

Supreme Court of the State of New York

Appellate Division: Second Judicial Department

ADM 2008-0604

The Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, pursuant to the authority vested in it,

DOES HEREBY, effective July 1, 2008, adopt Part 680 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York as follows:

PART 680. MENTAL HEALTH PROFESSIONALS PANEL

§ 680.1 Access to Mental Health Professionals

In custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption cases, an evaluation of the parties by a mental health professional is often necessary to assist the court in reaching an appropriate decision. To assure that the court and the parties have access to qualified mental health professionals, a panel of social workers, psychologists and psychiatrists shall be established in the First and Second Judicial Departments in accordance with this part and part 623 of this Title.

§ 680.2 Mental Health Professionals Certification Committee

- (a) A mental health professionals certification committee shall be established for the First and Second Judicial Departments.
- (b) The committee shall be composed of no fewer than two justices of the Supreme Court, two judges of the Family Court, two lawyers, two social workers, two psychologists, and two psychiatrists. Half of the members in each class shall be appointed by the Presiding Justices of the First and Second Departments of the Appellate Division, respectively, for three year terms. Committee members shall be eligible for reappointment for additional terms. The Law Guardian Directors for the Appellate Division in the First and Second Judicial Departments, respectively, or their designees, shall be ex-officio members.
- (c) The members of the committee shall serve as volunteers, authorized to participate in a state-sponsored volunteer program within the meaning of the Public Officers Law § 17.

§ 680.3 Duties of Mental Health Professionals Certification Committee

Subject to the supervision of the Presiding Justices of the Appellate Division of the First and Second Judicial Departments, the mental health professionals certification committee shall establish procedures for (a) the appointment of applicants for membership on the panel of mental health professionals, (b) periodic evaluation of panel

members, (c) training of panel members, (d) investigating complaints made against panel members, and (e) removal of mental health professionals from the panel.

§ 680.4 Establishment of Mental Health Professionals Panel

(a) Eligibility Requirements

A member of the mental health professionals panel shall:

- (1) be a social worker, psychologist, or psychiatrist licensed by the State of New York;
- (2) complete six hours of introductory training approved by the Presiding Justices of the Appellate Division of the First and Second Judicial Departments;
- (3) demonstrate that he or she has forensic experience, including having testified as an expert and/or having submitted a clinical report in connection with one or more of the following types of court proceedings: custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption;
- (4) maintain professional malpractice insurance; and
- (5) meet such additional requirements as shall be established by the mental health professionals certification committee with the approval of the Presiding Justices of the Appellate Divisions of the First and Second Judicial Departments.

(b) Application

Licensed social workers, psychologists, and psychiatrists may apply for membership on the mental health professionals panel for the First and Second Judicial Departments by completing a questionnaire in the form prescribed by the mental health professionals certification committee.

(c) Appointments to Panel

- (1) The mental health professionals committee shall review applications and identify those mental health professionals who meet the eligibility requirements.
- (2) The Presiding Justices of the Appellate Division in the First and Second Judicial Departments shall, by joint order, appoint the members of the mental health professionals panel from among those social workers, psychologists and psychiatrists recommended by the committee.
- (3) Appointments to the panel shall be for a term of three years. Panel members may be reappointed to successive terms. Any panel member may be removed prior to the expiration of his or her term by the joint order of the Presiding Justices of the Appellate Divisions of the First and Second Judicial Departments upon the recommendation of the committee.

§ 680.5 Appointment of Mental Health Professionals From Panel

(a) Appointment

A court may appoint a mental health professional or professionals to evaluate adults and children in any case involving custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption wherein compensation is paid privately or pursuant to Judiciary Law § 35 or County Law article 18-B. Such appointments shall be from the mental health professionals panel promulgated

pursuant to these rules. A court, upon a finding of good cause, may appoint a mental health professional who is not a member of the mental health professionals panel. The court's finding shall be set forth in the order of appointment. This section shall not apply to providers of mental health services pursuant to a governmental contract.

(b) Order of Appointment

The court appointing a mental health professional shall issue a written order setting forth the terms and conditions of the appointment including the method and rate of compensation and by whom such compensation is to be paid. A copy of the order shall be provided to the mental health professional and to every party to the case, including the attorney, if any, for each child.

§ 680.6 Compensation of Mental Health Professionals

(a) The compensation for mental health professionals appointed pursuant to Judiciary Law § 35 or County Law article 18-B shall be at rates prescribed by the Chief Administrator of the Courts. Applications for payment for services rendered pursuant to those sections shall be submitted for approval to the court that appointed the panel member on forms authorized by the Chief Administrator of the Courts or by the appropriate local fiscal authority.

(b) The compensation of mental health professionals appointed in cases in which their fees shall be borne in whole or in part by the parties shall be at rates fixed by the court in accordance with the charge for such services prevailing in the community and the financial circumstances of the parties. Such compensation shall not exceed a sum certain to be set forth in the order of appointment, which sum shall be based on the selected rate and the estimated number of hours required to perform the necessary services. In the event that a greater expenditure of time is required than originally estimated, the mental health professional may apply to the court for additional fees in excess of the sum set forth in the order. The application shall be made by letter, a copy of which shall be forwarded to the party or parties responsible for the payment of the fee.

§ 680.7 Training and Education

The mental health professionals certification committee shall establish a training and education program for members of the mental health professionals panel. The program shall include, but not be limited to, the topics of cultural diversity, learning disabilities, developmental and neuropsychological disorders, substance abuse, sexual abuse, physical and emotional abuse, and neglect. The program may be established in cooperation with relevant professional organizations. The committee may make attendance at training sessions a requirement for continued membership on the panel of mental health professionals.

§ 680.8 Periodic Evaluation of Panel Members

The mental health professionals certification committee shall establish procedures by which it shall periodically evaluate the work performed by each member of the panel of mental health professionals. In conducting its evaluation the committee shall seek

information from judges and other appropriate and knowledgeable persons. The committee shall not recommend for reappointment to the panel any member whose performance has been determined to be unsatisfactory.

§ 680.9 Recommendation for Removal

The Presiding Justices of the Appellate Division of the First and Second Judicial Departments may, by joint order, remove members of the mental health professionals panel upon recommendation of the mental health professionals certification committee upon a showing of good cause for such removal. Such a recommendation shall be in writing stating the grounds for removal. A copy of the recommendation shall be provided to the panel member, who shall be afforded a reasonable opportunity to respond thereto in writing.

§ 680.10 Annual Report of the Mental Health Professionals Certification Committee

On June 1st of each year the mental health professionals certification committee shall submit to the Presiding Justices of the Appellate Division in the First and Second Judicial Departments an annual report containing an evaluation of the operation of the mental health professionals panel and the training program and any recommendations concerning measures that should be adopted to improve the performance of the panel and the training program. A copy of that report shall be forwarded to the Chief Administrator of the Courts.

Dated: Brooklyn, New York
June 4, 2008



For the Court:

A. Gail Prudenti
Presiding Justice

Attest:

James Edward Pelzer
Clerk of the Court