



ADMINISTRATIVE RULES OF MONTANA



24.219.1211 LIMITS OF CONFIDENTIALITY

- (1) Licensees shall inform all participants, including parents, children (when feasible), other family members, and third party contacts such as teachers, physicians, and child care providers, as to the limits of confidentiality, which can be expected with regard to any information they may provide to the licensee over the course of the evaluation.
 - (a) This includes the limits of confidentiality applicable to the general practice of social work or counseling, such as a duty to warn in instances of possible imminent danger to a participant or to others, or legal obligations to report suspected child or elder abuse, and also exceptions to confidentiality stemming from the specific requirements of a parenting plan evaluation, including:
 - (i) the potential need to disclose information provided by any participant to other participants, in order to obtain accounts of circumstances pertinent to the issues being evaluated;
 - (ii) the expectation of disclosure of relevant information provided by individual participants to the attorneys involved in the case, to the court, and to the guardian ad litem, if one has been appointed; and
 - (iii) the likely disclosure of the licensee's findings, professional opinions, and recommendations regarding the resolution of contested matters, which fall within the scope of the evaluation to parents, their attorneys, the court, and any other party, such as a guardian ad litem.
- (2) Licensees shall obtain written waivers of confidentiality from the parents who are participating in the evaluation, encompassing all disclosures of information to other persons, including other participants in the evaluation, attorneys, and the court.
- (3) Licensees shall take reasonable precautions in their handling of children's disclosures of abuse, neglect, or any other circumstances, when such disclosure may place the child at increased risk of physical or emotional harm. Licensees shall also recognize the right of any person accused of misconduct to respond to such allegations, while placing the highest priority on the safety and well-being of the child.
- (4) Licensees shall recognize that disclosures of statements by abused spouses may pose special risks to the safety and well-being of persons who claim to be victims of domestic abuse. Prior to disclosure of such allegations to an alleged perpetrator or to other persons who may support, collude with, or otherwise increase the risk of abuse, the licensee shall inform the alleged victim that the disclosure will take place. If appropriate, information will be provided as to available

community resources for protection, planning, and personal assistance, and counseling for victims of domestic abuse.

- (5) Licensees shall provide judges, attorneys, and other appropriate parties with access to the results of the evaluation, but make reasonable efforts to avoid the release of notes, test booklets, structured interview protocols, and raw test data to persons untrained in their interpretation. If legally required to release such information to untrained persons, licensees shall first offer alternative steps, such as providing the information in the form of a report, or releasing the information to another licensee who is qualified in the interpretation of the data, and who will discuss or provide written interpretations of the data with the person(s) who are seeking the information.
- (6) Licensees shall not agree to requests by participants in a parenting plan evaluation that information shared with the licensee be concealed.
 - (a) When such requests are made, the licensee shall clarify the requirements of the evaluation as regards to confidentiality, and may advise the participant to consult with the participant's attorney before proceeding with the evaluation.
- (7) The licensee must ultimately respect the right of any participant to withhold information from the evaluation. Whether the refusal to provide information should itself be made known to others, it must be decided by the licensee, based on the relevance of such refusal to the issues before the court, in the particular case at hand.
- (8) Licensees shall recognize the possibility that the need to disclose information obtained in the evaluation may limit the validity of data acquired during the evaluation, by inhibiting the free and complete disclosure of information by participants.

Authorizing statute(s): 37-1-131, 37-39-103, MCA

Implementing statute(s): 37-1-131, 37-39-103, MCA

History: NEW, 2011 MAR p. 2038, Eff. 9/23/11; AMD, 2024 MAR p. 279, Eff. 2/10/24.