

PROTOCOL FOR REQUESTING, REVIEWING AND HANDLING MEDICAL DOCUMENTATION

When are medical records requested by the Committee?

Medical documentation is not routinely requested simply because a person answers in the affirmative to any particular question on an application. An individual's entire file is reviewed by the Deputy Director of Attorney Services or the Administrative Director (in the Deputy Director's absence) to determine whether there is conduct or behavior that calls into question the person's good moral character and/or fitness to practice law. If this review reveals that there is such a concern, then the file is brought to the Character and Fitness Subcommittee for review and a determination as to whether medical documentation, including but not limited to mental health and/or substance abuse treatment records, should be requested. The fact that a release for medical records is signed does not mean that records are requested. Rather, the application seeks such a release to be signed at the time of application to expedite the process should the records be deemed to be necessary to request.

What is the Committee looking for when reviewing medical records?

Medical documentation is not sought to challenge, question or dispute any diagnosis or recommended treatment. Rather, access is sought in order to determine whether the applicant has been compliant with treatment recommendations and whether the applicant has been candid with the Committee concerning the circumstances surrounding his/her diagnosis and treatment (i.e. when did substance abuse begin, has the applicant taken medication as prescribed).

Who reviews the medical records?

Medical records are not reviewed by or disseminated to the entire membership of the Committee or other members of the Administrative Office. The records are initially reviewed by the Deputy Director of Attorney Services or the Administrative Director (in the Deputy Director's absence). The records are then subsequently reviewed by one member of the Character and Fitness Subcommittee. The medical records are reviewed by no more than two individuals unless and until the Committee votes to conduct a formal hearing as to Character and Fitness. At that point, only the members of the hearing panel would have access to the records as part of the hearing. The Committee endeavors to minimize dissemination of the records at all points in the process and respects the confidentiality of the records and provides that those records are reviewed substantively only by a competent professional hired by the Committee.

What is done with the medical records when the Committee is done with its review?

The medical records are maintained in the individual's confidential file and are destroyed in accordance with the Committee's records retention policy. If the Character and Fitness Subcommittee determines that further investigation is warranted, any review of the records regarding diagnosis or treatment is done by an Independent Medical Examination conducted by a medical doctor and for which evaluation the Committee bears any cost.