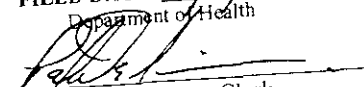


STATE OF FLORIDA
BOARD OF PSYCHOLOGY

Final Order No. DOH-00-1255- DS-MQA
FILED DATE - 7/25/00
Department of Health
By: 
Deputy Agency Clerk

IN RE:
Sheldon J. Kaplan, Ph.D.

Petition for Declaratory Statement

FINAL ORDER

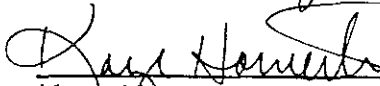
On June 8, 2000, Petitioner Sheldon J. Kaplan, Ph.D., filed a Petition for Declaratory Statement, attached hereto as Exhibit A, with the Board of Psychology (Board), under section 120.565, Florida Statutes, and chapter 28-105 of the Florida Administrative Code Rules. The Petition requested an interpretation with respect to section 490.003(4), Florida Statutes, and Florida Administrative Code Rule 64B19-17.001(g) (s) and (t).

This matter came before the Board to be heard at a duly-noticed public meeting on June 30, 2000, in Tampa, Florida. Petitioner was not present at the hearing, but was represented by counsel.

The Board determined that the Petition for the issuance of a declaratory statement should be Denied. The Petition posed a policy issue question of general applicability and lacked sufficient specific information with regard to the Petitioner's proposed delegation of responsibilities to unlicensed observers for the Board to issue a declaratory statement at this time.

WHEREFORE, the Board voted to DENY the Petition for Declaratory Statement.

DONE AND ORDERED this 18 day of July, 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 Henley Woody, Attorney for Petitioners, Post Office Box 34880, Omaha, Nebraska, 68134-0880, 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 Sheldon J. Kaplan, Ph.D., 3601 Hendricks Avenue, Jacksonville, FL 32207-5311, Robert Henley Woody, Attorney for Petitioners, Post Office Box 34880, Omaha, Nebraska 68134-0880 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 25th day of July, 2000.

Connie Singletary

**STATE OF FLORIDA
BOARD OF PSYCHOLOGY**

IN RE:

The Petition for Declaratory Statement of:

SHELDON J. KAPLAN, Ph. D.
_____ /

PETITION FOR DECLARATORY STATEMENT

The Petitioner, Sheldon J. Kaplan, Ph. D. by and through his undersigned attorney, and pursuant to Section 120.565, Florida Statutes (1999) and Chapter 28-105, Florida Administrative Code, hereby files their Petition for Declaratory Statement, and says as follows:

- (a) Name of Petitioner: Sheldon J. Kaplan, Ph. D.
- (b) Address of Petitioner: c/o Robert Henley Woody, Attorney at Law (Florida Bar No. 0342580), Post Office Box 34880, Omaha, Nebraska 68134-0880, Telephone Number (402) 496-1303, Facsimile Number (402) 496-1002.
- (c) Name of Agency: Board of Psychology
- (d) Agency rule, order, or statutory provision on which declaratory statement is sought: Florida Statute 490.003 (4) and F.A.C. 64B19-17.002 (1) (g), (s), and (t).
- (e) Description of how this rule, order, or statute may or does affect Petitioner in his particular set of circumstances only: The Petitioner is a psychologist licensed pursuant to F.S. Chapter 490. The Petitioner is in private practice and wishes to implement behavior management services to clients. The Petitioner would primarily employ observers who hold the status of Certified Behavior Analysts (awarded by the Florida Department of Children

and Families). All observers would be carefully screened for suitability (e.g., intellect, character, related training) and would be trained and supervised by the Petitioner personally. Further, all assignments (e.g., behavior management plans) to the observers would be made and monitored by the Petitioner.

QUESTION PRESENTED

- (1) Would it be appropriate for a licensed psychologist to use unlicensed observers, to whom the licensed psychologist would provide training and supervision, to conduct behavioral observations of public and private school students, and further, to monitor the behavior management programs that the licensed psychologist develops and implements in those classrooms?

APPLICABLE LAW

The Petitioner respectfully requests that the Board of Psychology determine the propriety of the Petitioner's providing behavior management services is compatible with Florida Statute 490.003 (4) and F.A.C. 64B19-17.002 (1) (g), (s), and (t), as well as any other Statutes or rules known to the Board of Psychology.

REQUEST FOR RELIEF

WHEREFORE, Petitioner, SHELDON J. KAPLAN, Ph. D., respectfully requests that this agency enter a declaratory statement: defining and delineating the propriety of the Petitioner's providing behavior management services to clients.

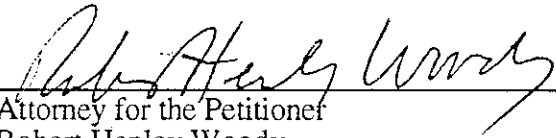
Dated this _____ day of _____, 2000

Respectfully submitted,



Sheldon J. Kaplan, Ph. D.

Prepared and Approved for Form by:



Attorney for the Petitioner
Robert Henley Woody
Florida Attorney No. 0342580
Post Office Box 34880
Omaha, Nebraska 68134-0880
(402) 496-1303