Florida Administrative Code regulates and defines psychological testing and requires that the use of the terms psychological assessment, psychological testing, neuropsychological testing, or neuropsychological assessment to describe a service must be performed or supervised by a licensed psychologist. The breadth and depth of a psychological assessment is determined by the nature of the referral and the specific referral question(s).

Test Instruments

“Test instruments” are standardized procedures which purport to objectively measure personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning.

Psychologists Who Use Test Instruments

A) Must consider whether research supports the underlying presumptions which govern the interpretive statements which would be made by the test instrument as a result of its use.

Psychologists Who Use Test Instruments (continued)

B) In choosing a particular test instrument, the psychologist must be able to justify the selection of any particular test instrument for the service user who takes the test at the request of the psychologist. (Reading level, cultural factors, disabilities)

Psychologists Who Use Test Instruments (continued)

C) The psychologist must integrate and reconcile the interpretive statements made by the test instrument based on group norms, with the psychologist’s independent professional knowledge, evaluation, and assessment of the individual who takes the test.
Psychologists Who Use Test Instruments (continued)

D) The psychologist must specify in the test report, the name of each person who assisted the psychologist in the administration of the test, and the role which that person played in the administration of the test.

Psychologists Who Use Test Instruments (continued)

Psychologists may only release raw psychological test data to other licensed psychologists except by court order or otherwise required by law.

Psychologists Who Use Test Instruments (continued)

Psychologists (or his/her supervisee) must meet face-to-face with the person being assessed. This precludes on-line testing with an individual that the psychologist or supervisee never met face-to-face.

Psychologists Who Use Test Instruments (continued)

Unless the psychological intern, trainee, or psychological resident is associated with a doctoral psychology program approved by the American Psychological Association, the supervising psychologist must meet face-to-face with the subject in a clinical setting.

Mental Health Assessment

A mental health assessment is a generic term for a clinical service that is performed by a licensed mental health professional with at least a Masters Degree in counseling, psychology, or social work.

Mental Health Assessment (continued)

The context of the referral will determine the focus and content of the assessment.

Therapy – diagnosis / treatment plan
Baker Act – diagnosis / risk assessment
Marchman Act – diagnosis / risk
Mental Health Assessment (continued)

The initial meeting with a therapist must include a mental health assessment in order for the therapist to diagnose the presenting problem and to formulate a treatment plan.

A Baker Act assessment is a special type of mental health assessment that requires not only a diagnosis, but an opinion as to the dangerousness of the individual. Any licensed mental health counselor, physician, law enforcement officer, or judge can initiate.

Biopsychosocial Evaluation

Based on the theoretical belief that the interaction of biological, psychological and social influences must be considered in attempting to understand human behavior, a biopsychosocial evaluation attempts to integrate and synthesize information from the three primary sources of influence to create “the story of the person”. It attempts to convey a comprehensive view of the person as a sum of their life experience, as opposed to the simple reporting of lab results or raw data or a summary of the data without an integrative interpretation.

Bio-medical information would include everything relating the person’s own past and present medical history, family medical history, history of exposure to trauma, neglect or abuse, drug/alcohol history, etc. Current medication regimen. Current alcohol use.

The psychosocial component includes inquiry into past and present symptoms of mental or emotional adjustment problems, trauma history, prior treatment history, behavior control issues, etc. It might also include personality testing, neuropsychological screening and assessment, chemical dependency assessment or other diagnostic procedures, depending on the context of the case.

The social component of the biopsychosocial evaluation attempts to make sense of, and integrate into the story of the person, the very powerful influence that social relationships can have in shaping a person’s behavior, their self-esteem, even their own self-concept.
Comprehensive Behavioral Health Assessment

- All children taken into state custody and placed in a licensed placement must have a CBHA completed within 30 days. Children in family placements may also have an assessment, as funding permits.
- A CBHA is a comprehensive look at the child’s behavioral health needs, to include physical and mental health components.

Comprehensive Behavioral Health Assessment

- It should include a detailed assessment of the child’s emotional - social - behavioral and developmental functioning within the home, school and community, including direct observation of the child in each of those settings.

Comprehensive Behavioral Health Assessment

- Provider must be certified by SAMH as a Medicaid provider and be a licensed psychologist, psychiatrist, psychiatric nurse, clinical social worker, mental health counselor, marriage and family therapist or an unlicensed mental health professional working under the supervision of a licensed professional.

Chemical Dependency Assessment

- A chemical dependency assessment should include a detailed personal history interview to include inquiry into, and consideration of:
  - family history of addictions/drug/alcohol use;
  - age at first exposure to the full range of drugs;
  - patterns of use over time;
  - prior treatment;
  - current use profile;
  - DUI / Criminal history
  - Review of arrest reports
  - Review of medical records
  - Collateral contacts – spouse – boss – etc.

Chemical Dependency Assessment (continued)

- In addition to the above, self report inventories such as the SASSI assist the examiner by providing a scientifically derived risk estimate of the respondent’s likelihood of having a chemical dependency problem. Most inventories have validity scales as well as clinical scales that attempt to detect the relative magnitude of personal, interpersonal and family problems common to abusers in the context of the respondent’s reported symptoms and use pattern.

Chemical Dependency Assessment (continued)

- Any licensed psychologist, psychiatrist, social worker or other mental health professional who has special training and experience in the assessment of chemical dependency may provide an assessment.
- Certification as a CAP - Certified Addictions Professional – ensures that the provider has met a high standard of experience, supervision and advanced training in the area of addictions, as attested to by the certifying body.
Psychiatric Evaluation

The form and focus of psychiatric assessments vary according to their purpose. The main difference between psychiatric and psychological assessments is the greater emphasis on bio-medical factors in psychiatric assessments which seldom include any type of psychological testing, the hallmark of psychological assessments.

Psychiatric Evaluation (continued)

Psychiatric training is generally geared toward preparing doctors to make differential diagnoses and treat mental illnesses with psychotropic medications. With additional training and experience, they may also qualify as examiners in other areas as well such as chemical dependency assessment, family assessment, parental fitness, decisional capacity, etc.

Psychosexual Evaluation

A psychosexual evaluation is a special type of assessment that should be conducted only by a licensed psychologist or psychiatrist with specialized training and experience in the assessment of psychosexual disorders. Since the adoption of the Jimmy Ryce Act in 2000, the State of Florida has established a certification/review process to qualify examiners, administered and maintained by the Department of Corrections.

Psychosexual Evaluation (continued)

While psychosexual assessments of sexual predators often include administration of a personality test (MMPI) they are unique in the almost ubiquitous use of actuarial instruments. STATIC-99 / MnSOST – R --- a compilation of scientifically derived risk factors to aid in the estimation of an individual’s risk of sexually re-offending. Also of importance in assessing the degree of psychopathology of sexual predators is the use of the Hare Psychopathy Check List – Revised (PCL-R).

Psychosexual Evaluation (continued)

Assessment of first offenders of less violent sex crimes or those who are only alleged to have committed a sexual offense requires a different approach. When there is no established pattern of offending behavior to analyze, we must focus more on understanding the context and meaning of the index offense viewed through the lens of the individual’s overall social, emotional and sexual adjustment.

Psychosexual Evaluation (continued)

Self-report questionnaires concerning sexual interests, attitudes and behaviors are often useful in calling our attention to potentially problematic areas of sexual adjustment.

• SAI - Sexual Adjustment Inventory –
• ABEL Assessment of Sexual Interest
• JASOAP – Juve./Adol. Sexual Offender Assmt. Packet
Psychosexual Evaluation (continued)

- The penile plethysmograph is infrequently used to detect deviant arousal to sounds and images of a sexual and/or violent nature. The high cost of this type of assessment and concerns about the validity of the results have kept this type of assessment from catching on.

Social Investigation

- A Social Investigation is a comprehensive family system assessment aimed at assisting the court in making child placement and time-share decisions that are in the best interests of the child(ren).

Social Investigation (continued)

- A Social Investigation may be provided by any licensed psychiatrist, psychologist, clinical social worker, mental health counselor, marriage and family therapist, ARNP, etc. who has special training and experience in working with and/or assessing dysfunctional families.
- The judge is the ultimate “decider”, as to who is or is not recognized as a qualified expert.

Social Investigation (continued)

- Procedures include:
  - Review of court records, prior filings, findings, reports, etc. relating to each member of the family.
  - Prior drug/alcohol treatment reports, Prior arrest reports – Criminal history
  - DCF reports, if any, etc…
  - Interviews with each parent

Social Investigation (continued)

- Interviews with the child(ren)
- Interactive sessions (parent-child)
- Collateral contacts with significant others such as step parents, teachers, counselors, etc.
- Home visits – as needed
- Could include psychological testing
- Could include chemical dependency assessment

Home Study

- A Home Study is designed to be an evaluation of the suitability of the home and its environment in terms of safety and meeting the needs of the child(ren). It may be included as part of a Social Investigation or it may be conducted independently as a stand-alone process.
Home Study (continued)

Pursuant to F. S. 61.20, this type of study typically includes the following:

1. A minimum of one home visit to the residence of each parent;
2. Observations in-home and neighborhood (proximity to school, church, recreation, etc.)
3. Inventory of individuals living in the home(s) and their relationship(s) with the child(ren)
4. Inquiry into past and current domestic violence and abuse situations including all who live in the homes
5. Criminal background checks for all individuals
6. Findings of related cases, when identified
7. Written report of findings, with relevant recommendations, safety issues, and information regarding past or current domestic violence and abuse incidents of any individuals in the home(s).

Parental Fitness Evaluation

A parental fitness evaluation may arise from a request by a parent, in the context of divorce proceedings, alleging that the other parent is unfit. Or, it may be ordered by a judge when a child has been removed for cause and placed in foster care or other setting, and the parent wishes to be re-instated to the parenting role.

This type of evaluation is intended to identify aspects of a parent’s lifestyle, habits, psychological state and knowledge of the developmental needs of the child(ren), that might cause the parent to be unable to meet the demands of parenting.

The basic assessment process will generally include:
- a clinical interview with the parent;
- an interview with the child;
- a parent-child observation meeting; and
- assessment of the parent’s skills/knowledge through testing
- review of records
- collateral contacts

Depending on the age of the child and complexity of the case, it will include a review of:
- the child’s school records,
- CPT findings,
- parent & child mental health records,
- the child’s medical records, and
- the parent’s arrest history, if any.
- If there are allegations that the targeted parent is mentally ill or chemically dependent, psychological testing relating to those issues would be required as well.
Parental Fitness Evaluation (continued)

- Parental fitness evaluations may be provided by a psychologist, a psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed mental health counselor with special training and experience relating to child/family issues.

- FANTASTIC RESOURCE –
  - FORENSIC EXAMINER JOURNAL – Parenting Capacity Assessment in Child Protection Cases
    http://www.theforensicexaminer.com/archive/spring09/20

Parenting Coordination

- Purpose of PC is to provide a child-focused alternative dispute resolution process whereby a PC assists the parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations, and with the prior approval of the parents and the court, making limited decisions within the scope of the court’s order of referral.

Parenting Coordination (continued)

- Referral --- In any action in which a judgment or order has been sought or entered adopting, establishing or modifying a parenting plan, except for a domestic violence proceeding under chapter 741, and upon agreement of the parties, the court’s own motion, or the motion of a party, the court may appoint a PC and refer the parties to PC to assist in the resolution of disputes concerning their parenting plan.

Parenting Coordination (continued)

- Qualifications – A PC is an impartial third person whose role is to assist the parents in successfully creating or implementing a parenting plan. Unless there is a written agreement between the parties, the court may appoint only a qualified PC. To be qualified, a PC must be one of the following:
  1) a. Licensed mental health professional under 490 or 491, or
  b. Licensed physician under 458 with certification by American Board of Psychiatry and Neurology, or
  c. Certified by the Fl Supreme Court as a family law mediator with at least a master’s degree in a mental health field, or
  d. Member in good standing of the Florida Bar.
  And….

Parenting Coordination (continued)

- 2) a. Three years of post-licensure practice, and
  b. Complete Family Mediation training by Fl Supreme Ct., and
  c. A minimum of 24 hours of PC training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.
Parenting Coordination (continued)

Confidentiality – All communications made by, between, or among the parties and the PC during PC sessions are confidential, except if: (see statute for 9 exceptions).

Family Mediation

Mediation is a process in which a trained, impartial person facilitates discussion and negotiations between disputing parties to reach mutually acceptable solutions. Family mediation allows parents the opportunity to have control over how they wish to settle disputed family issues.

Family Mediation (continued)

Cases in litigation will be ordered to mediation prior to a final hearing on the matter, addressing: Dissolution of marriage, changes in child support, changes in parental responsibility, and paternity actions. Even before litigation, cases may be referred or self-referred for mediation by a private mediator.

Family Mediation (continued)

Mediators are available for a set fee in each county, using contracted mediators, for litigants whose combined income falls below a set level. Those making more than the set income amount are required to use private mediators.

Family Mediation is a confidential process. Neither party, nor the mediator, is authorized to disclose anything beyond the written agreement that is signed by all parties.

Family Mediation Qualifications

To qualify to serve as a Fla. Supreme Court Certified Family Mediator:

Must be at least 21 years of age;
Must be of good moral character;
Must have at least a bachelors degree;

And must be able to score 100 points, based on:
Completion of a state approved Certification training program (30 pts)
Advanced degrees (variable pts)
Professional licensure/certification – law – accounting – education – psychology (5 pts)
Mentoring (30 pts)
Prior experience in other forms of mediation – (variable pts)
Proficiency in a foreign language or ASL (5 pts max.)
Collaborative Law

Collaborative law is a non-adversarial process whereby the parents and their attorneys specifically agree to use cooperative strategies to reach a settlement agreement, avoiding judicial involvement and the high financial and emotional costs of divorce litigation. The Florida Supreme Court and Florida Bar have approved the concept of the collaborative law process.

Collaborative Law (continued)

Collaborative law attorneys use problem-solving techniques, present options for the parties and use informal discovery methods. The parties voluntarily provide financial documents, participate in negotiation conferences and agree to use the same experts, as needed.

Collaborative Law (continued)

Should the parties elect to pursue litigation after embarking on a collaborative law effort, they agree in advance to hire other counsel. Other professionals who are part of the collaborative team are bound by the same agreement to work cooperatively and to withdraw if litigation ensues.

Collaborative Law (continued)

Attorneys who provide collaborative law services should have at least five years of experience and special training in the collaborative law process. Like adversarial process attorneys, collaborative law attorneys are bound by the rules and ethics of their profession.

Capacity Assessment

In Florida, Decisional Capacity is assessed by a committee - made up of a physician, a psychologist and a knowledgeable person. The physician need not be a psychiatrist and should not be the AIP’s own physician. The psychologist should be someone who has specific knowledge and experience relating to capacity assessment. Special knowledge and experience in gerontology, and Florida State Certification – USF

Capacity Assessment (continued)

Legal question – is certification required? or just desirable?
Lay person may be anyone with a human service background (nurse, guidance counselor, case worker, etc.) who gains specific training and experience in the assessment of AIP’s and completes the state certification program.
Each county has a list of all certified examiners – with contact information
Capacity Assessment (continued)
Together, psychology and law are pushing the threshold of credible evidence on which opinions are based, resulting in much greater use of “evidence-based” assessment protocols by psychologists. This approach integrates the latest research findings into the clinical assessment protocol to produce opinions that are less subject to examiner bias and based on measurable data from various sources.

Capacity Assessment (continued)
FANTASTIC RESOURCE FOR ATTORNEYS – JUDGES – PSYCHOLOGISTS
The American Bar Association and the American Psychological Association have jointly produced two parallel sets of Practice Guidelines – one for attorneys and one for psychologists – covering everything you need to know – about Capacity Assessment.

Decisional Capacities
Right to marry * Right to control finances * Right to travel
Right to vote * Right to choose residence/living arrangements
* Right to drive * Right to make medical decisions * Right to sue * Right to work/manage a business * Right to make social decisions * Right to apply for government benefits *
Right to contract * Right to make a will (testamentary)

Legal Standard
Diagnosis of the “causal factor” (Stroke – Dementia – etc.) is fundamental to explaining any functional disability that may result in the loss of one’s rights.

Legal Standard
1 – Appreciation - understanding – AIP comprehends and retains (at least briefly) relevant information
2 – Reasoning - can weigh and consider data (pro / con) to come to a conclusion
3 – Can communicate values and preferences
   Values = underlying beliefs, concerns and approaches that guide personal decisions
   Preferences = preferred option of various choices, informed by one’s values
4 – Can communicate a decision based on reason

Questions/Comments