

Title 8: California Code of Regulations
Division 1: Department of Industrial Relations
Chapter 1: Industrial Medical Council
Article 4: Evaluation Methodology
Section 43: Method of Measurement of Psychiatric Disability

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Chapter I

Outlines of Evaluation Reports

As a means of introducing some standardization to the contents of evaluation reports, two model outlines are presented in this chapter. Subchapter A, the Evaluation Report for Psychiatric Disability, is a guide for the physician, who may be either a psychiatrist or psychologist, who is conducting evaluation of psychiatric injuries. It assures that the clinician has provided all the information and opinions required by W.C.A.B. Rules of Practice and Procedure Section 10606. It also assures that the clinician has conducted the evaluation in a manner consistent with the requirements of the California Labor Code. Subchapter B, the psychological assessment report, is a guide for the psychologist in those instances where the psychologist's role is to provide psychological assessment as part of a collaborative evaluation of psychiatric injury. The latter's findings are to be assimilated into the evaluation report of the independent examiner, supported in detail by a complete psychological assessment report which includes test scores. Additional guidelines with respect to psychological testing are also provided.

Whereas in psychiatry and psychology the process by which the historical data, excluding purely clerical intake data, e.g., patient identifier information, is collected is an intimate component of the psychiatric examination, collection of such information by any person other than a doctoral level trained psychiatrist or psychologist is not acceptable. The doctoral level trained psychiatrist or psychologist who authors the report must collect the historical information via the interview process. The use of other clinicians or non-clinicians cannot substitute for the evaluating clinician, and such reports are deficient. Furthermore, the use of other than the examiner to review the records and edit/write reports is unacceptable. Not uncommonly, the psychiatric examiner reviews personnel files, military records, educational documents and other administrative reports that must not be delegated to the purview of others. Similarly, the nuances of psychiatric diagnosis and formulation of dynamic issues related to the crucial question of returning the employee to the work force must not come from other than a licensed doctoral level practitioner.

The psychiatrist or psychologist who examines an applicant for workers' compensation on the basis of alleged psychiatric injury must conduct a careful interview of the applicant addressing elements of the outline for the evaluation report. To complete the interview almost always will require at least one to three hours of direct contact with the

applicant by the examiner. In the case of applicants who have significant expressive/receptive English language deficits, interpreters may be used by the examiner. However, it is preferable that such applicants be evaluated by examiners who can speak and also administer psychological tests in the primary language. The use of interpreters may lead to distortion of the facts and misinterpretation of the data.

Where the psychologist is in the role of a consultant in the medical-legal assessment process, the duplication of certain efforts between the psychologist and the psychiatrist should not typically occur unless warranted by specific circumstances. It should not be necessary for the consultant to duplicate efforts at reviewing records and obtaining historical information in most cases. It may be necessary in the most complex cases where psychological assessment is required that certain records and some portion of the history will need to be addressed by the consulting psychologist. A consulting psychologist is allowed to take a history if it is necessary. However, this is not a typical situation and in the routine case a thorough assessment by one clinician of the records and the obtaining of historical information should suffice. An explanation must be given when duplicative services are provided.

The examiner should conduct such interviews as may be appropriate and possible and should review the psychological assessment findings, the medical and employment and other documents or records¹ of the applicant, and other referral documents. When all this information is assembled, it should be documented in the report with a detailed description of the cognitive, effective and behavioral signs/symptoms of the applicant, as well as the psychological assessment scores and interpretations.

It should be noted that the following outlines are more suggestive than prescriptive. The content of reports will vary with the referral questions, the nature of the applicant's presenting problems, and, to some extent, the practice of individual clinicians. The suggested headings are not required, but a systematic, quasistandardized report including all the relevant facts is likely to be most useful to judges.

**A. Evaluation report for psychiatry disability
(To be used by psychiatrist and psychologist examiners.)**

1. Identifying information
 - a. Date, place, and duration of examination
 - b. Reason for referral and referral questions
 - c. Names and functions of others taking part in the examination, including use of interpreter
 - d. Applicant (patient/client)
 1. Date of birth
 2. Date of alleged industrial injury
 3. Date last worked
 - e. Sources of facts (include collaterals, if interviewed)

¹ FN1 Employment and other documents or records, if reviewed, should be made available to applicant or his or her counsel at the same time.

2. Description of applicant at interview
 - a. Appearance (do not omit obvious physical aberrations)
 - b. Demeanor, general behavior
 - c. Apparent effective state, based on observation
 - d. Stream of speech
 - e. Interaction with interviewer

3. Description of applicant's current complaints
 - a. Subjective complaints
 - b. Applicant's view of the impairment created by the complaints

4. History of present illness
 - a. Applicant's description of industrial stressors, onset of complaints, and alleged injuries or illness associated with onset
 - b. Psychological response to alleged injury situation
 - c. History of mental health problems since alleged injury
 - d. History of treatment since alleged injury
 - e. Current treatment and medication, including medication taken on day of interview

5. Occupational history (Distinguish baseline, injury concurrent, and postinjury events)
 - a. Educational level and professional, technical, or vocational training
 - b. Sequential description of occupations pursued (including military service)
 1. Training and skills required
 2. Supervisory responsibilities
 3. Career mobility (upward, downward, lateral)
 - c. Difficulties and/or accomplishments in each occupational setting
Previous occupational injuries, time lost, and outcome

6. Past mental health history and relevant medical history

7. Family history
 - a. Family of origin
 1. Parent's age, education, occupational history
 2. Sibling's age, education, occupational history
 3. Composition of family during applicant's childhood and youth
 4. Mental health history and relevant medical history of family members
 5. Family response to illness
 6. Relevant social history of family members
 7. Quality of family relations

- b. Family of procreation
 - 1. Present marital status
 - 2. Spouse's age, education, occupational history
 - 3. Number of offspring (Obtain same data for adult offspring as for spouse)
 - 4. Mental health history and relevant medical history of family members
 - 5. Relevant social history of family members
 - 6. Quality of family relations
- c. History of previous marriages
- 8. Development history
- 9. Social history (Distinguish baseline, injury concurrent, and postinjury findings)
 - a. Interpersonal relationships
 - b. Previous life changes (external stresses and losses) and response to these
 - c. Educational history
 - d. Legal history, when applicable (Include previous workers' compensation and personal injury claims, with the circumstances and outcome)
 - e. Criminal history which is relevant to diagnosis and/or disability
 - f. Substance use and abuse
 - g. Applicant's description of a typical day
- 10. Mental status examination (Include relevant negative findings)
 - a. Level of consciousness
 - b. Mood, e.g.:
 - 1. Depression
 - 2. Liability
 - 3. Elation
 - 4. Anxiety
 - 5. Inappropriateness
 - c. Cognition/thinking
 - 1. Orientation
 - 2. Estimation of intelligence
 - 3. Memory dysfunction
 - a. Recall/short-term memory
 - b. Remote memory
 - 4. Perceptual and communication disorders (agnosias and aphasias)
 - 5. Thought content
 - 6. Thought disorder, e.g.:
 - a. Ideas of reference
 - b. Looseness of associations

- c. Delusions
 - d. Perceptual disorders, including hallucinations
 - e. Intrusive thought/obsessive thinking
- 7. Evidence of deficit in
 - a. Learning
 - b. Problem solving
 - c. Judgment
- 8. Insight (Include applicant's perception of relationship between injury and psychological condition.
- d. Behavior
 - 1. Motor: retardation or hyperactivity
 - 2. Appropriateness in interview
- e. Evidence of physiologic disturbance
 - 1. Skeletal muscle system
 - 2. Autonomic
 - 3. Somatoform or conversion symptom
- 11. Findings from psychological assessment (Attach complete psychological report)
- 12. Review of medical record
- 13. Interviews with collateral sources and review of employment or personnel records (Compare description of industrial stressor with applicant's account)
- 14. Diagnosis using DSM-IV terminology and criteria
- 15. Summary and conclusions (Provide sources for all information cited as evidence.)
 - a. Brief summary of relevant history and findings
 - b. If any disability, present and justify an opinion concerning the current cause(s), whether or not they are related to the work place. Consider:
 - 1. The relationship of work exposure to disability
 - 2. Nonindustrial causes of disability, including pre-existing causal factors
 - 3. Aggravating or accelerating factors (industrial and non-industrial)
 - 4. Natural progression of pre-existing disorder
 - 5. Active or passive contribution of the workplace to the disability. (See Twentieth Century Fox Film Corporation v. W.C.A.B. and Kevin Conway (1983) C.A. 3rd 778, 190 CA: Rptr 560, 48 C.C.C. 275 and also Georgia Pacific Corporation v. W.C.A.B. and Robert H. Byrne (1983) 144 C.A. 3rd 72, 192 Rptr. 643, 48 C.C.C. 443.)

6. Applicant's subjective reaction to stress at work, if relevant. (See Albertson's Inc. v. W.C.A.B. (Bradley) (1982) 131 Cal.App.3d 308, 182 Cal. Rptr. 304, 47 C.C.C.460.)

Indicate whether actual events of employment (for injuries on or after 1/1/90) were at least 10% or (for injuries on or after 7/16/93) were predominant as to all causes combined of the psychiatric injury (see Labor Code Section 3208.3(b)(1) or, if applicable, whether they were a substantial cause (see Labor Code Section 3208.3(b)(2)(3)).²

- c. Indicate diagnostic entities which were work-disabling prior to the alleged industrial injury and provide evidence.
- d. State whether the disability is temporary or has reached a permanent and stationary status and cite evidence. If the condition is permanent and stationary, state on what date it became so and cite evidence. Consider the natural history of the disorder, the response to treatment. If the condition is not yet permanent and stationary, state when you expect it will be so. If you think further reasonable medical treatment will improve the condition, describe the treatment and its expected benefits.
- e. If the disability is permanent and stationary, present an opinion regarding the nature and severity of the disability. Describe the disabling symptoms (subjective and objective factors in disability) according to Chapter II. Complete the Work Function Impairment Form (Exhibit "A") citing symptoms, mental status findings, psychological test data, and history as supporting data. (Descriptions of work functions in Exhibit "B") If there is a non-psychiatric disability, a specialist in the area affected.
- f. Make an advisory apportionment of disability. In order to do this, describe the disability that would exist at this time in the absence of the work place injury. Cite the evidence on which the estimated preinjury level is based. Use a separate Work Function Impairment Form. (Exhibit "A")
- g. Indicate recommended treatment and/or rehabilitation, if any. State whether the employee, the effects of whose injury, whether or not combined with the effects of a prior injury, whether or disability, if any, is permanently precluded or likely to be precluded from engaging in this or her usual and customary occupation or the position in which he or she was engaged at the time of injury.
- h. Respond to all referral question and/or to questions and issues raised in referral reports.

² Substantial cause means injuries resulting to an employee from being a victim of a violent act or from direct exposure to a significant violent act. Substantial cause means at least 35% of the causation from all sources combined.

**B. Psychological Assessment Report for Psychiatric Disability and Guidelines of
Psychological Testing
(To accompany an Evaluation Report for Psychiatric Disability)**

1. Identifying information
 - a. Applicant's name, age, birthdate, phone number, and social security number
 - b. Date of alleged injury or exposure
 - c. Date last worked
 - d. Description of alleged injury or exposure

2. Referral information
 - a. Date of referral
 - b. Referral source: name and role in evaluation/litigation process
 - c. Nature of referral and referral questions

3. Behavioral observation and personal characteristics
 - a. Description of physical appearance, mode of dress
 - b. Speech, hearing, vision, R/L handedness
 - c. Other apparent physical cognitive or emotional impairments, including history of unconsciousness, high or protracted fever, seizure activity
 - d. Literacy, educational level, and whether English is first language
 - e. Ethnic origin, marital status, occupation, socioeconomic status
 - f. Self-presentation of applicant by relevant observations, test scores, and history (Comment on such qualities as motivation, candor, spontaneity, reliability, consistency of performance, tendency to exaggerate or malingering, and presentation of self in an overly positive light.)

4. Clinical interview (Cf. Chapter I, Subchapter A, the evaluation report for psychiatric disability, sections 2-9, pages 4-6) Since this psychological assessment report accompanies an evaluation report for psychiatric disability, a brief review of relevant history is sufficient.

5. Records available/reviewed. Including job descriptions and performance evaluations.
(Identify as to before or after alleged injury/exposure.)

6. Prior psychological assessment (from records). List, including:
 - a. Date
 - b. Examiner
 - c. Test (Include form used.)
 - d. Scores and interpretation

7. Guidelines for psychological testing

Psychological testing is an additional source of information which can be combined with other elements such as records review and clinical interview to arrive at opinions concerning diagnosis, symptom exaggeration and disability. Psychological testing includes self-administered inventories such as the MMPI which can be used to evaluate the clinical presentation of the patient. Psychological testing also includes the projective tests such as the Rorschach Test. Psychological testing also includes neuropsychological tests which are used to identify and measure strengths and weaknesses in cases of suspected organic brain disorder. If psychological testing is included as part of the evaluation, these guidelines are to be followed:

a. Routine screening battery

Time: 2 to 5 hours

Purpose: This category of psychological testing encompasses a routine workers' compensation case. This testing may be done in conjunction with the initial comprehensive evaluation. The purpose of this testing is to evaluate potentially disabling psychological factors. This psychological testing will look at self-reported symptoms such as depression and anxiety. This type of testing may also explore such issues as personality and possible exaggeration of symptoms.

Types of tests used: This category of testing utilizes primarily self-administered questionnaires such as the MMPI and the MCMI. Other standard test measures which are appropriate and necessary may be utilized.

Persons authorized to do the psychological testing: Psychiatrist, psychologists and registered psychological assistants with doctorate, within their respective areas of competence with respect to attained education, training, supervision and experience, are the individuals who will interpret psychological tests. Psychiatrists and psychologists are responsible for the production of psychological reports.

b. Complex psychological testing

Time: 6 to 10 hours

Purpose: Here the referring evaluator who is conducting the Initial Comprehensive Examination requests more extensive psychological testing. Complex psychological testing gives an in depth view of the patient. Routine testing relying upon self administered inventories may be insufficient in cases where elaboration; reading, language and intellectual barriers; or confusional states exist. This level of testing can be used to explore more thoroughly issues of personality, cognition, and malingering and/or exaggeration.

Types of tests used: Here the psychological testing is more extensive. Projective tests such as the Rorschach Test may be used. More extensive personality testing may be utilized. The Wechsler Adult Intelligent Scale may be utilized. Other standard tests that are necessary and appropriate outside of these measures should be used.

Persons Authorized to do the psychological testing: Complex psychological testing utilizes a psychologist or a registered psychological assistant with doctorate who is supervised by a psychologist. When a registered psychological assistant is utilized in the administration or scoring of some of the tests, this is done under the direct supervision of a licensed psychologist. The licensed psychologist is responsible for interpretation of complex testing and the production of the psychological testing report.

How to request complex psychological testing: Complex psychological testing is done at the discretion of the evaluator doing the Initial Comprehensive Evaluation. In the body of the Initial Comprehensive Report the evaluator must document that complex psychological testing which goes beyond the usual routine screening battery is indicated. The justification for the more thorough battery must be detailed by the disability evaluator in his/her report.

c. Neuropsychological testing
Time: 8 to 15 hours

Purpose and criteria warranting testing: There are instances where the neuropsychological approach to assessment is indicated to help determine the role an organic mental disorder plays in disability. This is not a routine type of evaluation in Workers' Compensation cases and, when used, must be justified by the report. Typically there is a specific head injury, toxic exposure or some other situation that raises the issue of organic brain syndrome. Here the patient often registers impairment on the mental status examination and there is a history consistent with serious cognitive dysfunction.

A condition such as depression, anxiety, and chronic pain may cause a complaint of cognitive difficulties but this type of situation would not necessarily warrant neuropsychological testing. The mere report from the patient that there is difficulty with recent memory in and of itself cannot justify extensive neuropsychological testing.

Types of tests used: This category of testing utilizes a number of cognitive tests in the form of an organic testing battery. Tests such as the Luria Nebraska or the Halstead Reitan may be utilized by are not

always required in a neuropsychological testing evaluation. The neuropsychological test battery may include other standard measures such as the MMPI beyond those used exclusively for assessing cognition.

Persons authorized to do the psychological testing: This type of evaluation is done by a clinical psychologist with experience in evaluation organic mental disorders. A registered psychological assistant with doctorate may participate in the test administration and data interpretation.

8. Evaluation procedures. Refers to Chapter I, subchapter A, section 11, "Ranges for Psychological testing". List instruments when used in the following order. Indicate date and total administration time. (This is a reporting format and does not necessarily imply that procedures be administered in this order.)
 - a. Objective tests measuring general cognition
 - b. Neuropsychological tests if indicated
 - c. Objective (standardized and normed) tests relating to personality and emotional state
 - d. Self-report inventories relating to emotional state
 - e. Projective devices
 - f. Interview

9. Results and discussion
 - a. Describe assessment findings, providing test scores and documentation sufficient to permit other psychological examiners to review the issues raised and opinions rendered. (Indicate if computer scored/interpreted and give score.) Relate test findings to observations and relevant history, with emphasis on the vocational sphere.
 - b. Relate all assessment findings to DSM-III diagnosis on Axis I, Axis II and, when appropriate, Axis III. (Note: It is inappropriate for a psychologist to offer independent Axis III diagnosis.)
 - c. Current findings and inferences relative to work place injury and job-related impairments. (The psychologist should follow "XV. Summary and Conclusions" in the Evaluation Report for Psychiatric Disability, but should include the additional information below.)
 1. Distinguish between transient/situational conditions and enduring/permanent condition.
 2. Where appropriate describe and document with test findings and range and severity of psychological impairment with respect to ability to work in the same job or to compete on the open job market.
 3. Describe and document with test findings what types of intervention are required to return applicant to the same job or to rehabilitate applicant for other employment, with amounts of time involved.

Chapter II

Clinical Evaluation of Permanent Psychiatric Disability

In evaluating an applicant with an alleged psychiatric disability, the examiner should first decide: (1) whether or not there is any emotional or mental condition which handicaps the applicant in competing on the open job market, (2) whether or not this disability is to any degree work-related, and (3) whether or not the disability is permanent and stationary, that is, whether or not the applicant can receive further benefit from treatment at this time. If it is the examiner's opinion that there is psychiatric disability which is to some degree work-related and that maximum benefit from treatment has been reached, then the applicant may be evaluated for permanent psychiatric disability. (See 8 C. C. R. 9735 Sweeney v. I. A. C., 107 CA2nd 155, 16 C. C. C. 264 (1951).) The examiner will proceed to evaluate the extent and nature of the disability and to describe the prognosis according to the guidelines presented in this section. For injuries on or after 1/1/90, the examiner will indicate whether or not actual events of employment were responsible for at least 10% of the total causation from all sources contributing to the psychiatric injury. For injuries on or after 7/16/93, the examiner will indicate whether or not actual events of employment were predominant as to all causes combined of psychiatric injury or, if applicable, whether they were a substantial cause.³

The guidelines ask the examiner (1) to diagnose the applicant according to DSM-IV⁴ to evaluate the applicant's ability to perform specific work functions, and (3) to provide information concerning the applicant's prognosis. To assist the examiner and the court, schedules for summarizing relevant information are provided. The values in these schedules are not substitutes for the discussion described in the Summary and Conclusions, Chapter I, A., 16. They are values to be used in documenting or supporting the conclusions.

A. Evaluation of the nature and severity of impairment

This subchapter provides the examiner an outline with which to describe the nature and severity of the applicant's mental or emotional impairment. This subchapter provides for Axis I and Axis II diagnoses, and also an Axis III diagnosis when appropriate. The examiner should indicate whether or not these diagnoses were occupationally disabling prior to the alleged injury and support the opinion.

³ Substantial cause means injuries resulting to an employee from being a victim of a violent act or from direct exposure to a significant violent act. Substantial cause means at least 35% of the causation from all sources combined.

⁴ The use of Diagnostic and Statistical Manual of Mental Disorders 4th Edition (DSM-IV) includes referral to all subsequent revisions and/or editions as they become available and appropriate to the evaluation.

This subchapter also provides that the examiner list all symptoms related to the Axis I diagnosis or diagnoses and to state whether they are constant, intermittent, or occasional. Next, the examiner is asked to evaluate the level of impairment in the applicant's ability to perform eight work functions. The Work Functions Impairment Form (Exhibit "A") provides a convenient way to summarize this information. The eight work functions are listed in Exhibit "B" hereto. The evaluation is performed as if there were no question of apportionment, even when apportionment is suggested by the examiner's assessment of the etiology.

1. DSM-III diagnosis
 - a. Axis I
 - b. Axis II
 - c. Axis III
2. List all disabling symptoms and state whether each is constant, intermittent, or occasional. ("Intermittent" means present half time; "occasional", less than half the time.)
3. Using the levels defined in a.(1)-a(5) below, describe the extent to which disabling symptoms lead to impairment on the eight work functions shown in b. below.
 - a. Level of impairment:
 1. Minimal (discomfort, but not disabling)
 2. Very slight (detectable impairment)
 3. Slight (noticeable impairment)
 4. Moderate (marked impairment)
 5. Severe (unable to perform work function)
 - b. Work function: Document those symptoms which impair each of the following work functions and the levels of impairment on the work function impairment form on page . (See Exhibit "B" for descriptions of the work functions.):
 1. Ability to comprehend and follow instructions
 2. Ability to perform simple and repetitive tasks
 3. Ability to maintain a work pace appropriate to a given workload
 4. Ability to perform complex or varied tasks
 5. Ability to relate to other people beyond giving and receiving instructions
 6. Ability to influence people
 7. Ability to make generalizations, evaluations or decision without immediate supervision
 8. Ability to accept and carry out responsibility for direction, control, and planning

Information on severity of symptoms in referenced in two above will assist the court to determine the level of severity of impairment of work function (factors of disability).

WORK FUNCTION IMPAIRMENT FORM

| Work function | level | of impairment | supporting data (Cite findings) |
|--|-------|------------------|------------------------------------|
| 1. Ability to comprehend and follow | | | |
| 2. Ability to perform simple and repetitive tasks | | | |
| 3. Ability to maintain a work pace appropriate to a given work load | | | |
| 4. Ability to perform complex or varied tasks | | | |
| 5. Ability to relate to other people beyond giving and receiving instructions | | | |
| 6. Ability to influence people | | | |
| 7. Ability to make generalizations, evaluations or decisions without immediate supervision | | | |
| 8. Ability to accept and carry out responsibility for direction, control and planning | | | |

Note:
When completing this form consideration is to be given to descriptions of work functions - functional manifestations (see exhibit "B").

EXHIBIT "A"

DESCRIPTIONS OF WORK FUNCTIONS FUNCTIONAL MANIFESTATIONS

The following is a list of the functional manifestations of each of the eight work functions to be evaluated. The examiner should consider these factors in evaluating each work function, using clinical observations and objective supporting data.

1. Ability to comprehend and follow instruction

Consider:

- the ability to maintain attention and concentration for necessary periods
- the ability to understand written or oral instructions and
- the ability to do work requiring set limits, tolerances or standards.

2. Ability to perform simple and repetitive tasks

Consider:

- the ability to ask simple questions or request assistance
- the ability to perform activities of a routine nature and
- the ability to remember locations and work procedures.

3. Ability to maintain a work pace appropriate to a given work load

Consider:

- the ability to perform activities within a schedule, maintain regular attendance and be punctual and
- the ability to complete a normal work day and/or work week and perform at a consistent pace.

4. Ability to perform complex and varied tasks

Consider:

- the ability to synthesize, coordinate, and analyze data and
- the ability to perform jobs requiring precise attainment of limits, tolerances or standards.
- the ability to perform a variety of duties, often changing from one task to another of a different nature without loss of efficiency or composure.

5. Ability to relate to other people beyond giving and receiving instructions

Consider:

- the ability to get along with co-workers or peers
- the ability to perform work activities requiring negotiating with, explaining, or persuading and
- the ability to respond appropriately to evaluation or criticism.

EXHIBIT "B", PAGE 1 OF 2 PAGES

6. Ability to influence people

Consider:

- the ability to convince or direct others
- the ability to understand the meaning of words and to use them appropriately and effectively and
- the ability to interact appropriately with people.

7. Ability to make generalizations, evaluations or decisions without immediate supervision

Consider:

- the ability to recognize potential hazards and follow appropriate precautions
- the ability to understand and remember detailed instructions
- the ability to make independent decisions or judgments based on appropriate information and
- the ability to set realistic goals or make plans independent of others.

8. Ability to accept and carry out responsibility for direction, control and planning

Consider:

- the ability to set realistic goals or make plans independently of others
- the ability to negotiate with, instruct or supervise people and
- the ability to respond appropriately to changes in the work conditions.

EXHIBIT "B", PAGE 2 OF 2 PAGES