

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS.

SUPERIOR COURT
PROBATE AND FAMILY COURT
NO. 86E 0018-GI

 *
 BEHAVIOR RESEARCH INSTITUTE, INC., et al., *
 Plaintiffs *
 *
 v. *
 *
 DIRECTOR OF THE OFFICE FOR CHILDREN, *
 Defendants *
 *

MOTION TO AMEND SETTLEMENT AGREEMENT

The Department of Mental Retardation (DMR), as successor to the Department of Mental Health, (DMH), moves to modify the settlement agreement by the Court on January 7, 1987, as follows:

1. The deletion of "Department of Mental Health" wherever appearing in the Settlement Agreement and the insertion of "Department of Mental Retardation."
2. The modification of paragraph (A)(7), third sentence, by the deletion of the third and fourth sentences, and the insertion of the following:

Prior to the hearing on a treatment plan for a new or current student as called for in section 5, above, DMR clinicians may evaluate the student's clinical circumstances, except that DMR clinicians shall evaluate the student if the Court determines such evaluation is necessary to consideration of the proposed treatment plan. If DMR clinicians evaluate a student's clinical circumstances pursuant to this paragraph, they shall provide the Court with their recommendations on the issues noted in section six, above, as well as their assessment of the student's ability to provide informed consent to treatment.

DMR moves to modify the Settlement Agreement as set forth above for the following reasons:

First, on July 1, 1987, by virtue of St. 599 of the Acts of 1986, DMR assumed the legal responsibility for licensing the Behavior Research Institute (BRI) previously held by DMH. DMR, as the successor to DMH, acknowledges that it has also assumed DMH's obligations under the Settlement Agreement, and believes that the Agreement should be so modified to clarify this point for the benefit of the parties and the Court.

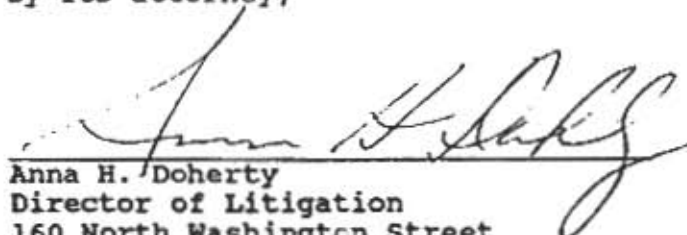
Second, as the successor to DMH, DMR is mindful of its responsibilities, both under the Settlement Agreement and under G.L.c .19B, section 15, as the state licensing agency with jurisdiction over BRI. After more than a year of review by the DMH/DMR licensing division, a decision on BRI's application for licensure is imminent.

DMR is now encountering practical obstacles to continuing its clinical involvement in each and every case, as two of the three DMR clinicians are unable to continue in that role. However, DMR stands ready to provide clinical advice to the Court in any case or on any issue the Court may request.

For the foregoing reasons, DMH respectfully requests that its motion be allowed.

The Department of Mental Retardation,

By its attorney,



Anna H. Doherty
Director of Litigation
160 North Washington Street
Boston, MA 02114
(617) 727-8611

Dated October 24, 1988

adkc.21