To Public Safety Department Administrators:

Thank you for calling us regarding our evaluation services. This letter concerns the procedures that Public Safety Medical (PSM) will implement when conducting a fitness for duty evaluation.

In the vast majority of cases, individuals who are referred for a fitness for duty evaluation are cooperative and understanding about the process and the procedures. However, grievances and lawsuits about fitness for duty evaluations, when they have occurred, have usually been based on one or more of the following allegations:

- The psychologist accepted a referral without adequate justification or enough due diligence to substantiate the need for an evaluation.
- The person being evaluated was unfairly prevented from obtaining information about the evaluation such as the referral documents sent to a psychologist by a department and/or the final outcome report.
- The person being evaluated was forced, against their will, to participate in the evaluation.

The allegations listed above make it necessary for us to review and clarify some of the procedures that we use to implement fitness for duty evaluations. Listed below is a description and clarification of the procedures that are utilized when a psychologist at PSM conducts a fitness for duty evaluations.

**Prior review of referrals** – In order to show due diligence, psychologists at PSM will work with a department to review the circumstances that result in a referral. In order to accomplish this goal, departments that want to make a referral must complete documentation (Attachments A and B) and forward it to PSM for review. Within one business day after receiving the completed documentation, a psychologist will review the information and then contact the department to discuss the referral.

**Release of information** - PSM views public safety departments, not the persons being evaluated, as our clients. As a result, we have previously directed individuals to contact their department if they want to obtain documentation resulting from an evaluation. That is, we believe that individuals undergoing a fitness for duty evaluation can only obtain information directly from the department and not from PSM.

We continue to believe that that our position concerning the release of information is correct but it also appears from past history that individuals who have completed fitness for duty evaluations can sometimes obtain the material by seeking a court order. Therefore, departments making a referral should understand that the information provided to PSM may, under certain circumstance, be released to the person undergoing the evaluation.

PSM will continue to inform individuals undergoing fitness for duty evaluations that they should direct requests for information to their department. However, in the event that PSM receives a court order to release information, we will alert the department of this circumstance, and then
comply with the court order by releasing the information. Also, there are additional circumstances that occasionally require PSM to release information without a department’s written authorization. These events, although rare, include situations in which an employee is deemed a risk to self and/or others or is grossly disabled. In these emergency situations, PSM psychologists may release information without the department’s authorization as per applicable law.

**Notice and Compliance** – It is good practice for a department to notify the employee, preferably in writing, that he/she is being referred for a fitness for duty evaluation. The notification should contain the time of the appointment and a statement that briefly describes the basis for the referral. PSM will notify the department if the employee fails to attend their scheduled appointment.

It would be unethical for the PSM staff to force a person to complete a psychological evaluation. Instead, individuals must provide their informed and voluntary consent to participate. To this end, Attachment C (Employee Copy) is included in this referral packet. This document informs the employee that their participation in any evaluation conducted at PSM is voluntary and that they may wish to consult with a legal representative and/or trusted advisor prior to completing an evaluation at PSM. Note, however, that when an employee refuses to complete a fitness for duty evaluation that they may be in violation of an order from their department. A department should provide the employee with Attachment C in a timeframe that allows the employee to consult with an advisor prior to their appointment at PSM.

**Fee structure** – the fees for performing a fitness for duty evaluation are as follows: there is no charge for the prior review of a referral. The initial fitness for duty evaluation will cost $850 and any follow-up evaluations will cost $600. Since follow-up evaluations are often not necessary, we expect that in most instances the total fee for a fitness for duty evaluation will be $850.

PSM will continue to perform fitness for duty evaluations but it is clear that we must be diligent in our efforts to establish legally defensible procedures. Our risk management procedures include the following: we have taken out more insurance, we will use extensive testing methods, we have initiated routine staffing on all fitness for duty evaluations, and we have initiated prior review of all referrals.

Please complete the information below to indicate that you have received and reviewed this document, agree to the stated terms, and wish to proceed with the referral.

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