

## Presidential Message – By David Medoff, Ph.D.

Hello Massachusetts Chapter. We are off to the start of a great year with an excellent Annual Chapter Conference held at the end of April on the impact of mental illness and substance abuse on parenting. Thank you to the Conference Committee for the hard work and planning that goes into this annual event. Throughout the month of May, several roundtable presentations and discussions were convened across the state as a follow-up to the conference itself. These proved to be well attended, productive and informative sessions in which the themes of the annual

conference were taken to the next level with more detailed discussion from both the panel participants and members of the professional community. It is through these and other public and professional events that our Chapter and its members not only remain at the forefront of our field, but actively serve to advance the knowledge and level of practice for all who work with children and families involved in court.

Our chapter was very well represented at the recent AFCC Annual Conference in Denver with many of our mem-

bers presenting workshops, attending seminars and riding in fancy Porsche Cayenne limousines. Truly remarkable opportunities are provided at the International AFCC Annual Conference where one meets other professionals from all over the world who are involved at all levels, and in many areas, of family law and child welfare practice. If you have not yet attended an AFCC annual conference, do it.

On a more local level, we are actively looking for members to become involved in our Chapter. One way to do this is to

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## Summer 2010



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[www.maafcc.org](http://www.maafcc.org)

## “The Compromised Parent: When Good Enough Isn’t,” -

By Jennifer Sevigney Durand, Esq. & Robert A. Zibbell, Ph.D.

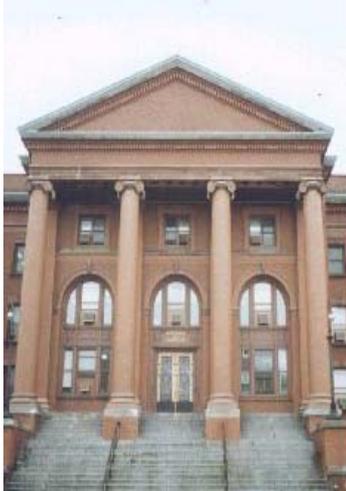
The Massachusetts Chapter of AFCC held its Annual Conference on Friday, April 30, 2010 at Regis College in Weston. The topic of the Conference was “**The Compromised Parent: When Good Enough Isn’t**”. The Conference featured Keynote Speaker, Terry Ostler, Ph.D., an Associate Professor, researcher, and forensic clinician in the School of Social Work at the University of Illinois, Champaign-Urbana. During

the first half of the conference, Dr. Ostler, addressed the impact of mental illness on parenting. She discussed the most common major psychiatric disorders (e.g. major depression, bipolar disorder, etc.) and their concomitant symptoms. She described an interesting diagnostic approach to the relationship between the common features of any particular disorder and how those symptoms might affect parenting. For example,

major depression can make a parent distracted and removed from the everyday activities or needs of a child. Therefore, any evaluation should consider how the cognitive, affective, and behavioral sequelae of a disorder affect the capacity of a parent to attend to and meet such needs. She also highlighted some of her points by using pictures of various classical works of art, children’s fairy tales, and poetry. Cont'd on Pg 3



**Interdisciplinary Settlement Conferences: A Pilot Project – By Peggie Ward, Ph.D.**



The Honorable Paula Carey, Chief Justice of the Probate and Family Court and Dr. Peggie Ward, Co-Parenting Assessment Center, Natick each read an article from AFCC News regarding Interdisciplinary Settlement Conferences for high conflict families going through separation and divorce in Marin County, CA. Together Judge Carey and Dr. Ward discussed creating a pilot project in MA. The objective of the project is to help families resolve their family related cases earlier in the process in an effort to decrease the animosity and conflict as a result of a family break up thereby helping children move through the turmoil of a separation of their parents in a manner that will serve their best interests. The pilot will involve neutral, uninvolved (in the particular case) lawyers and mental health professionals who will

team up on a case with the litigants and lawyers for the parties, if any, to help facilitate this process. The time commitment will be “in court” for one-half day when the matter will be scheduled for a status or pretrial conference before a judge who shall meet with the parties, their lawyers, and the neutrals to lay the foundation for the process. The cases will all be chosen by the judge. Neutrals will have access to all pleadings including GAL reports, which shall be read before the conference.

Judge Carey has invited two Courts to participate in this pilot process. The Honorable Robert W. Langlois from the Norfolk Probate and Family Court and the Honorable Catherine P. Sabaitis from the Plymouth Probate and Family Court have agreed to participate.

Attorneys Phyllis Federico, Mark Smith, Bill Levine and Deb Faenza have agreed to participate in the role of attorney neutrals. Psychologists Peggie Ward, Robin Deutsch and Bob Zibbell have agreed to participate in the role of mental health neutrals. Our first meeting is scheduled for early this summer. At that meeting we will review the Marin County Process, devise specific procedures for MA and decide when to begin the program. Once the project is underway, we will analyze the satisfaction of the parties and their attorneys with the process. Dr. Joan Kelly, who is working with the Marin County Group, has agreed to help us devise an appropriate follow-up questionnaire to be certain we measure both satisfaction with the process and success of the outcomes.

**AFCC is coming to Cambridge - By Leslye Hunter, AFCC Associate Director**



AFCC is excited to bring the *Ninth Symposium on Child Custody Evaluations* to Cambridge October 28-30, 2010 and have the opportunity to work closely with the AFCC Massachusetts Chapter. Since 1993, MA AFCC has been promoting the AFCC mission locally and providing an interdisciplinary forum for the exchange of ideas and development of procedures to assist families in conflict. MA AFCC has produced numerous impressive leaders, many of whom have presented at AFCC conferences

across North America and have served on AFCC's Board of Directors and several AFCC Task Forces. Three of MA AFCC's former presidents have gone on to serve as outstanding presidents of the AFCC Board of Directors. MA AFCC has an abundance of talent and, combined with the many other talented presenters from all over the world, the Ninth Symposium on Child Custody Evaluations promises to be an outstanding educational opportunity for anyone who works with families

undergoing custody disputes.

Four Pre-Symposium Institutes will address:

The Essentials of Child Custody Evaluations, presented by David Martindale, Ph.D., ABPP;

Evidence and Testimony in Child Custody Evaluations, presented by Timothy Tippins, J.D.;

Using the MMPI-2-RF (Restructured Form) in Child Custody Evaluations, presented by

**“The Compromised Parent: When Good Enough Isn’t,”** Cont’d from Pg 1



Following Dr. Ostler’s presentation on mental illness, we convened a panel of experts, including: the Honorable Joseph Johnston from juvenile court; Kate Nemens, Esq., from the Clubhouse Family Legal Project (who represents low-income mentally ill parents in family and juvenile court legal proceedings); and Claudette Pierre, Ph.D., a Research Assistant at Boston University and clinician in private practice. David Medoff, Ph.D. moderated the panel. The experts focused on the complexities of working with the individual case, including the assessment of the strengths and weaknesses of the impaired parent and the ability of the various actors in the legal arena to assure the welfare of the child, while at the same time ushering the parent and family toward recovery. The second half of the conference addressed substance abuse and its impact on parenting. The substance abuse component of the Conference began with a presentation by Jason Allen, the General Manager of Occupational Drug Testing, LLC, who spoke informatively about the various options to test for the presence of

controlled substances as well as court ordered substance abuse testing and monitoring. The afternoon continued with a keynote presentation by Dr. Ostler who spoke about the nexus between substance abuse and compromised parenting. The afternoon concluded with a panel presentation by the AFCC Member and current Board of Director, the Honorable Edward Donnelly of the Middlesex Probate and Family Court; Middlesex Probate and Family Court Chief Probation Officer Sophia O’Brien; AFCC Member Dr. Paul Duffly; and, AFCC Member and current Board of Director, Jennifer Sevigney Durand of Schmidt & Federico, P.C. Attorney Durand discussed the practical implications of representing clients, either the substance abuser or the spouse, in cases in which there are allegations of substance abuse, including a discussion of the considerations for obtaining and maintaining substance abuse testing. Judge Donnelly provided the court perspective of what can be expected when cases come before the court when there are allegations of substance abuse, including the difficulties pre-

sented by the increasing prevalence of pro se litigants and the lack of resources for guardian *ad litem* investigations. Ms. O’Brien provided attendees with an informative overview of how the Probation Department assists the court in assessing and verifying (or not) allegations of substance abuse including what testing options are available on court premises. Dr. Duffly provided attendees with the very insightful perspective of a guardian *ad litem* called upon to investigate, evaluate and report to the court regarding allegations of substance abuse and whether or to what extent the substance abuse has an impact on parenting. The Panelists provided a practical perspective of the relationship between substance abuse and compromised parenting and how allegations of substance abuse are presented, investigated, perceived and handled by the Court.



Presidential Message, Cont'd from Pg 1



be active in any of several committees that meet once a month over the course of the year. This will provide you with unique opportunities not only in contributing to the organization and to the field, but also networking and making new personal and professional contacts. Please contact me at [Dmedoff@partners.org](mailto:Dmedoff@partners.org) if you are interested becoming involved in any of the following committees: Newsletter, Membership, Parent Coordination, Public Education, Public Policy/Legislative Affairs, Roundtables and Website/List serve. We would welcome new faces, news talent and new perspectives.

of guidance and leadership in the development of professional identity, career choice and practice issues.

Turning our sights to this fall, our Chapter is very fortunate to have the opportunity to host the Ninth Annual AFCC Symposium on Child Custody Evaluations at the Hyatt Regency in Cambridge. This symposium will be held between October 28<sup>th</sup> and 30<sup>th</sup> and, as stated in the AFCC materials, will offer a wide range of pre-conference institutes, workshops and plenary sessions addressing practice skills, professional issues and advanced applications. The Symposium is designed for custody evaluators, judges, lawyers, mediators and anyone who works with separated and divorcing families, and will also provide those of us who are indigenous to this area with the opportunity to showcase hometown. There will be an abundance of local and na-

tional talent actively teaching, presenting and socializing at this event. Learning, networking, and fun, what more can you ask for! Contact [www.afccnet.org](http://www.afccnet.org), call (608) 664-3750 or email [afcc@afccnet.org](mailto:afcc@afccnet.org) for more information.

As many of you already know, the remarkable interdisciplinary nature of AFCC is quite rare, and this, coupled with the opportunities it provides in collaborating with some of the best and brightest practitioners in the field, is simply extraordinary. It is this collaboration that allows for the rich and complex exchange of ideas to flourish and for the cutting-edge advancement of our field to take place. I look forward to a productive, rewarding and fun year as we continue to help children and families in need.



In conjunction with the International organization, several Massachusetts Chapter members are involved in the new Mentorship program, so please let any up and coming (i.e., young and/or less experienced) professionals know that there are AFCC resources out there in terms

Hampshire Division Child Focused Procedural Model - By Hon. Gail L. Perlman



It begins with a concept we all have heard: First, do no harm. The more I think about families in family courts, the more I think – if we're honest with ourselves – in a family court system, if we do not think about the needs of families as different from the needs of other civil litigants, we do do harm. What family needs a “versus” between its two main adult members? Who wants to be called a “Plaintiff” or a “Defendant?”

Who wants to solve family matters by filing a public “Complaint”? Who wants a relationship with children called “visitation?” Who believes that the real world decision-making function of parenting has the ownership overtones implied in the word “custody?”

And yet, from the word “go” in our family court, a family is thrown into an adversary posture. Families start off

with a clear, articulated institutional expectation that they are official enemies. Official enemies many of whom once loved each other enough to produce a child. Official enemies doing battle over control of that child and over property and money.

Joan Kelly, Ph.D., a well-known California researcher (and AFCC member), says that “Unresolved, enduring

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AFCC is coming to Cambridge, Cont'd from Pg 2



Yossef S. Ben-Porath, Ph.D. and James R. Flens, Psy.D., ABPP; and Mental Health-Attorney Consultation in Child Custody Cases: From Witness Support to Testimony, presented by MA AFCC President David Medoff, Ph.D., Hon. William Fee, Robert A.

Simon, Ph.D., Samuel J. Ferrara, J.D. and Hon. Dianna Gould-Saltman.

An exciting plenary session will discuss the Risks and Benefits of Child Custody Evaluations with Massachusetts Probate and Family Court Chief Justice Paula Carey, Mary E. O'Connell, J.D., Maria P. Cognetti, Esq. and Arnold T. Shienvold, Ph.D.

A Town Hall Meeting about Child Custody Consultation facilitated by the leadership of the AFCC Child Custody

Consultant Task Force will present points of consensus and controversy and provide an opportunity for attendees to voice opinions and ask questions.

Robin M. Deutsch, Ph.D., MA AFCC former president and Co-Chair of the Task Force, will preside with her Co-Chair Hon. William Fee and Task Force Reporter Andrew Schepard, J.D.

An additional 30 workshops covering a wide range of topics including intimate partner violence, toxicology testing, divorce and suicide,

relocation, stepfamily dynamics, ethical issues for both court-involved therapists and custody evaluators, evaluator bias, risk assessment, parenting plans, research and brief focused assessments will be presented.

The program will have something for any family law professional who works with families undergoing custody disputes: mental health professionals, lawyers and judicial officers. Please join us!

Kelly's Korner - By Kelly Leighton, Esq.



A periodic column to keep you updated as to the legislative goings-on on Beacon Hill

The Massachusetts legislature (or "General Court") is in the second year of a two-year legislative cycle. The session formally ended on July 31, 2010. Despite this, it is still possible that the legislature may act upon pending bills after the close of the session, through the end of the year. Much of the pending legislation was filed at the start of the current session, in early 2009. As such, the bills have been through the committee process. The Joint Judiciary Committee considered the bills mentioned in this column, holding hearings over the course of the past year as well as accepting written testimony and comments about the bills. Following the public hearing process, the committee makes a determination as to the future of the proposed legislation.

The possibilities include: 1) a favorable report, in which the committee determines the bill ought to pass, in which case the bill moves along to the next stage in the process, usually to another committee; 2) an unfavorable report, in the event the committee votes that the bill ought not to pass; 3) a study order, which signals that the bill most probably will not be acted upon in this session; or 4) an extension order, in the event the committee has determined it needs more time to consider the bill.

This column focuses on child-centered proposed legislation. The status of the bills is current as of the date of publication. There are many family law-related bills filed each session, and a large

number of bills were given study orders. Those listed here were either given a favorable report or granted an extension order. In addition to the bill number, title, sponsor, and brief description, we've linked the bills to their full text, for your review.

SB1662 *An Act Relative to Parental Choice of Terminology in Certain Domestic Relations Matters*: This bill, sponsored by Sen. Cynthia Creem, provides for the use of alternative terms in cases involving children: "physical custody," "legal custody," and "visitation," may be replaced with "residential responsibility," "decision making," and "parenting time."

### Kelly's Korner - Cont'd from Pg 5

The bill was given a favorable report by the Joint Judiciary Committee, and was referred to the Senate Committee on Ethics and Rules.

**HB92 *An Act Relative to the Uniform Child Custody Jurisdiction and Enforcement Act:*** Sponsored by the Commission on Uniform State Laws, this bill proposes that Massachusetts adopt its own version of the UCCJEA, a uniform jurisdictional scheme that governs children when they have resided in more than one state. Massachusetts is one of only a few states that has not adopted the UCCJEA. This would replace our current law, the UCCJA. HB92 is currently under consideration by the Joint Judiciary Committee and an extension order was filed.

**HB1400 *An Act Relative to Shared Parenting:*** This bill, sponsored by Rep. Colleen Garry with ten co-sponsors in the House, would replace current law governing custody orders in domestic relations cases, and establish a presumption in favor of joint physical and legal custody between parents absent emergency conditions, abuse or neglect of child. In order for sole custody to be awarded to one parent, findings would have to show that an order of joint custody would result in harm to the child. The bill eliminates the best interest of the child standard. HB1400 was granted an extension order.

**SB1569 *An Act Relative to Strengthening Family Relationships Through Responsible Shared Parenting:*** Sponsored by Sen. Stephen Brewer, along with six co-sponsors in the Senate, this bill rewrites G.L. ch. 208 sec. 31 and inserts a presumption that joint physical and legal custody is the best interest of the child, to be rebutted by such conditions as abuse, neglect, or domestic violence. If an order for sole custody is entered, it must be supported by written findings that joint custody is not in the best interest of the child. This bill was granted an extension order.

**HB1553 *An Act Relative to Modification of Custody Orders:*** This bill, sponsored by Rep. Harold Naughton, puts certain restrictions on the modification of custody orders when one parent is on active military duty. HB1553 was granted an extension order.

**SB1596 *An Act Relative to Child Custody:*** SB1596 restricts the modification of custody orders when parent on active duty with National Guard. It was sponsored by Sen. Stephen Buoniconti, and was granted an extension order.

**SB1743 *An Act Further Regulating Visitation Rights:*** This bill proposes to make visitation available to grandparents upon a written finding that it would be in the best interests of the child of unmarried parents. Sponsored by Sen. Joan Menard, this bill was granted an extension order.



*A periodic column to keep you updated as to the legislative goings-on on Beacon Hill*



Hampshire Division Child Focused Procedural Model - Cont'd from Pg 4

parental conflict can violate children's core developmental needs." Jennifer McIntosh, Ph.D., a researcher in Australia (and AFCC member), says that children are hurt by their parents' conflicts in two ways – as witnesses to it and as victims of the parents' emotional withdrawal from them. She says, too, "Nothing grows well in toxic soil, and children are no different." She recognizes that the way that lawyers assist parents in resolving disputes can have significant impact on the children's well-being. She warns us that it is folly to rely on the old saw that children are "resilient." While there is literature to support that view, she urges us to recognize that it is the job of family law professionals to "create resilient outcomes" by diminishing acrimony, managing disputes, building parental alliances, establishing child-centered parenting plans and tailoring those to the developmental needs of each child. She insists that "continuing to practice in ways that do not create a child focus can no longer be considered good practice. . . ." The American Law Institute supports Dr. McIntosh by encouraging us to focus greater attention on planning for children's needs, allocate responsibility first in parents and in the courts only as a last resort, and encouraging parents to anticipate future problems and establish a way to resolve them.

None of these directives from the experts is easy to achieve. All require a communal effort among us before we will master the skills hidden in the suggestions. And, of course, despite all our efforts and our intentions, there will always be people in need of a decision by an outsider. Our law is set up to provide that outside decision, and because there will always be a need for it, our new approach to family conflict is not meant to toss out the traditional system. It's meant to add a different approach to family conflict which we hope will be more productive for most families while maintaining the traditional trial, with its promises of due process, for those who are unable to reach a satisfactory conclusion without it.

We already know most families settle their cases before trial. We weren't sure why, but we did wonder whether, if the families had a different early experience in the divorce process, they'd be able to get in and out of the system faster and perhaps without allowing that long digging-in of heels and revved up experience as enemies to last as long as it does in the traditional system.

Several of us have been going for many years to AFCC conferences where we hear from people from the law, from the mental health professions and from court administration all over the world

talk about many ideas on the forefront of the best thinking about families in trouble who are engaged with the legal system. Every year we're inspired. With the help of the Hampshire County Bar Association, we have created a new model for the Hampshire Division.

In general, the new model is an effort – with the spotlight at all times on the kids – to accomplish two things:

1) Early focused attention on the issues the family is facing and on each opportunity to explore settlement – that is, the new procedure does not leave until the pre-trial conference the intensive work that parents need to engage in to understand the nature of their issues and the resources they need in order to think clearly about them. There is a required early four-way meeting with a built-in agenda spelled out in the Standing Order. The meeting is about early knowledge-building, planning what information is needed for resolution and early attempts at consensus building; and 2) Articulated acknowledgment of the attorney's role as more complex and demanding, sophisticated and nuanced than being a barracuda – that is, the modern family court and modern families in trouble need something different from attorneys from what we learned to be the pillars of good representation in other

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*"We already know most families settle their cases before trial."*



### Hampshire Division Child Focused Procedural Model - Cont'd from Pg 7

kinds of civil cases. We're asking lawyers to make changes in the way they conduct family litigation so that we, as an institution, will not be contributing to the psychological (and maybe even physical) problems that the kids face when their parents fight about them.

There is research that shows that legal professionals (judges and lawyers) can have a profound impact on the well-being of parents and children when they adopt new approaches to their professional conduct. The Standing Order is our chance to test the validity of that research. [Click here to read the Standing Order.](#)

Here are some of the specifics:

1. The three judges serving in the Hampshire Division have signed an Introductory Letter the original of which will go to all parents at the outset of their litigation. The letter asks them to think about the litigation in new ways. [Click here to read the Letter.](#)

2. The Standing Order, applicable to all cases in the Hampshire Division involving children, requires a face-to-face meeting of the parents no later than 45 days after the filing of an Answer or other relevant responsive pleading in a case and no less than two days prior to each motion hearing. The

meeting is designed to help parents identify the questions they have to resolve, determine whether they need any resources to assist them in resolving the open issues, plan the methods by which they will resolve each issue, including the designation of tasks that each parent and/or each attorney will undertake, confirm that they have completed or are signed up for the required parent education program, consider working on the web sites available to them for enhancing their parenting capabilities, and be prepared to report to the Court the progress they have made on these subjects.

3. The Standing Order encourages parents to utilize the services of our approved mediation programs, our approved conciliation program or our Probation Office to help them structure and conduct the Introductory Meeting.

4. The Standing Order directs parents to two websites, carefully vetted by the Court, which are likely to be helpful to some, maybe many parents in thinking through their goals for parenting their children. The Standing Order allows the judges to require completion of the website exercises on a case by case basis. The web sites are UpToParents.org (for divorcing parents) and ProudtoParent.org (for never married parents).

5. The Standing Order requires the Court, in collaboration with the Hampshire County Bar Association, to offer trainings to attorneys on such issues as representation of children and parents in the context of the Standing Order, ethical considerations in light of the Standing Order, and the like.

We have not one dime, not one penny for our program. Whatever we do under this Standing Order, we do with only our own will and our own energy to make change. We have only the power to look inside ourselves, reflect on the system that we have now and ask ourselves, each one of us: What are we doing that doesn't support the clear research about the harm to kids? How can we change? What do we need to learn? So that's how we've constructed the new model: it's all about us. It's all about a moment in time when we can examine our personal and professional goals and activities and can, if we choose, insist that we will - first and last and as much as possible all the way through family litigation - strive mightily to do no harm.

***A longer version of this article was originally printed in the Massachusetts Family Mediation Quarterly Spring 2010.***

[Click here to read the article.](#)

*“There is research that shows that legal professionals (judges and lawyers) can have a profound impact on the well-being of parents and children when they adopt new approaches to their professional conduct.”*



### Denver AFCC 2010 - By Peggie Ward, Ph.D.

The 2010 Annual AFCC conference was held in Denver, CO. The conference was attended by many MA Chapter Members, several of whom presented at various workshops.

The following describes an exciting new intervention, developed by Drs. Peggie Ward, Robin Deutsch and Matthew Sullivan. At the Denver conference, Drs. Ward, Deutsch, and Sullivan presented a new model for intervention in families where a child or children are resisting or refusing to see one parent for reasons that range from poor parenting concerns (not abuse) to active parental interference. The workshop called "Forging Families' Futures" is an intensive weekend psycho-educational model, developed from the presenter's experience with the Overcoming Barriers Camp. Drs. Ward and Deutsch presented the framework for the adult, child, parent child, family and multi-family work that occurs in the weekend program. The program is group based and

uses information gleaned from social science research, with very specific acceptance criteria as well as necessary emotional and financial investment from each family attending.

Families who are accepted for this intensive weekend workshop, offered 4 times a year in the greater Boston area, are expected to attend from Saturday at 8 AM until Sunday at 5 PM. Children stay overnight with the workshop leaders and activity director and are supervised. Parents can elect to spend the night or to leave from 9 PM Saturday until 8:30 AM Sunday. While Day One is primarily focused on group work with parents (Dr. Ward) and children (Dr. Deutsch) in the AM, by the afternoon Drs. Ward and Deutsch work with a variety of combinations of family members, together and separately, to effect change consistent with the stated goals of family members as well as those goals decided on by Drs. Ward and Deutsch based on reading pleadings, court documents and assessments provided

by each family or referral source. Day two also begins with intensive group work, and culminates with projects that each family can take home. Work is done across cognitive, affective and behavioral areas. This workshop was one of many presenting new, more intensive models to deal with these complex family dynamics.



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