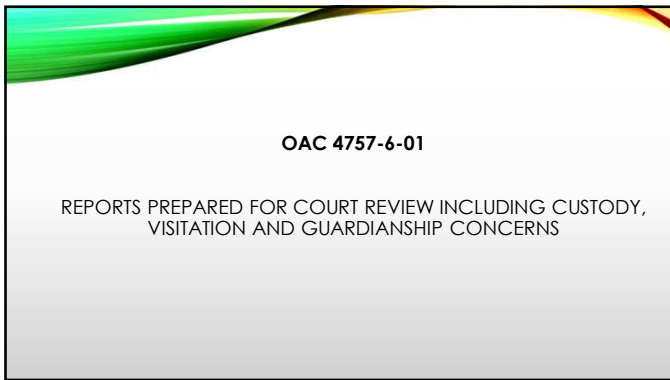


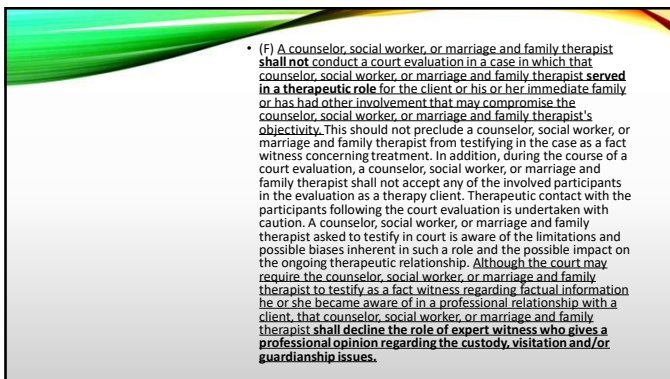
ETHICS: THE INTERSECTION OF FAMILY LAW & MENTAL HEALTH

November 15, 2023
Presented by: Investigators Margaret-Ann Adorjan & Rachel Randall
Ohio Counselor, Social Worker, Marriage and Family Therapist Board



OAC 4757-6-01

REPORTS PREPARED FOR COURT REVIEW INCLUDING CUSTODY, VISITATION AND GUARDIANSHIP CONCERNS



- (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. In addition, during the course of a court evaluation, a counselor, social worker, or marriage and family therapist shall not accept any of the involved participants in the evaluation as a therapy client. Therapeutic contact with the participants following the court evaluation is undertaken with caution. A counselor, social worker, or marriage and family therapist asked to testify in court is aware of the limitations and possible biases inherent in such a role and the possible impact on the ongoing therapeutic relationship. Although the court may require the counselor, social worker, or marriage and family therapist to testify as a fact witness regarding factual information he or she became aware of in a professional relationship with a client, that counselor, social worker, or marriage and family therapist shall decline the role of expert witness who gives a professional opinion regarding the custody, visitation and/or guardianship issues.

- (1) **Licensees** with a client involved in a custody, visitation and/or guardianship case, if asked by a client and/or their lawyer or the guardian ad litem to make a recommendation as to custody, visitation and/or guardianship, **shall cite their role as the primary therapist for their client.** This section does not apply to a licensee hired to make a custody, visitation and/or guardianship recommendation for the court. **Licensees shall inform the requestor that they have not performed a custody, visitation and/or guardianship evaluation and it would be unethical for them to make any recommendation outside of their role as a treating therapist.**
- (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.

FREQUENT CONCERNS OF LICENSEES

- Just received a subpoena by an attorney for records
- Just received a subpoena by an attorney to testify
- Being asked by a GAL to provide opinion/recommendation regarding custody/visitation
- Judge ordered me to give my opinion
- Clinical relationship/trust with child

MAGISTRATES/JUDGES, ATTORNEYS, AND GALs

- How can you help licensees avoid violating their professional ethics?
 - Accept a treatment summary whenever possible
 - Do not ask licensees to testify whenever possible
 - Do not ask licensees to make recommendations/opinions regarding custody/visitation
 - Do not ask licensees to make opinions regarding people they have not treated (i.e., parents)
 - Do not give them any decision-making abilities or powers
 - Be cognizant of their competencies and limitations



CSWMFT BOARD

77 S High St.
24th Floor, Room 2468
Columbus OH 43215
614-466-0912
www.cswmft.ohio.gov
ethics@cswb.ohio.gov
