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LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
State Board Of Psychological Examiners

Adopted Amendment: N.J.A.C. 13:42-3.6

Adopted New Rules: N.J.A.C. 13:42-12

Custody/Parenting Time Evaluations

Proposed: August 17, 2009 at 41 N.J.R. 3024(a).

Adopted: December 7, 2009 by the State Board of Psychological Examiners, Nancy E. Friedman, Ph.D., Chair.

Filed: August 9, 2010 as R.2010 d.192, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.6).

Authority: N.J.S.A. 45:14B-13.

Effective Date: September 7, 2010.

Expiration Date: July 2, 2014.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted new rules or amendment.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus*** ; deletions from proposal indicated in brackets with asterisk ***[thus]***):

13:42-3.6 Responsibilities of applicant for one-year unsupervised and three-year supervised temporary permits

(a)-(j) (No change.)

(k) A one-year unsupervised and three-year supervised temporary permit holder shall be prohibited from performing custody/parenting time evaluations and termination of parental rights evaluations.

SUBCHAPTER 12. CUSTODY/PARENTING TIME EVALUATIONS *AND/OR TERMINATION OF PARENTAL RIGHTS EVALUATIONS*****

13:42-12.1 Purpose and scope

The rules in this subchapter set forth the minimum requirements for licensed psychologists who perform custody/parenting time evaluations and termination of parental rights evaluations.

13:42-12.2 Qualifications

(a) A licensee shall be qualified to perform custody/parenting time evaluations ***and/or termination of parental rights evaluations*** through education, training and/or supervision in all of the following categories:

1. Child growth and development;
2. Psychological testing;
3. Parent-child bonding;
4. Scope of parenting;
5. Adult development and psychopathology;
6. Family functioning;
7. Child and family development;
8. Child and family psychopathology;
9. The impact of divorce or family dissolution on children; and
10. The impact of age, gender, race, ethnicity, national origin, language, culture, religion, sexual orientation/identity, disability and socioeconomic status on custody/parenting time evaluations.

(b) When the following topics are involved, a licensee shall have education, training and/or supervision in the specific topic or the licensee shall refer to a licensed health care provider who has education, experience, training and/or supervision in the following topics:

1. Physical, sexual or psychological abuse of spouse or children;
2. Neglect of children;
3. Alcohol or substance abuse that impairs the ability to parent;
4. Medical/physical/neurological impairment that affects the ability to parent; or
5. Other areas beyond the licensee's expertise that are relevant to the custody/parenting time evaluation.

(c) Any licensee using psychometric instruments in the course of performing custody/parenting time evaluations ***and/or termination of parental rights evaluations*** shall comply with the requirements set forth at N.J.A.C. 13:42-10.5.

(d) Applicants for licensure who hold a temporary permit pursuant to N.J.A.C. 13:42-3.1 and 3.2 shall not perform custody/parenting time evaluations and termination of parental rights evaluations.

(e) A licensee shall maintain documentation that demonstrates the licensee's education, training, supervision or self-study in the topics from (a) and (b) above.

(f) If a licensee consults with an expert pursuant to (b) above, the licensee shall document the consultation.

13:42-12.3 Dual relationships

(a) If a licensee is or has been a treating therapist for any person who is part of the custody/parenting time evaluation ***or termination of parental rights evaluation***, the treating therapist shall not assume ***either*** the role of ***an*** evaluator in the custody/parenting time evaluation ***or termination of parental rights evaluation, or the role of a parenting coordinator*** and shall advise any party or court of this prohibition.

***(b) A licensee who is a treating therapist may report on a patient's mental health status and treatment issues**

but shall not make any recommendations regarding custody or termination of parental rights.*

[(b)] *(c)* *[A]* ***After the evaluation process is completed, a*** licensee whose initial involvement with a case has been as an evaluator may agree to function subsequently as a treating therapist ***or parent coordinator***, but shall no longer function as an evaluator in the case.

13:42-12.4 Communications

- (a) If a licensee is court-appointed, the licensee shall communicate any *[substantive]* information only to the court and both parties or their attorneys simultaneously, either in writing or through a conference call.
- (b) If a licensee is selected by both parties without a court appointment, the licensee shall communicate any *[substantive]* information only to both parties or their attorneys simultaneously, either in writing or through a conference call.
- (c) If a licensee is selected by only one party, the licensee shall communicate any information only to that party or the party's attorney.

13:42-12.5 Required disclosures

(a) A licensee shall provide information, in writing, to the parties to assist them in understanding the nature of the custody/parenting time evaluation ***and/or termination of parental rights evaluation*** and the implications of their agreement to participate. This information shall include the following:

1. Purpose, procedures and methods;
2. Fees;
3. Responsibility of parties for payment of the fees and whether payment will be required prior to the delivery of any report;
4. Limits of confidentiality;
5. Special policies pertaining to issues, such as canceled and/or missed appointments; and
6. Limitation on communications, as set forth in N.J.A.C. 13:42-12.4.

(b) A licensee shall inform the parties about the purpose of any assessment instruments, interview techniques and the use of any information collected. The licensee shall provide this information, as appropriate, to children, to the extent that they are able to understand.

13:42-12.6 Fees

(a) Before commencing the custody/parenting time evaluation ***or termination of parental rights evaluation***, a licensee shall inform the party or parties responsible for paying the fees, in writing, of the estimated fees for all anticipated services and any additional fees should the licensee be required, requested or mandated to perform additional services.

[page=2138] (b) A licensee shall provide the party or parties responsible for paying the fees with complete documentation of all fees, itemizing time, charges and services as appropriate.

(c) A licensee may accept payment of fees by retainer or by a pre-arranged fee schedule.

1. If a partial retainer is accepted, a licensee shall inform the court, attorneys and/or parties of the schedule for payment of the remainder and of any contingent relationship between complete payment and final delivery of services. A licensee shall inform the court, attorneys and/or parties that payment in excess of the reasonable estimate is expected if

delivery of services unforeseeably exceeds that anticipated. A licensee shall inform the court, attorneys and/or parties that unused fees will be refunded as soon as possible, upon completion of the professional services.

2. If payment by a fee schedule is accepted, a licensee shall provide a complete explanation of the expected per-visit payment or other scheduled costs.

(d) A licensee may require payment for a report prior to its delivery provided that prior notification has been given to the parties under (a) above.

13:42-12.7 Reports and recommendations

(a) A licensee shall complete written reports in a timely manner. Delays of more than two months from *[the final session with any party]* ***when all data has been collected relevant*** to the custody/parenting time evaluation ***or termination of parental rights evaluation*** are considered excessive. In the event of extenuating circumstances, such as inability to collect final documents from collateral contacts, the licensee shall provide, in writing, the reasons for the delay in accordance with (c), (d) and (e) below.

(b) A licensee shall not provide any opinion regarding the psychological functioning of any individual who has not been personally evaluated. A licensee may report what an evaluated individual has stated or address theoretical issues or hypothetical questions, as long as the limited basis of the information is explained.

(c) A licensee who is court-appointed shall submit the report only to the court and to both parties or their attorneys, unless otherwise specified in a court order.

(d) A licensee who is selected by both parties shall submit the report only to both parties or their attorneys, unless otherwise specified in a consent order.

(e) A licensee who is selected by only one party shall submit the report only to that party or that party's attorney ***unless the party notifies the licensee in writing that the party does not want to receive the report*** .