

Guidelines for Medical Documentation When an Accommodation Request is Based upon a Diagnosis of Psychological Disabilities

I. Introduction

The National Conference of Bar Examiners (NCBE) is committed to providing reasonable and appropriate accommodations to examinees with documented disabilities, in accordance with the Americans with Disabilities Act (ADA). Under the ADA, a person is disabled if he or she has a physical or mental impairment that substantially limits one or more major life activities.

NOTE: Some health-related needs may be met by way of a comfort aid. Comfort aids are items that candidates may bring into the testing room upon inspection by testing staff, and do not require pre-approval. A list of allowed comfort aids may be found on the Pearson VUE website at <https://home.pearsonvue.com/test-taker/Test-accommodations/Comfort-aids.aspx>

To support a request for test accommodations, applicants must submit documentation from a qualified professional that is on letterhead, typed in English, dated, and signed. The documentation must confirm the existence of the applicant's impairment(s) and address the functional limitations that the applicant currently experiences because of the impairment(s). It should also provide a rationale for each recommended accommodation. The current functional limitations caused by the impairment must be relevant to taking the MPRE, and the recommended accommodations must be necessary to ameliorate the current limitations.

A summary of what the medical documentation should address when an applicant seeks accommodation based upon a psychological disability is provided at the end of these guidelines for quick reference.

The term "psychological disabilities" is used herein to refer to a range of conditions characterized by different types and degrees of emotional, developmental, cognitive, and/or behavioral manifestations.

II. Description of the MPRE Administered Under Standard Conditions

The MPRE is a computer-based examination administered in a proctored setting at Pearson VUE testing centers. It is a two-hour timed examination consisting of 60 multiple-choice questions. Test items are written at an 11th- to 12th-grade reading level. Examinees record their answers by either selecting the answer choice using a mouse, or by selecting the answer choice using a keyboard. Examinees are assigned seats in a quiet environment.

Essential Components of Supporting Documentation

I. A Qualified Professional Must Conduct the Evaluation

Professionals who diagnose psychological disorders must be qualified to do so. The professional should have appropriate licensure or certification, training and expertise in diagnosis of psychological disorders. If a professional diagnoses multiple impairments, the professional must be qualified to make all the diagnoses. NCBE will not grant accommodations based on medical evaluations conducted by family members of an applicant because of the inherent conflict of interest.

II. The Diagnosis and Current Functional Limitations Must be Substantiated

Supporting documentation must be based upon more than an applicant's self-report. A comprehensive evaluation or diagnostic report ordinarily should be provided that includes the following information:

- a specific diagnosis based on the Diagnostic and Statistical Manual of Mental Disorders (DSM-5 or DSM-IV, depending on when it was prepared);
- description of current symptoms across settings (school, work, social, etc.), including the frequency, duration, and severity of symptoms;
- relevant information regarding medications expected to be in use during the MPRE test administration and the anticipated impact on the applicant in this setting.

The documentation should address all DSM criteria. Behavioral observations, combined with the clinician's professional judgment and expertise, are critical in formulating a diagnostic impression and should be included in the documentation. It is extremely helpful to have the following topics addressed in the documentation:

- history of presenting symptoms;
- onset, duration, and severity of symptoms (including a description that distinguishes common test-taking anxiety from a diagnosed condition);
- relevant developmental, historical, and familial data;
- relevant medical and medication history, including the applicant's current medications and positive and negative response(s)
- current functional limitations in academic, social, and employment settings (as a psychological disorder usually presents itself across a variety of settings other than just the academic domain and its expression is often influenced by context-specific variables); and
- expected progression or stability of the impact of the condition over time, if relevant to test-taking.

The documentation should specify all relevant abilities that are impaired and specify the current severity of the applicant's impairment (mild, moderate, severe), using clinical rating scales if appropriate. When discussing the applicant's functional limitations, the applicant's ability to perform a given activity should be compared to the ability of most people in the general population to perform the same activity.

If the applicant is requesting extended testing time on the basis of cognitive limitations caused by the impairment or by medication taken for the impairment, the documentation should also include an appropriate psychological test battery. Standardized measures of performance on academically relevant tasks may help to demonstrate the need for the requested accommodations. **Test results must be reported using age-based norms where available, and standard scores must be provided.**

The report should include a review of prior accommodations utilized by the applicant in similar settings, if any (e.g., for standardized examinations such as the LSAT, ACT, or SAT; on school examinations; or on other licensing or certification examinations), and discuss the extent to which the accommodations met the applicant's needs.

III. Each Recommended Accommodation Must Include a Rationale

If the documentation recommends specific accommodations, it should explain the need for each recommended accommodation with reference to specific functional limitations that have been established through the evaluation process.

IV. Documentation Must Be Current

The provision of reasonable accommodations is based upon the current impact of the disability on a major life activity that affects the applicant's ability to take the MPRE under standard conditions. Due to the changing nature of psychiatric disabilities, recent medical documentation is generally needed to evaluate the request for

accommodations. The documentation must address the applicant's present level of functioning and current need for accommodations in the context of taking the MPRE.

It is difficult to provide hard-and-fast rules regarding the currency of psychological documentation. In most cases, a comprehensive evaluation should have been conducted **within the preceding 12 months**. An evaluation that was done more than 12 months ago may suffice, depending on: (a) the type of psychological disability; (b) the severity of symptoms; (c) the history of onset and/or duration of the disability; and (d) other conditions at the time of the last assessment, such as treatment status and stability of functioning. It is often sufficient to provide a brief status update from a mental health provider or a copy of a recent progress note.

V. Summary of Information that Should be Included in Psychological Disability Documentation

- A specific diagnosis based on the DSM-5 or DSM-IV
- A description of symptoms, including date of onset, duration, and severity
- Relevant developmental, medical, historical, and familial data
- Medication history, including current medication regimen, any side effects, and positive and negative response(s) to medication
- Discussion of functional limitations in academic, social, and employment settings
- Current information about functional limitations relevant to requested accommodations
- A neuropsychological, psychological, or psychoeducational assessment battery to document the impact on cognition if extended testing time is requested on the basis of a cognitive impairment (with age-based standard scores for all normed measures administered)
- A rationale for each requested accommodation that is correlated with specific functional limitations established through the evaluation process
- A discussion of prior accommodations used and the extent to which those accommodations met the applicant's needs