

## ARTICLES

# Licensing Board Complaints in Child Custody Practice

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*This study explored licensing board complaints among psychologists ( $N = 117$ ) involved in child custody practice. Findings indicated that a high number of participants (63%) had been subject to licensing board complaints. However, of those complaint cases described, only a small number resulted in disciplinary action. Participants identified warning signs for possible complaints along with risk management strategies they utilized. Though participants viewed the complaint process as stressful, they maintained a very favorable view of licensing boards and professional insurance companies. A notable finding was that one-third of those who received complaints lacked liability insurance coverage. Implications for child custody practice are outlined.*

**KEYWORDS** *child custody evaluations, licensing board complaints, forensic evaluations, board disciplinary action, family law, child custody practice*

Child custody evaluations (CCEs) are completed in only a small portion of divorce cases, and they typically arise in the most problematic cases (Gould,

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2006). In such cases, the level of conflict and hostility is often high and, on occasion, these feelings may be directed toward the evaluator in the form of legal action. Not surprisingly, child custody evaluators have been identified as a high-risk group for licensing board complaints (Bow & Quinnell, 2001; Bow & Martindale, 2009; Glassman, 1998; Kirkland & Kirkland, 2001; Kirkland, Kirkland, King, & Renfro, 2006; Montgomery, Cupit, & Wimberley, 1999).

Bow and Quinnell (2001) surveyed 198 psychologists from 33 states regarding child custody practice and found that 35% of the participants had experienced a board or ethics complaint. Kirkland and Kirkland (2001) surveyed the Association of State and Provincial Psychology Boards regarding child custody complaints. Data were collected from 34 jurisdictions covering the period from 1990 through 1999. Results indicated that 2,413 licensing board complaints were filed against psychologists working in the area of child custody, but only 27 (i.e., 1%) resulted in a finding of probable cause or a finding of violation against the psychologist. Although the chances of a negative result might be small, Kirkland and Kirkland noted that psychologists who accept work in this area are extremely likely to encounter a complaint.

Recent surveys have found an increased number of licensing board complaints among psychologists performing CCEs. Brey (2007) found that 49.5% of psychologists performing custody evaluations ( $N = 213$ ) had experienced a licensing board complaint. Bow and Martindale (2009) found that 51% of psychologists ( $N = 138$ ) performing such evaluations reported a licensing board complaint, with the number of complaints ranging from one to 12. However, only 3.2% of those who reported a complaint had experienced an unfavorable outcome.

These studies reaffirm the perception that child custody work is a high-risk area of practice. Although the number of psychologists who may experience unfavorable outcomes is small, the emotional anguish and distress faced when defending such a complaint may be significant. These psychologists often experience feelings of shock, depression, annoyance, worry, and anger (Montgomery et al., 1999). In addition, the time and expense involved with defending a complaint may be extensive (Thomas, 2005; Van Horne, 2004).

Additional stress may result from concern about the consequences of possible sanctions, such as limitations to one's practice, increased premiums or loss of liability insurance, attrition of referrals, and/or financial loss (Thomas, 2005). An even greater concern is the possibility of being reported to the Healthcare Integrity and Protection Data Bank, which could impact the renewal of hospital privileges or insurance panel re-credentialing (Van Horne, 2004). Last, licensing board complaints raise questions about the professional integrity of a psychologist and may cause personal and professional embarrassment.

Although data are available on the frequency of licensing board complaints among psychologists working in the child custody field, research has yet to explore the particular nature of these licensing board complaints and their specific outcomes. Currently, there is a need to analyze the licensing board investigative process, the role of insurance carriers in that process, the immediate and long-term impact of complaints on evaluators, typical characteristics of the complainant, and retrospective identification of risk factors. Furthermore, it is important to identify high-risk situations and risk-management strategies that may be utilized to minimize board complaints. The present study investigated these areas with the hope that this information will help psychologists to avoid licensing board complaints when performing CCEs.

## METHOD

The present survey was developed through a review of previous research on licensing board complaints in child custody practice and identification of specific areas in need of further exploration. The Internet program SurveyMonkey ([www.surveymonkey.com](http://www.surveymonkey.com)) was utilized as the survey instrument. A variety of question formats were used, including multiple choice, rating scales, matrix choices, and comment/essay. At the beginning of the survey, the purpose of the study and informed consent information were reviewed, and it was noted that the appropriate institutional review board had approved the study. The first portion of the survey focused on demographic information and the number of board complaints that each participant had received. The second section requested detailed information about each complaint and allowed the respondent to address up to 12 complaints. The final section of the survey focused on risk-management issues and strategies.

A description of the study and link to the survey were posted on listservs for the following divisions of the American Psychological Association: 12 (Clinical), 41 (American Psychology-Law Society), 17 (Society of Counseling Psychology), 43 (Society for Family Psychology), and 53 (Society of Clinical Child and Adolescent Psychology), in addition to two child custody listservs. Potential participants were asked to complete the survey if they performed CCEs as part of their psychology practice.

A total of 117 usable surveys were returned by psychologists. Sixty-two percent of the total sample was male. The average age was 58.36 years ( $SD = 7.95$ ), with a mean of 28.32 years ( $SD = 9.04$ ) of clinical experience and 19.91 years ( $SD = 8.88$ ) of child custody experience. Almost all participants were Caucasian (94%) and reported working in a private practice setting (92%) in an urban/suburban location (93%).

Participants were from 27 states. Ninety-seven percent held doctoral degrees, the overwhelming majority of which were in clinical psychology or clinical psychology with a specialization in forensic psychology. On average, the total sample devoted about 45% of their practice to child custody work and had performed an average of 13.88 evaluations within the last year. The median number of CCEs performed by the sample during their career was 200, with a range from 3 to 3,000.

## RESULTS

Sixty-three percent ( $n = 74$ ) of the participants reported having experienced a licensing board complaint regarding child custody practice. Of these participants, the number of complaints received ranged from one to 12 per participant. A comparison of participants who had experienced licensing board complaints versus those who had not revealed that the former group reported a significantly larger total number of CCEs conducted over the course of their career (Complaint group = 381.78 and Without Complaint group = 201.84,  $t = 2.63$ ,  $p < .01$ ) and a significantly larger number of CCEs performed within the past year (Complaint group = 16.47 and Without Complaint group = 9.56,  $t = 2.02$ ,  $p < .05$ ). In addition, the Complaint Group devoted 51.68% of their practice to CCEs, whereas the Without Complaint group devoted 9.56% ( $t = 10.22$ ,  $p < .001$ ). The difference between the number of years of child custody experience reported by the two groups approached significance (Complaint group = 21.11 years and Without Complaint group = 17.93,  $t = 1.71$ ,  $p < .09$ ). Overall, the Complaint Group devoted significantly more time to child custody practice and performed significantly more evaluations, both over the past year and throughout their careers. It is important to note that some of the people who indicated a complaint had been filed against them chose not to provide the requested detailed information and/or did not answer the questions concerning all of the complaints that they had experienced.

Forty-two participants (57%) provided detailed information about their complaints, with a total of 74 complaints reported. Because many participants reported data on more than one complaint, group data are provided for complaint cases rather than for participants.

Of those complaints reported, the following types of allegations were represented<sup>1</sup>: bias (49%), inadequate procedures (35%), failure to investigate an issue (23%), and billing/collection problems (10%). The following allegations were less common: inappropriate behavior toward a child (5%), dual role (5%), lack of appropriate training (4%), failure to obtain informed

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<sup>1</sup> The total percentage exceeds 100 because sometimes more than one allegation was made.

consent (3%), perjury (1%), misquoting collaterals (1%), and going beyond the scope of the order (1%).

No formal charges were brought against a participant in 84% of complaints filed, as the complaints were either dismissed or no further action was taken. In those cases resulting in formal actions, none of the complaints resulted in the loss of the evaluator's license. Disciplinary action involved one or more of the following: letter of admonishment or violation ( $n = 5$ ), mandated supervision ( $n = 1$ ), reprimanded ( $n = 1$ ), mandated remedial education ( $n = 1$ ), and/or the case was taken under advisement for 5 years ( $n = 1$ ).

Participants were asked to report the degree to which the complaint surprised them using a Likert scale from 1 (*extremely surprised*) to 7 (*extremely expected*). For 44% of the complaints, participants endorsed a rating of 1 or 2, indicating that they were extremely or very surprised by the complaint. Only 21% of the complaints received a rating of 6 or 7, suggesting that the complaint was very expected or extremely expected.

The next portion of the survey focused on characteristics of the complainants and on possible warning signs. With regard to the gender of the complainant, female complainants outnumbered male complainants by a slight majority (52%). Survey participants were asked, in retrospect, whether they could identify warning signs of a possible board complaint; in 43% of the cases, the response was affirmative. For example, 21% of the complaints were initiated by litigants who had previously filed a complaint against another professional (e.g., attorney, judge, therapist, evaluator, etc.); an additional 21% were made by litigants who suffered from a serious mental illness or personality disorder. Twenty percent of complaints came from litigants who had presented as very demanding and rigid, whereas 10% of complaints came from litigants who objected to the evaluator's recommendations. Six percent of complaints resulted from each one of the following: a litigant who had fired an attorney, a litigant who hired an expert to critique the evaluation, and collusion between the litigant and other professionals (e.g., therapist) or agencies.

Participants were queried about the amount of time it took for the licensing complaint to be filed. Eight percent of the complaints were filed before the evaluation was completed. Of those complaints, the evaluator was removed from the case by the judge on only two occasions, whereas in the other three cases, the evaluator requested to be removed from the case. The modal number of months it took for a complaint to be filed after the evaluation was completed was six (20%), with 62% of the complaints filed within a 6-month timeframe. Another 14% of complaints were filed 12 months after evaluation, and another 5% were filed after 24 months.

Within the complaint group, 31% indicated that they had no professional liability insurance coverage, 36% were covered by the American Psychological Association (APA) Insurance Trust, 16.5% were covered by

the American Professional Agency, and 16.5% were covered by other insurance companies or reported that insurance was not necessary due to their employment setting (e.g., family court services).

Regarding specific insurance coverage for board complaints, 49% indicated that they had no licensing board coverage or were unaware of such coverage at the time of the complaint. The most common amount of coverage was \$5,000, which was reported in 22% of the complaints. Twenty-seven percent of cases had coverage exceeding that amount. For those with insurance coverage for board complaints, only 61% of complaints were fully covered by insurance. It is noteworthy that 11% of the complaints cost \$15,000 or more to defend.

For those complaints that required the use of an attorney, in 92% of the cases the attorney was rated as very competent or totally competent on a Likert scale from 1 (*totally incompetent*) to 7 (*totally competent*). It is notable that in 47% of the complaint cases, participants reported hiring their own attorney in addition to the one appointed by the insurance company.

Participants were asked to report the length of time that it took for the licensing board to make a decision regarding the complaint. The time frame ranged from less than 1 month to a total of 48 months, with 56% of the decisions made within 6 months or less. However, 15% of the complaints took longer than 1 year. None of the participants reported that their complaint was heard by an administrative law judge, although one participant reported that his or her case was heard by the Court of Appeals.

Participants were asked to rate the fairness of the licensing board in handling their complaint on a Likert scale from 1 (*totally unfair*) to 7 (*totally fair*). In 73% of complaints, participants reported that the licensing board was very fair or totally fair. Fewer than 15% of complaint cases resulted in the participants' endorsing a rating of 3 or less.

Participants were asked to rate the amount of stress caused by each licensing board complaint using a Likert scale from 1 (*no stress*) to 7 (*extremely stressful*). The distribution was bi-modal, with participants rating 39% of the complaints as three or fewer, and 56% as five or higher. Nevertheless, the clear majority of complaints created stress.

Participants were also asked to rate the types of symptoms and problems they experienced as the result of each licensing board complaint using a Likert scale 1 (*none*) to 7 (*extreme*). The most common problem/symptom was annoyance, with a mean rating of 5.12. This was followed by anxiety ( $M = 4.35$ ), anger ( $M = 4.14$ ), sleep disturbance ( $M = 2.49$ ), and depression ( $M = 2.23$ ). Those problem/symptom areas receiving ratings below a mean of 1.5 were estrangement from colleagues, medical problems, interpersonal problems, decline in referrals, and marital problems.

Despite the distress that complaints caused, in 70% of cases no adverse long-term impact was reported. Among those complaints that did create an ongoing impact, comments by participants included no longer conducting

child custody evaluations, developing increased vigilance, becoming more skeptical about the licensing board process, gaining increased realization that evaluators have no real protection, and resigning his or her license after the complaint was dismissed. Only 7% of complaints resulted in an evaluator's being the target of public scrutiny or criticism. The most common vehicle for targeting evaluators was the use of the Internet to post complaints.

Participants were asked to recommend up to five risk-management strategies. Those included by at least 25% of participants were closely follow standard procedures/guidelines; use detailed informed consent forms; conduct only court-ordered evaluations; treat litigants in a fair, honest, and transparent manner; document carefully; and perform thorough evaluations.

Participants were also asked for the diagnoses of litigants who place child custody evaluators at the highest risk for a board complaint. All participants identified a personality disorder, and a few participants also listed bipolar disorder. Among the personality disorders, borderline personality disorder was most commonly cited (37%), followed by narcissistic personality disorder (16%), cluster B personality disorder (i.e., borderline, narcissistic, and/or anti-social, 16%), paranoid personality disorder (6%), and anti-social personality disorder (5%). The remaining participants noted only a general personality disorder without further specification.

From a list of items, participants were asked to rate the risk of a board complaint (Table 1). Each item was rated on a Likert scale from 1 (*no risk*) to 7 (*extreme risk*), with higher scores indicating greater risk. The mean scores for the Complaint and Without Complaint groups are displayed in the table as is the total sample.

An analysis of means between the Complaint and Without Complaint groups revealed only one significant difference: court-ordered evaluations. The Without Complaint group viewed court-ordered evaluations as less risky. Further analysis of the findings revealed that evaluating a person you know, a coworker's family, or former therapy client was viewed as extremely risky ( $M > 6.50$ ) by both groups, as was failing to maintain records. Also, failing to use an informed consent/statement of purpose form, failing to clearly outline payment issues, evaluating only one parent, not interviewing children ages 5 to 12 years, and deviating from standard procedures were all seen as very risky ( $M = 5.75-6.49$ ). Those factors receiving the lowest ratings were making parenting time recommendations and closely following child custody guidelines.

## DISCUSSION

The present study was developed to further explore licensing board complaints among psychologists involved in child custody practice. Several interesting findings were revealed. In the present study, a higher percentage

**TABLE 1** Ratings of Risk Factors in Child Custody Practice

Factor	Total sample complaints <sup>a</sup>		Without complaints <sup>b</sup>	
	Mean	SD	Mean	SD
Personally knowing one of the parents	6.78	0.62	6.86	0.54
Failure to maintain records	6.75	0.59	6.78	0.54
Evaluating a coworker's family	6.72	0.80	6.72	0.94
Evaluating a former therapy client	6.65	0.80	6.72	0.78
Not using an informed consent/statement of purpose form	6.19	1.39	6.22	1.24
Not clearly outlining payment issues	6.06	1.08	6.14	1.07
Evaluating only one parent	6.01	1.42	5.97	1.48
Not interviewing children ages 5–12	5.90	1.33	6.06	1.19
Deviating from your typical procedures	5.87	1.14	5.97	0.97
Not using third-party collateral information	5.59	1.30	5.72	1.39
Conducting an abbreviated evaluation	5.48	1.30	5.50	1.30
Non-court-ordered evaluation	5.41	1.49	5.42	1.71
Evaluating a colleague's therapy client	4.76	1.59	4.80	1.73
Making custody recommendations	4.17	1.66	4.14	1.64
Refusing to release the report until paid	4.15	1.86	4.19	1.72
Administering projective tests	4.01	1.45	3.83	1.48
Court-ordered evaluations	3.97	1.56	4.53	1.46
Making parenting time recommendations	3.87	1.69	3.89	1.64
Closely following child custody guidelines	2.46	0.99	2.56	1.05

<sup>a</sup> $N = 35 - 36$ ; <sup>b</sup> $N = 41-42$ .

Note: Each factor was rated on a Likert scale from 1 (*no risk*) to 7 (*extreme risk*). Therefore, higher mean scores indicate higher risk.

$p > .01$

(i.e., 63%) of psychologists reported licensing board complaints in child custody work than in past research (Brey, 2007; Bow & Martindale, 2009; Bow & Quinnell, 2001). This increase may be a result of this study's sole focus on this topic and, thus, may have attracted psychologists who had experienced difficulty in this area. However, it may truly indicate that licensing board complaints in the child custody field are continuing to increase.

Another remarkable finding was that those participants who experienced a complaint had conducted a significantly higher number of evaluations in the last year and over the course of their careers, in addition to having devoted a significantly greater proportion of their practice to child custody work (50% vs. 10%) relative to participants who had not experienced a complaint. Thus, there is a notable correlation between performing a greater number of CCEs and experiencing a higher number of complaints. However, this could be due to other factors not explored in this study, such as the possibility that those who performed more evaluations and devoted a greater proportion of their practice to child custody practice were assigned more difficult and complex cases.

One of the most noteworthy findings of this study was that although a higher percentage of psychologists had been the subject of a licensing board complaint, none of the complaints reported resulted in the loss of a license. Eighty-four percent of the complaints were dismissed, and only a small number resulted in disciplinary action. The most common disciplinary action was a letter of admonishment/violation. This low rate of disciplinary action reaffirms past research in the child custody area by Kirkland and Kirkland (2001).

The most common type of licensing board complaint was bias, which was lodged 49% of the time. Interestingly, when attorneys and/or judges were surveyed about their concerns about CCEs, they also listed bias/lack of objectivity as a major concern (Bow & Quinnell, 2004; LaFortune, 1997). Unfortunately, bias is an elusive term that can take many forms and may be difficult for a licensing board to support. For example, it may present as personal bias, in which evaluators impose their own values on the case without sufficient behavioral science research to support the conclusions and recommendations (Gould, 2006). O'Donohue and Bradley (1999) noted that such personal biases are often hidden in recommendations and presented as "psychological facts" as opposed to values. They further argue that value judgments are inherent in custody issues and include a wide variety of issues, such as what is good and bad parenting, how much attachment is good or bad, and what is desirable and undesirable child development? Therefore, it is important for evaluators to be aware of their personal biases and to base conclusions and recommendations on empirical research.

Another form of bias is confirmatory bias, which is the tendency for evaluators to look for data that supports their expectations (Martindale, 2005). This type of bias is particularly high when the evaluators have

preconceived ideas about specific issues. Therefore, it is critical for evaluators to keep an open mind during the evaluation process and use hypothesis testing to cross-check different perspectives. A third type of bias is confirmatory distortion (Martindale). This occurs when evaluators report only data supporting their view while ignoring information to the contrary. Again, it is important for evaluators to strive for transparency in their evaluations and to present all relevant data.

A fourth type of bias in child custody evaluations is counter-transference reactions by evaluators (Pickar, 2007a, 2007b). Due to highly charged emotional issues in such evaluations, the evaluators' own personal issues or past experiences might impact their feelings and thoughts toward a parent and influence the findings and recommendations. Evaluators need to be aware of this type of bias and how it might compromise their objectivity.

There is no ultimate solution to this problem, but we find great wisdom in the Specialty Guidelines for Forensic Psychologists (1991) provisions regarding evaluating all reasonable alternative hypotheses (VI.C) and attempting to corroborate critical data (VI.F.1). Following these guidelines cannot eliminate bias but may reduce it.

The next most frequent licensing board complaint, which occurred one-third of the time, involved the use of inadequate procedures. This is a much easier complaint to support, with guidelines (American Academy of Child and Adolescent Psychiatry [AACAP], 1997; Association of Family and Conciliation Courts [AFCC], 2007; American Psychological Association [APA], 2009) and research available to assist the licensing board and expert reviewer.

Participants indicated that they were extremely or very surprised by the complaint in a relatively high percentage of cases (46%). However, in 43% of the complaints, participants were able to retrospectively identify "red flags" or warning signs. The most commonly identified red flags were previously filed complaints against other professionals and a litigant with a serious mental illness/personality disorder, particularly borderline personality disorder. Though child custody evaluators are well advised to exercise a high degree of caution in dealing with these types of litigants, evaluators typically do not know the dynamics of a case until the evaluation is already underway. Even so, when these issues surface during the evaluation, it is critical for evaluators to conduct the evaluation with great care, abiding by standard procedures, addressing all relevant issues, documenting carefully, and conveying the findings in an objective and logical manner.

Interestingly, complainants in this study were almost equally divided between men and women. Given the professional lore that women presumed to suffer from borderline personality disorder file complaints far more frequently than men, this was an unexpected finding. We cannot explain this result, and it may be an outlier. However, we wonder what other factors play a role in this finding. Further research should focus on the increased

advocacy of men's rights groups, Internet Web sites that coach litigants about winning custody and filing complaints, and men's feeling increasingly marginalized when they are denied custody or adequate parenting time.

Horror stories are commonly promulgated about the actions of licensing boards, particularly in the child custody area, but the present study did not substantiate them. In the vast majority of complaints, participants rated the licensing board as *very* or *totally fair* (73%). Of course, this might also reflect the small number of actionable complaints and the lack of disciplinary action in general. Nevertheless, it is striking that the overwhelming majority of the Complaint Group did not view licensing board decisions as unfair. This does not minimize the need for licensing boards to consult with experts in the child custody field regarding complaints. Child custody evaluation is a specialized practice area that requires knowledge well beyond that of many board members and many psychologists. To provide a fair and objective screening and review of such complaints, we recommend that licensing boards who have not already done so establish a panel of experts, such as in Texas and California (Kirkland et al., 2006), who are willing to consult with them in this area.

We were astounded to find that in almost one-third of the complaint cases, the psychologist had no professional insurance coverage. This finding is even more alarming considering that participants worked almost exclusively in private practice settings rather than state or federal agencies wherein they might have immunity. Because we would never have anticipated such a finding, we made no effort to collect data regarding it, and we are at a loss to explain it. In a high-risk practice area such as CCEs, it is our view that professional liability insurance is an absolute necessity. We hasten to add that even when child custody evaluators purchase professional liability insurance, the typical policy may not cover the entire expense of a state board complaint. The typical liability policy covers \$5,000 for state board complaints, although extra coverage may be purchased. Additional coverage (\$25,000 or \$50,000) usually costs between \$35 and \$95, depending on the amount and type of coverage (i.e., prior act vs. no prior act). As 39% of cases were not fully covered by insurance, we believe it is vital that additional coverage be purchased. This is especially valid because previous studies (Bow & Martindale, 2009; Bow & Quinnell, 2001) indicated that child custody evaluators were much more likely to receive a licensing board complaint than a malpractice suit.

For participants with professional insurance coverage, the APA Trust and the American Professional Agency were the most common carriers. Participants reported a high degree of satisfaction with their legal representation from the professional insurance companies. This reflects positively on these companies and provides child custody evaluators with reassurance that good legal representation will be provided when necessary. It should be noted that in larger urban areas, insurance carriers may have employed

a number of attorneys in the past, and evaluators may have some latitude in choosing among them. When evaluators wish to choose their own lawyer, it may still be possible for the chosen attorney to arrange to have his or /her fee paid by the insurance company.

It is also important for psychologists to utilize all services provided by their professional insurance company. Many of these companies offer free consultation on risk-management issues, which is particularly important in the area of child custody. Furthermore, when psychologists receive notification of a complaint, it is required that they immediately contact their professional insurance company as failure to do so could result in later denial of available services (Thomas, 2005). Interestingly, some participants noted in the comments section that they were aware of having "malpractice insurance" but did not realize at the time that their insurance also covered licensing board complaints. Other resources that may provide assistance include the APA Practice Directorate and APA Ethics Office.

A majority of participants found the complaint process stressful, which, as anticipated, supports previous research (Montgomery et al., 1999). The most common symptoms/problems experienced were annoyance, anxiety, and anger. According to participants, the complaint usually did not impact referrals or make them the target of public scrutiny and criticism. The vast majority indicated no long-term adverse consequences; however, a few participants reported choosing to no longer do child custody work, and one participant relinquished his or her license even after being cleared of all charges.

The recommended risk-management strategies offered by participants closely followed those recommended in the professional literature (AFCC, 2007; Gould, 2006; Gould & Martindale, 2007; Rohrbaugh, 2008), such as adhering to child custody guidelines, using a detailed informed consent/statement of understanding form, performing only court-ordered evaluations, interacting with litigants in a fair and honest manner, carefully documenting all information, and performing thorough evaluations. It is good practice to closely follow these strategies and to keep abreast of current child custody practices by attending continuing education programs on the topic.

Concerning situations that create the greatest risks, participants identified failing to follow child custody guidelines (AFCC, 2007; APA, 2009; AACAP, 1997) and the ethics code (APA, 2002), such as boundary violations/dual role issues (e.g., evaluating people you know or former clients), failing to maintain records, not using an informed consent form, failing to explain payment issues, and deviating from standard practice.

Even when employing risk-management strategies, psychologists conducting CCEs remain at risk for licensing board complaints. As noted by Montgomery et al. (1999), filing a licensing board complaint takes little effort, costs nothing, and does not require an attorney. It is an easy and effective

way for litigants to gain power, vent anger, and/or cause distress for the evaluator. Therefore, it is highly unlikely that board complaints will significantly decline, even when best-practice methodologies are utilized. The only way to truly eliminate frivolous complaints is to enact legislation similar to laws previously passed in Florida (West's F.S.A § 61.122, 2003) and Arizona State Legislature (A.R.S. § 32-2081, 2009). For example, when custody evaluators are court-appointed in Arizona, the court must first find a substantial basis for the child custody complaint before the licensing board can consider the complaint. In Florida, a psychologist appointed by the court to conduct a CCE is assumed to be acting in good faith when conducting an evaluation in accordance with standards that a reasonable psychologist would have used, as recommended by the APA's child custody guidelines. Also, the complaint cannot be filed anonymously, and the parent must petition the judge who presided over the child custody proceeding to appoint another psychologist. Upon a parent's showing of good cause, another psychologist would be appointed. If the psychologist is not found liable in any legal action, the claimant is responsible for all reasonable costs and attorney fees for both parties. West Virginia has a similar "good faith" statutory solution (Kirkland et al., 2006).

Although there has been an increase in the number of board complaints over the last 10 years, it is our impression that this avenue of filing state board complaints by disgruntled litigants will become less fruitful in the coming years. We believe this for a variety of reasons. First, we hope that professional standards have improved the quality of practice and fewer complaints will be found to have merit. Second, these complaints occupy a great deal of state licensing board time as they are highly labor-intensive. Given limited financial resources, boards may allot less attention to such complaints, making rapid responses less likely. Finally, many allegations are hard to prove (e.g., bias); therefore, action against the licensees is more difficult. As a result of these trends, we wonder whether the Internet will become a more attractive vehicle for those who are vengeful. This may be particularly appealing as there is often little a professional can do to have false allegations removed from web sites.

## IMPLICATIONS FOR PRACTICE

Psychologists conducting CCEs must realize that they are at high risk for licensing board complaints. Sadly, it is an expected part of dealing with high-conflict, complex cases with contentious litigants. Moreover, there is a correlation between completing more evaluations and receiving more complaints. Because filing a licensing board complaint takes little effort and costs nothing, it allows unhappy and angry litigants to vent their feelings and cause distress for evaluators.

Of note, relatively few of the complaints in this study resulted in disciplinary action, and licensing boards were generally viewed as *very or extremely fair* in handling the complaints. Even so, this study revealed that licensing board complaints created distress for psychologists, with the most common feelings being annoyance, anxiety, and anger. However, in most cases, the distress was reported to be situational and time-limited.

Psychologists conducting CCEs must take measures to protect themselves. The following are strongly recommended:

- (1) Evaluators should have professional liability insurance with maximum coverage for licensing board complaints.
- (2) Psychologists should use consultation services offered by professional insurance companies and professional associations when concerns arise.
- (3) Evaluators should carefully consider the types of child custody cases that they accept. Highly litigious cases, involving prior complaints toward other professionals, should be avoided. This is also true when there are referral questions involving major mental illness or severe personality disorders or a litigant is pro se (i.e., self-represented).
- (4) Evaluators should perform only court-ordered CCEs when they have been specifically named in the court's order. Such evaluations provide quasi-judicial immunity from lawsuits in most states. Court-ordered evaluations also reinforce the view of evaluators as neutral, objective professionals.
- (5) Evaluators need to follow sound risk management principles, such as maintaining appropriate professional boundaries, avoiding multiple relationships (i.e., evaluating current or former clients or friends/associates), keeping thorough records, employing adequate and written informed consent, and being clear regarding financial arrangements.
- (6) Child custody evaluators need to realize that their practices are under close scrutiny by the litigants, attorneys, and courts. Consequently, it is imperative for child custody evaluators to closely adhere to the ethics code (APA, 2002), child custody guidelines (AFCC, 2007; APA, 2009), and empirically based procedures (Gould & Martindale, 2007).
- (7) All litigants should be treated in a fair, honest, and transparent manner; psychologists performing custody evaluations are advised to carefully document all information and to report it in an objective manner.
- (8) Court-appointed custody evaluators must remain vigilant to control potential bias. Evaluators need to be aware of their personal biases, counter-transference, and confirmatory biases and refrain from presenting this information as scientific fact. This is best accomplished by examining all plausible rival hypotheses and independently corroborating critical data.

Ultimately, there is nothing one can do to prevent the complaints of an unhappy, angry, and/or vengeful litigant. We hope our findings and recommendations encourage psychologists to work to their highest standards and, at the same time, reduce their risk of board complaints.

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