# The American Psychiatric Association's Resource Document on Guidelines for Psychiatric Fitness-for-Duty Evaluations of Physicians

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The psychiatric evaluation of a physician's fitness for duty is an undertaking that is both important to patients' well-being and to the physician-subject of the evaluation. It is necessary that psychiatrists who agree to perform such evaluations proceed in a careful and thorough manner. This document was developed to provide general guidance to the psychiatric evaluators in these situations. It was prepared by the American Psychiatric Association (APA) Council on Psychiatry and Law and Corresponding Committee on Physician Health, Illness, and Impairment, of which the authors are members. The Resource Document was approved by the APA Joint Reference Committee in June 2004. APA Resource Documents do not represent official policy of the American Psychiatric Association. This Resource Document was edited to conform to Journal style and has therefore been modified slightly from the original document approved by the APA.

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Psychiatrists are often called on to evaluate a physician's fitness for duty. Specific questions may center on the presence of psychiatric or neuropsychiatric impairment. In these cases, the psychiatrist may be asked to examine the physician, prepare a report of detailed diagnostic findings and treatment options, and offer an opinion regarding fitness for duty.

Impairment is a related or corollary concept to "fitness for duty." The American Psychiatric Association's (APA) document on fitness-for-duty evaluations defines impairment as the inability to practice medicine with reasonable skill and safety as a result of illness or injury. Illness may refer to psychiatric disorders, including substance use disorders, as well as physical disease or disability. Under certain circumstances, a physician's problematic behavior leads to questions about fitness for duty. Boundary violations (such as sexual misconduct), unethical or illegal behavior, or maladaptive personality traits may precipitate an evaluation, but do not necessarily result from disability or impairment due to a psychiatric illness.

A physician may have difficulty practicing safely based on a lack of adequate knowledge, training, or skill. Detailed evaluation of such problems is not within the scope of a psychiatric fitness-for-duty examination. If such knowledge or skill deficits are suspected, referral should be made to an appropriate assessment or peer review program. Further education, training, or remediation may be necessary.

A fitness-for-duty evaluation must address the specific functional tasks of the particular physician's duties. For example, a Parkinsonian tremor may impair the work performance of a neurosurgeon, but may not significantly impair a psychiatrist.

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## Guidelines

The examination and report should meet the standards of a high-quality psychiatric evaluation, with special attention given to obtaining a thorough history, collateral information, and job performance data and to performing appropriate psychometric and laboratory testing, as necessary.

Specifically, a fitness-for-duty examination should include a careful history of the presenting complaint. It is essential that the evaluating psychiatrist make considerable effort to obtain and review all relevant documents and records. Some documents may be provided by the referral source. The evaluee may have to sign an appropriate release of information to obtain other pertinent records. Collateral information should be obtained from a spouse or significant other, the referral source, direct reports, and supervisors in the physician's workplace and from anyone treating, evaluating, or monitoring the physician. A criteria-based job description or list of responsibilities, along with an organizational hierarchical schema can also be useful.

A complete psychiatric evaluation and mental status examination should be performed, with emphasis on work history and any performance problems. Performance problems may be readily described by the physician being examined, but these can also be elaborated upon by asking about peer review problems, hospital actions resulting in privilege changes, professional liability experience, complaints to or actions by state licensing or specialty boards, or concerns voiced by others in the practice environment.

Any relevant area of the history should be reviewed in detail—for example, history of any psychiatric illness or treatment, medical history, or sexual history in someone being evaluated for sexual misconduct (such as a professional boundary violation or child sexual abuse). The mental status examination should be expanded in cases in which the referral problem identified possible cognitive deficits or when the evaluator finds evidence of cognitive impairment. If indicated, the evaluating psychiatrist should refer the evaluee for psychological, neuropsychological, medical, laboratory, or other examinations or tests. Urine screening and other laboratory tests for substance abuse are often necessary.

It is most helpful prior to the evaluation to clarify in writing the referring source's specific questions. Reporting the evaluator's findings and opinions will vary according to the intended audience—commonly, the state licensing board. Because the board has the ultimate authority regarding a physician's ability to practice safely and is charged with the protection of the public, the board will typically require a comprehensive report. The report should be especially thorough in the areas that are in question. Sensitive personal information may be omitted or summarized in the report if it is not directly related to the fitness questions, but the evaluator and evaluee should both be aware that such omissions may raise concerns that the report has been sterilized or whitewashed. There may be a greater risk of this interpretation if the evaluator concludes that the examined physician has no impairment relevant to fitness to practice medicine.

The evaluator should offer an opinion about whether the physician suffers from a psychiatric illness; whether that illness, if present, interferes with the physician's ability to practice safely in his particular job; and the specific reasons and areas of impairment, including insight and judgment. If medical practice can safely take place under specific conditions—such as prescribed workplace conditions, consideration of specific risk factors, conditions of treatment and/or treatment monitoring—these should be outlined in detail. As noted earlier, the evaluator should limit her expert opinion to questions of psychiatric impairment. These examinations are not assessments of unsafe medical practice due to lack of skill, knowledge, or training.

The evaluator may be asked to outline recommended treatment for the condition. If current treatment is not adequate for the condition, that should be clearly articulated. The evaluator may conclude that the physician does not have a significant psychiatric disorder, but is so emotionally distressed (e.g., by a recent event) that he is in an unsafe mental state to practice. Such a finding should also be reported, along with potential treatment recommendations or interventions. Within the report, it should be easy to follow the logical clinical connections between the illness, its impairing symptoms, and how the symptoms may affect the physician's ability to practice. If no impairment is found, the data should also be articulated with a clear, logical explanation that substantiates the conclusions. The report should not just briefly conclude that there is no problem and therefore the physician is fit for duty.

Licensing board complaints, investigations, findings, and actions may be publicly disclosed, depending on the situation or jurisdiction. While some modification of the report may be appropriate in states where there is extensive public access, it must be recognized that being granted a license to practice medicine is a privilege, not an inherent right. The laws that govern the ability of a licensing board to order an evaluation are known (or should be known) to the physician at the time of licensure and renewal (since these are delineated in the medical practices act of each state and are typically included with the licensing packet).

For referral sources other than the state licensing board, there are a number of factors that could affect decisions about what information to include in the examiner's report. In general, the smaller or more local the referral source, the more likely that medical and other personal information will be viewed by individuals who personally know or may have conflicts of interest with the physician being evaluated. Practice groups, hospitals, and health maintenance organizations (HMOs) may have varying degrees to which they can maintain confidentiality. In these cases, it may be appropriate to limit the detail of the report to the specific referral questions, with less emphasis on sensitive personal information. For example, an examiner might state that she collected detailed information about personal, medical, and social history that substantiated her opinions, and that she can provide a more detailed report of that data on request. This approach may require further discussion with the referral source—ideally, prior to conducting the evaluation. In all cases, it is important that the specific positive or negative findings about fitness for duty be well explained and substantiated.

## Practical Considerations

The examiner should first explain the limits of confidentiality to the physician being examined. These limits include an explanation of the purpose and process of the evaluation, a list of those who will receive the report, and a statement that the doctor-patient treatment relationship does not pertain to this examination. To make collateral contacts, it is usually good practice to obtain signed releases of information from the physician being examined. If he refuses to allow the necessary collateral contacts, that refusal should be documented in the report, along with a comment that the conclusions may be limited by the lack of potentially useful information. Depending on the referral circumstances, releases for certain collateral contacts may be mandated or unnecessary. These details are best clarified at the outset of the examination.

Although the examination does not establish a treatment relationship, the evaluator may have access to confidential health information and should be aware of any responsibility under federal or state privacy laws regarding the appropriate secure storage or disposal of such information and records.

Prior to agreeing to perform the evaluation, the examining psychiatrist and referring source should both be comfortable that the examiner has sufficient expertise to conduct a competent evaluation. Often, the examiner provides her *curriculum vitae* as well as relevant prior experience in conducting similar examinations. Forensic training, experience, or certification may be helpful, but is not required. In certain circumstances, such as the presence or history of significant substance abuse or sexual misconduct, the evaluator may need specific expertise in those areas of evaluation and treatment. The evaluating psychiatrist should not have any current or past treatment or employment relationship with the physician being examined. Questions of potential bias or conflict of interest should be clearly addressed before the evaluator performs the examination. If specific additional examination is necessary (such as neuropsychological testing) and cannot be performed by the primary evaluator, appropriate further specialty consultation should be arranged with consent from the evaluee and the referring source.

Payment for the evaluation should be clearly discussed and arranged prior to the evaluation. Often the physician being examined indirectly pays the cost (typically through an attorney or other third party), but the arrangement may vary, depending on the referral source. These evaluations are not customarily reimbursed by third-party health insurance. The examining psychiatrist should provide a reasonable estimate of the total cost of the evaluation and report preparation. Full or partial payment prior to completion of the report may be requested, to avoid any concerns about compensation—particularly if the physician being examined is responsible for payment and may be dissatisfied with the examiner's conclusions.

Psychiatrists who contemplate conducting these evaluations may be concerned about their own liability risk. An unfavorable outcome or medical error resulting in patients' being harmed by a physician who has been recently found fit for duty could result in allegations of malpractice or negligence against the examining psychiatrist. Although the examining psychiatrist should clearly establish that there is no treatment relationship with the physician being evaluated, thus possibly precluding a successful medical malpractice claim, allegations of negligent evaluation can still be made, even if ultimately defended successfully. The evaluating psychiatrist should make sure that her own liability insurance covers defense of such potential allegations. It is essential to present a thoroughly documented report, including any limitations on the certainty of the opinion due to incomplete, inaccurate, or missing data. In evaluations performed for the state medical board, that board retains ultimate authority—and responsibility—for the licensure status of the physician being examined.