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## **Why a treating therapist must refrain from presenting an expert opinion regarding custody of a child.**

Based on my best understanding of the ethical standards of my profession, it is my practice **never to form or state an opinion** regarding the custody or time sharing plan for a child who is or has been in my care **as a psychotherapy patient**. This practice is communicated to both parents and the child at the outset of treatment, or as soon as I become aware of a possible conflict. Otherwise, the child as patient cannot speak with any assurance that his or her statements will be held in confidence, and that what is spoken privately in therapy will not become public as part of the ongoing dispute between the parents.

Should this policy be unacceptable to any of the involved parties, it may be necessary for me to excuse myself from the case

## **The relevant ethical standards are cited below.**

The APA Ethics Code, (American Psychological Association, 2002) is clear on the need to avoid multiple relationships in therapy and evaluation. The relevant section states, in part:

### 3.05 Multiple Relationships.

(a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom they have the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

In situations where custody of a child remains at question, there are many opportunities for conflicting multiple relationships.

A related document, the APA Guidelines for Child Custody Evaluations in Divorce Proceedings (American Psychological Association, 1994) states the following:

7. The psychologist avoids multiple relationships.

Psychologists generally avoid conducting a child custody evaluation in a case in which the psychologist served in a therapeutic role for the child or his or her immediate family or has had other involvement that may compromise the psychologist's objectivity. This should not, however, preclude the psychologist from testifying in the case as a fact witness concerning treatment of the child. In addition, during the course of a child custody evaluation, a psychologist does not accept any of the involved participants in the evaluation as a therapy client. Therapeutic contact with the child or involved participants following a child custody evaluation is undertaken with caution.

A psychologist asked to testify regarding a therapy client who is involved in a child custody case 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 psychologist to testify as a fact witness regarding factual information he or she became aware of in a professional relationship with a client, that psychologist should generally decline the role of an expert witness who gives a professional opinion regarding custody and visitation issues . . . .

Finally, in a recent article in the Update (March 2002), the newsletter of the California Board of Psychology (the body which issues my license), the following opinion was offered.

In addition to providing psychotherapy, there are a number of roles psychologists may fulfill in a child custody dispute. Those roles include being a court appointed evaluator, a mediator, a special master, an expert for one parent, or a treating therapist for an identified patient. Once one role has been taken, no other role can ever be taken. This includes situations in which the clinician may be named in a court order or stipulation by counsel to pursue a second role. Psychologists should be aware that the court has no power to order them to provide any service. The only persons who can be ordered to do anything are the parties in the dispute. The clinician should inform counsel or the court that they cannot perform the second role . . . .

Treating therapists are generally not in a position to make recommendations regarding a change in custody, even on a temporary basis.