

DEPARTMENT OF HEALTH  
BOARD OF PSYCHOLOGY

ORDER FACT SHEET  
(For use by Board Counsel and Board Staff)

Order # 07-0702 DS  
Date Order Filed 4.27.07

- 1) Respondent's/Petitioner's/Applicant's Name: Gerald P. Koocher, Ph.D.
- 2) License Number: N/A
- 3) Profession Type: psychology
- 4) Type of Order: \_\_\_ Discipline \_\_\_ Licensure X Declaratory Statement
- 5) DOH Case Number n/a
- 6) DOAH Case Number n/a
- 7) File Number n/a
- 8) Statutory reference for Violations/Reasons for Denial: n/a
- 9) Violation Codes: n/a
- 10) Penalties Imposed: n/a
- 11) Closure Code: n/a
- 12) Exhibits to be Attached to Final Order: (1)

Petition for Declaratory Statement

- 13) Special Handling Instructions \_\_\_\_\_
- 14) Fact Sheet Prepared By: Joy A. Tootle, Board Counsel
- 15) Codes Added to Fact Sheet By: Anna L. Hart King
- 16) Exhibits Attached to Order By: Anna L. Hart King

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STATE OF FLORIDA  
BOARD OF PSYCHOLOGY

IN RE: PETITION FOR DECLARATORY STATEMENT

GERALD P. KOOCHER, Ph.D.

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**FINAL ORDER**

This matter came before the Board of Psychology (hereinafter the "Board") on April 13, 2007, in Fernandina Beach, Florida, for consideration of the above-referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on March 20, 2007, in Vol. 33, No.13 , of the Florida Administrative Weekly.

The petition, filed by GERALD P. KOOCHER, Ph.D., inquired as to whether his future service as an expert in Florida civil actions would fall under the exemptions to licensure set forth in Section 490.014, Florida Statutes.

**FINDINGS OF FACTS**

1. The Petitioner, GERALD P. KOOCHER, Ph.D., is not a Florida licensed psychologist.
2. The Petitioner is not an applicant for a Florida psychology license.

**CONCLUSIONS OF LAW**

3. The Board of Psychology has authority to issue Final Orders pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
6. The Petition filed in this cause is in substantial compliance with the provisions of 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.
7. Section 120.565(1), Florida Statutes, reads 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.

8. The Board determined that the petitioner does not have standing because he is not a licensee nor is he an applicant for licensure.

9. The Board determined that it does not have jurisdiction because enforcement of unlicensed activity complaints falls under the jurisdiction of the Florida Department of Health.

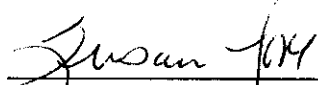
10. The Board finds that Petitioner does not give specific facts to distinguish the answer he seeks from being one of general applicability and Declaratory Statements are not meant to be ones of general applicability.

11. The Board of Psychology declines to issue a declaratory statement in response to Petitioner's inquiry.

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

**DONE AND ORDERED** this 26<sup>th</sup> day of April 2007.

**BOARD OF PSYCHOLOGY**

  
\_\_\_\_\_  
Susan Love, Executive Director  
for Herbert Goldstein, Ph.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 FLORIDA 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 has been furnished by U. S. Mail to: Gerald Koocher, Ph.D., ABPP, Simmons College, 300 The Fenway, Boston, MA 02115; and by interoffice mail to Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050; and, Josephine Tamayo, Esq., General Counsel, Department of Health, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, on this 27 day of APRIL 2007.



**Deputy Agency Clerk**



GERALD P. KOOCHER, PH.D.  
 DEAN AND PROFESSOR  
 SCHOOL FOR HEALTH STUDIES  
 SIMMONS COLLEGE  
 300 THE FENWAY  
 BOSTON, MA 02115

**FILED**  
 DEPARTMENT OF HEALTH  
 DEPUTY CLERK  
*[Signature]*  
 DATE 3/13/07

TELEPHONE - (617) 521-2313  
 FACSIMILE - (617) 321-7125

March 5, 2007

RECEIVED  
 DEPARTMENT OF HEALTH  
 MARCH 13 10 06 54 AM '07

Allen Hall  
 Program Administrator  
 Division of Medical Quality Assurance  
 Board of Psychology  
 4052 Bald Cypress Way  
 Tallahassee, FL 32399-3255

Transmitted via electronic mail to: [allen\\_hall@doh.state.fl.us](mailto:allen_hall@doh.state.fl.us)

Re: Petition for Declaratory Statement

Dear Mr. Hall:

Please see the accompanying revised petition for declaratory ruling from the Board of Psychology.

Sincerely,

*[Handwritten Signature]*

Petition for Declaratory Statement Before the Board of Psychology  
Division of Medical Quality Assurance  
Department of Health  
State of Florida

**Petitioner:**

Gerald P. Koocher, Ph.D., ABPP  
Dean and Professor of Psychology  
Simmons College  
300 The Fenway  
Boston, MA 02115

Telephone: 617-521-2313  
Facsimile: 617-327-7725  
Electronic mail: [koocher@simmons.edu](mailto:koocher@simmons.edu)

**Legal representative:** None

**Statutory, rules, or orders on which the declaratory statement is sought:**

**490.001 Short title.--** "Psychological Services Act."

**490.014 Exemptions.--**

- (e) Is not a resident of the state but offers services in this state, provided:
1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and
  2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

Specifically, I seek a ruling under the provisions of 490.014, (e), 2, that my credentials meet the standards required by non-resident psychologists qualifying for exemption.

**Description of how the statutes, rules, or orders substantially affect the petitioner in the petitioner's particular set of circumstances:**

Florida attorneys have contacted me seeking my expert opinion in matters regarding civil tort actions pending before Florida courts. At some point in the future I anticipate that I will be asked to travel to Florida to evaluate a person in Florida and/or to testify in Florida at deposition and/or at trial in these civil actions.

I expect that such work would not require me to function in this role for more than 4 days in any month, nor more than 10 days in any year.

I do not wish to violate any Florida statute or rules of the Psychology Board or Department of Health, and seek guidance as to whether my services as an expert in such circumstances conform with the Board's requirements.

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I have never been disciplined by any professional association or licensing board.

A list of my professional licenses and certifications follows:

- 1973 Massachusetts Board of Registration in Psychology, Certification No. 113  
[Health Service Provider designation]
- 1976 American Board of Professional Psychology, Diploma in Clinical Psychology,  
Diploma No. 2931
- 1978 Board of Examiners in Psychology, District of Columbia, Psychologist License  
No. 922 [currently inactive]
  
- 1981 American Board of Forensic Psychology, Diploma No. 56
- 1984 New Hampshire Board of Examiners of Psychologists, Certification No. 319
- 1986 American Board of Professional Psychology, Diploma in Forensic Psychology,  
Diploma No. 3856
- 1989 Qualified Forensic Psychologist, Massachusetts Department of Mental Health
- 1993 American Board of Professional Psychology, Diploma in Health Psychology,  
Diploma No. 4415
- 2000 American Board of Professional Psychology, Diploma in Family Psychology,  
Diploma No. 5379
- 2003 American Board of Clinical Child and Adolescent Psychology, Diploma No.  
5715
- 2006 Association of State and Provincial Psychology Boards, Certificate of  
Professional Qualification in Psychology No. 4044.

I will appreciate the Board of Psychology's official opinion on this matter, as I wish to practice in conformity with state law.

*M. K. Godwin*  
March 6, 2007

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STATE OF MASSACHUSETTS