

**STATE OF FLORIDA
BOARD OF PSYCHOLOGY**

**IN RE: THE PETITION FOR DECLARATORY STATEMENT OF
 MARC B. DIELMAN, Ph.D.**

FINAL ORDER

THIS MATTER came before the Board of Psychology ("Board") pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting held on April 28, 2006, in Tampa, Florida, for the purpose of considering the Petition for Declaratory Statement filed March 10, 2006, by Marc B. Dielman, Ph.D., ("Petitioner"). Notice of the Petition was published on March 31, 2006, in the Florida Administrative Weekly, Volume 32, No. 13. No comments by interested persons were received. Petitioner was not present at the meeting and was represented by Erin Smith Aebel, Esquire. The Board was represented by Mary Ellen Clark, Assistant Attorney General. Having considered the petition, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. Petitioner is a psychologist licensed in good standing in the State of Ohio.
2. Petitioner intends to move to Florida in 2006 to live part time.
3. Petitioner asks whether treating patients who are physically located in Ohio by telecommunications, including telephone sessions, e-mails, and video conferencing, while he is physically located in Florida, constitutes the practice of psychology in Florida requiring Florida licensure.

CONCLUSIONS OF LAW

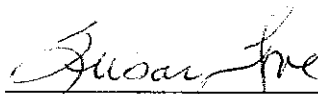
1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes.

2. The Board answers the question in the affirmative. The psychological treatment of patients who are physically located in Ohio by telecommunications, including telephone sessions, e-mails, and video conferencing, by a psychologist physically located in Florida, constitutes the practice of psychology in Florida requiring Florida licensure.

3. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 5th day of June, 2006.

BOARD OF PSYCHOLOGY



Susan Love, Executive Director
for Rafael Rivas-Vazquez, Psy.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Mark Dielman, Ph.D., 5600 Monroe Street, Suite 103B, Sylvania, Ohio 43560; Erin Smith Aebel, Esquire, Shumaker, Loop & Kendrick, LLP, P.O. Box 172609, Tampa, FL 33672-0609; and by interoffice mail to Mary Ellen Clark, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this 5th day of June, 2006.

Cheryl Roberts

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Deputy Agency Clerk

AMENDED PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA DEPARTMENT OF HEALTH
BOARD OF PSYCHOLOGY

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
Jhenna Meko
DATE 3-10-06

This Amended Petition is submitted by Mark Dielman, Ph.D., 5600 Monroe Street, Suite 103B, Sylvania, Ohio 43560 (Telephone 419.885.5952) through his undersigned Florida legal counsel, Erin Smith Aebel, Esquire, Shumaker, Loop & Kendrick, LLP, P.O. Box 172609, Tampa, Florida 33672-0609 (Telephone 813.227.2357) (Facsimile 813.229.1660).

The statutory provision on which the declaratory statement is sought is Florida Statute § 490.003(4), the definition of the “practice of psychology.” Petitioner is a psychologist licensed in good standing in Ohio, where he practices. This year, he intends and plans to move to Florida part-time. Petitioner would like to continue his psychologist practice while in Florida. More specifically, he would like to treat patients of his who are residents of Ohio by telecommunications, which may include telephone sessions, e-mails and video conferencing. Before providing these services to his Ohio patients, Petitioner would like to know if providing treatment via telecommunications with patients in Ohio while he is physically located in Florida constitutes the “practice of psychology” in Florida. Dr. Dielman intends to have patient contacts more numerous than those under the exemption in Florida Statute Section 490.014(2)(e). Therefore, he needs to know if such activity is the “practice of psychology” in Florida, such that he will be required to obtain Florida licensure before providing such services.

Petitioner is directly affected by the Board of Psychology’s determination of the above question. He is moving his practice to Florida part-time and as such, will need to know whether


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a license is required to provide treatment while in Florida to his Ohio patients via telecommunications.

Dated: March 3, 2006

Respectfully submitted,

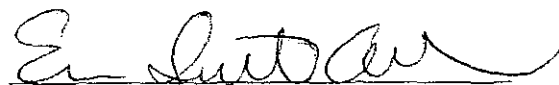
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Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States mail this 6 day of March, 2006 to:

Mary Ellen Clark
Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050


Attorney

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