

Spring
2012
Issue 1

News Link



COUNSELOR, SOCIAL
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*The Board
changed the
Newsletter
process and
sending links to
short articles
rather than
mailing the
newsletter only
to those
renewing each
quarter.*

Custody Disputes - Ethics Requirements



Photo courtesy of the Ohio
Statehouse Photo Archive

The Board's investigation department receives almost 50% of its complaints referencing custody dispute issues. This has not decreased since the board's rule in Ohio Administrative Code: **Reports prepared for court review 4757-6-01**, went into effect in April 2004. Many counselors, social workers, and marriage and family therapists treat children whose parents are divorced and involved in contentious custody battles. You may find yourself in a situation where one or the other of the child's parents (or their attorney), requests or subpoenas you to testify regarding a custody recommendation.

When I get calls from practitioners who are uncertain as to how they should respond to these requests I always ask them, "What is your role?" And secondly, "Who is the client?" For example, if you have been counseling a child, they have an established

therapeutic relationship with you. Perhaps the child's parent(s) have also met with you to discuss the child's progress or any concerns they have. They are only an adjunct to the client's treatment - they are not the client:

Paragraph 4757-06-01 (F) A counselor, social worker, or marriage and family therapist shall not conduct a court evaluation in a case in which that counselor, social worker, or marriage and family therapist served in a therapeutic role for the client or his or her immediate family or has had other involvement that may compromise the counselor, social worker, or marriage and family therapist's objectivity. This should not preclude a counselor, social worker, or marriage and family therapist from testifying in the case as a **fact witness concerning treatment...**

Part of your role in this situation is to educate the parent, and/ or attorney, as to your professional code of ethics, and what you are, or are not, able to do. The rule also addresses how a licensee asked by a judge should make a recommendation:

4757-6-01 (F) (2): "Licensees asked by a judge to make a recommendation in a custody, visitation and/or guardianship hearing, not hired by the court to do so, shall cite their role as a client's therapist and note that any testimony would be an ethics violation of their license and they can only testify to facts that they know. Any recommendation would be based on limited facts and not within their role as this client's therapist. However, if ordered by the court to make a recommendation after stating these limitations, the licensee shall follow the court's order in order to avoid being found in contempt of court.

The board has disciplined licensees who have stepped outside of their role in custody matters. Remember, any time you find yourself in this situation and are unsure as to how to proceed, seek supervision, consult with peers, seek legal advice from an attorney familiar with your professional practice, and as always feel free to contact the board.

Read the whole rule here: <http://codes.ohio.gov/oac/4757-6-01>

Questions you would like to see addressed under the "Ethics Issues" column can be sent to: tracey.hosom@cswb.state.oh.us