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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JANET OLSZEWSKI
DIRECTOR

MICHIGAN BOARD OF PSYCHOLOGY DISCIPLINARY SUBCOMMITTEE MEETING MINUTES OF MARCH 13, 2008

APPROVED MINUTES

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Michigan Board of Psychology Disciplinary Subcommittee met in regular session on March 13, 2008, at the Ottawa Building, 611 W. Ottawa Street, Conference Room 3, Upper Level Parking, Lansing, Michigan.

CALL TO ORDER

Julie Cowie, Public Member, Chairperson, called the meeting to order at 10:24 a.m.

Members Present: Julie Cowie, Public Member, Chairperson
Robert Hack, M.A., L.L.P.
Monica Navarro, Public Member
Roberta Toll, Ph.D.
Alan Warbelow, M.A., L.L.P.

Staff Present: Brooke Parmalee, Secretary, Licensing
Ann Ward-Fuchs, Analyst, Enforcement Section
Paul Jones, Assistant Attorney General
Susan Balkema, Assistant Attorney General
Ray Garza, Director, Health Regulatory Division

Others Present: Patricia Watson, Ph.D.
Dane Ver Merris, Ed.D.
Dr. Jan Lazar, M.P.A.
Richard C. Totin, Ph.D., M.F.T.

APPROVAL OF MINUTES

MOTION by Navarro, seconded by Warbelow to approve the minutes of the January 17, 2008 meeting as presented.

MOTION PREVAILED

APPROVAL OF AGENDA

MOTION by Warbelow, seconded by Hack to approve the agenda with the following correction:

Add "**Vandermay Comments**" as the first item under **Regulatory Considerations**.

MOTION PREVAILED

REGULATORY CONSIDERATIONS

A. Vandermay Comments

Jones gave a summary of the case, which was before the board at a previous time. The Michigan Court of Appeals heard oral argument on the case and the opinion of that Court affirms the decision of the DSC. There were several points that Jones wanted to share with the board.

There was a lack of clarity on the standard of review in prior cases regarding the Public Health Code. The case of *Risch*, which was originally a case in front of the Board of Psychology, established a standard of review. It states that competent material and substantial evidence are what is needed for a decision to be upheld on appeal. The Court of Appeals also supported the opinion of Dr. Charles Clark.

The defense attacked the notion whether the term good moral character is void for vagueness. The Court of Appeals said it is not. There were also a couple of decisions regarding timeliness. The remedy for timeliness issues is to document in the DCH report that a timeline will not be met and for what reason. Defense counsel also claimed that Vandermay was prejudiced because there were private meetings being held. The Court of Appeals found that there was no merit to that claim because the meetings are held in accordance with the Open Meetings Act, and that meets the due process requirement.

B. Kathryn Joan Penfold, L.L.P. – Consent Order & Stipulation (Conferee Watson)

MOTION by Toll, seconded by Warbelow to accept the Consent Order and Stipulation in the matter of Kathryn Joan Penfold, L.L.P.

Discussion followed.

A roll call vote followed: Yeas – Hack, Navarro, Toll, Warbelow, Cowie

MOTION PREVAILED

C. **Richard C. Totin, Ph.D., M.F.T. – Findings of Fact and Conclusion of Law
(tabled at the November 15, 2007 meeting)**

MOTION by Hack, seconded by Toll to untable.

MOTION PREVAILED

MOTION by Navarro, seconded by Toll to accept the Disciplinary Subcommittee's Findings of Fact and Conclusions of Law.

Discussion followed.

Hack precluded himself from the matter.

A roll call vote followed: Yeas – Navarro, Toll, Warbelow, Cowie
Abstain – Hack

MOTION PREVAILED

MOTION by Toll to suspend Respondent's license for 3 years with a fine of \$10,000 to be paid within 3 years, and Respondent must apply for reinstatement.

MOTION FAILED

MOTION by Navarro, seconded by Warbelow to impose the following sanctions:

- Place Respondent on probation for a term of 3 years;
- Respondent must complete 20 hours of Board approved Continuing Education, 10 of which should be on boundaries, and 10 on dual relationships;
- A fine of \$10,000 to be paid within 3 years; and
- Quarterly self-reporting regarding compliance with boundary guidelines.

Discussion followed.

A roll call vote followed: Yeas – Navarro
Nays – Toll, Warbelow, Cowie
Abstain – Hack

MOTION FAILED

MOTION by Warbelow, seconded by Cowie to suspend Respondent's license for a period of 1 year with a fine of \$10,000 to be paid before Respondent applies for reinstatement of his license.

Discussion followed.

A roll call vote followed: Yeas – Toll, Warbelow, Cowie
Nays – Navarro
Abstain – Hack

MOTION PREVAILED

PUBLIC COMMENT

Richard Totin offered comments regarding his actions that led to the case before the board. He would like the board to reconsider its decision.

ANNOUNCEMENTS

The next regularly scheduled meeting will be held on May 15, 2008, immediately following the full board meeting scheduled to begin at 9:30 a.m. at the Ottawa Building, 611 West Ottawa, Conference Room 3 (Upper Level Parking), Lansing, Michigan.

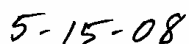
ADJOURNMENT

MOTION by Navarro, seconded by Warbelow to adjourn at 11:31 a.m.

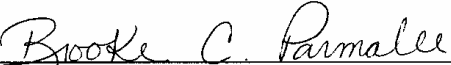
MOTION PREVAILED



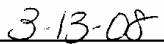
Julie Cowie, Public Member, Chairperson



Date Minutes Approved



Brooke C. Parmalee, Secretary



Date Minutes Prepared