

The Importance of Maintaining Appropriate Boundaries After Fitness for Duty Evaluations

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Avoiding risk

- Confusion about the importance of certain professional boundaries.
- Treating professional roles loosely may appear to offer quick solutions to current employee management problems.
- What appears most convenient can invite danger.

FFDEs needed when:

- A managerial decision needs to be made on the basis of an employee's psychological status.

FFDEs needed when:

Evaluate :

- potential for violence
- Potential for dangerous errors

FFDEs needed when:

An outside opinion needed regarding diminished capacity reflected by:

- ◆ A decline in job performance
- ◆ Irritability
- ◆ Excessive absences
- ◆ Sudden change in moods
- Information needed about reasonable accommodations

FFDEs not needed:

- Never for treatment, thus no standard doctor-patient relationship.

Entities involved in FFDEs:

- EAP
- Employer
- Employee
- Independent Examiner
- FFDE Facilitator

Referral Chain:

- Employer ->
- EAP ->
- Fitness for Duty Evaluation Facilitator (FFDEF) ->
- Independent Examiner

Potential EAP goals:

To reinforce boundaries early on:

- Help employer learn the differences between evaluations done for treatment from those needed for medical/legal (i.e. “forensic”) purposes.
- They are to protect the employer and help with managerial decisions.

Potential EAP goals:

- Help the employer find a FFDEF that will facilitate the forensic evaluation.

Potential EAP goals:

- Provide support implementing the independent examiner's recommendations.

Generally NOT the EAP professionals' responsibilities

- Determining, for independent forensic/legal purposes, the severity of employee psychological problems and the risks employees pose.

EAPs generally do not do FFDEs partly because:

Employees perceive the Employee Assistance program's role as being an advocate of the employees, not employers.

Employer's responsibilities

- Solely the employer's responsibility to decide whether to refer an employee for a FFDE.
- This decision is based upon the employer's policies regarding (e.g.) declines in job performance, threats, and absences.
- Informs the employee about the requirement for the evaluation.

Employer's responsibilities

- Decisions regarding retaining or dismissing, employees.

Ethical and other problems doing forensic evaluation on one's own patient.

- The two roles of treating doctor and forensic examiner virtually always have conflicted with each other, because a treating doctor is not necessarily motivated to protect the interests of his/her patient's employer.

After the evaluation:

Who gives feedback to the employee about the results of the FFDE?

- Feedback might cause the employee to have distress, requiring psychological intervention.
- Giving this feedback might force independent examiner or employer to give urgent treatment services.

Who gives feedback to the employee about the results of the FFDE?

Do not contaminate the roles by:

- Forcing the independent examiner into a treatment relationship.
- Forcing the employer into a therapy role
- Forcing the EAP into an adversarial role.

Who gives feedback to the employee about the results of the FFDE?

- Often employee's treating professional discusses results with the employee.
- If no treating doctor, the EAP or employer can often help set one up.

Does the employee get a copy of the FFDE report? If so, who determines this and what paperwork is required?

- **In most states, employees are legally entitled to copies of their reports. (Texas and a few other states make this especially clear).**
- **The only common exception to this is when giving a report to the employee would likely cause that person considerable harm.**

Does the employee get a copy of the FFDE report?

- **Even though they do not have a doctor/patient relationship with the employee, it is usually acceptable for the FFDE doctor to make the decision about whether releasing the report to the employee would cause such problems.**

Does the employee get a copy of the FFDE report?

- **Independent examiners can write a letter stating that it would be harmful to the employee to learn their findings outside of therapy.**
- **Independent examiner will, with a release, give the treating doctor the report to discuss with the employee to the extent that it will not cause harm.**
- **Avoids doctor/patient relationship with independent examiner, EAP and employer.**

Follow-up evaluation:

- Sometimes arrange a follow-up forensic examination after a period of recovery
- Dangers: Putting a treating doctor in the role of a forensic examiner. (Not qualified or neutral)

Follow-up evaluation:

- After treatment, often tempting to ask treating doctors to give recommendations about an employee's ability to come back to work.
- They have been treating the employee and have considerable information about their psychological status.

Follow-up evaluation:

- Treating doctors have a primary allegiance to their patients.
- The advice they give may be designed to protect their patients, rather than other parties.
- Treating doctors are often relatively inexperienced in evaluating truthfulness and the potential for violence.

Follow-up evaluation:

Sometimes concerning when an independent examiner says that the treating professionals can determine when return to work is appropriate.

Follow-up evaluation:

- Get a second opinion, based on a repeat evaluation, by an independent forensic psychologist or psychiatrist hired specifically to do a FFDE.

Who provides treatment?

- When treatment is recommended after an evaluation, perhaps before an employee is released back to work, it might be tempting to use the therapy services of the doctor who performed the FFDE.
- Irreconcilable conflict between the roles of treating doctor and independent evaluator.

Who provides treatment?

- Therefore, a different treating doctor should be selected, perhaps with the EAP's assistance, to establish that doctor/patient relationship with the employee.

Arranging follow up treatment:

- The FFDE doctor can share their findings with the treating professional.
- Very helpful when employees are not completely forthcoming with their treating professionals.
- Additional releases are often required.

Who monitors employee compliance with treatment recommendations?

- Often important to ensure that employees have been compliant with their recommended treatment.
- However, the FFDE doctor's role is to provide opinions on such things as readiness to return to work, potential for violence, and management options.
- It is not to ensure that employees are treatment compliant or to assist with this process.

Who monitors employee compliance with treatment recommendations?

- Often EAPs or corporate medical departments are in a better position to monitor such compliance, and doing so might be within the scope of their professional responsibilities.
- Monitoring compliance does not force them into a doctor/patient relationship.

After an evaluation, we often get disability paperwork on employees. Who should fill that paperwork out?

- Disability paperwork, usually for disability insurance carriers, is commonly addressed to treating doctors.
- FFDE doctors neither have a treating relationship with employees, nor are they their advocates.
- Paperwork to be referred to that employee's treating professionals.

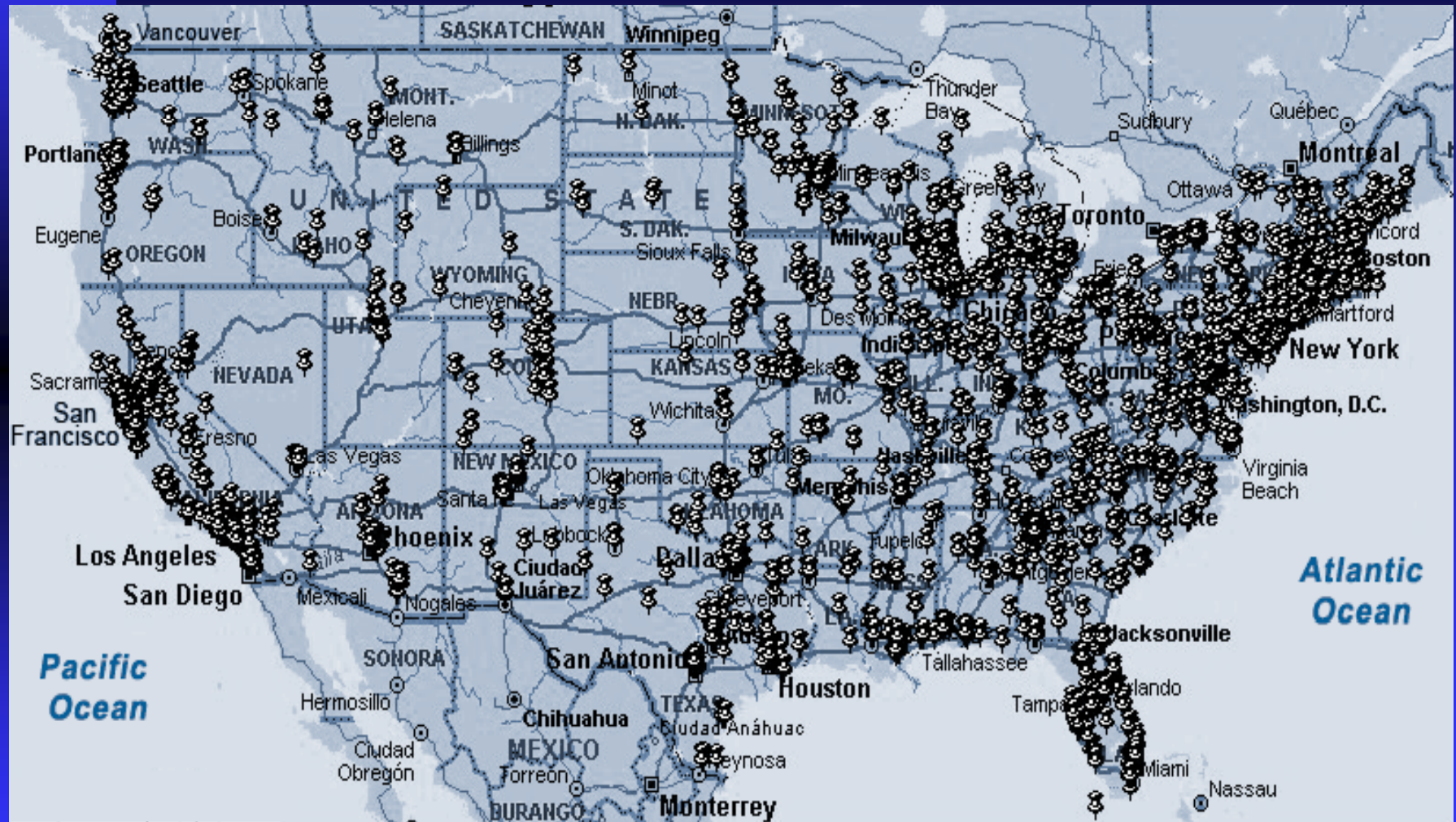
After an evaluation, we often get disability paperwork on employees. Who should fill that paperwork out?

- FFDEs not designed to obtain information most important to disability/WC insurance carriers. (e.g. information about daily tasks and causation).
- Even though they conducted a thorough assessment, they often have insufficient information precisely geared to the disability insurer's inquiries.

Consent form reinforces roles:

- General purpose to assist in medical/employment matter and is not to treat
- The opinions are the independent examiner's not PsyBar's (The FFD Facilitator)
- The FFD Facilitator's role is to help promote an unbiased and scientifically sound evaluation.
- No health insurance reimbursement

Locations of PsyBar's 1200 MD/Ph.D experts



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