

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

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, as amended (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 appropriate documentation from a qualified professional. The documentation must be 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 accommodation requested. 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 accommodations based upon a diagnosis of ADHD is provided at the end of these guidelines for quick reference.

The term ADHD is used herein to refer to all presentations of the disorder (combined type, predominantly inattentive type, predominantly hyperactive/impulsive type).

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 the Supporting Documentation

I. A Qualified Professional Must Conduct the Evaluation

Professionals who diagnose of ADHD must be qualified to do so. The professional should have appropriate training and relevant experience in the differential diagnosis of ADHD. If multiple diagnoses are given, the professional must be qualified to make all diagnoses. NCBE will not grant accommodations based on medical documentation from family members of an applicant because of the conflict of interest inherent in such a relationship.

II. The Diagnosis and Current Functional Limitations Must be Substantiated

A diagnosis must be provided, along with evidence of a substantial limitation in one or more major life activities that affect the applicant's ability to take the MPRE under standard conditions. The documentation must validate the need for accommodations based upon the applicant's current level of functioning.

ADHD diagnoses should ordinarily be provided by way of a comprehensive report that reflects a thorough interview of the applicant and the use of appropriate diagnostic instruments and aids.

A. The Documentation Should Reflect More than an Applicant's Self Report

In addition to the applicant's self-report, the documentation should ordinarily include objective historical and current evidence from third-party sources such as rating scales filled out by parents, teachers, or others; job performance evaluations (if available); third-party interviews; historical information from academic transcripts, teacher comments, tutoring evaluations, and report cards; reference to IEPs or 504 Plans, if any; and other information that the professional deems relevant.

It is extremely helpful to have all the following topics addressed in the documentation:

- history of presenting ADHD symptoms, including evidence of non-remitting symptoms that have interfered with functioning over time and evidence of symptom presentation prior to age 12;
- developmental history;
- family history of ADHD and/or other educational, learning, physical, or psychological difficulties;
- academic performance in elementary, secondary, and postsecondary education;
- whether accommodations were used by the applicant in educational settings and, if so, what those accommodations were;
- performance on other standardized tests such as the SAT, ACT, and LSAT;
- whether accommodations were used by the applicant on other standardized tests and, if so, what those accommodations were;
- relevant medical history, effects of medication (positive or negative) on the applicant's currently functional limitations, and whether prescribed medication had been taken at the time of the evaluation;
- relevant psychosocial history and interventions;
- relevant employment history;
- review of any prior neuropsychological or psychoeducational test reports, or diagnoses found in other types of documentation;
- current symptoms, how long they have been present, and their impact in multiple settings.

B. DSM Criteria Should be Addressed

The documentation should address the diagnostic criteria for ADHD from the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV or DSM-5, depending upon when the documentation was prepared). Under the DSM-5, an individual diagnosed as having ADHD must experience a persistent pattern of clinically significant symptoms that meaningfully interfere with functioning. The documentation should identify which symptoms have persisted for at least six months and which were present prior to age 12. There should be clear evidence that the symptoms interfere with, or reduce the quality of, social, academic, or occupational functioning, and several symptoms must be present in two or more settings. Those settings should be identified.

The documentation should also specify the current severity of symptoms (mild, moderate, or severe). 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.

C. Neuropsychological Assessment May Be Helpful

A neuropsychological or psychoeducational assessment may be helpful to identify functional limitations and provide a rationale for the requested accommodations. Test scores or subtest scores from assessment measures alone do not establish the presence or absence of ADHD. However, they can serve to supplement the diagnostic profile and help determine the degree to which the ADHD currently impacts the applicant relative to taking standardized tests like the MPRE. The report must demonstrate the current impact of ADHD on the applicant's major life activities that affect his or her ability to take the MPRE under standard conditions.

When used, the choice of the psychometric assessment battery should be guided by the overall objective(s) of the evaluation, the individual circumstances of the applicant, sound clinical judgment, and prevailing professional practices. The assessment might include testing of aptitude, achievement, processing speed, fluency, executive functioning, language, memory, attention, etc. Given the nature of the MPRE, the test battery might specifically include current levels of academic functioning in reading (decoding and comprehension) and processing measures that relate to the processing of words and sentences presented visually (age-based standard scores must be provided, not just raw scores or percentiles).

D. Include a Specific Diagnosis

The report must include a specific diagnosis of ADHD (including the subtype or presentation) based on the DSM diagnostic criteria (DSM-IV-TR or DSM-5). The qualified professional should provide a rationale and supportive data to substantiate the diagnosis.

It is not sufficient for a current evaluation to simply refer to a prior diagnosis as confirmatory evidence of ADHD. The current assessment needs to reconfirm the diagnosis with supportive clinical data. Furthermore, a positive response to medication by itself does not constitute a proper basis for a diagnosis; nor does the use of medication in and of itself either support or negate the need for accommodation.

E. Rule Out Alternative Diagnoses or Explanations

Given the high rate of co-morbidity, the documentation should address the possibility of dual diagnoses and alternative or coexisting mood, behavioral, neurological, or personality disorders, and/or other health, educational or cultural issues that may be relevant to the diagnosis of ADHD (*e.g.*, substance abuse, sleep management, etc.).

F. Interpret and Discuss Diagnostic Findings

Because an ADHD diagnosis is based upon the integration of relevant historical information and other diagnostic findings by a qualified professional applying his or her training and professional judgment, a thorough explanation and interpretation of findings is extremely helpful.

G. Discuss the Use of Accommodations on Other Tests or in Academic Settings

When the information is known to the medical professional, the documentation should discuss whether accommodations were utilized by the applicant on other examinations (*e.g.*, for standardized examinations such as the LSAT, ACT, or SAT; licensing or certification examinations; or classroom examinations); what those accommodations (if any) were; and the extent to which the accommodations met the applicant's needs.

H. Discuss the Use of Any Medications

If the applicant is prescribed medication for ADHD, the documentation should disclose this fact and state whether the applicant was taking the medication when evaluated. Please discuss the extent to which medication remediates symptoms, as the information may be helpful in determining appropriate accommodations.

III. Each Accommodation Recommended Must Include a Rationale

If the documentation recommends specific accommodation(s), 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. In most cases, this means that a diagnostic evaluation has been completed **within the past five years**.

An evaluation that is more than five years old may be considered if it was conducted when the applicant was an adult (age 17 or older). If it does not adequately address the applicant's current level of functioning and need for accommodations in a standardized testing context, however, reevaluation may be necessary.

V. Summary of Information that Should be Included in ADHD Documentation

- A comprehensive diagnostic interview
- Objective historical and current information regarding the applicant's performance in testing and other academic contexts
- Relevant information drawn from third-party-sources
- A review of the DSM diagnostic criteria
- A neuropsychological, psychological, or psychoeducational assessment that elucidates current functional limitations caused by ADHD, including current levels of academic functioning in reading (decoding and comprehension) and processing measures that relate to the processing of visually presented words and sentences if the applicant's functioning in those areas is limited because of the ADHD
- Discussion of diagnostic instruments, check-lists, or other diagnostic aids used in the evaluation
- Age-based standard scores for all normed measures
- A specific diagnosis and a statement of severity
- A rule out of alternative diagnoses or explanations
- A discussion of whether medication has been tried as a method of treatment, its effectiveness, and residual symptomatology
- An interpretation and discussion of diagnostic findings
- A rationale for each recommended accommodation that is correlated with specific functional limitations established through the evaluation process from test results and clinical observations
- A discussion of whether accommodations have been used previously by the applicant in similar settings and, if so, the extent to which those accommodations met the applicant's needs