



Minnesota Judicial Branch Policy and Procedures

Policy Source: State Court Administrator
Policy Number: 510(b)
Category: Court Operations
Title: Psychological/Psychiatric Examiner Services Examiner Roster Policy
Origination Date: June 20, 2008
Effective Date: July 1, 2008; October 1, 2019
Revision Date: August 19, 2019
Contact: Director of Court Services Division

Psychological/Psychiatric Examiner Services Roster Policy

I. POLICY STATEMENT

~~Whenever a first examiner is required to be appointed by the court and the court does not have or is unable to utilize an employee examiner, or an examiner who is under contract to provide examiner services to the court, court administration shall first attempt to select an examiner who is listed on the statewide roster.~~

Judicial Council Policy 510; Psychological/Psychiatric Examiner Services, establishes the Psychological/Psychiatric Examiner Services Program and authorizes the State Court Administer to implement statewide policies and business practices.

When a psychological or psychiatric evaluation is ordered by the court in civil commitment or Minn. R. Crim. P. 20 proceedings, court administration shall follow the procedures in this policy to obtain a qualified forensic examiner.

II. APPLICABILITY

This policy applies to:

- (1) all District Courts in the appointment of a court-ordered examiner in civil commitment and Minn. R. Crim. P. 20 proceedings; and
- (2) all psychological and psychiatric examiners who conduct court-ordered examinations in civil commitment and Minn. R. Crim. P. 20 proceedings.

III. DEFINITIONS

- A. Contract Examiner - A psychologist or psychiatrist who conducts court-ordered forensic evaluations as part of a signed, contractual agreement between the examiner and the Minnesota Judicial Branch.

- B. Employee Examiner - A psychologist employed by the Minnesota Judicial Branch to conduct forensic evaluations.
- C. Forensic Psychology – the American Board of Professional Psychology defines forensic psychology as the application of the science and profession of psychology to questions and issues relating to law and the legal system.
- D. Forensic Psychiatry – the American Academy of Psychiatry and the Law defines forensic psychiatry as the application of psychiatric research and clinical practice to legal issues.
- E. Independent Examiner - A psychologist or psychiatrist who conducts court-ordered forensic evaluations as a vendor of the state, but has not signed a contractual agreement.
- F. Licensing Board - The Minnesota Board of Psychology or Minnesota Board of Medical Practice.
- G. Psychological/Psychiatric Examiner Services Program Manual (Program Manual) - A document published by the State Court Administrator’s Office that provides procedures for administering the Psychological/Psychiatric Examiner Services Program.
- H. Roster of Qualified Examiners (Roster) -The list of qualified forensic psychological and psychiatric examiners published by the State Court Administrator’s Office.

IV. ROSTER OF QUALIFIED EXAMINERS

The State Court Administrator’s Office (SCAO) shall maintain the statewide roster of qualified psychological and psychiatric examiners for use by judges and court administration.¹ If the court does not have access to or is unable to schedule an employee or contract examiner for use in civil commitment and Minn. R. Crim. P. 20 proceedings, court administration shall select an examiner from the State Court Administrator’s Roster of Qualified Examiners (Roster).

A. QUALIFICATIONS

Examiners listed on the Roster shall maintain the qualifications for a court-appointed examiner as defined in Minn. Stat. § 253B.02, subd.7. If an examiner from the Roster is not available, court administration may select an examiner who is not listed on the Roster, but meets the qualifications under Minn. Stat. § 253B.02, subd. 7. If the court administrator has made diligent efforts to obtain an examiner who is on the statewide roster and none is found to be available, the court administrator may select an examiner who is not listed on the statewide roster and who is otherwise qualified.

¹ Minnesota Commitment and Treatment Actions Rule 11.

~~The court may, at any time, make further inquiry into the selection of a particular examiner.~~

B. ROSTER INFORMATION

Roster information shall include examiner name, professional degree, business name, county of ~~office~~ primary location, ~~work~~ business phone, and email address. ~~The State Court Administrator~~ SCAO shall also maintain a public version of the roster, available upon request, with examiner name, professional degree, rate of compensation, county of office location, and business phone. Additional examiner information will be provided to the public upon request pursuant to the Rules of Public Access to Records of the Judicial Branch.

V. ROSTER REQUIREMENTS FOR EXAMINERS

~~The Examiner shall submit annually an affidavit verifying he/she is:~~

A. Before initial placement on the Roster, examiners shall:

1. Provide signed documentation to SCAO that he/she:

- a. is a licensed physician; or
- b. is a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975;
- c. is in good standing with the appropriate professional licensing board; ~~and~~
- d. is a ~~the~~ carrier of valid malpractice insurance; and
- e. agrees to comply with all relevant SCAO policies, procedures, and payment rates.

~~2) Sign a letter of agreement setting forth the standard payment rate, travel reimbursement rate, and cancellation policy.~~

~~Roster examiners shall also:~~

2. ~~Attend an~~ Complete the orientation program ~~approved~~ provided by SCAO that is designed to inform the examiner of the court process and his or her role in the process.²

3. Disclose the following to SCAO:

- a. any pending misdemeanor, gross misdemeanor, or felony criminal charges or convictions;

² The orientation requirement was waived for examiners serving on the Roster of Examiners before the orientation requirement was launched in 2009. The orientation may be waived by SCAO for employee examiners and DHS Forensic Services staff.

- b. any and all past or current licensing board investigations, findings, disciplinary actions, or corrective measures; and
- 4. submit a criminal background check report from the Minnesota Bureau of Criminal Apprehension at the examiner's expense.

B. ANNUAL REQUIREMENTS

Each year, in order for SCAO to verify an examiner's Roster qualifications, examiners must provide signed documentation verifying that:

- 1. he/she meets the criteria set in section V.A.;
- 2. confirms the examiner's licensure with the professional licensing board; and
- 3. the examiner has completed the forensic continuing education required by paragraph D below.

C. REPORTING REQUIREMENTS

- 1. Examiners serving on the Roster must report the following to SCAO in writing within 30 days.
 - a. Investigations, findings, disciplinary actions, or corrective measures imposed by an applicable licensing board(s). This includes, but is not limited to, disciplinary action(s) for physicians described in Minn. Stat. § 147.091; disciplinary action(s) described for psychologists in Minn. Stat. § 148.941; rules of conduct for licensed psychologists in statute Minn. Stat. § 148.98; and licensing, registration and ethical rules set forth in Minnesota Administrative Rules 5600 and 7200.
 - b. Misdemeanor, gross misdemeanor, or felony criminal charges, dispositions, or any subsequent convictions.
 - c. Examiner must also report any civil malpractice claims or other claims arising from their work as a psychologist/physician or forensic examiner.
 - d. Reports must be received by SCAO in writing no later than 30 days after: 1) the date the examiner gets notice of the charges, and 2) the date of the disposition or conviction.
- 2. Examiners not listed on the Roster must disclose to the district court the information specified in section V.C.1 at the time of appointment.

D. FORENSIC CONTINUING EDUCATION REQUIREMENTS

- 1. Examiners must complete 10 hours/units of continuing education programming every two years with an emphasis in forensic psychology or psychiatry or skills development.

2. Credits must be completed in accordance with Minnesota Administrative Rules 5605 or 7200.3830 or may be earned by attending any forensic training provided by the Branch.
3. Credits may be completed as part of an examiner's licensing board requirements or in addition to those licensing board requirements.
4. Documentation noting the course name and completion of the continuing education units by the sponsor or by the licensing board must be submitted to SCAO by June 30th every two years starting in 2020.

E. EXAMINER WORK PRODUCT

1. Examiners or institutions that are appointed by the Court to conduct an exam shall not sub-contract or assign any examination work, analysis, or testimony in a case in which they are appointed the examiner or institution.
2. Reassignment of examiners within the same institution is permissible.
3. Examiners reports shall provide quality analysis, opinions, and recommendations that are researched and written by the examiner or institution appointed by the court order.
4. Medical or court records that are released to the court-appointed examiner or institution by court order shall not be shared with a third party for any purpose including creation of an examiner's report.
5. Reports must be timely submitted to the court as required by statute, court rule, or court order.

VI. FAILURE TO COMPLY WITH ROSTER POLICY

Examiners that fail to comply with SCA Policies 510(a) and (b), may be subject to corrective and/or disciplinary action by the State Court Administrator up to and including removal from the Roster.

- A. Alleged policy violations or complaints about examiner conduct or practice or quality will be investigated according to the procedures provided in the Program Manual available on the Minnesota Judicial Branch Public website.
- B. Disciplinary action may include, but is not limited to:
 1. issuing a private reprimand;

2. issuing a corrective order with which the examiner must comply in order to remain on the Roster;
3. requiring that certain educational courses be taken;
4. imposing costs and expenses incurred by the State Court Administrator and/or designee in connection with the proceeding, including investigative costs, if any;
5. submitting a complaint to the examiner's licensing board;
6. requiring that the examiner work with a mentor, or that the examiner's work be supervised;
7. removal of the examiner from the Roster for a designated period of time; and/or
8. permanent removal from the Roster.

C. Examiners may be permanently or temporarily removed from the Roster for the following reasons:

1. A licensing board's finding of misconduct or malpractice as defined by Minn. Stat. § 147.091, § 148.941, and/or § 148.98 and Minnesota Administrative Rules 5600 or 7200 during the course of a court-appointed evaluation;
2. failure to comply with the reporting requirements referenced in sections V.B. or C.;
3. repeated failure to submit invoices to the court within 60 days after the completion of the work, pursuant to the SCAO 510(a); Psychological/Psychiatric Examiner Services Payment Policy;
4. repeated failure to submit quality or timely examiner reports to the court pursuant to statute, rule, or court order;
5. misrepresentation of qualifications to the court or SCAO;
6. negligent or fraudulent billing practices;
7. violating any provision of section V.E. without the court's permission;
8. any licensing board finding, disciplinary action, corrective measure(s), or criminal charges or convictions that hinder the capability or fitness of the examiner to be appointed by the court; or

9. disciplinary action(s) as a result of an investigation.

D. Notice of Decision

The State Court Administrator shall provide written notice to the examiner of an investigation and the decision regarding corrective or disciplinary action. If disciplinary action includes removal from the roster for a designated period of time, the State Court Administrator shall specify the conditions and timeframe, if any, within which the examiner may be reinstated.

E. Review of Decision

Examiners may request a review of the decision to issue corrective or disciplinary action and any such review shall be conducted according to the review procedures provided in the Program Manual.

VII. Confidentiality

- A. Psychological/Psychiatric Examiner Services Program information will be provided to the public upon request pursuant to the Rules of Public Access to Records of the Judicial Branch.
- B. All complaints and investigations conducted by SCAO shall be confidential until a final determination is made to impose any of the sanctions listed in this policy including a determination to suspend or revoke an examiner's roster status. Information regarding an investigation may only be disclosed as necessary for purposes of conducting the investigation.
- C. The final disposition, including the grounds for the sanction(s) and the facts cited in support of the disposition, shall be accessible to the public unless the final decision is a private reprimand.
- D. For purposes of this section, a final determination occurs at the conclusion of the appeal proceedings before the Review Panel, or upon failure of the examiner to appeal the State Court Administrator's decision to impose sanctions within the time provided by the Review Procedures in the Program Manual.

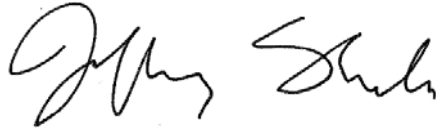
REVISION HISTORY

June 2008: New procedures to implement Judicial Council Policy 510

August 2014: Revised procedures to implement public version of Roster of Examiners

August 19, 2019: Revisions and additions to *Roster Requirements for Examiners* section and addition of *Applicability, Definitions, Roster of Qualified Examiners, Failure to Comply with Roster Policy, and Confidentiality* sections.

Approval:



Jeffrey Shorba, State Court Administrator

August 19, 2019
Date