

IS CONFIDENTIALITY CRITICAL FOR PARENTING COORDINATION?

CONFIDENTIALITY

1. Defining confidentiality

From a mental health professional's perspective, confidentiality means an ethical obligation of a therapist to protect client information, identity, and privacy by keeping client information private. "Marriage and Family Therapists have unique confidentiality concerns because the client in a therapeutic relationship may be more than one person. Therapists respect and guard confidences of each individual client." (AAMFT Code of Ethics, July 1, 2001, p. 3) The Texas Mental Health and Safety Code defines what is confidential as follows: "Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential." (TX Mental Health & Safety Code, §611.004(a))

2. Reasons for adhering to the principle of confidentiality:

- a. **Trust:** For therapy to work, the client must trust the therapist. For the client to trust, the therapist must keep personal client information confidential.
- b. **Social Stigma:** Having personal information revealed in a public way [including a courtroom] is demeaning and embarrassing, which leads to lessened ability to function effectively and co-parent well.
- c. **Constitutional Right to Privacy:** The Fourth Amendment to the US Constitution provides persons the right to choose to whom, when and where private information is divulged.

3. Exceptions to confidentiality generally adhered to:

- a. When the clients sign a written release of information for a specified purpose and recipient, unless disclosure would be judged by the therapist to harm a client.
- b. When child abuse or neglect, elder abuse, or disabled person abuse is suspected.
- c. When the client poses a danger to self or others, or threatens to commit a serious crime.
- d. When a court orders disclosure of specific information following an in camera review by the judge.
- e. When the therapist is court ordered to perform a non-confidential evaluation role vs a treatment role with the clients.
- f. When the therapist is defending him/her self from a complaint filed by the client.

4. Defining privilege

Privilege has been defined as a special form of confidentiality which allows the legal right for the professional to refuse to divulge private client information to the court except under allowed exceptions to confidentiality.

DEFINING PARENTING COORDINATION

1. Scope of practice

When the mental health license is used to qualify as a provider of parenting coordination services, the licensing board has inherent authority to monitor the licensee's ethical behavioral according to the ethical guidelines of the board. To say otherwise would be a form of schizophrenogenic double-bind communication [saying contradictory things in the context of a critical need]. This is an extremely valuable resource for the state, eliminating the need to establish yet another regulatory board to protect the public.

2. Blended roles

Descriptions of the role by AFCC writings and personal experience conclude that parenting coordination is a blending of family therapy, co-parenting education, and transformative mediation skills and techniques. Whether one set of skills is emphasized more than another would likely depend on the training and expertise of the parenting coordinator, as well as the needs of the family. All three of these defined separate practices are confidential communications under Texas statutes. It would be incoherent to define the combination of the three roles as not confidential.

3. Consistent with the practice of family therapy

Family therapy is unique from individual therapy in that it is based on an assessment of family systems functioning and family systems intervention techniques to facilitate improved family systems functioning. Parenting coordination uses a large number of family therapy skills and is most effective when based on a family systems paradigm.

4. Clearly identified as ADR

The AFCC Guidelines and the current TX statute clearly identify parenting coordination as a conciliatory form of ADR. The ADR guidelines for confidentiality would then apply.