

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF PSYCHOLOGY
DISCIPLINARY SUBCOMMITTEE

In the Matter of

SUSAN J. FRANK, Ph.D.
License No. 63-01-009221

Complaint No. 63-07-107072

ADMINISTRATIVE COMPLAINT

Attorney General Michael A. Cox, through Assistant Attorney General Robert J. Jenkins, on behalf of the Department of Community Health, Bureau of Health Professions (Complainant), files this complaint against Susan J. Frank, Ph.D. (Respondent), alleging upon information and belief as follows:

1. The Board of Psychology (Board), an administrative agency established by the Public Health Code (Code), 1978 PA 38, as amended; MCL 333.1101 *et seq*, is empowered to discipline licensees under the code through its Disciplinary Subcommittee (DSC).
2. Respondent is currently licensed to practice psychology pursuant to the Code.
3. At all times relevant to this complaint, Respondent practiced at 2422 Jolly Road, Suite 300, in Okemos, Michigan.
4. Section 16221(a) of the Code provides the DSC with authority to take disciplinary action against Respondent for a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation, or supervision of employees or other

individuals, whether or not injury results, or any conduct, practice, or condition which impairs, or may impair, the ability to safely and skillfully practice psychology.

5. Section 16221(b)(i) of the Code provides the DSC with authority to take disciplinary action against Respondent for incompetence, defined at section 16106(1) to mean: “[A] a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession whether or not actual injury to an individual occurs.”

6. Section 16221(h) of the Code provides the DSC with authority to take disciplinary action against Respondent for violating a rule promulgated under Article 15 of the Code.

7. Administrative Rule 338.2515(b)(i) of the Michigan Board of Psychology prohibits Respondent from engaging in a multiple relationship with a current or former patient.

8. Section 16226 of the Code authorizes the DSC to impose sanctions against persons licensed by the Board if, after opportunity for a hearing, the DSC determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Code.

FACTUAL ALLEGATIONS

9. Between April 26, 2004 and February 7, 2007, Respondent provided therapeutic services to C.S. (initials used to protect patient confidentiality), a 3 year old male, for severe anxiety, fearfulness, speech and language delay, atypical behavior and aggressiveness towards a younger sibling.

10. In December 2005, Respondent noticed C.S. displaying new behavioral problems that his mother, M.K., suspected were due to sexual abuse. M.K. advised Respondent that the local police department and Child Protective Services (CPS) were investigating allegations that C.S.'s paternal step-grandfather sexually abused him. During this same time period, M.K. and C.S.'s father, T.S., were in the midst of divorce and custody proceedings.

11. At the request of M.K., and without performing any evaluations of T.S. or the paternal grandparents, Respondent wrote two letters dated March 22, 2006 and March 27, 2007 to the Eaton County Friend of the Court (ECFC) opining on the custody placement of C.S.

12. In her March 22, 2006 letter, Respondent advised ECFC that it was in the best interest of C.S. for full legal and physical custody to reside with M.K., because giving custody to the father would put C.S. at risk of having contact with his step-grandfather. Respondent explained that since C.S.'s last contact with the step-grandfather in August 2005, he is more organized, listens better, is functioning better behaviorally, and no longer needed reassurance of not seeing his step-grandfather again.

13. During an October 31, 2006 telephone call with ECFC investigator James Hoyt, Respondent confirmed her belief that C.S.'s step-grandfather molested C.S., and renewed her recommendation to continue to prohibit contact between the two of them. On November 3, 2006, Eaton County Circuit Court Judge Thomas S. Eveland issued an order renewing his previous order prohibiting contact between C.S. and the paternal grandparents. Judge Eveland based his order on Investigator Hoyt's report summarizing Respondent's recommendation.

14. Respondent's second letter, dated March 27, 2007, stated that C.S. was very fragile emotionally and needed to avoid stressful situations to function properly. Further,

Respondent recommended the Court continue to prohibit contact between C.S. and his step-grandfather, because C.S. had not forgotten that he was the man who did "bad things" to him. Based upon this recommendation, the Eaton County Circuit Court no contact Order remained in effect.

15. During the summer of 2007, the Eaton County Circuit Court ordered the parties to undergo an independent evaluation by Leonard VanderJagt, Ph.D. Dr. VanderJagt issued a report finding no evidence that the paternal step-grandfather sexually abused C.S. Based upon Dr. VanderJagt's report, Judge Eveland issued an Order on October 19, 2007 rescinding his prior no contact provisions, and granted visitation rights to the grandparents.

16. Respondent did not use external sources to confirm the sexual abuse allegations, nor did Respondent refer C.S. to an expert in sexual abuse. Furthermore, Respondent did not evaluate C.S.'s mother, father, and step-grandfather for fitness before making her evaluation.

17. Respondent blended her relationship with C.S. by serving as his therapist while simultaneously serving as a forensic evaluator regarding the custodial dispute between C.S.'s parents.

18. Respondent's actions fell below the standard of acceptable practice in making child custody recommendations and sexual abuse evaluations. Respondent's role was limited to being C.S.'s therapist and a fact witness.

19. On May 16, 2008, department investigator Sergio Grijalva interviewed Respondent. During the interview, Respondent advised that she did not intend her letters to the ECFC to be the sole source for a custody recommendation in favor of C.S.'s mother or a sexual

abuse evaluation. Respondent admits that she did not independently confirm the information provided to her by C.S.'s mother and probably should have, but she is not aware of any professional or ethical obligation to do so.

COUNT I

20. Respondent's conduct as described above constitutes negligence, in violation of section 16221(a) of the Code.

COUNT II

21. Respondent's conduct as described above constitutes incompetence, in violation of section 16221(b)(i) of the Code.

COUNT III

22. Respondent's conduct as described above constitutes involvement in a multiple relationship, in violation of R. 338.2515(b)(i) of the Administrative Rules of the Michigan Board of Psychology, in violation of Section 16221(h) of the Code.


WHEREFORE, Complainant requests that a hearing be scheduled pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*, the Public Health Code, and rules promulgated thereunder, to determine whether disciplinary action should be taken against Respondent for the reasons set forth above.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, Respondent has 30 days from receipt of the complaint to submit a written response to the allegations contained in it. The written response shall be submitted to the Bureau of

Health Services, Department of Community Health, P.O. Box 3067, Lansing, MI, 48909, with a copy to the undersigned assistant attorney general. Further, pursuant to section 16231(8), failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully submitted,

Michael A. Cox
Attorney General


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Dated: November 12, 2010