**

- Developed and Facilitated Sex Offender Specific Treatment Program.
- Provided Adult and Juvenile group, family and individual counseling for criminal justice referrals.
- Supervised Clinical Staff.
- Developed, Implemented and Facilitated Cocaine Specific Treatment Program.
- Supervised Department of Corrections outpatient treatment program.
- Supervised Department of Corrections inmate treatment program.

## **Educational History**

### **Wayne State University; Detroit, MI (2001)**

Ph.D. Clinical Mental Health Counseling and Counselor Supervision; Dept of Theoretical & Behavioral Foundations of Human Behavior. (CACREP Accredited)

Cognate Area: Criminal Justice

Dissertation *Facilitating Moral Development in Convicted Sexual Offenders* Published 4/12/02  
(copyright: TX-5-521-8 70)

### **Florida Gulf Coast University (2010)**

M.B.A. Masters of Science in Business Administration; Ludgert College of Business.

(AACSB Accredited)

Graduated with Honors; "Business Actuarial Decision Science"

Area of Elective Study: Health Care Administration.

**Oakland University; Rochester, MI (1993)**

M.A. Mental Health Counseling (CACREP Accredited).

Minor: Substance Abuse Counseling

Thesis: Application of Gorski's Relapse Prevention Model in the Correctional Setting

**University of Michigan; Ann Arbor, MI. (1987)**

B.A. Psychology

### **Publications**

- Ethical Section titled Forensic Activities found in American Mental Health Counselor (AMHC) revised professional ethical code published 2010.
- Antisocial Personality Disorder: The Diagnostic Question in Civil Commitment The Journal of Psychiatry & Law"; Spring, 2008
- Risk Assessment of Civilly Committed Sexually Violent Predators: Static vs. Dynamic Orientations. (Published 3/2007 — Cover Article; Spring Edition). "Journal for the American College of Forensic Examiners."

### **Pending Publications**

- Sexual Offender Risk Assessment for Mental Health Counselors  
John Wiley & Sons, Inc. Hoboken, NJ.
- The State as the Object: When the Plaintiff Becomes the Therapist  
International Journal of Psychoanalysis, Culture and Society

### **Memberships and Associations**

- Nationally Board Certified Forensic Evaluator - Diplomate Status (NBFEE)
- American Psychological Association (APA)
  - Division 39 – Section V: Psychologist-Psychoanalyst Clinicians
  - Division 41 – American Psychology – Law Society
- Associate of the Society of Actuaries (ASA)
  - VEE: Economics, Finance, Statistics.
  - FAP 1-5
  - Exam P.
- American Counseling Association (ACA)
- American Mental Health Counselors Association (AMHCA)
- National Board of Forensic Evaluators Advisory Board Member
- National Board of Forensic Evaluators Policies & Procedures Committee
- AMHCA Ethics Committee (2009)
- Nationally Board Certified Counselor.
- National Association of Forensic Counselors.
- Wayne State University Board Member for CACREP Audit (2000 – 2001).
- Member of the Society for Human Resource Management.
- Member of the Graduate Business Association.

### Seminars and Training Received

- 2009 - 2010 Post-Doctoral Training in Psychoanalytic Psychology through Tampa Southwest Psychoanalytic Society – Ongoing.
- 2008 ATSA Conference in Atlanta, GA. Entire Adult Track Training.
- 2008 Sexual Offender Adult Risk Assessment with Dennis Doren
- 2007 National Board of Certified Forensic Evaluators Comprehensive Examination Preparation Module.
- Child Custody Evaluations 2006
- Conducting and Writing Forensic Evaluations 2005.
- Conducting and Writing Custody Evaluations 2004.
- Psychological Treatment of Personality Disorders 2004.
- Psychological Assessment Review 2004.
- CARF Accreditation Seminar 2002.
- 2002 Sexually Violent Predator Conference.
- Treating the Adolescent Sexual Offender with Robert Freeman-Longo 2002.
- CACREP Audit Training 2000.
- PCL-R Seminar and Training with Robert Hare through MDOC; 2000.
- Interviewing and Treating Sexual Offenders with Richard Laws 1999.
- Identification of Risk Factors with William Pithers 1999.

### Seminars and Training Provided

#### **Department of Children and Families (2009 – 2010)**

##### ***Sexual Predator Identification, Interviewing Strategies and Risk Assessment.***

- In-service training/workshops for the Department of Children and Families Child Protective Investigators, Case Managers and Staff as well as Children's Network of SWFL (Adoption Specialist, Quality Management, Placement Staff, Foster Care Licensing)

#### **Wayne State University (1997 — 2001)**

- Graduate Courses in the Doctoral and Masters Level Counseling and Psychology Programs.
  - DSM-IV Diagnosis of Axis II Personality Disorders (Two Semesters)
  - Treatment of Special Populations ; Sexual Offenders (Three Semesters)
  - Treatment Planning for Mental Health Counseling and Psychology Departments (Two Semesters).
- Supervised Doctoral and Masters Level Counselors in Individual and Group Counseling in Clinical Laboratory Setting.