

CHAPTER 7

**DEPARTMENT-ORDERED FITNESS-FOR-DUTY EXAMINATIONS AND
STATE FUND-INITIATED MEDICAL EXAMINATIONS**

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CHAPTER 7

DEPARTMENT-ORDERED FITNESS-FOR-DUTY EXAMINATIONS AND STATE FUND-INITIATED MEDICAL EXAMINATIONS

1. POLICY.

a. Direction. Departmental policy directs that an employee shall be physically and psychologically capable of performing the essential duties of the employment classification. If the potential exists that an employee may be impaired in the performance of the assigned duties due to a physical or psychological condition, the Department may obtain a medical examination to determine the extent of such impairment. Depending upon the circumstances associated with the employee's impairment, the medical examination may be obtained using a Department-ordered fitness-for-duty (FFD) examination or a State Fund-initiated medical examination.

(1) A Department-ordered FFD examination is a medical examination performed by a physician chosen by the Department to determine an employee's ability to perform the essential duties of the employment classification. Any such examination may result in the employee being found ineligible for continued employment, on a temporary or permanent basis, or cleared for full duty. Commanders shall obtain authorization from the appropriate Assistant Commissioner prior to initiating a Department-ordered FFD examination.

(2) A State Fund-initiated medical examination may be requested if the employee has a previous or current related occupational injury or illness claim on file with State Fund. A State Fund-initiated medical examination is the equivalent of a Department-ordered FFD examination. The medical examination is conducted by a physician chosen by State Fund and the employee, or the employee's attorney if the employee is represented, from a list provided by the Division of Workers' Compensation's Medical Unit, requested by State Fund. This examination will determine an employee's ability to perform the essential duties of the employment classification and determine if the employee is able to return to their usual and customary position. The examination is cooperatively initiated by the Department and State Fund and does not require the Assistant Commissioner's authorization.

NOTE: It is the Commissioner's policy to utilize a Department-ordered FFD examination whenever it is deemed appropriate by the commander, regardless of whether the employee has a previous or current related injury or illness claim on file with State Fund. However, to avoid the receipt of conflicting medical findings between an FFD doctor and a doctor involved in a State Fund claim, careful attention and review must be made when requesting an FFD

when the employee has a related injury or illness on file with State Fund. Commanders shall contact the Disability and Retirement Unit (DRU) to discuss the potential conflicts of using a Department-ordered FFD examination when the involved employee has an active, related injury or illness claim on file with State Fund.

b. Reasonable Accommodations. This policy shall not limit the hiring or retention of an individual who is either physically or psychologically impaired unless the impairment impedes the employee's ability to perform the essential duties of the employment classification. Pursuant to the Americans with Disabilities Act of 1990, if an employee requests reasonable accommodation for a disability, a determination shall be made whether an accommodation is feasible in order to allow the employee to continue to perform the assigned duties.

2. AUTHORITY FOR EXAMINATIONS.

a. Inconsistent and Incompatible Activities Statement. The Inconsistent and Incompatible Activities Statement, adopted by the Department, requires employees to report any known physical or psychological condition which might be reasonably expected to adversely affect job performance.

b. Authority for Medical Examinations. Government Code Section 19253.5 authorizes the appointing power to arrange a medical examination to determine an employee's ability to perform the essential duties of the employment classification.

3. DEPARTMENT-ORDERED FITNESS-FOR-DUTY EXAMINATION.

a. Commander Notification. A supervisor shall notify the commander when the supervisor becomes aware an employee is suffering from any condition which might limit the employee's physical or psychological ability to perform the essential duties of the employment classification.

b. Commander's Review. The commander shall conduct a review of the allegations to determine if a medical evaluation of the employee's FFD is indicated. This review should be focused on confirming the observations from other employees so that the commander is fully able to support the request with factual information. Commanders should be able to articulate how these facts impact the employee's ability to perform their critical job functions. A FFD should not be requested if the issue can be resolved through the Adverse Action process.

c. Psychological Impairment. If the employee has a psychological impairment which may require suspension of peace officer powers, procedures detailed in

Highway Patrol Manual (HPM) 10.2, Internal Investigations Manual, Chapter 4, Pre-Investigative Considerations, shall be implemented.

d. Commander's Review Determination. When the commander's review determines the employee is either capable of full duty or cannot perform essential duties of the employment classification, no further action on a Department-ordered FFD request is necessary. The employee shall be assigned full or limited duty or be placed off duty, as appropriate. If the employee is placed off duty and does not have sufficient leave credits to cover an absence, once leave credits are exhausted, Administrative Time Off shall be provided for the duration of the time off. The commander shall contact DRU if assistance is needed in determining if a Department-ordered FFD examination is warranted.

e. Department-Ordered Fitness-for-Duty Examination Request. Normally, the Area will need to generate a written request for FFD examination (see paragraph 3.i.). This request will be routed to Division, and if approved, then to the appropriate Commissioner for final approval.

(1) If, however, there are immediate concerns for either the employee or the public, a commander shall contact Division to request an immediate approval for a Department-ordered FFD examination. If Division concurs with the request, Division shall contact the appropriate Commissioner to request authorization for the examination.

f. Appropriate Commissioner's Verbal Authorization. For FFD examinations with verbal authorization from the appropriate Commissioner, the commander shall notify DRU by telephone of the need to schedule a Department-ordered FFD examination. It is also requested that written confirmation (e-mail) of the verbal authorization be forwarded to DRU.

g. Command Notification of Department-Ordered Fitness-for-Duty Examination Appointment. DRU shall schedule the Department-ordered FFD examination appointment and advise the commander by telephone, e-mail, or fax of pertinent information regarding the appointment as soon as possible.

h. Employee Notification of Department-Ordered Fitness-for-Duty Examination Appointment. The commander shall inform the employee of pertinent information regarding the Department-ordered FFD examination appointment as soon as possible. Some employee bargaining units require written notification be provided to the employee indicating the reasons for the examination. Commanders should review appropriate employee bargaining unit contract provisions to determine if this is required.

i. Department-Ordered Fitness-for-Duty Examination Memorandum. The commander shall prepare a memorandum summarizing the need for the

Department-ordered FFD examination. The memorandum shall include the date verbal authorization for the examination was obtained, if applicable, and if available, the scheduled date and location of the medical evaluation. The memorandum, along with any supporting documents, shall be forwarded through Division to the appropriate Commissioner. A copy of the memorandum and any supporting documents shall be sent to DRU.

j. Employee Medical History. When a Department-ordered FFD examination is scheduled, every effort shall be made to ensure the examining medical care provider has access to the employee's medical history. The employee shall be provided a CHP 121C, Medical Information Release Authorization (see Annex A), to sign and identify medical care providers who have treated the employee for a related condition(s) within the past ten years.

NOTE: The employee has the right to deny the request to sign the CHP 121C or identify previous treating medical care providers. If the employee refuses to sign the CHP 121C and/or provide previous medical care provider identification, the commander shall indicate "refused to sign" in the employee signature block along with the date and time of the request. Additionally, a statement shall be included on the CHP 121C indicating the employee's refusal to identify previous medical care providers (the original CHP 121C shall be retained in the employee's field medical file, and a copy provided to the employee).

k. Signed CHP 121C, Medical Information Release Authorization. When a signed CHP 121C is obtained, the commander shall:

- (1) Prepare a cover letter to be attached to each copy of the CHP 121C forwarded to a medical care provider. The purpose of the letter shall be to request all relevant medical records in the medical care provider's possession be forwarded to the Department's examining medical care provider prior to the date of examination.
- (2) Forward a copy of the CHP 121C (cover letter attached) to each medical care provider identified by the employee as having treated the employee for a related condition(s) within the past ten years.
- (3) Forward a copy of the CHP 121C (cover letter attached) to any additional medical care provider the commander has reason to believe is knowledgeable of the employee's relevant medical history.
- (4) Provide the employee with a copy of the CHP 121C along with a list of medical care providers to whom the form was given.

NOTE: The CHP 121C may also be used by the Department or State Personnel Board (SPB) to obtain medical information relevant to the

employee's ability to perform specialized duties or the duties of a future employment classification.

I. Notice of Fitness-for-Duty Examination Findings. The DRU will provide written notice of the results of the examination to the command upon receipt of the written medical report. The DRU is precluded from providing any medical report directly to the requesting command.

4. STATE FUND-INITIATED MEDICAL EXAMINATION.

a. Commander Notification. A supervisor shall notify the commander when the supervisor becomes aware an employee is suffering from any condition which might limit the employee's physical or psychological ability to perform the essential duties of the employment classification.

b. State Fund Notification. If the employee has a related occupational injury or illness claim on file with State Fund, the commander shall notify State Fund and DRU of the potential inability of the employee to perform essential duties of the employment classification.

c. Psychological Impairment. If the employee has a psychological impairment which may require suspension of peace officer powers, procedures detailed in HPM 10.2, Chapter 4, shall be implemented.

d. Employee's Medical Status. The commander shall contact State Fund and discuss the employee's medical status. In addition, State Fund shall be requested to discuss the employee's medical status with the employee's medical care provider and obtain the medical care provider's written opinion of the employee's ability to perform essential duties of the employment classification. To aid in the evaluation, State Fund will provide the medical care provider with the employee's duty statement; the appropriate SPB job specification; and, if applicable, a CHP 225, California Highway Patrol Officer 14 Critical Physical Activities (see Annex B).

e. State Fund-Initiated Medical Examination Request. When review of the employee's medical status indicates a medical examination is appropriate, the commander may request a State Fund-initiated medical examination be conducted as soon as possible. The medical examination is conducted by a physician chosen by the employee, from a list provided by the Division of Workers' Compensation's Medical Unit, requested by State Fund, to determine an employee's ability to perform the essential duties of the employment classification. The examination is cooperatively initiated by the commander and State Fund and does not require the appropriate Commissioner's authorization. It is recommended that the command also contact DRU when considering a State Fund-initiated examination as DRU may have additional information to assist in this process.

5. EXAMPLES OF POTENTIAL REASONS TO INITIATE A DEPARTMENT-ORDERED FITNESS-FOR-DUTY EXAMINATION OR STATE FUND-INITIATED MEDICAL EXAMINATION.

- a. Prolonged Absence. An employee suffers an off-duty injury or illness resulting in a prolonged absence. The employee's medical care provider releases the employee to full duty; however, the employee cannot physically perform the essential duties of the employment classification.
- b. Hostility. An employee is openly hostile to coworkers or displays sudden unexplained outbursts of anger or the inability to function in stressful situations.
- c. Physical or Psychological Impairment. A physical or psychological impairment is identified during the employee's performance of the assigned duties.
- d. Pattern of Absences. An employee establishes a pattern of absences over an extended period of time due to an injury or illness that should have been stabilized.
- e. Avoidance of Undesirable Work Shift or Particular Coworker. An employee has recurrences of a previous injury or illness which allow the employee to avoid an undesirable work shift or particular coworker.
- f. Convenient Flare-up of Previous Injury or Illness. An employee conveniently experiences a flare-up of a previous injury or illness requiring the employee to be placed off duty subsequent to being counseled or disciplined for poor work performance.
- g. "Stay Away" Prescriptions. "Stay away" prescriptions are commonly confused with "stay away" orders issued by the Workers' Compensation Appeals Board. A preclusive prescription, on the other hand, is simply a determination by an employee's physician that contact with the Department or specific individuals may exacerbate a medical condition. Although these prescriptions normally arise in the context of a workers' compensation stress claim, they may arise in a nonindustrial setting. Preclusive prescriptions take many forms, may be broad or limited in scope, and may arise at any time during treatment for an injury or illness. Any commander receiving a preclusive prescription of this type shall immediately contact the Office of Internal Affairs and DRU.

6. POTENTIAL FRAUD INDICATORS. The behavior patterns described above (see paragraph 5), along with knowledge that the employee remains active while in off-duty status and does not appear to be affected by the alleged injury or illness, should raise concern regarding the possibility of fraudulent use or abuse of the workers' compensation system or sick leave (see Chapter 2, Case Management, of this manual).

ANNEX A

CHP 121C, MEDICAL INFORMATION RELEASE AUTHORIZATION

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

MEDICAL INFORMATION RELEASE AUTHORIZATION

CHP 121C (REV 2-01) OPI 033

NAME (LAST, FIRST, M.I.) Smith, John, A.	DATE OF BIRTH 03/17/1975
HEALTH INSURANCE MEMBER NUMBER A-1234-BCD-567	SOCIAL SECURITY NUMBER 123-45-6789

This document authorizes any physician, other licensed practitioner, hospital, clinic, other institution, or United States Veteran's Administration, to release all medical records, findings, and conclusions relative to medical treatment I received for my described injury/illness to an authorized representative of the California Highway Patrol or any law enforcement agency designated by the California Highway Patrol.

Upon presentation of this release, or a copy of it, I hereby direct and authorize you to fully and completely disclose and release such information and to release copies and abstracts to an authorized representative of the California Highway Patrol or other law enforcement agency designated by the California Highway Patrol.

This authorization, or a copy of it, when presented through the United States mail in conjunction with an official request or in person by an authorized representative of the California Highway Patrol or other designated law enforcement agency, is valid for one calendar year (365 days) from the date indicated below. This release is executed with full knowledge and understanding that the information is for the official use of the California Highway Patrol.

INJURY/ILLNESS DESCRIPTION:

PART OF BODY AFFECTED, EXTENT OF INJURY/ILLNESS
Low Back

MEDICAL CARE PROVIDER'S DIAGNOSIS OF INJURY/ILLNESS, DATE(S) OF TREATMENT
Dr. Smith treated my left knee from January 15, 2016 through August 15, 2016.

HOME ADDRESS
1234 Main Street

CITY, STATE, ZIP CODE
Any Town, CA, 95111

HOME TELEPHONE NUMBER
(123) 456-7890

SIGNATURE

DATE
03/17/1975

PRIVACY NOTICE: The Information Practices Act of 1977 (CC 1798.17) and the Federal Privacy Act of 1974 (PL 93-579) require that this notice be provided when collecting personal information from individuals. Providing the social security number is voluntary and is being requested for identification purposes only, however, the processing of this document may be hampered if you do not supply your social security number.

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ANNEX B

CHP 225, CALIFORNIA HIGHWAY PATROL OFFICER 14 CRITICAL PHYSICAL ACTIVITIES

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL CALIFORNIA HIGHWAY PATROL OFFICER 14 CRITICAL PHYSICAL ACTIVITIES CHP 225 (Rev. 4-10) OPI 096			
Activity	Representative Job Tasks	Frequency of Performance	Duration of Activity when Performed
1. Lift/Carry	(a) Lift and carry objects weighing 10 to 25 pounds (e.g., gear bag).	1 to 3 times per day	2 to 5 minutes
	(b) Without assistance, lift and carry objects weighing 30 to 50 pounds (e.g., car tire, road debris).	1 to 3 times per month	1 minute
	(c) With assistance, lift and carry an individual resisting arrest (20-35 feet).	1 to 2 times per year	1 minute
2. Push/Pull	(a) Pull/drag a non-resistive/incapacitated person (160-200 pounds) 5-20 feet at an emergency situation or protest.	1 to 2 times per year	1 minute
	(b) Pull/drag an individual (160-200 pounds) resisting arrest 5-20 feet.	1 to 2 times per year	1 minute
	(c) Separate uncooperative persons (160-200 pounds) by pushing, pulling, using locks, grips, or holds, and physically restrain or subdue a resistive individual using reasonable force.	1 to 3 times per month	5 to 60 seconds
	(d) Handcuff a suspect.	1 to 3 times per month	1 minute
	(e) Pull/drag heavy objects (e.g., logs) off the roadway (5-35 feet).	4 to 6 times per year	1 minute
3. Sit	(a) Sit in patrol car for an extended period of time during patrol or surveillance.	1 to 3 times per day	1 to 2 hours
4. Stand	(a) Stand and direct traffic.	1 to 3 times per month	8 to 20 minutes
	(b) Stand for extended periods at an accident/crime scene, during stakeout, surveillance, and crowd control, to provide security for various events, or to secure the perimeter.	1 to 3 times per month	30 to 45 minutes
5. Squat/Bend/ /Kneel	(a) Stoop/squat/kneel to look for physical evidence under the seats or dash of a vehicle, in the trunk, and under the hood of a vehicle; to look under a vehicle for evidence, suspects, defects, or violations; or to look under furniture for physical evidence at a crime/accident scene.	1 to 3 times per week	1 minute
	(b) Stoop/squat/bend to set a flare pattern and ignite flares, to set cones at accident/crime scene, to use a tape measure to measure skid marks, or take measurements at an accident/crime scene.	1 to 3 times per month	2 to 5 minutes
	(c) Frisk/pat down individuals for weapons.	1 to 3 times per month	1 minute
6. Walk	(a) Walk continuously while on foot patrol for special assignments and to conduct searches.	1 to 2 times per year	30 to 45 minutes
	(b) Walk around obstacles, over uneven ground; up hills/embankments, in loose dirt, gravel, mud, ice, or snow.	1 to 3 times per month	2 to 5 minutes
	(c) Walk to and from a violator's vehicle, to place flares or cones in traffic, or to keep an eye on a suspect. Distance walked in a day is ¼ to 1 mile.	1 to 3 times per day	1 to 5 minutes
7. Run	(a) Run (5-100 yards) to get to an emergency or crime scene, to assist other officers, or to pursue a fleeing suspect.	1 to 2 times per year	1 minute
8. Climb	(a) Climb over a guardrail or median barrier (2-3 feet).	1 to 3 times per month	10 to 45 seconds
	(b) Climb over chain link or wooden fences (5-7 feet) and over walls (4-7 feet).	4 to 6 times per year	10 to 45 seconds
	(c) Climb steep embankments, hills, or gullies.	4 to 6 times per year	1 minute
9. Jump	(a) Jump across and/or over obstacles (e.g., guard rail) 2-4 feet, and down from elevated (4 feet) surfaces (e.g., fence).	4 to 6 times per year	10 to 45 seconds

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ANNEX B

CHP 225, CALIFORNIA HIGHWAY PATROL OFFICER 14 CRITICALPHYSICAL ACTIVITIES (*continued*)

Activity	Representative Job Tasks	Frequency of Performance	Duration of Activity when Performed
10. Manual Dexterity / Firearms	(a) Fire 50-100 rounds with a handgun at a target during practice, firearms qualification, or at a combat style shooting course.	4 to 6 times per year	8 to 20 minutes
	(b) Fire a shotgun and rifle during practice, firearms qualifications, or on the job.	4 to 6 times per year	8 to 20 minutes
	(c) Draw and hold a handgun, shotgun, or rifle on a felony suspect until back-up arrives, or to cover an area of responsibility for extended time periods.	4 to 6 times per year	2 to 5 minutes
	(d) Operate a computer keyboard in an office or in a patrol car (MDC) to enter/retrieve information and to complete reports or other documentation.	1 to 3 times per day	8 to 20 minutes
	(e) Operate a radio, cellular phone, sirens and lights, and/or hand spotlight while driving a patrol vehicle.	1 to 2 times per hour	1 minute
11. Drive	(a) Drive on patrol under a variety of conditions and transport prisoners/suspects.	1 to 3 times per day	30 to 45 minutes
	(b) Drive a patrol vehicle on open road at high speeds in response to a call or emergency, or in pursuit of fleeing vehicles, under varied conditions.	1 to 3 times per week	8 to 20 minutes
	(c) Drive a vehicle in a manner to slow down traffic (e.g., weaving back and forth).	1 to 3 times per month	2 to 5 minutes
12. Visual Acuity	(a) Monitor traffic to identify driver irregularities and vehicle defects.	1 to 2 times per hour	2 to 5 minutes
	(b) Examine vehicles for evidence (e.g., in the trunk, under the seat, under the hood), hazardous conditions (e.g., leaking fuel), or for safety or equipment violations.	1 to 3 times per month	2 to 5 minutes
	(c) Inspect damage to vehicles or property.	1 to 3 times per week	2 to 5 minutes
	(d) Visually estimate the speed of vehicles by checking the patrol vehicle speedometer and comparing it to the suspect vehicle.	1 to 3 times per day	1 minute
	(e) Read street signs, mailboxes, house numbers, license plates and the registration tag year from a vehicle and/or from a distance of up to 50 feet.	1 to 2 times per hour	1 minute
	(f) Use a flashlight at night to read the license, registration, and vehicle identification number, and to search areas for evidence, suspects, or other individuals.	1 to 3 times per week	2 to 5 minutes
	(g) Determine whether a person is under the influence of drugs or alcohol by using visual cues.	1 to 3 times per week	2 to 5 minutes
13. Color Vision	(a) Identify the model and color of vehicles from 100 feet away.	1 to 2 times per hour	1 minute
	(b) Distinguish colors of traffic signals, signs, and registration tags.	1 to 2 times per hour	1 minute
	(c) Recognize a person previously known based on a description (but wearing different clothing) from a distance of 30 to 100 feet.	1 to 2 times per year	1 minute
14. Hearing	(a) Hear a conversation over the sounds of machinery/traffic or other background noise (e.g., on the side of a road or freeway) while interviewing individuals or receiving information.	1 to 3 times per day	2 to 5 minutes
	(b) Listen to radios and scanners, distinguish appropriate calls, and respond as needed.	1 to 2 times per hour	2 to 5 minutes
	(c) Listen for traffic approaching from behind during a vehicle stop or accident investigation.	1 to 3 times per day	2 to 5 minutes
	(d) Listen to radar pitch to determine the speed of vehicles.	1 to 3 times per week	1 minute