GENERAL GUIDELINES FOR USING THE MEDICAL SCREENING MANUAL[1]

The medical protocols in this manual are intended to provide physicians with detailed guidance on the medical examination and evaluation of entry level patrol officer candidates. Although these protocols were written to be self-explanatory for the medically qualified manual user, this section offers general principles and guidelines to ensure that the protocols are implemented in an effective, efficient, and lawful manner. Moreover, unlike the protocol chapters themselves, which were developed primarily for use by physicians, the following guidelines were written for both physicians and hiring authorities.

1. Avoid slavish adherence to the guidelines and recommendations in the manual.

The examination and evaluation protocols in this manual are offered as guidelines, not standards. Although they provide concrete guidance pertaining to a wide range of conditions and circumstances, the medical protocols are intended to permit (in fact, to foster) the individualized assessment of each candidate.[2] The physician is therefore responsible for the appropriate use and interpretation of the guidance herein, based on the facts and specifics of each candidate's medical status and history.

Users of the manual may find that some of the recommended screening tests and protocols are not currently performed as part of their pre-placement examination (e.g., sigmoidoscopic examinations for everyone over 50). The expense of a procedure was considered in the decisions of the medical specialty panels; nevertheless, an agency may rightfully determine that a particular test is unnecessarily costly, time-consuming, or otherwise impracticable. Therefore, it is up to each agency to review these protocols (and their associated rationales) with their medical consultants to determine the need for and appropriateness of each recommended test and procedure prior to the wholesale adoption of these guidelines.

2. Properly partition the roles of screening physician and hiring authority.

A critical but commonly overlooked aspect of pre-placement medical screening is the need to partition the roles of the screening physician and the hiring authority. Although they work together, each must be aware of the extent and limits of their own (and each other's) responsibilities.

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[2] Details on the conduct of individualized assessment can be found in "Pre-Employment Medical Screening and the Law."

As depicted in Table 6, the employer is initially responsible for providing the physician with a complete, accurate, and medically relevant description of the patrol officer job demands and working conditions at that agency.[3] Physicians, in turn, are responsible for ensuring that their examinations and recommendations are based on full familiarity with these job demands and conditions.

TABLE 6: Role of the Physician and the Employer in the Medical Screening Process

	Physician	Employer
Job Information	Be familiar with job information supplied by employer; ensure all considerations and decisions are job relevant	Defines/identifies job duties and working conditions for that agency
Risk Evaluation	Quantifies/describes risks in terms of likelihood, severity, imminence, etc.	Makes ultimate determination of whether risk(s) posed by candidate constitute a "direct threat"
Reasonable Accommodation	Identifies work restrictions; suggests practices, aids, or devices that would allow candidate to perform job; monitors compliance as necessary	Working with candidate and physician, chooses method of reasonable accommodation (or rejects due to undue hardship); monitors compliance as necessary
Decision Making	Advises employer of candidate's ability to perform specific job tasks and/or risks associated with job performance	Makes ultimate decision as to whether to hire, disqualify, defer, or restrict

Physicians and employers also have complementary roles with regard to candidate risk evaluation. The physician must determine if the candidate can physically perform the essential duties of the position, as well as provide the employer with a description (and quantification, to the extent possible) of the candidate's performance limitations and/or the risks if the candidate were to be placed on the job. Based on this information, the employer is then responsible for deciding whether the risks described by the physician constitute a direct threat, and for other judgments leading up to and including the ultimate hiring decision.

Prior to making this determination, however, available methods of reasonable accommodation that could serve to reduce this risk to a tolerable level must be considered by both the physician and the employer. The physician's role here should

[3] See "Patrol Officer Job Demands: Their Implication for Medical Screening" for a generic peace officer job description as well as guidance on how to conduct an agency-specific job analysis.

involve the identification of procedures, devices, job aids, medicines, or work restrictions that would allow the individual to perform job functions without undue risk. There are many examples of possible accommodations mentioned throughout the manual, including medication monitoring systems, pre-placement contracts with candidates in which they promise compliance with their prescribed medication regimen, use of corrective devices, etc.

Here again, it is the employer who is responsible for: (1) ensuring that the affected job duty is an essential one; and (2) selecting an accommodation (preferably after conferring with the candidate on his/her needs and preferences), or rejecting an accommodation based on undue hardship; and (3) making the ultimate selection decision.

3. **Tailor the examination to the specific needs of each candidate.**

All patrol officer candidates should receive the same basic medical examination. However, as indicated in the protocol chapters themselves, physicians should conduct more in-depth tests as necessary when an initial condition of concern is identified. It is imperative that a sufficient amount of information be accrued to warrant an ultimate hiring recommendation -- a "good faith" belief alone that a candidate cannot perform the job is neither sufficient nor legally defensible.

4. **Collect information from other parts of the patrol officer screening process, as necessary.**

Depending upon their order of occurrence, information gleaned from other parts of the patrol officer screening process, such as the background investigation or physical ability test, can provide the physician with valuable supplementary information regarding a candidate's medical status and history. In addition, in instances where a candidate manifests certain physical limitations (e.g., a missing finger), the physician may want to recommend a non-routine, task-specific evaluation (e.g., firearms assessment).

5. **Consult with and/or gather information from other medical experts, as necessary.**

Prior to disqualifying a candidate, or when uncertain as to the degree of threat posed by an individual, it is often advisable for the screening physician to consult with the candidate's personal physician, who typically has a more extensive health history that can aid in making employment recommendations. At times, it may also be appropriate (and even cost efficient) to refer a candidate to a specialist for evaluation. This is especially true in cases where: (1) the candidate displays a relatively rare medical condition, or a relatively unique manifestation of a more common condition; (2) the evaluation requires physical examination skills that are beyond the specific expertise of the examining doctor; or (3) when there is disagreement between the screening

physician and the candidate's personal physician. The added weight of an additional medical opinion, particularly that of a specialist, may also prove useful in defending an employment decision.

6. **Make sure that medical recommendations and decisions are consistent with legal standards.**

Both physician and employer must be keenly aware of the legal standards imposed on pre-employment medical screening by both state and federal law. These risk standards (as described in "Pre-Employment Medical Screening and the Law") do not allow for consideration of future costs attributable to sick leave, workers' compensation, or pension benefits. Moreover, fair employment laws prohibit consideration of the candidate's medical status beyond the immediate (i.e., 2-3 year) future.

7. **Limit access to information regarding the candidate's medical status.**

As discussed in "Pre-Employment Medical Screening and the Law," information revealed during the course of medical screening is to be treated as confidential, and maintained in records separate from the candidate's personnel file. Although hiring authorities are permitted access to these records, it is advisable to limit the information conveyed from physician to employer to only that which is necessary for making employment-related decisions (see "Instructions to Physicians" on the Medical Examination Report -- Appendix D). Limiting information in this way can head off accusations of unfair treatment attributed to an individual's disability status.

8. **If a medical screening decision results in a job denial or restriction, fully explain the reasons to the candidate.**

A rejection without a complete explanation can create a feeling of unfairness on the part of the candidate. In fact, one of the primary reasons behind the ADA's prohibition against pre-placement medical inquiries is the elimination of the common practice of presumptively disqualifying disabled job applicants without disclosing to them the basis for the rejection. It is therefore advisable to provide the candidate with a full, task-specific explanation of the bases for any adverse decision, be it disqualification, work restriction, or deferral. In addition, if the results of the medical examination result in a disqualification, the candidate must be permitted to submit independent medical opinions for consideration before a final determination is made. Besides being required by law (2 Cal. Admin. Code, Div.4, 7294(d)(2)), an in-house appeal process generally provides the employer with a more attractive alternative than the investigation and arbitration that can ensure if the candidate has no recourse but to file a discrimination claim with a state and/or federal regulatory agency.