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STATE OF FLORIDA
BOARD OF PSYCHOLOGY

FILED
Department of Health
Angela Hall, AGENCY CLERK
By: Vicki R. Ellison
Deputy Agency Clerk

IN RE:
Robert S. Klein, Ph.D.,

Petition for Declaratory Statement.
_____ /

FINAL ORDER
DECLARATORY STATEMENT

On or about January 28, 2000, Petitioner Robert S. Klein filed a Petition for Declaratory Statement, attached hereto as Exhibit A, with the Board of Psychology (Board), under section 120.565, Florida Statutes, and chapter 28-105 of the Florida Administrative Code Rules. The Petition requested an interpretation regarding the application of Florida Administrative Code Rule 64B19-18.005 to Petitioner's particular set of circumstances.

This matter came before the Board for final action at a duly-noticed public meeting on March 3, 2000, in Tallahassee, Florida. Petitioner was not present at the hearing.

FINDINGS OF FACT

1. Approximately five days after meeting with a seven year old child at the request of the mother with "primary residency of her son," Petitioner psychologist was advised by the father's attorney representative that the father does not want Petitioner to continue seeing the child.

2. Petitioner received a letter from the father's attorney stating that, "Under the terms of shared parental responsibility, you may not conduct any further evaluation of this child now that you are aware that the father does not consent."

CONCLUSIONS OF LAW

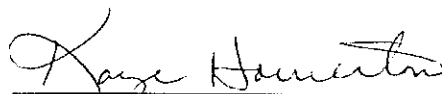
3. The Board determined that the Petition for the issuance of a declaratory statement should be granted. The Petition established that Petitioner's particular set of circumstances are imminent, urgent to Petitioner, and may be aided by a Declaratory Statement.

4. Rule 64B19-18.005 provides that the Board will not consider it a violation for a psychologist to treat a minor upon the psychologist's receipt of written permission from any adult who claims to have authority to consent to treatment.

5. With respect to the circumstances described by Petitioner, however, the Board will not go further to say that continuing treatment of the child would not constitute a violation of the Rule.

6. Evaluation and treatment of the child should not continue where a conflict arises between parents who share parental responsibility unless and until the applicable Court makes a determination in this regard.

DONE AND ORDERED this 21 day of March, 2000.



Kaye Howerton, Board Executive Director for
the BOARD OF PSYCHOLOGY

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 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 Final Order has been furnished by certified mail to Robert S. Klein, Ph.D., 901 North Hercules Avenue, Suite G, Clearwater, Florida 33760, and by interoffice mail to Donna Erlich, Assistant Attorney General, Office of the Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this _____ day of _____, 2000.

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Robert S. Klein, Ph.D., 901 North Hercules Avenue, Suite G, Clearwater, Florida 33760, Robert S. Klein, Ph.D., 901 North Hercules Avenue, Suite G, Clearwater, Florida 34625-1915 and interoffice delivery to Donna Erlich, Assistant Attorney General, Office of the Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050 at or before 5:00 p.m., this 29th day of March, 2000.

Connie Singletary

Exhibit A

CENTER
FOR
PSYCHOLOGY & EDUCATIONAL SERVICES

901 N. Hercules Avenue

Suite G

Clearwater, Florida 33765

NOA/MEDICAL THERAPIES/

00 JUN 28 AM 11:28

727/441-4579

Robert S. Klein, Ph.D., P.A.

Child, Adolescent and Adult Psychology

January 25, 2000

Petition Declaratory Statement before the Board of Psychology

Petitioner:

Robert S. Klein, Ph.D.
901 North Hercules Avenue
Suite G
Clearwater, Florida 33760

Fax: 

RE: Statue 64B19-18.005

Description:

A mother had an initial consultation with this psychologist in regard to an evaluation and possible treatment, if necessary, of her 7-year old son. The son is the mother's child from a previous marriage. The mother has remarried and has had primary residency of her son since final dissolution of her former marriage. This psychologist has had an initial interview with the child as well.

Approximately 5 days following my meeting with the child, this psychologist received a telephone call from an attorney who states she represents the boy's father. The attorney then proceeds to give additional information as to the nature of the relationship between the boy's father and mother. The attorney advises that the father does not want me to continue seeing the child. I stated to the attorney that I would need direct communication from the father. I added, however, that it was my understanding of Florida statute that I am not prohibited from continuing to see the child if the primary residential parent has indicated a desire for me to provide services to the child. The attorney disagreed.

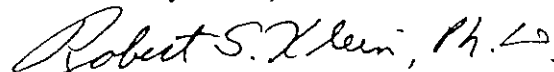
I have now received a letter from said attorney stating that "Under the terms of shared parental responsibility you may not conduct any further evaluation of this child now that you are

aware that the father does not consent. If you do so the father will take appropriate legal action against your office to prevent such action on your part. I understand from speaking with you that you believe that the administrative rules and regulations of the Department of Professional Regulation permit you to continue your evaluation and that you intend to do so. I do not interpret the rules in the same way that you do and suggest that if emotional harm comes to (the child) from this evaluation process that both you and the mother will be responsible for the consequences". The letter goes onto describe that the father will be filing an emergency motion to prevent the mother from taking the child to this psychologist's office.

The purpose of my seeking a declaratory statement from the board is so that I can advise the court if asked, and it is my understanding that I will be asked, as to whether or not it is a violation for me to continue to see the child at the request of the mother, the primary residential parent. Although, I have not yet been noticed of any emergency hearing I would appreciate if the board could review this petition and respond within a reasonable time period-so that I may be prepared should a hearing be called.

I appreciate very much your consideration of this petition and I will await your response.

Sincerely Yours,

A handwritten signature in cursive script that reads "Robert S. Klein, Ph.D." with a small flourish at the end.

Robert S. Klein, Ph.D.

RSK/lss