

STATE OF CONNECTICUT
SUPERIOR COURT



Donna Nelson Heller
Judicial District of Stamford/Norwalk
Presiding Judge, Family Division

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February 6, 2020

Hon. Andrew J. McDonald
Chair of the Rules Committee of the Superior Court
Connecticut Supreme Court
231 Capitol Avenue
Hartford, CT 06106

Re: Proposed amendment to Practice Book §25-60A

Dear Justice McDonald:

General Statutes §46b-6a, which became effective on October 1, 2018, requires the court to follow a specified procedure when selecting qualified, licensed health care providers in any family relations matters in which the court has ordered treatment or evaluation of the parents, the children, or the family. I am writing to propose the following amendment to Practice Book §25-60A to incorporate the provisions of §46b-6a into the related Practice Book rule.

Sec. 25-60A. Court-Ordered Private Evaluations

(a) If the court orders a private evaluation of any party or any child in a family proceeding where custody, visitation or parental access is at issue, a qualified, licensed health care provider [state licensed mental health professional] shall conduct such evaluation.

NEW (b) If the court has determined that an evaluation can be undertaken and a qualified, licensed health care provider has been selected to perform the evaluation, the court's order for an evaluation shall contain the name of the provider who is to undertake the evaluation, the estimated cost of the evaluation, each party's responsibility for the cost of the evaluation, the professional credentials of the provider, the estimated deadline by which such evaluation shall be completed and submitted to the court, and the estimated fee of the provider for testifying in court. The estimated cost of the evaluation shall include, separately stated, the estimated fee of the provider for testifying in court.

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NEW (c) Not later than thirty days after the date of completion of such evaluation, the provider shall file a report containing the results of the evaluation with the clerk of the court, who shall seal such report.

(d) [(b)] Notice of any orders relating to the evaluation ordered shall be communicated to the evaluator by the guardian ad litem or, where there is no guardian ad litem, by court personnel.

(e) [(c)] Until a court-ordered evaluation is filed with the clerk pursuant to Section 25-60 (b), counsel for the parties shall not initiate contact with the evaluator, unless otherwise ordered by the judicial authority.

(f) [(d)] The provisions of subsections (a) and (b) of Section 25-60 shall apply to completed private court-ordered evaluations.

The proposed amendment to subsection (a) substitutes the language used in §46b-6a – “qualified, licensed health care provider” – for the existing language – “state licensed mental health professional.” The new proposed subsections (b) and (c) include the specific §46b-6a requirements as well as an additional provision that the estimated fee of the provider for testifying in court be separately stated. Although §46b-6a does not require that the estimated fee for testifying in court be included in the court’s order, that information is essential. The evaluation report is not admissible in evidence under Practice Book §25-60(c) unless the provider is available for cross-examination. The parties should know in advance what they will be expected to pay for the provider’s testimony in court.

I have discussed the proposed amendment with Judge Albis. The text set forth above includes his suggested revisions to my initial draft.

I am not able to attend the meeting of the Rules Committee on Monday, February 11, 2020, but I would appreciate your adding this to the agenda for the meeting. If there are any questions in the meantime, I am available to discuss the proposed amendment with members of the Committee. Thank you for your consideration.

Sincerely,



Donna Nelson Heller

Cc: Hon Michael A. Albis
Joseph J. DelCiampo, Esq.

Sec. 46b-6a. Court order re parent or child undergo treatment or evaluation from a qualified, licensed health care provider. Selection of qualified, licensed health care provider. (a) In a family relations matter, as defined in section 46b-1, if a court orders that a parent undergo treatment from a qualified, licensed health care provider, the court shall permit the parent to select a qualified, licensed health care provider to provide such treatment.

(b) In a family relations matter, as defined in section 46b-1, if a court orders that a child undergo treatment from a qualified, licensed health care provider, the court shall permit the parent or legal guardian of such child to select a qualified, licensed health care provider to provide such treatment. Except in a case where one of the parents has been awarded sole custody, if both parents do not agree on the selection of a qualified, licensed health care provider to provide such treatment to a child, the court shall continue the matter for two weeks to allow the parents an opportunity to jointly select a qualified, licensed health care provider. If after the two-week period, the parents have not reached an agreement on the selection of a qualified, licensed health care provider, the court shall select such provider after giving due consideration to the health insurance coverage and financial resources available to such parents.

(c) (1) In a family relations matter, as defined in section 46b-1, if the parties agree or if a court orders that a parent or child undergo an evaluation from a qualified, licensed health care provider, the court shall first make a finding that the parties have the financial resources to pay for such evaluation.

(2) If the court has determined that an evaluation can be undertaken and a qualified, licensed health care provider has been selected to perform the evaluation, the court's order for an evaluation shall contain the name of each provider who is to undertake the evaluation, the estimated cost of the evaluation, each party's responsibility for the cost of the evaluation, the professional credentials of each provider and the estimated deadline by which such evaluation shall be completed and submitted to the court.

(3) Not later than thirty days after the date of completion of such evaluation, the provider shall file a report containing the results of the evaluation with the clerk of the court, who shall seal such report.

Sec. 25-60A. Court-Ordered Private Evaluations

(a) If the court orders a private evaluation of any party or any child in a family proceeding where custody, visitation or parental access is at issue, a qualified, licensed health care provider [state licensed mental health professional] shall conduct such evaluation.

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NEW (c) Not later than thirty days after the date of completion of such evaluation, the provider shall file a report containing the results of the evaluation with the clerk of the court, who shall seal such report.

(d) [(b)] Notice of any orders relating to the evaluation ordered shall be communicated to the evaluator by the guardian ad litem or, where there is no guardian ad litem, by court personnel.

(e) [(c)] Until a court-ordered evaluation is filed with the clerk pursuant to Section 25-60 (b), counsel for the parties shall not initiate contact with the evaluator, unless otherwise ordered by the judicial authority.

(f) [(d)] The provisions of subsections (a) and (b) of Section 25-60 shall apply to completed private court-ordered evaluations.