

AMHCA Standards for the Practice of Clinical Mental Health Counseling

Adopted 1979

Revised 1992, 1993, 1999, 2003, 2011, 2015, 2016, 2017, 2018, 2019, 2020, and 2021



**AMERICAN MENTAL HEALTH
COUNSELORS ASSOCIATION**

The only organization working exclusively for the
mental health counseling profession

*AMHCA STANDARDS
FOR THE PRACTICE OF
CLINICAL MENTAL HEALTH
COUNSELING*

The Essential Standards
for the Art and Science of the Profession

June 10, 2021

THIS DOCUMENT IS **NOT** THE
COMPLETE *AMHCA STANDARDS*.

The Forensic Evaluation Standards and Competencies are new in the 2021 version of the *AMHCA Standards*, and they are reproduced on their own here, in full, as an excerpt of the 2021 *AMHCA Standards*.

The complete version of the updated 2021 *AMHCA Standards* will be finalized soon and then posted on the website of the American Mental Health Counselors Association at www.ambca.org/publications/standards.

AMHCA Standards for the Practice of Clinical Mental Health Counseling

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Preface: How are the *AMHCA Standards* applied in practice?

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V. I. Forensic Evaluation Standards and Competencies

Forensic evaluation involves the process of forming professional opinions for courts of law or other legal proceedings, based on professional knowledge and expertise, and supported by appropriate data. These evaluations play an important role in the legal system, as many legal decisions require the specialized expertise of mental health professionals.

Knowledge and skills in forensic evaluation is a prerequisite when providing competent service to the judicial system and its stakeholders. In many judicial jurisdictions throughout the United States, there is a shortage of trained forensic mental health professionals to meet the demands of the criminal justice and family court systems, resulting in delays that risk violating defendants' constitutional due process rights.

In addition, because of the unique barriers they experience, individuals affected by mental illness and/or substance use disorders are disproportionately involved in the criminal justice and civil court systems. Within the legal system, advocacy for such individuals must be balanced by a concern for the welfare and safety of the general public, and this delicate balance is difficult to achieve.

As the single largest sector of the nation's licensed mental health professional workforce, appropriately trained Licensed Clinical Mental Health Counselors (LCMHCs) can play a vital role in resolving the national shortage of qualified forensic evaluators. This is due to LCMHC training in mental health, differential and co-occurring diagnoses and treatment, trauma-informed care, substance use disorders, and multicultural competencies. Additionally, because of their unique training and expertise in psychotherapy and treatment planning, LCMHCs are exceptionally suited to answer questions about the treatment needs of individuals involved in legal processes.

AMHCA recommends obtaining credentials or certification such as the Certified Forensic Mental Health Evaluator (CFMHE) offered by AMHCA's partner, the National Board of Forensic Evaluators, and then obtaining the more advanced Clinical Mental Health Specialist in Forensic Evaluation (CMHS-FE) offered by AMHCA. Questions posed in the legal process require the advanced forensic expertise of LCMHCs trained to provide an objective approach to evaluation. This approach may involve a shift in ethical prerogatives that many LCMHCs are unaccustomed to when providing direct care with clients.

Medscape, one of many medical information websites, clarified this point by emphasizing the following: *The need for a forensic evaluation is generally prompted by the need for an objective opinion regarding the presence, severity, or treatment of a mental illness. Forensic evaluations fundamentally differ from routine provision of clinical care, despite significant overlap in how they are performed. The opinion generated by the interview could be helpful, harmful, or neutral to the person being evaluated.*

LCMHCs who provide forensic evaluation find themselves in a very different role than the one in which they are primarily tasked with helping a client. In the context of forensic evaluation, ethical principles are more broadly applied to all stakeholders of the legal process, not just the client, and ethical principles of veracity (honesty and the pursuit of truth) and justice (equal treatment of individuals in proportion to relevant differences) often predominate. This requires a paradigm shift for LCMHCs who are more accustomed to client advocacy, thus underscoring the importance of specialized training in forensic evaluation.

1. Knowledge

- a. Understand the definition of forensic mental health evaluation, the various types of forensic mental health evaluations (e.g., competency to participate in legal proceedings, criminal responsibility, violent risk potential, guardianship, civil commitment, immigration, disability, personal injury, domestic violence, parenting/child custody, workplace discrimination and harassment, etc.), and the differences between forensic and clinical/therapeutic evaluations.
- b. Understand psychological questions not commonly understood by mental health professionals who do not have expertise in forensic evaluation (e.g., “is this individual competent to waive the right to an attorney?” or “Was this individual able to appreciate the nature of and ramifications for the actions that constitute the alleged offense?”)
- c. Understand federal, state, and local laws governing forensic evaluation.
- d. Understand ethical principles and ethical guidelines that relate to forensic evaluation as published in the American Mental Health Counselors Association (AMHCA) *Code of Ethics* and other authoritative references in the forensic mental health field.
- e. Understand appropriate sources of information when conducting a forensic evaluation.
- f. Understand specialized clinical assessment as outlined in *Part V-B, Specialized Clinical Assessment*, a standard within this document (see page 13), as well as the administration and interpretation of psychological tests commonly used in forensic evaluation.
- g. Understand the most current editions of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM), the *International Classification of Diseases* (ICD), and the differential diagnosis process.
- h. Understand the provision of and how to obtain informed consent process as it relates to forensic evaluation.
- i. Understand the importance, purpose, and common requirements of forensic evaluation reports.
- j. Understand the role of the expert witness in legal proceedings and how it differs from the role of the fact witness (including a working understanding of Daubert and Frye standards for expert witness testimony).
- k. Understand the legal process, including the court hearing process and the roles of various entities involved in the legal system (e.g., judge, prosecutor, defense attorney, witness, juror, probation officer, etc.).
- l. Understand questions commonly posed by attorneys and other official representatives during initial and cross-examination, and understand the relevance of those questions.
- m. Understand rules and standards of professional etiquette in the courtroom.
- n. Understand how to demonstrate to legal entities, and ultimately to the judge in a legal proceeding, that standards to be considered an expert witness have been met.
- o. Understand the process, requirements, and potential role of certification in demonstrating specialized expertise in forensic evaluation (i.e., the Certified Forensic Mental Health Evaluator credential offered by AMHCA’s partner, the National Board of Forensic Evaluators, and the Clinical Mental Health Specialist in Forensic Evaluation credential offered by AMHCA).
- p. Be knowledgeable of the rules established by their local jurisdiction regarding qualifications and methodology for being placed on the district’s court-appointed evaluator listing, which varies from jurisdiction to jurisdiction.
- q. Be knowledgeable about how to make their local Public Defender Office, Office of the Attorney General, probation offices (state and local), and American Bar Association

chapter aware of their services and the types of evaluations they can conduct. They should be able to differentiate between which types of forensic evaluations lie within their expertise and which would warrant referral to a different evaluator.

- r. Be knowledgeable about differentiating between which types of forensic evaluations lie within their expertise and which would warrant referral to a different evaluator.
- s. Be knowledgeable about any unique statutes or rules that limit their abilities to accept certain types of referrals in a given jurisdiction.
- t. Be knowledgeable about keeping a running transcript of their forensic experience and a Curriculum Vita that is more robust and detailed than the average clinician's in order to verify their expertise to provide certain types of evaluations.

2. Skills

- a. Define and describe forensic mental health evaluations, various types of forensic mental health evaluations (e.g., competency to participate in legal proceedings, criminal responsibility, violent risk potential, guardianship, civil commitment, immigration, disability, personal injury, domestic violence, parenting/child custody, workplace discrimination and harassment, etc.), and the differences between forensic and clinical/therapeutic evaluations.
- b. Demonstrate the ability to collect appropriate data from multiple sources of information to answer specific questions posed by legal entities.
- c. Demonstrate the ability to answer verbally and in writing the questions posed by referral sources for forensic evaluations.
- d. Demonstrate the ability to apply laws, rules, and written standards of government (national, state, and local) and court jurisdictions to the forensic evaluation being conducted by the LCMHC.
- e. Demonstrate the ability to apply the ethical standards published in the Forensic Activity section of the *AMHCA Code of Ethics* and other well-recognized authorities in the forensic mental health arena to all forensic evaluations conducted by the LCMHC.
- f. Demonstrate the ability to select, administer, interpret, and report the results of appropriate psychological tests, structured interviews, and other appropriate assessment and appraisal tools as relevant, and be able to effectively answer the questions posed by referral sources. (For additional details, see the Skills section of *Part V-B, Specialized Clinical Assessment* in this document on page 15.)
- g. Demonstrate the ability to formulate an accurate diagnosis from the most current editions of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) and the *International Classification of Diseases* (ICD) when appropriate in forensic evaluations for answering referral questions.
- h. Demonstrate the ability to provide and obtain an appropriate informed consent from individuals participating in forensic evaluation.
- i. Demonstrate the ability to testify effectively in the capacity of an expert witness in a legal proceeding.
- j. Demonstrate the ability to write an appropriate forensic evaluation report answering the questions of the referral source that is professionally and well-written and articulates information in a manner appropriate for the intended reader(s) (e.g., judges, attorneys, jurors, probation officers).

- k. Demonstrate the ability to describe and define, and also manage and navigate, boundaries related to the roles of entities involved in legal proceedings (e.g., judge, prosecutor, defense attorney, witness, juror, probation officer, etc.).
- l. Demonstrate the ability to articulate appropriate and professional responses to questions posed during initial and cross-examination.
- m. Demonstrate the ability to appropriately adhere to rules and standards of professional etiquette in the courtroom.
- n. Articulate to judges, attorneys, probation officers, and other legal entities that the LCMHC is qualified as an expert witness in a legal proceeding, including obtaining specialized training and/or credentialing in forensic evaluation. AMHCA recommends that LCMHCs who provide forensic evaluations obtain the Certified Forensic Mental Health Evaluator (CFMHE) credential offered by AMHCA's partner, the National Board of Forensic Evaluators, and then obtain the more advanced Clinical Mental Health Specialist in Forensic Evaluation (CMHS-FE) offered by AMHCA.
- o. Demonstrate the ability to appropriately apply ethical practices in the acquisition of forensic evaluation referrals.

AMHCA Standards for the Practice of Clinical Mental Health Counseling is continually reviewed and updated as appropriate. This unabridged version of the latest *AMHCA Standards* is also downloadable at no cost from www.amhca.org/publications/standards.