**PETITION FOR DECLARATORY STATEMENT BEFORE THE**

**FLORIDA DEPARTMENT OF HEALTH**

Petitioner:

Michael G. Holler, LMHC

91831 O/S Hwy.

Suite A

Tavernier Fl. 33070

mholler@terrranova.net

Attorney for Petitioner:

David G. Hutchison, Esq.

P.O. Box 1262

Key Largo, Fl. 33037

(305) 451-0013

Info@floridakeyslegal.com

Petitioner is requesting the following determination:

1. Whether an LMHC can conduct testing using testing/instruments of a psychological nature or;
2. Whether an LMHC must use testing/instruments of a psychological nature when appropriate, such as in, but not limited to, performing evaluations of minors for the purpose of addressing custody, residence, or visitation disputes

Rule 64B4-7.006 states:

“64B4-7.006 Requirements for Evaluations of Minors for the Purpose of Addressing Custody, Residence or Visitation Disputes.

(1) To perform evaluations of minors for the purpose of making a recommendation regarding custody, residence or visitation, the licensee shall have:

(a) Competence in performing assessments of a psychological nature on children and families;

(b) Education and training in the areas of child and family development, child and family psychopathology, and the impact of divorce on children and families; and

(c) Knowledge of the legal standards and procedures governing divorce and child custody.

(2) *When providing such evaluation of a minor,* *the licensee shall*:

(a) Be impartial, act in the best interest of the child, avoid conflicts of interest, and not have been the treating psychotherapist nor had a prior relationship with any of the parties to the evaluation; and

(b) *Use multiple avenues of data gathering, including testing* and interviewing methods, and shall involve all persons central to the child in question, including, at a minimum, communication with the child, the parties seeking custody or visitation, any treating mental health professional, family physician, and relatives of the immediate families.” (emphasis added)

The Petitioner asserts that the rule not only authorizes an LMHC when conducting an evaluation of minors for the purpose of addressing custody, residence or visitation disputes, to conduct testing using instruments of a psychological nature, but requires the licensee to utilize testing as one of the methods of data gathering.

Wherefore, the Petitioner respectfully requests that this Board render a declaratory statement that an LMHC may conduct testing using testing/instruments of a psychological nature, and that an LMHC must use testing/instruments of a psychological nature when appropriate, such as in, but not limited to, performing evaluations of minors for the purpose of addressing custody, residence, or visitation disputes.

 Respectfully submitted,

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michael G. Holler, MA, NCC, CCMHC, CFMHE, CCCE, LMHC