

**OUT OF STATE EVALUATIONS**  
**Presentation to the Division's Medical Licensing Board**  
**July 15, 2015**

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- I. The Out of State Evaluations or Physician Assessments have created a “cottage industry”, with the facilities far more interested in getting along with the licensing boards than with the physician being evaluated.**

A local expert versus an out-of-state expert has a far greater interest in ensuring a “creepy” physician is not out practicing in the State of Utah than an individual thousands of miles away.

Further, even going on the Federation of State Medical Boards’ (“FSMB”) website, which is a national nonprofit entity that represents 70 medical and osteopathic boards in the United States, does not support sending physicians out-of-state to geographically inconvenient locations.

FSMB has a system, the Post-Licensure Assessment System (PLAs), which then has “collaborative relationships to provide purportedly assessment tools” to certain “Collaborators” which are listed on FSMB’s website are as follows: PACE (in California), CPEP (in Colorado), Florida Competency Advancement Program (in Florida), Upstate New York Clinical Competency Center at Albany Medical College (in New York), LifeGuard (in Pennsylvania), Drexel Medicine Physician Refresher/Re-Entry Course (in Pennsylvania), and Knowledge Skills Training Assessment and Research, KSTAR (in Texas).

In addition, the FSMB offers a Directory of Physician Assessment and Remedial Education Programs, however FSMB is clear in disclaiming the directory by stating that is not endorsement or guarantee of the quality of the services provided.

- II. We don’t have any issues with the specialized assessments of medical competency, etc. such as CPEP in Colorado, which truly isn’t offered in State.**

**III. An expert evaluation or physician assessment for a mental evaluation for example, has uniform testing and a series of standard psychological tests, followed by a clinical interview and evaluation. This is routinely done here and there is no requirement that it has to be done "out of state" by statute.**

Pursuant to § 58-67-601(4), Mentally incompetent or incapacitated physician, it states:

(4)(a) Every physician who accepts the privilege of being licensed under this chapter gives consent to: (i) submitting at the physician's own expense to an immediate mental or physical examination when directed in writing by the division and a majority of the board to do so; and (ii) the admissibility of the reports of the examining physician's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication. (b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe: (i) the physician has a mental illness, is incapacitated, or otherwise unable to practice medicine with reasonable skill and safety; and (ii) immediate action by the division and the board is necessary to prevent harm to the physician's patients or the general public. (c)(i) Failure of a physician to submit to the examination ordered under this section is a ground for the division's immediate suspension of the physician's license by written order of the director. (ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the physician and was not related directly to the illness or incapacity of the physician.

**IV. Given that the out of state evaluations are not "geographically convenient" and the expense and time is extraordinary, that ought to be considered before referral.**

**V. Historically, an out-of-state evaluation was a remedy of last resort, not a first option as it appears to have become in recent years, without giving**

**adequate assessment of the individual licensee's situation and whether a multi-day evaluation is even warranted.**

Even the FSMB has a list of when to consider making a referral and when a referral for assessment may be appropriate but it does not mandate that an out-of-state evaluation has to occur under certain circumstances and this Board should not go past extremes that are not even supported by the FSMB of which it is a part of.

We would be happy to provide our assistance if the Division or Medical Licensing Board would like further recommendations and/or input on guidelines or standardization moving forward. We greatly appreciated this opportunity to speak with you on this important matter.

Thank you for your time.