



MiPSAC

Newsletter of the Michigan Professional Society on the Abuse of Children, Inc., the Michigan Chapter of APSAC.

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MiPSAC members Kathleen Faller and Teri Covington (right) discuss child maltreatment with Randy Alexander at the APSAC Colloquium

During a pre-conference networking session for state chapter leaders, it was learned that the national office of APSAC has been going through a rather turbulent transition during the last few months. There were some serious computer problems that lead to confusion about the status of some of the members. Some people who paid their dues may have been shown as lapsed memberships, while others who did not renew may have continued on APSAC's roster. APSAC found 300 members who were thought to have lapsed who had actually not. The entire APSAC computer system "crashed" near the end of 1998. The people at the national office have invested considerable energy in rectifying the situation and things are looking much better now. If, however, you have experienced problems with your membership with APSAC, please let us here at the state chapter know and we can see about getting it straightened out.

The next APSAC colloquium will be in Chicago in July, 2000. Hope to see you there!

The APSAC Colloquium

by Roger Pickering MSW

Several people from Michigan attended the Seventh Annual APSAC Colloquium in San Antonio, Texas in June. This national event has become one of the premier interdisciplinary conferences on child maltreatment in the country.

With over 1200 attendees this year, it has also become one of the most popular. There were over 100 training seminars conducted by leading experts from a variety of fields. More than 20 research breakfasts were presented on three of the mornings covering some fascinating topics. Several intensive training institutes were conducted prior to and during the formal conference. APSAC also hosted its Fifth National Child Forensic Training Clinic in conjunction with the Colloquium. There were open forums, plenary sessions, poster presentations and special events to keep the participants busy, energized and motivated for learning.

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EDITORIAL COMMENT

by Leni Cowling MEd

I am so honored and so totally surprised at receiving the 1999 MIPSAC Child Advocacy Award. It is an award that all of you must share with me. My vision of a State chapter in which to carry on the goals of APSAC at the home base has taken a great deal of effort on all our parts.

During the week prior to the MIPSAC meeting, I had been watching a television program on the comparison of the greatest storms to wreak havoc on the United States. It spoke about Hurricane Andrew, the Northridge earthquake, and the Mississippi flooding throughout the Midwest. The cost of all of these storms was staggering and the devastation was immense.

As I remembered the Mississippi flooding, I thought about all the lives and property ruined, never to be the same. Having experienced flooding myself, although not to that extreme degree, I felt empathy for the persons who lived through it. And I began to think of the cost in dollars and cents to the rest of the Nation, to all of us. I began to think of the string of prevention measures that could have been considered by those affected. As the river rose, each town in succession succumbed to the devastation, as if it were in isolation. When one levee broke, the water then found new paths to follow, and those downstream were helpless.

When you gave me this award, I expressed my thoughts of the similarity in child abuse and neglect. Each of us represent an individual concern, but when there is no collaborative effort or cross communications of the weak points in our preparations, we are helpless to control the rising tide of child abuse and neglect. Now that the tragedy at Littleton, CO, has been noted, many are wondering what went wrong and it is so easy to point fingers. But we must establish a means by which we can discuss the problems with each separate discipline, just as towns along a river, if we are to shore up the weak spots. I have said many times, that child protection in the State agencies does nothing to protect children. Mental health, law enforcement, prosecutors, lawyers, judges, doctors, teachers, child protection social workers, and all others involved with care and concern for children cannot fortify their own disciplines and think the problems are solved. The cost to all of us is so great. This is the reason that the award must be shared by all of you, because it is your commitment, your time, and your thoughts that will make a difference.

Together we can. We need to begin by looking at the areas that communication breaks down. Where, when and how does it occur? I can tell you that from my perspective, I cannot tell cigarette burns from bug bites. Do I dismiss these wounds because I cannot tell? What if, in fact, they are cigarette burns? Many children I speak to are very much afraid of their caregivers. If the child refuses to talk about his condition, what then? I just want you to know that child protection workers need more information than they have, and the information needed should be within easy reach. My grateful thanks to all of you who actively participate in the collaborative efforts. Leni

MIPSAC is looking for articles of interest to our membership for the newsletter. Questions or suggestions to consider are always welcome and should be sent to Leni Cowling, PO Box 892 Bellaire, MI 49615

Volunteers are always welcome for MIPSAC Committees:

Membership committee (Vince Palusci)

Legislative committee (Bill Ladd)

Conference/training committee (Pat Walsh)

Newsletter/brochure committee (Leni Cowling)

Communications (Carol Siemon)

Michigan Professional Society on the Abuse of Children, Inc.

1999 MiPSAC Board of Directors

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The comments expressed in this newsletter reflect the views of the author(s) and do not necessarily represent the views of MiPSAC or the American Professional Association on the Abuse of Children. (APSAC).

MiPSAC Goals

- ◆ To bring together Michigan professionals working in the area of abused children
- ◆ To foster networking among Michigan professionals
- ◆ To be an information resource for Michigan professionals
- ◆ To sponsor quality training for Michigan professionals

Legislative Update

by Frank Vandervort, JD

Case Law update

Termination of Parental Rights – Right to Attorney – Conflict of Interest. In re Osborne, Mich. (1999) (Mich. Supreme Court No. 112824, March 9, 1999)

Background

Each parent in this case had a history of mental illness, substance abuse and domestic violence. In Oct. 1994, the child came to the attention of the Muskegon County Juvenile Court when he suffered a spiral fracture of the left humerus. The court took jurisdiction over the child and conducted ten periodic hearings in the ensuing months. The child was reunited with his parents twice only to be removed again when they proved unable to care for him.

During the pendency of the case, the mother was represented by five different court appointed attorneys. At a statutory review hearing in August 1995, she was represented by Kevin J. Wistrom. At that hearing, “Mr. Wistrom asked three questions on cross-examination of a foster-care worker...conducted a short cross-examination of Mr. Osborne” and “asked five additional questions.”

In March 1996, a petition was filed seeking termination of parental rights. By this time, Atty. Wistrom was employed by the prosecuting attorney’s office. He represented FIA at the termination hearing. At the time of the termination hearing, counsel for Ms. Osborne did not object to Mr. Wistrom representing the FIA. By the time the petition for termination of parental rights was filed, the child’s father had made progress on addressing his substance abuse problems. The hearing, therefore, addressed only the mother’s parental rights. After the hearing, the court concluded that there was a statutory basis to terminate Ms. Osborne’s parental rights and that doing so would serve the best interests of the child. The court entered an order terminating her parental rights in November 1996.

Appeal to the Court of Appeals

In January 1997, Ms. Osborne filed a request for leave to appeal. The COA granted Ms. Osborne’s request in April 1997. Ms. Osborne raised, and the court granted leave on, the sole question of whether there was sufficient evidence to terminate her parental rights. The question of conflict of interest on Mr. Wistrom’s part was raised for the first time in Ms. Osborne’s brief on appeal.

The COA concluded that it was a *per se* violation of ethical principles for Attorney Wistrom to represent FIA under the circumstances. Thus, the COA concluded, “when a prosecutor proceeds against a defendant whom he formerly represented as defense counsel in the same case, no specific prejudice need be shown by the defendant.” The COA reversed the termination of parental rights, disqualified the entire Muskegon County Prosecutor’s office, and remanded the case for appointment of a special prosecutor to re-try the termination petition.

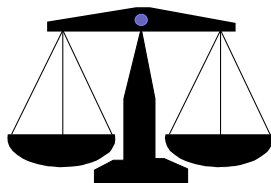
Supreme Court

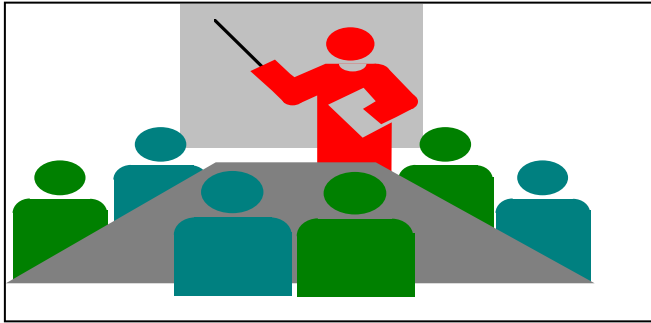
The FIA filed an application for leave to appeal the case to the Michigan Supreme Court. As part of that application, Mr. Wistrom filed an offer of proof. Included in the offer was the statement that Mr. Wistrom never met with Ms. Osborne on any occasion *other* than the August 1995 hearing and that “he had ‘no recollection of having obtained any particular privileged information’ “ from Ms. Osborne. The court, after citing extensively from the offer of proof concluded that, “For reasons well stated by the Court of appeals, Mr. Wistrom should have recognized and avoided this conflict.”

Unlike the COA, the Supreme Court refused to apply a *per se* rule of conflict of interest. “While Mr. Wistrom should not have participated in the termination hearing, the task of formulating a remedy is more difficult.” The court rationalized: “It may well be that Mr. Wistrom would have been disqualified if this matter had been timely raised in 1996, but it is 1996 no longer... Rules of automatic reversal are disfavored, and we are not prepared to sweep away the 1996 and 1997 proceedings in the absence of demonstrated harm. Through the interests that underlie MRPC 1.9 and 1.11 are of undeniable importance, we cannot hold as naught the last two years of Dylan’s life in order to protect those interests.”

The Supreme Court was not convinced that the case required retrial or that the entire prosecuting attorney’s office should be disqualified. Before disqualifying an entire prosecutor’s office, two factors must be considered: 1) the extent to which knowledge has been shared by the disqualified lawyer; and 2) the disqualified lawyer’s role within the prosecutor’s office.

The court then vacated the judgment of the COA and remanded the case to the COA. It directed the COA to retain jurisdiction and, in turn, remand the case to the Circuit Court. The Circuit Court is to “take such proofs as it deems appropriate, enter findings of fact and conclusions of law, and determine what further order, if any, should be entered with regard to these proceedings or the parental rights of Ms. Osborne.





Conference Calendar

August 9-13, 1999. *1999 National Conference Investigation and Prosecution of Child abuse*, Tucson, AZ. For information contact: APRI (703)739-0321.

August 16-18, 1999. *Forensic Evidence in Child abuse Cases: Collection and Preservation*, San Antonio, TX. Contact: APRI, (703)739-0321.

August, 18-20, 1999. Honoring & Preserving Family Ties: 1999 CWLA National Kinship Care Conference, Atlanta, GA. For information contact: Child Welfare League of America, 440 First St., NW., 3rd Floor, Washington, DC 20001-2085 or call (202)638-2952, or www.cwla.org.

September 13-17, 1999. *Investigation and Prosecution of Child Fatalities and Physical abuse*, Albuquerque, NM. For information contact: APRI, (703)739-0321.

September 22-26, 1999. *Keeping Children First in the 21st Century: 12th National Conference of the Children's Rights Council*, Washington, DC. For information contact: Children's Rights Council, 300 "I" St., N.E., Washington, DC 20002-4389 or call (202)547-6227.

September 29- Oct. 1, 1999. *Embracing Families & Communities: Practice Essentials*. Austin, TX. For information contact: family Preservation Institute, school of Social Work, New Mexico state University, Box 30001, MSC-35W, Las Cruces, NM 88003 or call (505)646-7567, or e-mail fp@nmsu.edu

October 8-11, 1999. Kids, Courts, and Community: Providing Children Access to Justice, 22nd National Children's Law Conference, The Portland Marriott Hotel, Portland, Oregon. For information contact: NACC, 1825 Marion St., Denver, CO 80218. Phone: (888)828-5351.

October 11-14, 1999. *15th Annual Midwest Conference on Child Sexual Abuse and Incest*, Marriott-Madison West, Middleton, Wisconsin. For information contact the University of Wisconsin-Madison, Div. Of Continuing Studies, 610 Langdon St. Rm. 326, Madison, WI 53703-1195 or call (800)442-7107.

October 14-15, 1999. *Fifth National Roundtable on Managed care in Child welfare services*. St. Petersburg Beach, FL. For information contact: Mickey Shumaker, AHA, Children's Division, 63 Inverness Dr. East, Englewood, CO. 80112-5117 or call: (303)925-9416. mickey@americanhumane.org.

October 24-28, 1999. *Child Welfare Leadership Institute, American Humane Association, Children's Division*, Englewood, CO. Contact: Mickey Shumaker, AHA, (303)925-9416.

November 15-17, 1999. *Challenging Our Response to child Maltreatment: Intervention, Prevention, and More*, Princeton RI. For information contact: Northeast Child Maltreatment Conference, Tufts University School of Medicine, Office of Continuing Education, 136 Harrison St., Boston, MA 02111.

December 1-4, 1999. *Pathology, Diagnosis, Imaging and Investigation*, Hotel Royal Plaza, Lake Buena Vista, FL. For Information contact the Institute for Pediatric Medical Education, 6604 Landon Lane, Bethesda, MD. 20817-5636 or call (301)263-9360

Ross Pediatrics Joins with National Information, Support and Referral Service on Shaken Baby Syndrome to Prevent Shaken Baby Syndrome

by Mary Judnich

One of the largest formula companies has joined the efforts to prevent Shaken Baby Syndrome. Through your local Ross Pediatrics representatives, physicians and medical staff can receive posters and parent booklets with ideas on coping with a crying baby. The booklets will educate on the dangers of shaking a child. Do not hesitate to ask the Ross representatives for this information. For further information, contact Ross Laboratories at 800-986-8014.

UPCOMING MiPSAC MEETINGS:

We look forward to sharing with you at these important meetings. Please call any board member for directions.

September 17, 1999, 11 AM – 1 PM

Lutheran Child and Family Services, Dearborn, MI
(Please call Roger Pickering at (517) 686-7650 for directions)

October 24, 1999, 5 PM – 730 PM

5 PM - 630 PM, Educational Presentations:

“Preventing Child Abuse through Parent Counseling” with Pat Crum

“Good Fathers Make a Difference” with Todd Bradley

630 PM – 730 PM ANNUAL MEETING & Board Elections

Ypsilanti Marriott, Ypsilanti, MI (in conjunction with the MI Statewide CAN Conference)

FIA Medical Resources System

The Medical Resources System (MRS) is a new initiative of Michigan FIA which will significantly enhance services available to clients of Child Protective Services (CPS). While designed neither to replace medical treatment nor existing forensic services, the MRS program provides additional expert forensic pediatric consultation, evaluation and training paid for through a contract with Michigan's Family Independence Agency. There is no cost to CPS agencies or their clients; however, services are only available after arrangement with the MRS Triage Coordinator. CPS agencies are not required to use the MRS system.

Services available include: (1) Forensic Medical Evaluations, available 24 hours, 7 days a week for a 13 county referral area (Allegan, Barry, Ionia, Kent, Lake, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Osceola, and Ottawa counties); (2) Telephone consultation, available 24 hours a day, 7 days a week for CPS and physicians statewide to aid workers and physicians to improve case management and enhance access to expert medical consultation in their local area; (3) Training of medical professionals through local county training in conjunction with CPS agencies and through regional training statewide; (4) Case review and court appearance. Record review will aid CPS workers to better understand forensic medicine and will improve case evaluation and court involvement of local CPS agencies.

For Further Information, contact Vincent Palusci, MD at (616) 391-1223.

New APSAC Executive Director Named

APSAC's new executive director, Thom Gauthier, was introduced to the APSAC membership at the APSAC Colloquium in San Antonio, Texas in June. Thom came to APSAC after serving for several years with the National Association of Social Workers in Chicago. He began his duties with APSAC about ten weeks before the Colloquium and expressed how much of his time thus far has been “triage” in dealing with the organizational problems he inherited. He assured us that the problems are solvable and many positive efforts are already underway.

Some of Thom's goals include confronting the APSAC Board with a deficit budget for the first time ever, correcting the computer problems and improving the membership roster, addressing the confusion of a fiscal year that creates problems for the accounting of the national colloquium, keeping the dues down, increasing membership, and establishing a model website. Thom invited all of APSAC's members to keep a report card on how he and the national office are doing and to give them that feedback next year.

REMINDER!

Please renew your annual membership to APSAC. You need National membership for MiPSAC.

Part of you annual dues to APSAC pays for your MiPSAC membership automatically!
American Professional Society on the Abuse of children
407 S. Dearborn, Suite 1300
Chicago, IL 60605-9670
Phone: (312)554-0166

The President's Corner

by Roger Pickering MSW

It is, indeed, my honor to serve as the president of MIPSAC for 1999. To be involved with so many competent professionals, committed to the treatment and prevention of child maltreatment here in Michigan is both humbling and rewarding. I appreciate that opportunity.

As I'm sure you are aware, membership in the American Professional Society on the Abuse of Children (APSAC) automatically includes membership in a state chapter, if there is one. We are fortunate to currently have over 120 APSAC members living in Michigan. Although our state chapter (MIPSAC) is a relatively young one still in the developing stages, many energetic people are involved in a variety of activities. I had the opportunity to attend a networking day-long session for state chapter leaders at the APSAC conference in San Antonio in June. I discovered that our MIPSAC chapter is ahead of many state chapters with regard to development, activities and membership and behind several others. This state chapter concept is being grasped whole-heartedly around the country and there promises to be many new and exciting initiatives that we can be involved with nationally, regionally and within our own states. We will do our best to keep MIPSAC's membership up-to-date with some of those new ventures.

MIPSAC has four standing committees: an Education Committee that keeps us informed about various conferences, etc., as well as coordinating and planning our own MIPSAC sponsored educational events; a Legislation Committee that helps us understand, evaluate and perhaps influence public policy here in Michigan and nationally; a Membership Committee that gets the word out about the benefits of membership in APSAC/MIPSAC and develops strategies to recruit new members; and a Newsletter Committee that elicits information for articles and assembles it in a newsletter published 3 or 4 times a year. If you are interested in serving on any of these committees, please contact me or any board member.

The entire membership is invited to attend any of the regularly scheduled board meetings. The next meeting is scheduled for Friday, September 17th at Lutheran Child and Family Service of Michigan in Oak Park (See address and map). There will be a brief business meeting at 11:00 a.m. followed by a luncheon reception for old, new and potential members alike. In order to better plan the lunch, if you anticipate attending please contact me at 517-686-7650 or email: :rlpick@lcfsmi.org. I look forward to seeing and talking with you then.

Some items of interest...

Annual MIPSAC Award

On May 21, 1999, at Shanty Creek Resort in Bellaire, MI, the second annual MIPSAC Child Advocacy Award was presented to Leni Cowling for her efforts in establishing the State Chapter of MIPSAC. Surprised by the honor, she was thankful and expressed her feelings that all members of MIPSAC deserve the collaborative tribute. The Board of Directors is proud to honor her efforts and look forward to her continued work to help Michigan's children.

MiPSAC and MCPCA

Several months ago the MIPSAC board was approached by the board of the Michigan Committee for Prevention of Child Abuse (MCPCA) to learn more about each other's organizations and to ascertain if there were any areas where we might work together. The boards of the two organizations met jointly twice and discovered that, indeed, our missions do overlap. While the mission of MCPCA is primarily prevention, APSAC certainly includes prevention along with identification, intervention and treatment of child abuse/neglect as a major part of its mission also.

MCPCA has a long and distinguished history in Michigan of educating the public and strongly advocating for prevention programs. MCPCA was a primary catalyst to the establishment of the Children's Trust Fund. While both organizations wish to maintain their separate boards and identities, it was decided that each would encourage their members to learn more about the other and consider membership. An ad hoc communications committee was formed with members from both organizations to better communicate the training opportunities available and to be involved in joint training efforts, if possible. One result is evident in the prevention-oriented educational presentation at this year's Annual Meeting. We are excited about this limited partnership and look forward to working with MCPCA on many future projects.

Roger Pickering