

**Subject:** Communication with Bill Hogan & Tammy Sandoval

**From:** Jim Gottstein <jim.gottstein@psychrights.org>

**Date:** Wed, 20 Aug 2008 09:41:38 -0800

**To:** Stacie Kraly <stacie.kraly@alaska.gov>

**CC:** Bill\_Hogan@health.state.ak.us, jeff\_jessee@mhta.revenue.state.ak.us, talis.colberg@alaska.gov, vangoors@alaskabar.org, Jim Gottstein <jim.gottstein@psychrights.org>

Hi Stacie,

Last night I bumped into Bill Hogan and Tammy Sandoval on this year's Rasmuson Train Trip. He indicated he wanted me to e-mail him with some information and to set up a meeting prior to PsychRights filing its lawsuit against the state for over medicating kids with psychotropic drugs. I welcome such discussions, but said I thought he needed to get the permission of his lawyer before he could talk to me and he responded he didn't think that was required before a lawsuit is filed. I am not so sure.

Professional Rule 4.2 provides, " In representing a client, a lawyer shall not communicate about the subject of the representation with a party or person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so." The associated Comment includes: " In the case of an organization, this rule prohibits communications by a lawyer for one party concerning the matter in representation with persons having a managerial responsibility on behalf of the organization." From other authority, it appears these strictures at least generally apply to government agencies, although I don't know if the communication is "authorized by law," which would make it okay.

I have a call into Steve Van Goor to talk about this and am copying him on this e-mail. I have also copied Jeff Jessee because he should be interested. I have also copied Commissioner Hogan. I don't believe this e-mail falls within the stricture of Professional Conduct Rule 4.2 because it is not "about the subject of the representation." He is expecting an e-mail from me and I don't want him to think I don't want to talk.

However, it seems to me the best thing is for the Department of Law to consent to communications between myself and Commissioner Hogan and Ms. Sandoval. I would copy you or whoever you designate on any written communications and welcome the Department of Law's participation.

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