

## **Board of Medicine Competency Assessments for Three Paid Claims**

Virginia Code § 54.1-2912.3 states that the Board shall require a competency assessment of any person with an active license on whose behalf three separate medical malpractice judgments or settlements of more than \$75,000 each are paid within the most recent 10-year period. The statute requires that the assessment be completed within 18 months or less by a program acceptable to the Board. The Board must review the assessment and determine a plan of corrective action or appropriate resolution based on the assessment.

### **Identification of Licensees Subject to Competency Assessments.**

The Department of Health Professions will identify licensees that appear to have three medical malpractice judgments or settlements of more than \$75,000 each within the most recent 10-year period by searching practitioner profiles on the Board's Practitioner Information site on a quarterly basis. Identification of individuals subject to a competency assessment may also occur through a review of other data held by the Board.

### **Notification of Licensees Identified.**

Licensees that appear to require a competency assessment pursuant to Virginia Code § 54.1-2912.3 will be sent a letter by certified mail stating the practitioner's responsibility to obtain a competency assessment. If a licensee believes that he or she has received the letter in error or needs further clarification regarding the assessment, the licensee should call the Board.

### **Obtaining a Competency Assessment.**

The licensee is required to make arrangements for the assessment, and may do so from one of the national programs that conduct such assessments. The approved list of programs includes, but is not limited to the Federation of State Medical Boards Post-Licensure Assessment Program and the Center for Personalized Education for Physicians.

The licensee may also obtain the competency assessment from a medical school faculty member practicing in the same specialty as the licensee. If the licensee chooses this option, the following steps should be followed:

1. Contact the appropriate department of the medical school where the assessment will be sought;
2. Identify a faculty member of the same specialty as the licensee who will serve as the evaluator and who is willing to perform the assessment;
3. With the evaluator, the licensee prepares an outline of the proposed approach to the assessment. The evaluator has the latitude to determine the format of the assessment. At a minimum, the paid claims that triggered the assessment should be discussed, as well as

matters pertinent to an assessment of global competency to practice. This would include the licensee's fund of knowledge, medical judgment, and skills in a procedural specialty. The assessment can include more elements if the parties deem it necessary;

4. Send the outline of the proposed assessment to the Executive Director for approval prior to proceeding with the assessment;
5. After receiving approval, proceed with the assessment;
6. Provide the evaluator with a written release of liability for the assessment and subsequent report to the Board;
7. Ensure that the evaluator sends the report of the competency assessment to the Board; and
8. Compensate the evaluator for his or her time.

#### **Completion of Assessment and Report to the Board.**

1. The assessment must be completed within 18 months of the Board's notification to the licensee.
2. The Board will review the report of the assessment and communicate its recommendations to the licensee. The Board may choose to close the matter or require further assessment. While the competency assessment is not, in and of itself, a disciplinary matter for the licensee, it is possible that the assessment could lead to the initiation of a disciplinary proceeding.
3. The competency assessment and the process are confidential pursuant to Virginia Code § 54.1-2400.2. If a matter becomes disciplinary, however, any notices or orders associated with the process will be public.

### Suggested Competency Assessment Form

Please ask the evaluator to print or type the requested information.

Doctor to be evaluated: \_\_\_\_\_

Virginia License Number: \_\_\_\_\_

Evaluator: \_\_\_\_\_

Evaluator's Address: \_\_\_\_\_

Evaluator's Telephone Number: \_\_\_\_\_

Evaluator's Email Address: \_\_\_\_\_

Date(s) of face-to-face meeting(s): \_\_\_\_\_

*(Attach additional sheets to review of any section as necessary.)*

#### **1. Review of the facts regarding paid claim cases.**

The evaluator may request that the doctor provide the evaluator with any documentation necessary to assist in the competency assessment. That documentation may include:

- Complaints or motions for judgement;
- Answers or grounds of defense;
- Medical records, including any relevant radiology images;
- Expert witness designations;
- Deposition transcripts of parties and expert witnesses;
- Court orders;
- Settlement agreements; and
- Lessons learned, risk management, and resulting practice changes.

#### **2. Describe doctor's fund of knowledge, medical judgment, and decision-making, and, in the case of procedural specialties, skills.**

The evaluator may request:

- Board certification information;
- CME records; and
- Other educational information.

#### **3. Doctor's strengths:**

**4. Doctor's weaknesses:**

**5. Is there a need for remediation?**

**6. Is this doctor safe and competent to practice?**

\_\_\_\_\_  
Evaluator Signature

\_\_\_\_\_  
Date

Please return to:

William L. Harp, M.D.,  
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Perimeter Center  
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Henrico, Virginia 23233-1463