

Family Mediator Certification Board
Minutes
January 5, 2016

Present: E. Jasina, C. Sadler, T. Sturke, R. Cram, M. Garner, P. Goldsmith, E. Christensen, B. Sturke, E. Dinerstein, M. Rousseau and C. Dochstader.
Also present: P. Heinrich, L. Capuchino, C. Horne and L. Aaby
Members of the Public: Honey Hastings and Tony Matromalo

T. Sturke called the meeting to order at 4:05 PM. She welcomed everyone to the new office location and asked those present to introduce themselves. T. Sturke said that this was B. Sturke's last meeting on the Board and that L. Aaby, who would be taking his seat, was present at this meeting.

Mediator Concerns re: DV Protocols

T. Sturke told the Board that Certified Family Mediator Honey Hastings had written a letter to the Board asking to meet with the Board to discuss the DV Guidelines that the Board had recently approved.

H. Hastings told the Board that several certified mediators had a telephone meeting, which resulted in the letter she had sent to the Board. She said they had several concerns about the new DV Guidelines. She stated that by rule, all certified family mediators are bound by the Model Standards and Model Standard X covers mediator responsibilities regarding domestic violence situations. She said not following the Model Standards is grounds for discipline and she wanted to know if not following the new guidelines, which are not in the rules, would be grounds for discipline. She asked if there was a problem that the new guidelines were trying to solve. Other concerns she raised included:

- The new guidelines seemed to be turning a neutral mediator into a "DV advocate."
- The newly required screening tools make it hard to complete mediation in 5 hours.
- Couples want to get mediation done in 2 sessions – not 3.
- Spending extra time doing this screening may be an unfunded mandate.
- Maybe the court case managers should be doing the screening.
- Case managers have access to any court DV orders.
- Doesn't telling the other party about DV found in caucus situations result in a violation of the confidentiality rule?
- Does reporting DV put the mediator at risk of harm?

H. Hastings said that the mediators wanted to open a dialog with the Board she was willing to work on a sub-committee to look at these guidelines and work on any needed rules.

T. Sturke thanked H. Hastings for the time and effort she put into bringing these concerns to the Board. She said the Board had reached out to the Court Office of Mediation and Arbitration during the process of creating the guidelines and had decided that additional work with OMA on

this issue was necessary. She suggested that the Board would create a small sub-committee, which could include H. Hastings and possibly other mediators, as well as representatives from OMA to review the concerns that H. Hastings brought to the Board.

E. Jasina suggested that representatives from the Coalition be included on this sub-committee.

E. Dinerstein said that H. Hastings had raised some valid concerns.

H. Hastings asked for a Board statement on whether mediators would be subject to discipline if they didn't follow the new guidelines. T. Sturke told her that the Board had a full agenda and would try to address the question at the end of the meeting but might not be able to do so until the February meeting.

Approval of Prior Minutes

P. Goldsmith made a MOTION to approve Public Minutes from November 18, 2015 with a typo corrected. Second: B. Sturke. MOTION PASSED with M. Rousseau and C. Dochstader abstaining.

B. Sturke made a MOTION to approve the Non-Public Minutes from November 18, 2015. Second: M. Garner. MOTION PASSED with M. Rousseau and C. Dochstader abstaining.

P. Heinrich told the Board that she had reviewed the Adjudicatory Hearing tape as requested and suggested that the minutes of the Hearing be changed to read as follows:

Page 4: M. Garner gave him until October 28th to review the Board's record and to provide the order from the June 1, 2009 hearing, which was also referred to as the "ex-parte" hearing. C. Sadler asked if there had been any pleadings between the time of the parking lot conversation after the June 1 hearing and the next hearing and if so, she asked for copies of them.

M. Garner made a MOTION to approve this correction. Second: C. Sadler. MOTION PASSED.

Continuing Education Approval Requests

P. Goldsmith made a MOTION to approve "Partnering for a Future w/out DV" sponsored by the AG's Task Force on DV and held on June 3, 2015 for 5 hours of DV continuing education in addition to the 1 hour of Legal Update that was approved last month. Second: E. Christensen. MOTION PASSED.

T. Sturke made a MOTION to send a letter to Kimberly Weibrecht requesting additional information to include presenter resumes and detailed course outline about the continuing education course "Ethical Responsibility in Domestic Violence" for which she requested approval.

Administrative Assistant's Report

T. Sturke will contact Judge Kelly to request M. Garner's reappointment to the Board.

By consensus, members agreed to change meeting day from first Wednesday to first Tuesday of a month, and set meeting start time as 4:15 PM. The following meeting dates were scheduled: February 2, March 1, April 5, May 3 and June 7. Summer and fall meeting schedule will be discussed at the May meeting.

R. Sturke made a MOTION to elect M. Rousseau Chair and T. Sturke Vice Chair. Second: C. Dochstader. MOTION PASSED.

After discussion about roadblocks to internships, whether some mediators were still approved by OMA as mentors, and whether this was something in which the Board needed to get involved. P. Goldsmith made a MOTION to contact OMA and ask for clarification about whether mentor status still exists so that court contracted mediators can use interns in court appointed mediation cases. Second: R. Sturke. MOTION PASSED with C. Sadler, C. Dochstader and E. Christensen opposed. T. Sturke and M. Rousseau will write a letter to Molly Brown both asking for clarification and inviting her to a future meeting.

T. Sturke told the Board that the certification of both of the Board's certified training programs will be up in the spring and she said she was concerned about whether both would apply for renewal. In addition she said there is on-going need for continuing education programs. M. Rousseau told the Board that NHCRA has planned a full slate of courses for the next year and that Meredith Richardson will be the new NHCRA president. E. Christensen offered to attend an upcoming NHCRA Board meeting to discuss the need for course pre-approval as well as the requirements in Fam 404 regarding content and presenters for continuing education courses. E. Dinerstein agreed to go with her. T. Sturke authorized her to speak for the Board.

Hearing Order

M. Garner reviewed the hearing order with the Board. He offered the following suggestions:

- There should be more "Findings of Fact," which could be taken from the Stipulation.
- There should be more information in the "Discussion" section to support the Board's decision.
- The "Discussion" section should show how each PCC violation also relates to mediation and/or Ms. Ashford's application.
- The items in the "Discussion" section could be re-ordered.
- Either the "Findings of Fact" section should be moved after the Discussion section or a "Conclusion" section should be added.

Members discussed trust and boundary issues as well as whether Ms. Ashford took the hearing seriously.

P. Heinrich asked whether the request of and confirmation of receipt of the documents requested should be included in the hearing order and if those documents should be listed in the "Case Record." M. Garner replied in the affirmative to both questions.

C. Sadler offered to revise the order based on the Board discussion and have a new draft for the next meeting.

Minutes, 1-15-16, continued

Non-Public Session I: RSA 91-A:3 II c.

C. Sadler made a MOTION to go into Non-Public Session under RSA 91-A:3, IIc: Personal. Second: R. Sturke. A roll call vote was held. MOTION PASSED.

The Board began Non-Public Session at 5:45 PM.

The Board resumed Public Session at 6:00 PM.

T. Sturke made a MOTION to seal the Non-Public Minutes. Second: C. Sadler. MOTION PASSED.

New DV Guidelines and Board Disciplinary Action

T. Sturke told the Board that until the new DV Guidelines are incorporated in the Board's rules, the Board can't discipline mediators who do not follow them. After a brief discussion, M. Garner made a MOTION to send an email to all mediators notifying them until the new DV Guidelines are incorporated in the rules, they will not be subject to disciplinary action by the Board for failure to comply with the new guidelines. Second: E. Dinerstein.

C. Dochstader requested that a copy of the new DV Guidelines be attached to the email. M. Rousseau requested that the email include a reminder about and a link to the Model Standards.

MOTION PASSED. P. Heinrich will draft an email to be sent as soon as possible.

T. Sturke said that she and E. Christensen need to set up a meeting with Molly Brown to which a few certified mediators, including H. Hastings, would be invited and at which the process and the history of the Board's decision to approve the DV Guidelines would be discussed.

T. Sturke declared the meeting adjourned at 6:10 PM.