

DocumentTitle: GUIDELINES FOR INDEPENDENT MEDICAL EXAMINATION

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WPA'S SECTION OF FORENSIC PSYCHIATRY'S CONSENSUS PAPER ON GUIDELINES FOR INDEPENDENT MEDICAL EXAMINATION

PREAMBLE

The Forensic Psychiatry Section of the World Psychiatric Association has developed this Position Paper to provide Guidelines for the conduct of Independent Medical Examinations.

GENERAL ISSUES

An independent medical examination (IME) by a psychiatrist may be requested by lawyers representing a plaintiff; lawyers representing a defendant; a judge; an insurer or others. Though not technically independent, some jurisdictions allow such reports to be completed by the treating psychiatrist while most require the IME to be conducted by another professional. The basic principles of conduct of IMEs apply in both cases.

ETHICS

1. Medico-legal assessments carry an inherent potential for conflict and misunderstanding.
2. As a consequence, they must be undertaken within an ethical framework. That ethical framework rests in the psychiatrist's training and registration as a medical practitioner.
3. The assessment should therefore be guided by principles of medical ethics endorsed by medical associations and psychiatric colleges.
4. The person conducting the IME should be satisfied that any request for a medico-

legal report is: appropriate and requested by an appropriate party. He/she should obtain the agreement of the examinee to provide the report to the requesting body, ensure that the examinee understands the purpose of the report and understands that any relevant information will be included.

5. The person conducting the IME should also state whether the assessment is compulsory or not and provide information about possible consequences of non-cooperation.

6. Sufficient information should be gathered and all relevant information disclosed.

7. The report must be unbiased and the person conducting the IME must not act as an advocate.

8. The expert should adhere to principles of honesty and make every effort to achieve objectivity.

9. The report should be provided in a timely manner and the person conducting the IME must maintain the confidentiality of the report to the extent possible in a legal context.

10. In more complex or difficult cases, the psychiatrist may engage in interview or supervision with more experienced colleagues.

CONDUCT OF THE EXAMINATION

1. Psychiatrists conducting IME should ensure they have the qualifications and expertise to perform the assessment and provide the expert opinion.

2. The assessment is, if practical and safe, usually undertaken in person and in a setting that provides the greatest practical confidentiality.

3. However, in particular circumstances, such as during the Covid pandemic video link assessments provide a viable alternative. The possibility of conducting an examination in this way will depend on the authorization of the competent local authorities.

4. The expert should clearly explain the purpose of the consultation and note that it is not a therapeutic consultation and that no help, suggestions, treatment, or even feedback, will be offered, with the exception that intervention is appropriate if the examinee is at immediate and serious medical risk.

5. The consent of the examinee should be sought prior to an interview being recorded and a copy of any recording should be offered to the examinee.

6. If interpreters are required, they should be professionally trained and consideration

should be given to religious, gender and cultural compatibility.

7. Questions should be asked in a way that indicates the expert is not biased. The use of rapport building in a forensic evaluation is an ethical issue in itself, but will assist information gathering.

CONTENT OF REPORT

The report should be written in plain language. The use of psychiatric terminology should be explained in an effort to make the information comprehensible for non-medically trained readers. Fact and opinion should be clearly distinguished. The following information should be included:

1. Qualifications and experience of the expert.
2. A statement about who commissioned the report.
3. A statement regarding the examinee's consent to the release of information.
4. Demographic data, including the name and date of birth of the examinee, the domestic situation, marital status and number of children, among other relevant information.
5. Family history of psychiatric illness and offending.
6. Personal history, including developmental, educational, occupational, non-sexual and sexual relationships.
7. A description of the examinee's personality, interests, hobbies and coping style.
8. Past medical history.
9. Past psychiatric history, including substance use.
10. Offending history, including current offence.
11. History of the presenting complaint as presented by the examinee and reports from informants.
12. Mental State Examination.
13. Tests and investigations must be appropriate for each case. Risk assessments should be conducted using validated evidence-based instruments appropriate for the case. In cases of torture, the report should consider guidance offered in the Istanbul protocol <https://www.ohchr.org/documents/publications/training8rev1en.pdf>
14. A summary and formulation, or synthesis of the case, and diagnosis should be recorded. The formulation should take the form of a biopsychosocial explanation of the presumptive causative factors in the examinee's condition.
14. Inconsistencies between reported symptoms and observed mental state or physical

examination should be noted. Indications of fabrication, feigning, or exaggeration of symptoms should be noted, but its determination and weight, is best left to the decision-making body to make.

15. Depending on the need, the psychiatrist can make a general comment in the report about the best form of treatment for the individual being examined.

16. Finally, an opinion is offered in relation to questions posed by the requesting body. The report itself should clearly demonstrate how conclusions were reached. Limitations of the examination should be explained in the report and mention made of investigations or other data that are required to reach a conclusive opinion.

17. Comments on special issues may be required, including prognosis, management, impairment, disability and legal concepts such as competency.

CONCLUSION

IMEs need to be conducted by experts appropriately qualified and with current or recent practice experience in the subject area. They should be independent, adequately briefed, make a comprehensive assessment and provide a complete, unbiased opinion within their area of experience and expertise, within a framework of medical ethics.