

IN THE TENNESSEE ALTERNATIVE DISPUTE RESOLUTION COMMISSION

Advisory Opinion No.: 2014-0002

The Tennessee Alternative Dispute Resolution Commission has been asked to provide an opinion upon the following questions, posed by a Rule 31 mediator:

1. If a psychiatrist, practicing in Tennessee, is a Rule 31 approved mediator, could the psychiatrist schedule and conduct her or his mediations at the facilities where she or he maintains her or his medical practice?
2. May a Rule 31 mediator, who is a psychiatrist, provide post-mediation psychiatric treatment to a participant in the mediation?

For response to the first question, no provision of Rule 31 in its current form, would prohibit conducting a mediation within the physical space of a suite of medical offices. Mediations are conducted in law offices routinely.

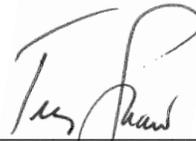
For response to the second question, Rule 31 mediators are obliged to preserve and maintain the confidentiality of all information obtained during Rule 31 ADR Proceedings. They may not divulge information obtained by them during the course of Rule 31 ADR Proceedings without the consent of the parties, except as otherwise provided by law. *Rule 31, §10,(d)*.

As for domestic matters, and beyond the provisions of Rule 31, *TCA §36-4-130*, provides that when the parties to a divorce action mediate the dispute, the mediator shall not divulge information disclosed to the mediator by the parties or by others in the course of mediation. All records, reports, and other documents developed for the mediation are confidential and privileged.

These obligations continue after the conclusion of the mediation.

It is difficult to imagine how a psychiatrist could undertake to subsequently treat a patient, who was a party to a prior mediation. One would think that the best treatment would need to proceed with the open mind of the provider. However, this would seem to be a medical ethics question, and not one for consideration by this Commission.

Date: April 16, 2014



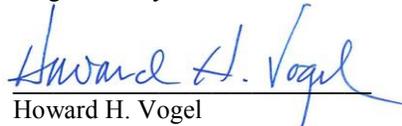
Tracy Shaw, Chair of the TADRC Ethics
Advisory Opinion Committee



Linda Nettles Harris



Virginia Story



Howard H. Vogel