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Request for MPRE Test Accommodations

Guidelines for Medical Documentation of ADHD

I. Introduction

The National Conference of Bar Examiners (NCBE) is committed to providing reasonable and appropriate accommodations to examinees with documented disabilities who demonstrate a need for accommodations in accordance with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA). The ADAAA and accompanying regulations define a person with a disability as someone with a physical or mental impairment that substantially limits one or more major life activities.

To support a request for test accommodations, applicants must submit a current diagnostic report prepared by a qualified professional that is on letterhead, typed in English, dated, and signed. The report must establish the nature and existence of the applicant's disability, establish his or her current functional limitations, and provide a rationale for each accommodation requested. The current functional limitations caused by the impairment must be relevant to taking the MPRE, and the requested accommodations must be necessary to ameliorate the current limitations.

A summary checklist is provided at the end of these guidelines for quick reference.

The term ADHD is used herein to refer to all presentations of the disorder (combined type, predominantly inattentive type, predominantly hyperactive/impulsive type).

II. Description of the MPRE Administered Under Standard Conditions

The MPRE is a two-hour timed examination administered in paper-and-pencil format in a proctored setting. Most examinees complete the examination in the allotted time. The test consists of 60 multiple-choice questions. Test items are written at an 11th- to 12th-grade reading level. Examinees record their answers by darkening circles on a Scantron answer sheet using a number 2 pencil. Examinees are assigned seats in a quiet environment. Examinees may bring medication, glucose tablets or gel, or medical aids that are necessary to ambulate (cane, crutches, walker, wheelchair, service animal, prosthetic limb, cast, brace, or sling), are necessary to communicate (hearing aid, voice amplifier), or are required for medical or health reasons (heart monitor, insulin pump, glucose monitor, blood sugar testing kit, Epinephrine auto-injector, TENS unit), provided that use of such items will not necessitate any deviation from the standard test policies or schedule.

The Essential Components

I. A Qualified Professional Must Conduct the Evaluation

Professionals conducting assessments, rendering diagnoses of ADHD, and making recommendations for appropriate accommodations must be qualified to do so. Comprehensive training and relevant experience in differential diagnosis of ADHD and other psychiatric disorders are essential. If multiple diagnoses are given, the professional must be qualified to make all diagnoses. Please be aware that we will not grant accommodations based on medical evaluations conducted by family members because of the inherent conflict of interest associated with such an arrangement.

II. Substantiate the Diagnosis and Current Functional Limitations

Objective evidence of a substantial limitation in a major life activity related to taking the MPRE must be provided. The documentation must validate the need for accommodations based upon the applicant's current level of functioning.

A. A Diagnostic Interview

The report should include a summary of the information obtained from the diagnostic interview to substantiate the applicant's ADHD diagnosis and current functional limitations. In addition to the applicant's self-report, the information should include objective historical and current evidence from third-party sources such as rating scales filled out by parents, teachers, or others; job performance evaluations; third-party interviews; historical information garnered from transcripts, teacher comments, tutoring evaluations, and report cards; and IEPs or 504 Plans, if any. The diagnostic interview, with information from a variety of sources, should include, but not necessarily be limited to,

- history of presenting ADHD symptoms, including evidence of non-remitting symptoms that have interfered with functioning over time and evidence of symptom presentation prior to age 12;
- developmental history;
- family history for the presence of ADHD and other educational, learning, physical, or psychological difficulties;
- thorough academic history, including elementary, secondary, and postsecondary education, as well as performance on standardized tests such as the SAT, ACT, and LSAT, IEPs, 504 Plans, report cards, and accommodations previously utilized, if any;
- relevant medical history, including the absence of a medical basis for the symptoms, effects of medication (positive or negative), and whether prescribed medication had been taken at the time of the evaluation;
- relevant psychosocial history and interventions;
- relevant employment history;
- review of any prior neuropsychological or psychoeducational test reports;
- current symptoms that have been present for at least the past six months to a degree that is inconsistent with developmental level and that negatively impacts directly on social and academic/occupational activities.

B. Specification of DSM Criteria

The report must include a review of the diagnostic criteria for ADHD from the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) both currently and retrospectively. The report must demonstrate a persistent pattern of clinically significant symptoms that interfere with functioning. It should identify which symptoms have persisted for at least six months and specify which symptoms were present prior to age 12 years. There must be clear evidence that the symptoms interfere with, or reduce the quality of, social, academic, or occupational functioning, and several symptoms must be present in two or more settings. The report should specify if symptoms are in partial remission, and should also specify the current severity of symptoms (mild, moderate, or severe).

C. Neuropsychological Assessment May Be Helpful

A neuropsychological or psychoeducational assessment may be helpful to identify functional limitations and provide a rationale for the requested accommodations. Test scores or subtest scores from assessment measures alone do not establish the presence or absence of ADHD. However, they can serve to supplement the diagnostic profile and help determine the degree to which the ADHD currently impacts the applicant relative to taking standardized tests like the MPRE. The report must demonstrate the current impact of ADHD on the applicant's major life activities that affect his or her ability to take the MPRE under standard conditions.

The choice of the psychometric assessment battery should be guided by the overall objective(s) of the evaluation, the individual circumstances of the applicant, sound clinical judgment, and prevailing professional practices. The assessment might include testing of aptitude, achievement, processing speed, fluency, executive functioning, language, memory, attention, etc. Given the circumscribed nature of the MPRE, the test battery might specifically include current levels of academic functioning in reading (decoding and comprehension) and processing measures that relate to the processing of words and sentences presented visually. (Age-based standard scores must be provided, not just raw scores or percentiles.)

D. Include a Specific Diagnosis

The report must include a specific diagnosis of ADHD (including the subtype or presentation) based on the DSM diagnostic criteria (DSM-IV-TR or DSM-5). Note: the DSM-5 diagnosis of 314.01 Unspecified ADHD may not support a request for accommodations, as sufficient information must be provided to establish the presence of a mental impairment that substantially limits the applicant in a major life activity to qualify under the ADA. The qualified professional should provide a rationale and supportive data to substantiate the diagnosis.

It is not sufficient for a current evaluation report to simply refer to a prior diagnosis as confirmatory evidence of ADHD. The current assessment needs to reconfirm the diagnosis with supportive clinical data. Furthermore, a positive response to medication by itself does not constitute a diagnosis; nor does the use of medication in and of itself either support or negate the need for accommodation.

E. Rule Out Alternative Diagnoses or Explanations

Given the high rate of co-morbidity, the report should investigate and discuss the possibility of dual diagnoses and alternative or coexisting mood, behavioral, neurological, or personality disorders, etc., and/or other health issues that may confound the diagnosis of ADHD (e.g., substance abuse, sleep management, etc.). This process should explore not only possible alternative diagnoses, but also educational and cultural factors impacting the applicant that can mimic ADHD.

F. Interpret and Discuss Diagnostic Findings

A well-written interpretation of findings is necessary. An ADHD diagnosis is in many ways based upon the integration of relevant historical information and observation, as well as other diagnostic findings; therefore, it is essential that the evaluator's professional judgment be used.

G. Medication

The report should indicate whether medication has been tried as a method of treatment, and, if so, what results were obtained. If the applicant is prescribed medication for ADHD, the report should include whether or not the applicant was taking the medication at the time of evaluation. If the applicant was not taking prescribed medication, explain why not, if relevant and appropriate. If medication is helpful in remediating symptoms, documentation of residual impairment is necessary to determine appropriate accommodations.

III. Each Accommodation Recommended Must Include a Rationale

The report must include specific recommendations for accommodation(s). A detailed explanation supporting the need for each requested accommodation must be provided and correlated with specific functional limitations established through the evaluation process from test results and clinical observations.

The report should include a review of prior accommodations utilized by the applicant (e.g., for standardized examinations such as the LSAT, ACT, or SAT; school examinations; licensing or certification examinations; classroom; etc.) and the extent to which the accommodations met the applicant's needs. It is important to recognize, however, that accommodation needs can change over time and in different settings.

IV. Documentation Must Be Current

The provision of reasonable accommodations is based upon clear evidence of the current impact of the disability on a major life activity that affects the applicant's ability to take the MPRE under standard conditions. In most cases, this means that a diagnostic evaluation has been completed **within the past three years**.

An evaluation that is more than three years old may be considered if it is applicable to the current setting of taking the MPRE and it was conducted when the applicant was an adult (age 17 or older). If it does not adequately address the applicant's current level of functioning and need for accommodations, reevaluation may be necessary.

If changes in the applicant's performance have been observed or any treatments have been prescribed or discontinued since the evaluation was conducted, it may be necessary to **update** the report. An update should include a summary of the original findings, as well as additional clinical data necessary to establish the applicant's current functional limitations and the appropriateness of the requested testing accommodation(s) in the context of taking the MPRE. The updated report should include the following:

- A restatement of the current diagnosis, including date(s) for all prior diagnoses and data that were used to establish the diagnosis. Evidence regarding prior diagnoses should be more than a self-report by the applicant.
- Verification of ongoing clinically significant symptoms, including residual symptoms that have not responded to medication or other treatment.
- A statement about current functional limitations caused by ADHD, including information regarding the impact on the applicant's academic performance in general and ability to take the MPRE in particular.
- Observational data of behavior such as affect, concentration, attention fatigue, executive functioning, and fluency.

The extent of retesting required for an update is applicant-specific and depends on how closely the initial evaluation report complies with the prevailing professional standards and these documentation guidelines. If the applicant intends to take medication during the MPRE, retesting should be done while on medication to determine the level of residual impairment. Additional assessment data for an ADHD update might include the following:

- **Achievement measures** that substantiate the ongoing impact of the disability on academic performance. The updated evaluation need not include a full battery of tests, but may include academic achievement test batteries or selected subtests.
- **Aptitude assessment** is necessary only if the existing documentation does not contain adequate and age-appropriate information to establish the disability status. An update of intellectual functioning is generally not necessary if the WAIS-IV (or a comparable measure) was used in the past, given that intellectual functioning is typically stable in adulthood.

V. Checklist for ADHD Medical Documentation

- A comprehensive diagnostic interview
- Objective historical and current information drawn from third-party-sources
- A review of the DSM diagnostic criteria both currently and retrospectively
- A neuropsychological, psychological, or psychoeducational assessment that elucidates current functional limitations caused by ADHD, including current levels of academic functioning in reading (decoding and comprehension) and processing measures that relate to the processing of visually presented words and sentences
- Age-based standard scores for all normed measures
- A specific diagnosis that includes documentation of severity
- A rule out of alternative diagnoses or explanations
- A discussion of whether medication has been tried as a method of treatment, its effectiveness, and residual symptomatology
- An interpretation and discussion of diagnostic findings
- A rationale for each requested accommodation that is correlated with specific functional limitations established through the evaluation process from test results and clinical observations
- A discussion of prior accommodations used and the extent to which those accommodations met the applicant's needs