

**STATE OF FLORIDA
BOARD OF PSYCHOLOGY**

**IN RE: THE PETITION FOR DECLARATORY STATEMENT OF
GREGORY S. DECLUE, 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 21, 2006, by Gregory S. DeClue, Ph.D., ("Petitioner"). Notice of the Petition was published on March 7, 2006, in the Florida Administrative Weekly, Volume 32, No. 14. No comments by interested persons were received. Petitioner was present at the meeting and not represented by counsel. 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 Florida licensed psychologist who has been evaluating and treating sex offenders since 1988.
2. Sections 947.005(9) and 948.001(6), Florida Statutes, were established by the Florida Legislature in 2005 and each define "Qualified Practitioner" to mean "a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a social worker, a mental health counselor, or a marriage and family therapist licensed under chapter 491 who, as determined by rule of the respective

boards, has the coursework, training, qualifications, and experience to evaluate and treat sex offenders.”

3. The Board began rulemaking to establish the requirements for a Florida licensed psychologist to evaluate and treat sex offenders in October, 2005, and noticed for rule development, Rule 64B19-18.001, Florida Administrative Code, on January 13, 2006. The proposed rule has been formally challenged and a public hearing in the matter is currently scheduled for July 29, 2006.

4. Petitioner has submitted documentation of his coursework, training, qualifications, and experience and has asked the Board to declare that he is a Qualified Practitioner pursuant to Sections 947.005(9) and 948.001(6), Florida Statutes.

CONCLUSIONS OF LAW

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

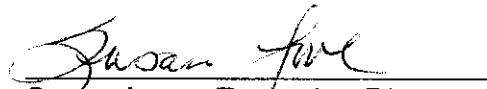
2. The Board declines to answer the question as there is, as yet, no rule in effect to establish the coursework, training, qualifications, and experience a Florida licensed psychologist must have to evaluate and treat sex offenders. Sections 947.005(9) and 948.001(6), Florida Statutes, specifically state that these requirements will be determined by board rule. Section 120.565, Florida Statutes, allows a substantially affected person to seek a determination of the applicability of a statutory provision or rule to the person’s particular set of circumstances. In that the statutory provisions under which Petitioner seeks a determination specifically reference a board rule that has yet to be adopted, the Board has determined Petitioner’s question cannot

appropriately be answered. Furthermore, while the proposed rule would establish the requirements under which a licensee could hold out as a "Qualified Practitioner," it would be up to the licensee initially, and not the Board, to determine whether the requirements had been met.

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.

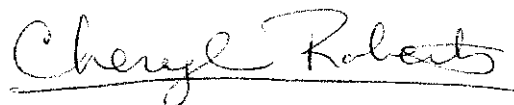
BOARD OF PSYCHOLOGY



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 Gregory S. DeClue, Ph.D., 16443 Winburn Place, Sarasota, FL 34240-9228; 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.



Deputy Agency Clerk

Gregory DeClue, Ph.D.

Diplomate in Forensic Psychology, American Board of Professional Psychology

16443 Winburn Place
Sarasota, FL 34240-9228
Voice/Fax (941) 951-6674
gregdeclue@mailmt.com

Florida Psychology License Number PY0003427
Certified Sex Therapist
<http://gregdeclue.myakkatech.com>

PETITION FOR DECLARATORY STATEMENT BEFORE THE FLORIDA BOARD OF PSYCHOLOGY

Petitioner (licensee): **Gregory S. DeClue**
Address: 16443 Winburn Place, Sarasota, FL 34240
Telephone: 941-951-6674
Facsimile: 941-951-6674
Email: gregdeclue@mailmt.com
Attorney: none

Statutes: Chapters 947 and 948, including 947.005, 947.1405, 948.001, 948.30, and any other portions of chapters 947 and 948 that refer to "qualified practitioner."
How Chapters 947 and 948 affect petitioner:

In the 2005 Florida Statutes, both F.S. 947.005(9) and F.S. 948.001(6) define "qualified practitioner":

"Qualified practitioner" means a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a social worker, a mental health counselor, or a marriage and family therapist licensed under chapter 491 who, as determined by rule of the respective boards, has the coursework, training, qualifications, and experience to evaluate and treat sex offenders.

I regularly evaluate and treat sex offenders as a significant part of my independent practice of psychology in Florida. It is important to me that I not lose any work, either temporarily or permanently, as the rules and laws change. A declaration from the Board of Psychology that I am qualified to evaluate and treat sex offenders in Florida would allow me to continue my independent practice of psychology in Florida.

Thank you for your attention to this matter.

Sincerely,



Gregory DeClue, Ph.D., ABPP
with attachments

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Theresa McKinn*
DATE 3-21-06